

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE IOSHA BOARD OF  
SAFETY REVIEW

**F I L E D**

IN THE MATTER OF THE )  
COMMISSIONER OF LABOR, )

**AUG 25 2011**

Indiana Board of  
Safety Review

Complainant, )

CASE DOCKET NO. 11-004

v. )

HEALTHCARE SERVICES GROUP, )

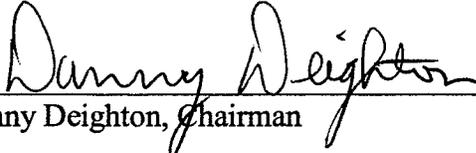
Respondent. )

**FINAL ORDER**

The parties to the above-referenced proceeding, through their duly authorized representatives, have filed with the Board their Agreed Entry. The Board, being duly advised, now accepts the Respondent's withdrawal of its Notice of Contest, and adopts the Safety Orders and penalty issued by the Commissioner of Labor, as modified by the Agreed Entry, as its final order in this matter.

IT IS ORDERED that the Respondent's withdrawal of its Notice of Contest is accepted and the Safety Orders and penalty issued by the Commissioner of Labor, as modified by the Agreed Entry, is adopted as a final order.

Dated: 25 Aug 2011

  
\_\_\_\_\_  
Danny Deighton, Chairman

Copies to:

Julie C. Alexander  
Legal Counsel  
Department of Labor  
402 W. Washington St., Rm. W195  
Indianapolis, IN 46204

Gregory S. Narsh  
PEPPER HAMILTON LLP  
100 Renaissance Center, Suite 3600  
Detroit, MI 48243-1157

STATE OF INDIANA )  
 )SS:  
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BEFORE THE IOSHA BOARD OF  
SAFETY REVIEW  
CASE DOCKET NO. 11-004

IN THE MATTER OF THE )  
COMMISSIONER OF LABOR, )

Complainant, )

v. )

HEALTHCARE SERVICES GROUP, )  
INC., AND ITS SUCCESSORS, )

Respondent. )

**F I L E D**

**AUG 11 2011**

Indiana Board of  
Safety Review

**AGREED ENTRY**

The parties to the above-captioned proceeding, the Commissioner of the Indiana Department of Labor and Healthcare Services Group, Inc. ("Respondent"), through their duly authorized representatives, being desirous of entering into this Agreed Entry prior to hearing do hereby stipulate and agree as follows:

**PART I.**

1. From December 6, 2010, through January 24, 2011, authorized employee(s) of the Indiana Department of Labor conducted an inspection at the Respondent's place of employment, at the 202 West 86<sup>th</sup> Street, Indianapolis, Indiana 46260.

2. On March 16, 2011, the Commissioner of Labor issued Safety Order No. 01 and No. 02 (Indiana Department of Labor Inspection No. 315041558) alleging that Respondent had violated the Indiana Occupational Safety and Health Act (IC 22-8-1.1 *et seq.*).

3. On or about April 11, 2011, Respondent duly and timely petitioned for review of Safety Order No. 01 and 02 (Safety Order No. 01 and 02 attached hereto as Exhibit A is incorporated herein).

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PART II.

4. The Petitioned for review Safety Orders are No. 01 consisting of Item No. 1 including subparts, and Safety Order No. 2 consisting of Item No. 1 including subparts.

5. Safety Order No. 1, Item No. 1 alleges a "Serious" violation of 29 CFR 1910.133(a)(1) and assesses a total penalty of Two Thousand Five Hundred Dollars (\$2,500.00)

6. Safety Order No. 2, Item No. 1 alleges a "Repeat Serious" violation of 29 CFR 1910.151(c) and assesses a total penalty of Twenty Five Thousand Dollars (\$25,000.00).

7. The total penalty for all violations and all subparts thereunder for Safety Order No. 01 and 02 is Twenty Seven Thousand Five Hundred Dollars (\$27,500.00).

PART III.

8. Safety Order No. 1, Item No. 1 remains as issued and is not amended. The classification remains "Serious" and the penalty remains at Two Thousand Five Hundred Dollars (\$2,500.00).

9. Complainant hereby amends Safety Order No. 2, Item No. 1 from a "Repeat Serious" violation to a "Serious" violation and the penalty is reduced from Twenty Five Thousand Dollars (\$25,000.00) to Five Thousand Dollars (\$5,000.00)

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10. Respondent, Healthcare Services Group, Inc., agrees to reassess the placement and type of, and training on, eyewash stations on a statewide basis in the third-party facilities in which its employees provide services, including:

- a. Evaluating all locations where it is feasible and practical to utilize cleaning compounds in sealed containers that do not require dilution or mixing, thereby minimizing exposure to potentially hazardous materials;
  - b. Evaluate chemical usage and inspect all eyewash stations at all Indiana locations to confirm that eyewash stations are appropriately located and maintained in compliance with applicable IOSHA requirements.
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- c. Evaluate training programs (for both content and effectiveness) relating to handling of hazardous materials and use of eyewash stations. Evaluate and implement improvements or enhancements where appropriate and retrain individuals, as needed. Emphasize consistent enforcement of safety requirements.

