

KINDRED HEALTHCARE, INC

Form S-4

March 24, 2011

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As filed with the Securities and Exchange Commission on March 24, 2011

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form S-4

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

KINDRED HEALTHCARE, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

(State or Other Jurisdiction of
Incorporation or Organization)

8050

(Primary Standard Industrial
Classification Code Number)

61-1323993

(I.R.S. Employer
Identification Number)

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680 South Fourth Street Louisville, Kentucky 40202-2412 (502) 596-7300

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

**Joseph L. Landenwich, Esq. Senior Vice President, Corporate Legal Affairs and Corporate Secretary Kindred Healthcare, Inc. 680 South Fourth Street
Louisville, Kentucky 40202 (502) 596-7300**

(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

Copies to:

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One Liberty Plaza
New York, New York 10006
(212) 225-2000**

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Senior Vice President, General Counsel and
Corporate Secretary
RehabCare Group, Inc.
7733 Forsyth Boulevard, Suite 2300
St. Louis, Missouri 63105
(800) 677-1238**

William F. Seabaugh, Esq.

Joel N. Lander, Esq.

Bryan Cave LLP

211 North Broadway, Suite 3600

St. Louis, Missouri 63102

(314) 259-2000

Approximate date of commencement of proposed sale to public: As soon as practicable following the effective date of this registration statement and the date on which all other conditions to the merger described herein have been satisfied or waived.

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer
(Do not check if a smaller reporting company)

Smaller reporting company

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If applicable, place an in the box to designate the appropriate rule provision relied upon in conducting this transaction:

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer)

Exchange Act Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price per Unit	Proposed Maximum Aggregate Offering Price (2)	Amount of Registration Fee (3)
Common shares, par value \$0.25 per share	12,041,470	Not applicable	\$267,673,423	\$31,076.88

- (1) The number of common shares, par value \$0.25 per share, of the registrant (Kindred common stock) being registered represents the estimated maximum number of shares of Kindred common stock to be issued in connection with the merger described herein. Such number of shares is based upon the product obtained by multiplying (a) 25,565,752 shares of common stock, par value \$0.01 per share, of RehabCare Group, Inc. (RehabCare common stock) estimated to be outstanding, including shares that may be issued pursuant to equity awards, immediately prior to the merger described herein, by (b) 0.471, the exchange ratio of the merger.
- (2) Pursuant to Rules 457(c) and (f) under the Securities Act of 1933, as amended, and solely for the purpose of calculating the registration fee, the proposed maximum aggregate offering price is calculated as follows: (i) \$36.47 (the average of the high and low prices of RehabCare common stock on March 18, 2011, as reported on the New York Stock Exchange), multiplied by 25,565,752, which is the number of shares of RehabCare common stock estimated to be outstanding, including shares that may be issued pursuant to equity awards, immediately prior to the merger described herein, minus (ii) \$664,709,552.00, the aggregate amount of cash that would be payable to the holders of RehabCare common stock (including shares that may be issued pursuant to equity awards) in the merger.
- (3) Calculated by multiplying the proposed maximum aggregate offering price of securities to be registered by 0.0001161.

The Registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act, or until this registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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The information in this joint proxy statement/prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission, of which this document is a part, is effective. This joint proxy statement/prospectus is not an offer to sell these securities, and it is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

PRELIMINARY COPY

SUBJECT TO COMPLETION, DATED MARCH 24, 2011

MERGER PROPOSED YOUR VOTE IS VERY IMPORTANT

Kindred Healthcare, Inc., which is referred to as Kindred, and RehabCare Group, Inc., which is referred to as RehabCare, have entered into an agreement and plan of merger, pursuant to which RehabCare will merge with and into Kindred, or at either party's election, a wholly owned subsidiary of Kindred, will merge with and into RehabCare. In either case, upon successful completion of the merger, each issued and outstanding share of common stock, par value \$0.01, of RehabCare (other than any shares owned by Kindred or RehabCare) will automatically be converted into the right to receive \$26.00 per share in cash and 0.471 shares of common stock, par value \$0.25, of Kindred. No fractional shares of Kindred common stock will be issued in the merger, and RehabCare stockholders will receive cash in lieu of fractional shares, if any, of Kindred common stock. Each share of Kindred common stock outstanding immediately prior to the effective time will remain outstanding and will not be affected by the merger. Upon completion of the transaction, RehabCare stockholders will own approximately 23% of Kindred's outstanding common stock (based upon the number of shares of RehabCare and Kindred outstanding common stock as of February 7, 2011).

The exchange of RehabCare common stock for cash and Kindred common stock in the merger will be a taxable transaction for U.S. federal income tax purposes to RehabCare stockholders.

