

BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN  
ORDINANCE DATED June 25, 2010  
ORDINANCE # 06-25-10-06

**AN ORDINANCE AMENDING  
THE PATIENT SAFETY ORDINANCE**

**WHEREAS**, the provision of services by Itinerant 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 of 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 Itinerant 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;

**WHEREAS**, the Board of Commissioners of the County of Allen had previously adopted a Patient Safety Ordinance; and

**WHEREAS**, during the implementation period for said Ordinance, certain scriveners' errors and ambiguities have been pointed out; and

**WHEREAS**, the Board of Commissioners desires to correct said scriveners' errors and ambiguities.

**NOW, THEREFORE**, the Board of Commissioners of the County of Allen hereby amends the Patient Protective Ordinance as follows:

**Section 1: The Ordinance is amended to read as follows:**

**ARTICLE 10**

**Patient Safety Requirements.**

- |                 |                                       |
|-----------------|---------------------------------------|
| Section 10-10-1 | Definitions.                          |
| Section 10-10-2 | Provider Responsibilities.            |
| Section 10-10-3 | Operator Responsibilities.            |
| Section 10-10-4 | Operator Policies                     |
| Section 10-10-5 | Review.                               |
| Section 10-10-6 | Procedures When Violations are Noted. |

Section 10-10-7	Hearings.
Section 10-10-8	Appeal.
Section 10-10-9	Enforcement.
Section 10-10-10	Penalty.
Section 10-10-11	Injunction.
Section 10-10-12	Expense.
Section 10-10-13	Privacy
Section 10-10-14	Cumulative
Section 10-10-15	Severability.

**Section 10-10-1 Definitions.**

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 (including IC-16-21-2-5 and IC-16-22-3-9).

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

“**Facility**” means any location, whether mobile or stationary where Medical Care is provided by an Itinerant Medical Provider.

“**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.

“**Itinerant 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 contiguous county.

“**Medical Care**” means any surgical or other invasive procedure, as defined in Indiana Code (IC-25-22.5-1-1.1(a)(1)(C)), provided by an Itinerant Medical Provider in Allen County, Indiana to a Patient in Allen County, Indiana.

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

“**Patient**” means anyone who receives Medical Care in Allen County, Indiana, from an Itinerant Medical Provider in Allen County, Indiana, or who comes under the care of an Itinerant Medical Provider in Allen County, Indiana, for the purpose of receiving Medical Care from them in Allen County, Indiana.

“Physician Designee” means a physician who is willing to be designated and who is not an Itinerant Medical Provider.

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

A. All Itinerant Medical Providers who, while in Allen County, Indiana, provide any type of Medical Care to a person in Allen County, Indiana, shall be regulated by this ordinance. Itinerant Medical Providers shall provide their Patients, the Department, and all Allen County operating hospitals, emergency departments and urgent care providers (as identified by the Department), emergency contact information in order to facilitate sharing of clinical knowledge and arrange disposition in emergency situations. Emergency contact information shall include the Itinerant Medical Provider’s and their Physician Designee’s names, medical license numbers and phone numbers where either may be reached on a twenty four (24) hour a day, seven (7) day a week basis. The Itinerant Medical Provider shall comply with the following responsibilities:

1. File verification of the Itinerant Medical Provider’s and their Physician Designee’s emergency contact information with the Department prior to providing Medical Care in Allen County, Indiana. A one-time \$250.00 filing fee will be paid at the time of filing.

2. File verification of the Itinerant Medical Provider’s and their Physician Designee’s emergency contact information with all Allen County operating hospitals, emergency departments and urgent care providers (as identified by the Department).

3. Notify the Patient orally and in writing, prior to providing his or her Medical Care, of the Itinerant Medical Provider’s and their Physician Designee’s emergency contact information for use in the event 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 10-10-3 Operator Responsibilities.**

A. The Operator shall ensure that Itinerant Medical Providers who provide Medical Care in their Facilities in Allen County, Indiana 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 10-10-4 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 (as identified by the Department) who provides care to a Patient in follow up to Medical Care received from an Itinerant Medical Provider shall transmit a summary of such follow up care to the Operator, the Itinerant Medical Provider and their Physician Designee if the Operator's Facility is licensed and inspected by the State of Indiana. If such Operator's Facility is not licensed and inspected by the State of Indiana, then the report of follow up care shall be transmitted to the Operator and the Itinerant Medical Provider, to the Department, and as a complaint to the Indiana State Medical Licensing Board.

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

A. The Department shall keep record of emergency contact information of each Itinerant Medical Provider and their Physician Designee, shall collect the one-time \$250.00 filing fee, and to insure compliance shall annually inspect its own records of emergency contact information and the Itinerant Medical Provider's and Operator's displayed certification requirements and patients rights notifications. Violations noted by the Department shall be corrected immediately.

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

A. Violations shall include but not be limited to;

- a. Failure of an Itinerant Medical Provider to notify the Patient, the Department, or local operating hospitals, emergency departments and urgent care providers (as identified by the Department) of emergency contact information of the Itinerant Medical Provider and their Physician Designee;
- b. Failure of local operating hospitals, emergency departments or urgent care providers (as identified by the Department) to report, as required above, Itinerant Medical Provider Patient follow up care that has occurred as a result of prior Medical Care by the Itinerant Medical Provider.

