

Vermont

Compliance Program: Code of Conduct

This is a supplement to Kindred's Employee Handbook for employees who work in Vermont. As stated in our Employee Handbook, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Vermont Medicaid fraud laws 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 Vermont laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Vermont's Medicaid program for services or goods not provided;
- Billing Vermont's Medicaid program for undocumented services;
- Making inaccurate, false or improper entries in medical records, cost reports and any other records used to support reimbursement;
- Billing Vermont's Medicaid program for services that are medically unnecessary;
- Characterizing non-covered services or costs in a way that secures reimbursement from Vermont's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks or rebates;
- Accepting any gift, money, donation or other compensation from a Medicaid beneficiary or his or her family and not reporting it to the state;
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement.

Civil and Criminal Penalties for False Claims or Statements

A violation of the Vermont false claims laws may result in restitution for any improper payment plus interest, and a civil penalty of up to \$500 for each false claim or \$500 per each false document submitted to support a false claim, or three times the amount of the wrongful payment, whichever is greatest. In addition, any person who violates these laws may be guilty of crimes punishable by imprisonment for up to ten years and/or a fine up to \$1,000 or an amount equal to twice the amount of assistance wrongfully obtained.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Vermont law allows civil lawsuits to recover monetary damages to be filed only by the state government and not by private citizens or employees. There is no provision for a private citizen to share a percentage of any monetary recoveries.

No Retaliation

Similar to Federal law and Kindred policy, the Vermont whistleblower laws prohibit public and private hospital and nursing home employers from retaliating against any employee who discloses a violation of any federal, state, or local law, rule, regulation or ordinance. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position.

In order for the employee to have the protection afforded by the Vermont whistleblower laws, the employee must first report the suspected violation of law or improper quality of patient care to the employer, supervisor or other person designated by the employer to address such violations before disclosing it to another person or entity, such as a state agency. The purpose of this particular requirement is to give the employer a reasonable opportunity to address the violation. This notice requirement under the Vermont whistleblower laws does not apply to disclosures or testimony made in response to a government inquiry, investigation, or hearing. It does, however, apply to an employee's objection to or refusal to participate in any activity, policy, or practice, that the employee reasonably believes violates a law or constitutes improper quality of patient care.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of 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 Vermont Laws

The Vermont laws summarized above include: (1) Medicaid fraud laws, Vt. Stat. Ann. Tit. 33, §§ 141 to 144; and (2) Whistleblower protection laws, Vt. Stat. Ann. Tit. 21 §§ 507 to 509. 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.