

Virginia

Compliance Program: Code of Conduct

This is a supplement to Kindred's Employee Handbook for employees who work in Virginia. 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 Virginia Fraud Against Taxpayers Act ("VFTA"), and other Virginia 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 Virginia laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Virginia's Medicaid program for services not rendered
- Making or using a false record or statement to get a false claim paid
- Conspiring to get a false claim paid
- Making or using a false record to avoid an obligation to pay money or transmit property to the state
- Making a false statement or representation so that an institution may qualify for certification or recertification
- Participating in kickbacks

Civil and Criminal Penalties for False Claims or Statements

A violation of these Virginia laws may result in penalties of \$5,000 to \$10,000 per claim, plus three times the amount of damages sustained by the state. In addition, a person who violates these laws commits a felony punishable by imprisonment for up to twenty years and a fine not to exceed \$25,000.

Civil Lawsuits

Like the federal False Claims Act, Virginia 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 court finds that the private citizen planned and initiated the violation, or if the private citizen is convicted of a crime arising from his role in the violation of the VFTA, the private citizen shall be dismissed from the civil action and shall not receive any share of the proceeds of the action.

No Retaliation

Like federal law and Kindred policy, various Virginia laws, 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 VFTA.

The VFTA requires a state employee to exhaust any existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels before taking formal action under the VFTA, unless the Commonwealth failed to act on the information within a reasonable period of time.

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 Virginia Laws

The Virginia laws summarized above include: (1) The Virginia Fraud Against Taxpayers Act, Va. Code Ann. §§ 8.01-216.1; and (2) Va. Code Ann. §§ 32.1-310-317. 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.