B. Upon a credible complaint by a Patient, local operating hospital, emergency department or urgent care provider (as identified by the Department) or Physician Designee that the Facility providing Medical Care, the Operator or the Itinerant Medical Provider is in violation of any provision of this ordinance, the Health Officer shall conduct a review of the Department's own records, the Itinerant Medical Provider's written patient notifications of emergency contact information, the Itinerant Medical Provider's and Operator's displayed certification requirements and patients rights notifications, and documentation of emergency contact information provided by the Itinerant Medical Provider to Allen County operating hospitals, emergency departments and urgent care providers. 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 produce such records and/or written or oral testimony about such records from a Facility, Operator or Itinerant Medical Provider, or the officers, contractors, employees or agents thereof.

C. If, during the review of such records of any Facility, Operator or Itinerant Medical 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, and Itinerant 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 Itinerant Medical Provider as the mailing address on the permit application.

#### **Section 10-10-7 Hearing.**

A. If the Health Officer or his/her authorized representative issues a violation report under Section 10-10-6(C), the Operator/Itinerant Medical Provider may request and is entitled to a hearing. All hearings required under this ordinance shall be held only upon at least ten (10) days written notice to the Operator/Itinerant Medical Provider of time, place and nature thereof. The notice of hearing shall be served upon the Operator/Itinerant Medical Provider by leaving, or mailing by certified mail, the notice to the address listed on the permit application as the Operator/Itinerant Medical Provider's mailing address or such other address as the Operator/Itinerant Medical 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.

D. A copy of the written order shall be filed in the records of the Department and sent as a complaint to the Indiana State Medical Licensing Board.

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

A. Any Operator/Itinerant Medical 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 and the Health Officer within fifteen (15) days after such final order is issued.

B. Upon 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/Itinerant Medical Provider may agree to a shorter period of time.) The notice shall be issued by the Secretary of the Board to the Operator/Itinerant Medical Provider filing the request.

C. The notice of hearing shall be served upon the Operator/Itinerant Medical Provider by leaving or mailing by certified mail, the notice to the address listed as the Operator/Itinerant Medical Provider mailing address or such other address as the Operator/Itinerant Medical 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/Itinerant Medical 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/Itinerant Medical Provider who applied for the review, except that copies of transcripts shall be at the expense of the party requesting the same, and except to the extent the Board finds in favor of the Operator/Itinerant Medical Provider in which case parties and the Board will bear their own expenses. At the time the transcript is requested, the Board may require the Operator/Itinerant Medical 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. A copy of the written findings of facts and order shall be filed in the records of the Department and sent as a complaint to the Indiana State Medical Licensing Board.

H. Judicial review of any final order shall be obtained in accordance with the provisions of Indiana Code (IC-4-21.5-5).

#### **Section 10-10-9 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 10-10-10 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 as a complaint to the Indiana State Medical Licensing Board.

#### **Section 10-10-11 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, or to cause such violation(s) to be prevented, abated or removed.

**Section 10-10-12 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 10-10-13 Privacy.**

A. Any documents in the custody of the Department or its employees, or the Health Officer or his or her designee, or the Board of Health, containing information about Patients shall not be disclosed to the public if otherwise prohibited by law. In addition, in any such documents that are disclosed they shall first redact the following Patient information, except that the Department may disclose the following information in complaint reports to the Indiana State Medical Licensing Board as required by this Ordinance or as requested by that Board:

1. Patients' or their family members' name;
2. Their birth date and age, except that ages may be aggregated into the categories of age 18 or older and of age 17 and under;
3. Their address, other than State;
4. Their telephone number, fax number, and electronic mail address;
5. Their Web Universal Resource Locator (URL) and Internet Protocol (IP) address;
6. Their social security number, medical record number, health plan beneficiary number, and account number;
7. Their certificate/license number, vehicle identifier and serial number, including license plate number;
8. Their device identifier and serial number;
9. Their biometric identifier, including finger and voice print, and full face photographic image and any comparable image; and
10. Any other number, characteristic, or code uniquely identifying the Patient or their family members.

B. Any documents in the custody of the Department or its employees, or the Health Officer or his or her designee, or the Board of Health, containing information about Itinerant Medical Providers or their Physician Designees shall not be disclosed to the public as otherwise prohibited by law. In addition, in any such documents that are disclosed they shall first redact the following information about Itinerant Medical Providers or their Physician Designees, except that the Department may disclose the following information to any physicians and health care providers as necessary to facilitate their care for the Patients of Itinerant Medical Providers, and the Department may disclose the following information in complaint reports to the Indiana State Medical Licensing Board that are required by this Ordinance or as requested by that Board, and the Department may disclose the emergency contact information of Itinerant Medical Providers or their Physician Designees to Allen County operating hospitals, emergency departments and urgent care providers.

1. The Itinerant Medical Provider's and their Physician Designee's birth date and age;
2. Their home address, other than whether or not they reside in Allen County or a contiguous county;
3. Their telephone number, fax number, and electronic mail address;
4. Their web Universal Resource Locator (URL) and Internet Protocol (IP) address;
5. Their social security number;
6. Their vehicle identifier and serial number, including license plate number; and
7. Their biometric identifier, including finger and voice print, and full face photographic image and any comparable image.

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

A. Any provision of this ordinance held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable here from and shall not affect the remainder hereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

**SECTION 2. EFFECTIVE DATE**

This ordinance shall be in full force and effect thirty (30) days after its passage and its publication according to Board procedure. The prior ordinance to the extent inconsistent with this Amendment is hereby repealed as of the Effective Date of this ordinance.

Passed by the Board of Commissioners of the County of Allen this 25 day of June, 2010.

BOARD OF COMMISSIONERS OF  
THE COUNTY OF ALLEN

  
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Linda K. Bloom, Commissioner

  
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Wm. E. Brown, Commissioner

  
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Nelson Peters, Commissioner

ATTEST:

  
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Lisbeth A. Blosser, Auditor

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