

**BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN**  
**ORDINANCE DATED \_\_\_\_\_, 2010**  
**ORDINANCE # \_\_\_\_\_**

**AN ORDINANCE CONCERNING**  
**PATIENT SAFETY**

**WHEREAS**, the provision of services by Itinerate Medical Providers as defined in this Ordinance should give due regard to the protection of the health, safety and general welfare of the people; and

**WHEREAS**, the Board Commissioners of the County of Allen find that for the protection of the public health, safety and welfare of the citizens of Allen County, to provide safe and effective continuing care for patients of Itinerate Medical Providers in conjunction with local operating hospitals, emergency departments and urgent care providers and in conformity with accepted standards of practice, it is reasonable and necessary to enact the requirements provided in this Ordinance; and

**WHEREAS**, the provision of Tracking, Peer Review and Follow Up shall serve to protect the public health, safety and welfare of the citizens of Allen County;

**THEREFORE**, the Board of Commissioners of the County of Allen and hereby enacts the following Ordinance in the interest of protecting the health of the public in Allen County:

**SECTION 1. ADDITION OF A NEW CHAPTER TO THE CODE OF**  
**ORDINANCES OF ALLEN COUNTY**

Code of Ordinances of Allen County, Indiana, is amended by adding a new Article 8 to Title 10 of the Allen County Code of Ordinances, which new Article shall read as follows:

**ARTICLE 8**

**Patient Safety Requirements.**

<b>Section 10-8-1</b>	<b>Definitions.</b>
<b>Section 10-8-2</b>	<b>Provider Responsibilities.</b>
<b>Section 10-8-3</b>	<b>Operator Responsibilities.</b>
<b>Section 10-8-4</b>	<b>Operator Policies</b>
<b>Section 10-8-5</b>	<b>Review.</b>
<b>Section 10-8-6</b>	<b>Procedures When Violations are Noted.</b>
<b>Section 10-8-7</b>	<b>Other Permit Revocation, Suspension and Immediate Closure Orders.</b>
<b>Section 10-8-8</b>	<b>Hearings.</b>
<b>Section 10-8-9</b>	<b>Appeal.</b>
<b>Section 10-8-10</b>	<b>Enforcement.</b>
<b>Section 10-8-11</b>	<b>Penalty.</b>
<b>Section 10-8-12</b>	<b>Injunction.</b>
<b>Section 10-8-13</b>	<b>Expense.</b>

**Section 10-8-14 Cumulative**  
**Section 10-8-15 Severability.**

A. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

**“Admitting Privileges”** are defined as delegated to the hospitals and directed and regulated in Indiana Code (IC-16-22-3-9).

**“Business Hours”** refers to the hours of Monday through Friday, 8:00 am – 4:30 pm.

**“Department”** means the Fort Wayne-Allen County Department of Health.

**“Facility”** means any location, whether mobile or stationary where medical care is provided.

**“Health Officer”** means the duly appointed Health Officer of the Fort Wayne-Allen County Department of Health or his or her designee. The Health Officer or designee shall be the official in charge of enforcing this ordinance. The Health Officer may designate a representative in the Department to perform those duties and responsibilities of the Health Officer.

**“Itinerate Medical Provider”** means;

- (1) A Physician who lives outside Allen County or a contiguous county; and
- (2) does not have admitting privileges in Allen County or a county contiguous county.

**“Medical Care”** means any surgical or other invasive procedure, as defined in Indiana Code 25-22.5-1-1.1.

**“Operator”** means any person who controls, operates, manages, or owns any facility as defined in this chapter.

**“Patient”** means anyone who receives Medical Care or who comes under the care of a Provider for the purpose of receiving Medical Care.

**Section 10-8-2 Provider Responsibilities.**

A. All Itinerate Medical Providers who offer any type of Medical Care to a person in Allen County, Indiana, shall be regulated by this ordinance. Itinerate Medical Providers shall provide to the Department, as well as all Allen County operating hospitals, emergency departments and urgent care providers, emergency contact information for the Itinerate Medical Provider to facilitate sharing of clinical knowledge and arranging of disposition in emergency situations. Emergency contact information shall include the Itinerate Medical Provider’s name, medical license number and a phone number where they or their physician designee may be reached on a twenty four (24) hour a day, seven (7) day a week basis. Additionally, follow up care must be available on an appropriate and timely basis when clinically necessary by the

Itinerate Medical Provider or their physician designee. Notification of this arrangement must be provided to the patient and the Allen County Department of Health as well as all Allen County operating hospitals, emergency departments and urgent care providers by the Itinerate Medical Provider. Itinerate Medical Provider shall comply with the following responsibilities:

1. File verification of emergency contact information with the Department prior to providing Medical Care in Allen County, Indiana. A \$250.00 filing fee will be paid at the time of filing.

