

North Dakota

Compliance Program: Code of Conduct

This is a supplement to Kindred's Employee Handbook for employees who work in North Dakota. As stated in our Employee Handbook, the federal False Claims Act and similar state laws and regulations assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws and regulations are some of the most important laws that govern our business. Like the federal False Claims Act, certain North Dakota laws and regulations impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing North Dakota's Medicaid program for services not rendered;
- Submitting or causing to be submitted false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled under Medicaid;
- Knowingly supplying inaccurate or false information in a required report that results in an overpayment;
- Knowingly using a document that contains materially false or fraudulent information to bill North Dakota's Medicaid program; and
- Concealing a material fact in order to secure reimbursement from North Dakota's Medicaid program.

Civil and Criminal Penalties for False Claims or Statements

Under the North Dakota criminal statute prohibiting deceptive writings, a person who is convicted of violating this law commits a crime punishable as either a felony or misdemeanor, with a maximum penalty of ten years' imprisonment, a fine of \$10,000, or both, depending on the nature of the offense.

Under the provider integrity provisions of the North Dakota Administrative Code, a provider may be sanctioned for presenting or causing to be presented false or fraudulent claims for care or services. Such sanctions include, but are not limited to, suspension or termination from the Medicaid program, withholding of payments to the provider, or referral to state licensing boards for further review.

Civil Lawsuits

Currently, unlike the federal False Claims Act, North Dakota allows criminal prosecutions and sanctions by the North Dakota Division of Medical Services to enforce the applicable laws and regulations set forth above. There is no provision for a private citizen to bring a lawsuit and to share a percentage of any monetary recoveries.

No Retaliation

Like federal law and Kindred policy, North Dakota law prohibits employers from retaliating, discriminating against or penalizing employees because of their lawful participation in a false claims disclosure or claim. Specifically, North Dakota law prohibits an employer from discharging, disciplining, threatening discrimination against, or penalizing an employee who in good faith, reports a violation or suspected violation of federal, state, or local law, ordinance, regulation, or rule to an employer, a governmental body, or a law enforcement official. North Dakota law provides for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position.

Furthermore, North Dakota law also prohibits entities from terminating or refusing to contract with or to compensate a healthcare provider solely because a provider, in good faith, reports to state or federal authorities an act or practice by the entity that jeopardizes patient health or welfare, or who advocates on behalf of a patient in a utilization review program or grievance procedure.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of Kindred's Code of Conduct or regulatory violation, or (2) refused to violate Kindred's Code of Conduct or a government law or regulation, will be subject to disciplinary action up to and including separation of employment. See Kindred's Concern Resolution Procedure in the Employee Handbook for information on reporting concerns.

Copies of North Dakota Laws and Regulations

The North Dakota laws and regulations summarized above include: (1) North Dakota Administrative Code § 75-02-05-05 and § 75-02-05-08; (2) the North Dakota Employer Retaliation Prohibition Statute, North Dakota Code Annotated § 34-01-20; and (3) North Dakota Century Code § 26.1-04-03(18). If you have questions about any of these requirements, you may contact Kindred's Compliance Hotline at 1-800-359-7412. This summary and others are also posted on Kindred's external web site, www.kindredhealthcare.com, and Kindred's intranet site (KNECT) under the Compliance home page.