

Maryland

Compliance Program: Code of Conduct

This is a supplement to Kindred's Employee Handbook for employees who work in Maryland. 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 Maryland False Claims Against State Health Plans and State Health Programs ("MFCA"), the Maryland Medicaid Fraud Statute ("MMFS"), and other Maryland 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 Maryland laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Maryland's Medicaid program for services not rendered
- Knowingly using a document that contains materially false or fraudulent information to bill Maryland's Medicaid program
- Making improper entries on a Medicaid cost report
- Knowingly and willingly misrepresenting the conditions or operation of a healthcare facility in order to qualify for reimbursement under Maryland's Medicaid program
- Concealing a material fact in order to secure reimbursement from Maryland's Medicaid program
- Conspiring to defraud Maryland's Medicaid program
- Participating in kickbacks

Civil and Criminal Penalties for False Claims or Statements

Under the federal False Claims Act, a violation may result in civil penalties of \$5,550 to \$11,000 per claim, plus up to three times the amount of the overpayment. Under the MFCA, a violation of these laws may result in civil penalties of up to \$10,000 per claim, plus up to three times the amount of damages the State sustains as a result of the fraudulent act. In addition, a person who violates the MMFS, specifically, Md. Code Ann., Crim. Law §§ 8-508 to 8-517, commits a crime punishable by a fine and imprisonment for a period up to life.

Civil Lawsuits

The federal False Claims Act 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 reasonable attorney's fees and costs against the private citizen. Like federal law, the MFCA allows civil lawsuits to be filed by the

state government or by private citizens, including employees, and he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs if the case is decided in the private citizen's favor. However, under Maryland law, if the State does not intervene and proceed with the action, it will be dismissed by the court. If a defendant prevails, the court may award the defendant reasonable attorneys' fees and costs against the private citizen.

No Retaliation

Like federal and state law, Kindred policy 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 MFCA and the MMFS. 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.

The MFCA and the Maryland Whistleblower Law prohibit retaliation, discrimination or harassment against employees, including State employees and all applicants for employment in the Executive Branch of State Government, because of their lawful participation in a false claims disclosure or their refusal to assist employers in violation of these laws. 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 Maryland Laws

The Maryland laws summarized above include: (1) The Maryland False Claims Statute, Md. Code Ann., Health – General §§ 2-601 to 2-611; (2) The Maryland Medicaid Fraud Statute, Md. Code Ann., Crim. Law §§ 8-508 to 8-517; and (3) The Maryland Whistleblower Law in the Executive Branch of State Government, Md. Code Ann., Personnel and Pensions §§ 5-301 to 5-313. 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.