2. File verification of emergency contact information and alternate physician designee with all Allen County operating hospitals, emergency departments and urgent care providers

3. Notify the Patient orally and in writing of the emergency contact information if complications arise. Keep on file as a permanent record a copy of such written notification signed by the Patient to whom it was provided.

### **Section 10-8-3 Operator Responsibilities.**

A. The Operator shall ensure that Itinerate Medical Providers otherwise comply with the provisions of this Ordinance.

B. The Operator shall display a certificate of compliance with the requirements of this ordinance, in a form supplied by the Department, in view of Patients at the main entrance of the Facility.

C. The Operator shall display written materials prepared or approved by the Department explaining a Patient's rights under this ordinance. These materials shall include information on how to report violations and shall include information regarding the Department's duties to investigate.

### **Section 10-8-4 Operator Policies.**

A. The Operator shall develop a written policy maintained at the facility in compliance with this ordinance and shall ensure that said policy is disseminated to all officers, employees and contractors of the Operator or its Providers.

B. The local operating hospital, emergency department or urgent care provider who provides follow up coverage to a patient of an Itinerate Medical Provider shall transmit a summary of such treatment to the Operator and the Itinerate Medical Provider if such facility is licensed and inspected by the State of Indiana. If such Operator is not licensed and inspected by the State of Indiana, then the report of complications shall be transmitted to the physician/operator as well as the Indiana State Medical Licensing Board and the Department.

### **Section 10-8-5 Review.**

A. The Department shall keep record of emergency contact information of each Itinerate Medical Provider located in Allen County, collect a \$250.00 filing fee and annually

inspect written documentation to insure compliance. Violations noted by the Department shall be corrected immediately. The Department shall conduct follow-up reviews to determine compliance with this ordinance whenever questions arise as to the adequacy of compliance.

#### **Section 10-8-6 Procedures When Violations Are Noted**

- A. Violations shall include but not be limited to;**
- a. Failure of an Itinerate Medical Provider to notify patient,** local operating hospitals, emergency departments and urgent care providers of emergency contact information and alternate Physician designee;
  - b. Verification by patient,** local operating hospitals, emergency departments and urgent care providers that an Itinerate Medical Provider's failure to provide emergency contact information did not result in appropriate follow up and/or obstructed appropriate medical care.
  - c. Failure of local operating hospitals,** emergency departments and urgent care providers to report Itinerate Medical Provider patient visits that have occurred as a result of a prior outpatient procedure or change in drug therapy (not including pain control).

**B.** Upon referral from a patient, local operating hospital, emergency department or urgent care provider of a complaint that a facility providing medical care, that the Operator or Itinerate Medical Provider is in violation of any provision of this ordinance, the Health Officer shall conduct a review of the records of said Facility, Operator or Itinerate Medical Provider, including without limitation the records of patients who have undergone similar care that may be relevant to the review as determined in the sole discretion of the Officer. In furtherance of such a review, the Officer shall have authority to seek and obtain a subpoena from the Circuit or Superior Court of Allen County, Indiana, to obtain records and/or written or oral testimony from a Facility, Operator or Provider, or the officers, contractors, employees or agents thereof.

**C.** If, during the review of the records of any Facility, Operator or Provider, the Health Officer confirms the violation of any provision of this ordinance, he/she shall issue a written report listing such violation(s) and the remedial action(s) to be taken in accordance with this ordinance. A copy of said report shall be delivered to the Facility, Operator, Itinerate and Medical Provider by hand delivering the report on-site, or mailing the notice by certified mail to the address listed by the Facility, Operator or Itinerate Medical Provider as the mailing address on the permit application.

**D.** A copy of the written order shall be filed in the records of the Department after appropriate review by supervisory personnel, mailed to the Indiana State Medical Licensing Board. Except as otherwise prohibited by law, said order shall be open to the public

#### **Section 10-8-7 Immediate Closure Orders.**

**A.** Whenever the Health Officer or his/her authorized representative finds an Itinerate Medical Provider operating in Allen County, Indiana, in violation of this ordinance and further finds that said violation poses a significant risk to public health, he/she shall issue and serve a written order upon the Itinerate Medical Provider and Operator citing the existence of a

violation of this ordinance and requiring the closure of its operations.

