

Delaware

Compliance Program: Code of Conduct

This is a supplement to Kindred's Employee Handbook for employees who work in Delaware. 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 Delaware False Claims and Reporting Act ("DFCA"), the Delaware Welfare Fraud law, and other Delaware 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 Delaware laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Delaware's Medicaid program for services not rendered
- Billing Delaware's Medicaid program for undocumented services
- Making improper entries on Delaware's Medicaid cost reports
- Knowingly or recklessly delivering property of a lesser value than the amount represented on a receipt or using a false record to mischaracterize the property delivered or the amount of funds owed or due
- Characterizing non-covered services or costs in a way that secures reimbursement from Delaware's Medicaid program
- Conspiring to defraud Delaware's Medicaid program
- Participating in kickbacks

Civil and Criminal Penalties for False Claims or Statements

A violation of these Delaware laws may result in civil penalties of \$5,500 to \$11,000 per claim, plus three times the amount of damages sustained by the state government. In addition, a person who violates the Delaware Welfare Fraud law, specifically, 31 Del. C. §§ 1003-1006, commits a crime punishable by a fine and imprisonment for a period up to 15 years.

Civil Lawsuits

Like the federal False Claims Act, Delaware 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 state chooses not to litigate a case, and the private citizen litigates and loses, then the court may award the defendant its reasonable attorney fees and costs against the private citizen.

No Retaliation

Like federal law and Kindred policy, various Delaware laws, including the DFCA and Delaware's Public-Sector Whistleblowers' Act, 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 laws such as the DFCA. 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 Delaware Laws

The Delaware laws summarized above include: (1) The Delaware False Claims and Reporting Act, 6 Del. C. §§ 1201-1209; (2) The Delaware Welfare Fraud law, 31 Del. C. §§ 1001-1009; (3) The Delaware Public-Sector Whistleblowers' Act, 19 Del. C. §§ 1701-1708; and (4) The Delaware Health and Safety Anti-retaliation Law, 16 Del. C. § 1117. 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.