Kindred is holding its annual meeting and RehabCare is holding a special meeting of stockholders in order to obtain the stockholder approvals necessary to consummate the merger. At these meetings Kindred and RehabCare will ask their respective stockholders to adopt the merger agreement. Approval of the proposal to adopt the merger agreement by the Kindred stockholders will also constitute approval of the issuance of Kindred common stock to RehabCare stockholders in the merger. The obligations of Kindred and RehabCare to complete the merger are also subject to the satisfaction (or, to the extent permissible, waiver) of several other conditions to the merger set forth in the merger agreement and described in this joint proxy statement/prospectus. More information about Kindred, RehabCare, and the proposed merger is contained in this joint proxy statement/prospectus. **We urge you to read this joint proxy statement/prospectus, and the documents incorporated by reference into this joint proxy statement/prospectus, carefully and in their entirety. In particular, we urge you to read carefully Risk Factors beginning on page [].**

After careful consideration, each of the Kindred board of directors and the RehabCare board of directors have unanimously approved and declared advisable the merger agreement and the transactions contemplated thereby, including the merger, and have determined that the merger agreement and the transactions contemplated thereby, including the merger, are fair to, and in the best interests of the stockholders of Kindred and the stockholders of RehabCare, respectively. **Accordingly, the Kindred board of directors unanimously recommends that Kindred stockholders vote FOR the adoption of the merger agreement, and the RehabCare board of directors unanimously recommends that RehabCare stockholders vote FOR the adoption of the merger agreement.**

In addition, Kindred is holding its annual meeting of its stockholders to (1) elect the director nominees named in this joint proxy statement/prospectus; (2) ratify the appointment of PricewaterhouseCoopers LLP as Kindred's independent registered public accounting firm for fiscal year 2011; (3) hold an advisory vote on Kindred's executive compensation program; (4) hold an advisory vote on the frequency of stockholder advisory votes on Kindred's executive compensation program; (5) approve the Kindred 2011 Stock Incentive Plan; (6) approve adjournments or postponements of the Kindred annual meeting, if necessary or appropriate, to permit further solicitation of proxies if there are not sufficient votes at the time of the Kindred annual meeting to adopt the merger agreement; and (7) transact such other business as may properly come before the meeting.

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The Kindred board of directors unanimously recommends that you vote FOR the election of each of the director nominees named in this joint proxy statement/prospectus; FOR one year on the proposal regarding the advisory vote on the frequency of advisory votes to approve Kindred's executive compensation program; and FOR each of the other proposals described in this joint proxy statement/prospectus to be presented at the Kindred annual meeting.

We are very excited about the opportunities the proposed merger brings to both Kindred stockholders and RehabCare stockholders, and we thank you for your consideration and continued support.

[]
Paul J. Diaz
President and Chief Executive Officer
Kindred Healthcare, Inc.

[]
John H. Short
President and Chief Executive Officer
RehabCare Group, Inc.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the merger described in the joint proxy statement/prospectus or the securities to be issued pursuant to the merger or passed upon the adequacy or accuracy of this joint proxy statement/prospectus. Any representation to the contrary is a criminal offense.

Kindred common stock is traded on the New York Stock Exchange under the symbol KND.

This joint proxy statement/prospectus is dated [], 2011, and is first being mailed to Kindred stockholders and RehabCare stockholders on or about [], 2011.

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REFERENCES TO ADDITIONAL INFORMATION

Except where we indicate otherwise, as used in this joint proxy statement/prospectus, Kindred refers to Kindred Healthcare, Inc. and its consolidated subsidiaries, RehabCare refers to RehabCare Group, Inc. and its consolidated subsidiaries, and merger subsidiary refers to Kindred Healthcare Development, Inc. This joint proxy statement/prospectus incorporates important business and financial information about Kindred and RehabCare from documents that each company has filed with the Securities and Exchange Commission, which we refer to as the SEC, that have not been included in or delivered with this joint proxy statement/prospectus. For a list of documents incorporated by reference into this joint proxy statement/prospectus and how you may obtain them, see Where You Can Find More Information beginning on page [].

This information is available to you without charge upon your written or oral request. You can also obtain the documents incorporated by reference into this joint proxy statement/prospectus by accessing the SEC's website maintained at www.sec.gov.

In addition, Kindred's and RehabCare's filings with the SEC may also be obtained for free by accessing, respectively, Kindred's website at www.kindredhealthcare.com and clicking on the Investors link then clicking on the link for SEC Filings or by accessing RehabCare's website at www.rehabcare.com and clicking on the Investor Information link and then clicking on the link for SEC Filings. Information contained on Kindred's website, RehabCare's website or the website of any other person is not incorporated by reference into this joint proxy statement/prospectus, and you should not consider information contained on those websites as part of this joint proxy statement/prospectus.

