

## Texas

### **Compliance Program: Code of Conduct**

This is a supplement to Kindred's Employee Handbook for employees who work in Texas. 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 Texas Medicaid Fraud Prevention Law ("TMFPL"), the Texas False Claims Act ("TFCA") and other Texas 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 Texas laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Texas's Medicaid program for services not rendered
- Making or using a false record or statement to get a false claim paid
- Conspiring to get a false claim paid
- Concealing or failing to disclose information that affects the right to a Medicaid benefit or payment
- Making a false statement or misrepresentation about the conditions of operation of a facility so that it may obtain Medicaid certification
- Charging, soliciting or accepting anything of value as a condition to the provision of service to a Medicaid recipient
- Submitting a claim for a product or service rendered by a person not licensed to provide the product or service or not licensed as claimed
- Submitting a claim for a service or product that has not been approved by the treating practitioner, that is inadequate or inappropriate, or a product that has been debased or mislabeled
- Making a claim and failing to indicate the type of license and the identity of the health care provider

### **Civil and Criminal Penalties for False Claims or Statements**

A violation of these Texas laws may result in civil penalties of \$5,000 to \$15,000 per claim, plus two times the amount of damages sustained by the state and revocation of the provider's Medicaid provider agreement for up to a period of 10 years. Additionally, violation of the TMFPL constitutes a crime punishable by imprisonment for up to 99 years and a fine not to exceed \$10,000.

## **Civil Lawsuits**

Like the federal False Claims Act, Texas law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs. However, if the private plaintiff is convicted of a crime related to the legal violation that is the subject of the civil suit, the plaintiff shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. If the state chooses not to join the civil suit, the private plaintiff may proceed with the action without the state's participation. Additionally, the Texas Health and Human Services Commission may grant an award to an individual who reports activity that constitutes fraud or abuse of funds in the state Medicaid program.

## **No Retaliation**

Like federal law and Kindred policy, various Texas laws prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating the law. 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. 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 Texas Laws**

The Texas laws summarized above include: (1) The Texas Medicaid Fraud Prevention Law, Tex. Human Resources Code §§ 36.001-36.132; (2) The Texas False Claims Act, Tex. Human Resources Code § 32.039; (3) Tex. Government Code. § 531.101; and (4) Tex. Health & Safety Code §§ 161.132-161.134. 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](http://www.kindredhealthcare.com), and Kindred's intranet site (KNECT) under the Compliance home page.