

## **Pennsylvania**

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

This is a supplement to Kindred's Employee Handbook for employees who work in Pennsylvania. 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 Pennsylvania fraud and abuse 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 Pennsylvania laws prohibit, among other things:

- Billing Pennsylvania's Medicaid program for services or goods not provided;
- Billing Pennsylvania'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 Pennsylvania's Medicaid program for services that are medically unnecessary;
- Characterizing non-covered services or costs in a way that secures reimbursement from Pennsylvania'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;
- 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 Pennsylvania laws may result in restitution of the overpayments and civil penalties, up to three times the amount of the overpayments, as well as suspension from the Medicaid program for five years. In addition, any person who violates these laws commits a felony punishable by imprisonment for up to seven years and a maximum fine of \$15,000 for each violation.

### **Civil Lawsuits**

Currently, unlike the Federal False Claims Act, Pennsylvania 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, Pennsylvania's Whistleblower Law prohibits state employers from retaliating, discriminating or harassing state employees who report a misuse of state funds and resources or a violation of federal or state laws, rules or regulations. Pennsylvania law does not contain whistleblower protections for non-governmental employees. Nevertheless, Kindred expects employees to adhere to Federal law and to Kindred's policy prohibiting retaliation.

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 Pennsylvania Laws**

The Pennsylvania laws summarized above include: (1) Provider Fraud and Prohibited Acts, 62 Pa.C.S. §§ 1403(d) and 1407; and (2) Whistleblower Law (public employees), 43 P.S. §§ 1421 to 1428. 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.