

Rhode Island

Compliance Program: Code of Conduct

This is a supplement to Kindred's Employee Handbook for employees who work in Rhode Island. 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, Rhode Island laws, specifically the Rhode Island State False Claim Act and Medical Assistance Fraud Law, 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 Rhode Island laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Rhode Island's Medicaid program for services or goods not provided;
- Billing Rhode Island'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 Rhode Island's Medicaid program for medically unnecessary services;
- Characterizing non-covered services or costs in a way that secures reimbursement from Rhode Island'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 and rebates;
- Charging, soliciting or accepting, from a Medicaid patient any gift, money, or donation in excess of the Medicaid program payment;
- 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 these Rhode Island laws may result in restitution of the improper payment plus interest, a civil penalty between \$5,000 and \$10,000 for each violation, damages equal to three times the amount of damages that the state sustains, payment of the legal fees and costs of any civil suit, and suspension or permanent exclusion from the Medicaid program. In addition, any person who violates these laws may be guilty of crimes punishable by imprisonment for up to 10 years and a fine up to \$10,000, or both.

Civil Lawsuits

Like the federal False Claims Act, Rhode Island law also allows civil lawsuits to be filed by private citizens, including employees. If the private citizen (also called a *qui tam plaintiff*) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorneys' fees and costs. However, if the *qui tam plaintiff* is convicted of a crime related to the legal violation that is the subject of the civil suit, the *qui tam plaintiff* shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Additionally, if the defendant prevails in the civil suit and the court finds the claim was clearly

frivolous, vexatious, or brought primarily for the purpose of harassment, the court shall award the defendant its reasonable attorneys' fees and expenses against the qui tam plaintiff.

No Retaliation

Like federal law and Kindred policy, various Rhode Island laws, including Rhode Island's Whistleblower's Protection Act, prohibits 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 laws, such as the Rhode Island State False Claim Act and the Medical Assistance Fraud 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 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 Rhode Island Laws

The Rhode Island laws summarized above include: (1) The State False Claim Act, Gen. Laws §§ 9-1.1-1 to 9-1.1-8; (2) Medical Assistance Fraud Law, Gen. Laws §§ 40-8.2-1 to 40-8.2-23; and (3) Whistleblowers' Protection Act, Gen. Laws §§ 28-50-1 to 28-50-9. 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.