

Indiana

Compliance Program: Code of Conduct

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

- Billing Indiana's Medicaid program for services not rendered
- Submitting a false claim for payment
- Making or using a false record to get a false claim paid
- Making or using a false record to avoid payments
- Participating in kickbacks

Civil and Criminal Penalties for False Claims or Statements

A violation of these Indiana laws may result in civil penalties of \$5,000 per claim, plus three times the amount of damages sustained by the state government. In addition, a person who violates the Indiana Medicaid Fraud law, specifically IC 35-43-5-7.1, commits a crime punishable by up to eight years imprisonment and a fine not to exceed \$10,000.

Civil Lawsuits

Like the federal False Claims Act, Indiana law also allows civil lawsuits to be filed by the state government or 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 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 Indiana laws, including the IFCA and Indiana's Whistle-blower statutes, 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 IFCA. 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.

Employees who work for private employers must first notify the employer in writing of any suspected illegal activity, policy or practice before disclosing it to the appropriate government agency unless the employer is believed to be involved in the illegal conduct. The purpose of this particular requirement is to give the employer a reasonable opportunity to correct the activity, policy or practice.

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 Indiana Laws

The Indiana laws summarized above include: (1) The Indiana False Claims and Whistleblower Protection Act, IC 5-11-5.5; (2) Medicaid Fraud, IC 35-43-5-7.1; (3) Anti-kickback law IC 12-15-24-2; and (4) Protection of Private Whistle-blower's law, IC 22-5-3-3. 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.