B. Such order shall not be effective for at least 24 business hours

C. If an order is issued under section 10-8-7(A), the Operator/Itinerate Medical Provider may request a hearing. If the Operator/Itinerate Medical Provider requests a hearing before the issued order becomes effective, the notice of closure shall not become effective until a ruling is made following the hearing. If the Operator/Itinerate Medical Provider requests a hearing after the issued order under section 10-8-7(A) becomes effective, the order shall remain in effect until a hearing is held. A hearing requested under this section shall commence within 48 business hours of the request for hearing.

D. The Health Officer shall conduct a review upon the request of the Operator or Itinerate Medical Provider.

### **Section 10-8-8 Hearings.**

A. Except as provided in Section 10-8-7 C, all hearings required under this ordinance shall be held only upon at least ten (10) days written notice to the Operator/Provider of time, place and nature thereof. The notice of hearing shall be served upon the Operator/Provider by leaving, or mailing by certified mail, the notice to the address listed on the permit application as the Operator/Provider's mailing address or such other address as the Operator/Provider shall designate in writing to the Allen County Health Officer.

B. At any hearing required under this ordinance, the hearing officer shall be the Health Officer or his/her designee. Every person who is a party to such proceeding shall have the right to submit evidence, to cross-examine witnesses and to be represented by legal counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitive evidence may be excluded.

C. Upon the conclusion of such hearing, the hearing officer shall enter a final order, subject to the right of appeal.

### **Section 10-8-9 Appeal.**

A. Any Operator/Provider aggrieved by any final order of the Health Officer shall be entitled to a review of the final order before the Fort Wayne-Allen County Board of Health ("Board") by filing a written request therefore with the Secretary of the Board within fifteen (15) days after such final order is issued.

B. Upon the Health Officer's receipt of such request, the Board shall hear the matter in an open hearing after at least ten (10) days' written notice of the time, place and nature thereof. (The Health Officer and Operator/Provider may agree to a shorter period of time, if requested by either party.) The notice shall be issued by the Secretary of the Board to the Operator/Provider filing the request.

C. The notice of hearing shall be served upon the Operator/Provider by leaving or mailing by certified mail, the notice to the address listed as the Operator/Provider mailing

address or such other address as the Operator/Provider shall designate in writing to the Secretary of the Board.

D. At such hearing, the same rules of procedure shall apply as set forth above, provided that upon written request by the Operator/Provider or the Health Officer, the Board shall cause the proceedings before it to be recorded by a reporter employed for such purpose, and the same, together with all papers and documents filed therein, shall, at the request of either party, be reproduced by said Board in the form of a transcript, a copy of which shall be available to any party.

E. The expense of such proceedings shall be charged to the Operator/Provider who applied for the review, except that copies of transcripts shall be at the expense of the party requesting the same. At the time the transcript is requested, the Board may require the Operator/Provider to pay a deposit in an amount determined by the Board to be necessary to secure such expense(s).

F. The Board shall make written findings of facts and shall enter its final order or determination of the matter in writing.

G. Judicial review of any final order shall be obtained in accordance with the provisions of Indiana Code §4-21.5-5.

**Section 10-8-10 Enforcement.**

A. It shall be the duty of the Health Officer to enforce the provisions of this ordinance. A violation of an order issued by the Health Officer or Board shall be considered to be a violation of this ordinance.

**Section 10-8-11 Penalty.**

A. Any person who willfully violates any of the provisions of this ordinance shall be subject to a fine of not more than one thousand dollars (\$1,000.00) for each violation. Each day of the existence of any violation shall be reported to the Indiana State Medical Licensing Board.

**Section 10-8-12 Injunction.**

A. The Health Officer may bring an action for an injunction in the Circuit or Superior Court of Allen County, Indiana, to restrain any person from violating the provisions of this ordinance, to cause such violation(s) to be prevented, abated or removed.

**Section 10-8-13 Expense.**

A. Any person violating any of the provisions of this ordinance shall be liable to the Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and costs.

**Section 10-8-14 Cumulative.**

A. The remedies provided in this Chapter shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

**Section 10-8-15 Severability.**

A. Invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance.

**SECTION 2. EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of the County of Allen on June 1, 2010.

**Passed by the Board of Commissioners of the County of Allen this \_\_\_\_ day of \_\_\_\_\_, 2010.**

BOARD OF COMMISSIONERS OF  
THE COUNTY OF ALLEN

\_\_\_\_\_  
Linda K. Bloom, Commissioner

\_\_\_\_\_  
Wm. E. Brown, Commissioner

\_\_\_\_\_  
Nelson Peters, Commissioner

ATTEST:

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Lisbeth A. Blosser, Auditor