Kindred will provide you with copies of this information relating to Kindred, without charge, if you request them in writing or by telephone from:

Kindred Healthcare, Inc.
680 South Fourth Street
Louisville, Kentucky 40202
(502) 596-7300

RehabCare will provide you with copies of this information relating to RehabCare, without charge, if you request them in writing or by telephone from:

RehabCare Group, Inc.
7733 Forsyth Boulevard
Suite 2300
St. Louis, Missouri 63105
(800) 677-1238

If you would like to request documents, please do so by [], 2011 in order to receive them before the Kindred annual meeting and by [], 2011 in order to receive them before the RehabCare special meeting.

Kindred has supplied all information contained in or incorporated by reference in this joint proxy statement/prospectus relating to Kindred, and RehabCare has supplied all information contained in or incorporated by reference in this joint proxy statement/prospectus relating to RehabCare.

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KINDRED HEALTHCARE, INC.

680 South Fourth Street

Louisville, Kentucky 40202

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

TO BE HELD ON [], 2011

To our fellow Stockholders of Kindred Healthcare, Inc.:

We will hold our annual meeting of stockholders at the offices of Kindred Healthcare, Inc., located at 680 South Fourth Street, Louisville, Kentucky 40202, on [], 2011, at [] a.m., local time, unless adjourned or postponed to a later date. This annual meeting will be held for the following purposes:

1. to adopt the Agreement and Plan of Merger, dated as of February 7, 2011, among Kindred Healthcare, Inc., Kindred Healthcare Development, Inc. and RehabCare Group, Inc., pursuant to which (a) RehabCare Group, Inc. will merge with and into Kindred Healthcare, Inc. (or, if either party so elects, Kindred Healthcare Development, Inc. will merge with and into RehabCare Group, Inc.) and (b) following the effective time, Kindred Healthcare, Inc. will pay cash and issue common stock to RehabCare Group, Inc. stockholders;
2. to elect the director nominees named in this joint proxy statement/prospectus;
3. to ratify the appointment of PricewaterhouseCoopers LLP as Kindred's independent registered public accounting firm for fiscal year 2011;
4. to hold an advisory vote on Kindred's executive compensation program;
5. to hold an advisory vote on the frequency of stockholder advisory votes on Kindred's executive compensation program;
6. to approve the Kindred 2011 Stock Incentive Plan;
7. to approve adjournments or postponements of the Kindred annual meeting, if necessary or appropriate, to permit further solicitation of proxies if there are not sufficient votes at the time of the Kindred annual meeting to adopt the merger agreement; and
8. to transact such other business as may properly come before the meeting.

Approval of the proposal to adopt the merger agreement by Kindred stockholders will also constitute approval of the issuance of Kindred common stock to RehabCare stockholders in the merger.

These items of business are described in the accompanying joint proxy statement/prospectus. Only stockholders of record at the close of business on [], 2011 are entitled to notice of the annual meeting and to vote at the Kindred annual meeting and any adjournments or postponements of the Kindred annual meeting.

The Kindred board of directors unanimously recommends that you vote (i) FOR the proposal to adopt the Agreement and Plan of Merger; (ii) FOR the election of each of the director nominees named in this joint proxy statement/prospectus; (iii) FOR the ratification of the appointment of PricewaterhouseCoopers LLP as Kindred's independent registered public accounting firm for fiscal year 2011; (iv) FOR the approval, on an advisory basis, of Kindred's executive compensation program; (v) FOR the approval, on an advisory basis, of an annual advisory vote to approve Kindred's executive compensation program; (vi) FOR the approval of the Kindred 2011 Stock Incentive Plan; and (vii) FOR any motion to adjourn or postpone the Kindred annual meeting to a later date or dates if necessary or appropriate to solicit additional proxies.

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In deciding to approve the merger agreement and the transactions contemplated by the merger agreement, including the merger, the Kindred board of directors considered a number of factors, including those listed on page [].

Your vote is very important. Whether or not you plan to attend the annual meeting in person, please complete, sign and date the enclosed proxy card(s) as soon as possible and return it in the postage-paid envelope provided, or vote your shares by telephone or over the internet as described in the accompanying joint proxy statement/prospectus. Submitting a proxy or voting by telephone or internet now will not prevent you from being able to vote at the annual meeting by attending in person and casting a vote. **However, if you do not return or submit your proxy or vote your shares by telephone or over the internet or vote in person at the Kindred annual meeting, the effect will be the same as a vote AGAINST the proposal to adopt the merger agreement.**

By order of the board of directors,

Joseph L. Landenwich

Senior Vice President, Corporate

Legal Affairs and Corporate Secretary

Please vote your shares promptly. You can find instructions for voting on the enclosed proxy card.

If you have questions, contact:

Kindred Healthcare, Inc.

680 South Fourth Street

Louisville, Kentucky 40202

(502) 596-7300

or

Georgeson Inc.

199 Water Street, 26th Floor

New York, New York 10038

(866) 767-8867

YOUR VOTE IS VERY IMPORTANT.

Please complete, date, sign and return your proxy card(s) or vote your shares by telephone or over the internet at your earliest convenience so that your shares are represented at the Kindred annual meeting.

Louisville, Kentucky, [], 2011

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REHABCARE GROUP, INC.

7733 Forsyth Boulevard

Suite 2300

St. Louis, Missouri 63105

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

TO BE HELD ON

[], 2011

Dear Stockholder:

The officers and directors of RehabCare Group, Inc. cordially invite you to attend the special meeting of stockholders to be held at the Pierre Laclède Center, Second Floor, 7733 Forsyth Boulevard, St. Louis, Missouri 63105, on [], 2011 at [], local time, unless adjourned or postponed to a later date. The special meeting will be held for the following purposes:

1. to adopt the Agreement and Plan of Merger, dated as of February 7, 2011, among Kindred Healthcare, Inc., Kindred Healthcare Development, Inc. and RehabCare Group, Inc., pursuant to which (a) RehabCare Group, Inc. will merge with and into Kindred Healthcare, Inc. (or, if either party so elects, Kindred Healthcare Development, Inc. will merge with and into RehabCare Group, Inc.) and (b) following the effective time, Kindred Healthcare, Inc. will pay cash and issue common stock to RehabCare Group, Inc. stockholders;
2. to approve adjournments or postponements of the RehabCare special meeting, if necessary or appropriate, to permit further solicitation of proxies if there are not sufficient votes at the time of the RehabCare special meeting to adopt the merger agreement; and
3. to transact such other business as may properly come before the special meeting.

These items of business are described in the accompanying joint proxy statement/prospectus. Only stockholders of record at the close of business on [], 2011, are entitled to notice of the special meeting and to vote at the special meeting and any adjournments or postponements of the special meeting.

The RehabCare board of directors has unanimously approved and declared advisable the merger agreement and the transactions contemplated thereby, including the merger, and has unanimously determined that the merger agreement and the transactions contemplated thereby, including the merger, are fair to, and in the best interests of, RehabCare and RehabCare stockholders. The RehabCare board of directors unanimously recommends that you vote FOR the adoption of the merger agreement and FOR any motion to adjourn or postpone the RehabCare special meeting to a later date or dates if necessary or appropriate to solicit additional proxies.

In deciding to approve the merger agreement and the transactions contemplated by the merger agreement, including the merger, the RehabCare board of directors considered a number of factors, including those listed on page []. When you consider the recommendation of the RehabCare board of directors, you should be aware that some of our directors and officers have interests in the merger that may be different from, or in addition to, the interests of RehabCare stockholders generally.

RehabCare stockholders who do not vote in favor of the proposal to adopt the merger agreement will have the right to seek appraisal of the fair value of their shares of RehabCare common stock if they deliver a demand for appraisal before the vote is taken on the merger agreement and comply with all the requirements of Delaware

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law, which are summarized in the accompanying joint proxy statement/prospectus and reproduced in their entirety in Annex E to the joint proxy statement/prospectus.

Your vote is very important, regardless of the number of shares of RehabCare common stock you own. The merger cannot be completed unless the merger agreement is adopted by the affirmative vote of the holders of a majority of the outstanding shares of RehabCare common stock entitled to vote thereon. Whether or not you plan to attend the special meeting in person, please complete, sign and date the enclosed proxy card(s) as soon as possible and return it in the postage-prepaid envelope provided, or vote your shares by telephone or over the internet as described in the accompanying joint proxy statement/prospectus. Submitting a proxy or voting by telephone or internet now will not prevent you from being able to vote at the special meeting by attending in person and casting a vote. **However, if you do not return or submit your proxy or vote your shares by telephone or over the internet or vote in person at the RehabCare special meeting, the effect will be the same as a vote AGAINST the proposal to adopt the merger agreement.**

By order of the board of directors,

Patricia S. Williams Senior Vice President, General Counsel and Corporate Secretary

Please vote your shares promptly. You can find instructions for voting on the enclosed proxy card.

If you have questions, contact:

RehabCare Group, Inc.

7733 Forsyth Boulevard

Suite 2300

St. Louis, Missouri 63105

Attention: Corporate Secretary

(800) 677-1238

or

MacKenzie Partners, Inc.

105 Madison Avenue

New York, New York 10016

proxy@mackenziepartners.com

Call Collect: (212) 929-5500

or

Toll-Free: (800) 322-2885

YOUR VOTE IS VERY IMPORTANT.

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Please complete, date, sign and return your proxy card(s) or vote your shares by telephone or over the internet at your earliest convenience so that your shares are represented at the RehabCare special meeting.

St. Louis, Missouri, [], 2011

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