11. Respondent will report every two months their progress towards items a through c in paragraph 10 above for a period of twelve (12) months, or such earlier date as the parties hereto agree. The first status report will be filed on or before October 31, 2011 and will continue every other month through August, 2012, or such earlier date as the parties hereto agree.

12. Pursuant to 29 CFR 1903.14a(a) which is incorporated by reference in 610 IAC 9- 2-8 of the IOSHA administrative rules, Respondent may petition the Board of Safety Review for extensions of time to complete the abatement items in paragraph ten (10), including all subparts, above by proving that Respondent has made a good faith effort to comply with the abatement requirement and that abatement has not been completed because of factors beyond Respondent's control.

13. The AGREED total penalty for all violations and all subparts thereunder subject to this Agreed Entry is Seven Thousand Five Hundred Dollars (\$7,500.00).

14. It is understood and agreed by the Respondent and Complainant that this Agreed Entry and attachments will constitute a final, enforceable IOSHA Safety Order(s) and penalties for the purposes of the IOSHA Act. It is further understood and agreed by the Respondent and Complainant that Respondent will report this IOSHA Safety Order as a "Serious" (and not a "Repeat Serious") violation on IOSHA 300 logs; and that Complainant will also adjust internal documents to reflect a "Serious" (and not a "Repeat Serious") violation, and that any future IOSHA investigation, Safety Order and/or penalty will reflect the Safety Order and penalties covered by this agreement as "Serious" (and not "Repeat Serious") violation for the purposes of good faith discounts on penalties and all other internal and external applications.

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15. Respondent confirms Complainant's right to reinspect the premises at 202 West 86<sup>th</sup> Street, Indianapolis, Indiana, in accordance with the Act and to verify abatement of the alleged violations.

16. Respondent hereby withdraws its petition for review previously filed in this matter.

PART IV.

17. Nothing contained in this agreement shall be construed to affect the Commissioner's interpretation of the Indiana Occupational Safety and Health Act or any standard or regulation enforced pursuant thereto or the applicable classification thereof.

18. Except for these proceedings, and matters arising out of these proceedings and any other subsequent IOSHA proceedings between the parties, none of the foregoing agreements, statements, findings, and actions taken by the Respondent shall be deemed an admission. The agreements, statements, findings, and actions taken herein are made in order to compromise and settle this matter economically and amicably, and they shall not be used for any other purpose, except as herein stated.

19. The invalidity or unenforceability of any section, subsection, clause or provision of this Agreed Entry does not affect the remaining sections, subsections, clauses, or provisions of this Agreed Entry.

20. Respondent, upon full execution of this Agreed Entry, will post this Agreed Entry at store at 202 West 86<sup>th</sup> Street, Indianapolis, Indiana, for three (3) working days or until abatement is completed, whichever period is longer, pursuant to Board of Safety Review Rules of Procedure, 615 IAC 1-2-18(b)(3).

21. Respondent must institute the safety related items contained in paragraph

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10(a) through (c) within twelve (12) months from the date of this agreement in all locations where it provides services statewide, unless an extension of time is requested and granted under paragraph Twelve (12); or a petition for modification for abatement has been requested and granted under paragraph Twelve (12) of this Agreed Entry.

AGREED this 11<sup>th</sup> day of August, 2011.

HEALTHCARE SERVICES GROUP, INC.

By: [Signature]

Title: CFO / SECRETARY

By: [Signature]  
Gregory S. Narsh  
Counsel for Respondent

COMMISSIONER OF LABOR

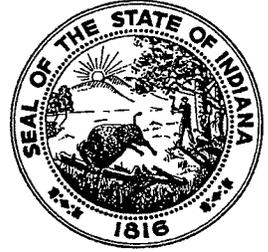
By: [Signature]

Jeffrey Carter Deputy  
Commissioner  
IOSHA

By: [Signature]  
Julie C. Alexander  
Deputy Attorney General

#14573972 v1 (125401.2)

Indiana Department of Labor  
Indiana Occupational Safety and Health Administration  
402 West Washington Street  
Room W195  
Indianapolis, IN 46204-2751  
Phone: 317/232-1979 Fax: 317/233-8509



*Certified mail # 7003 1010 0003 52315901 3-16-11 jto*

## Safety Order and Notification of Penalty

<b>To:</b>	<b>Inspection Number:</b>	315041558
Healthcare Services Group, and its successors 15 Spinning Wheel Road Suite 436 Hinsdale, IL 60521	<b>Inspection Date(s):</b>	12/06/2010 - 01/24/2011
	<b>Issuance Date:</b>	03/16/2011

**Inspection Site:**

202 West 86th Street  
Indianapolis, IN 46260

*The violation(s) described in this Safety Order and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

An inspection of your place of employment has revealed conditions which we believe do not comply with the provisions of the Indiana Occupational Safety and Health Act (Indiana Code Chapter 22-8-1.1) or the standards or rules adopted thereunder. Accordingly, enclosed please find safety order(s) and notification(s) of penalty describing such violation(s) with references to applicable standards, rules, or provisions of the statute and stating the amount of any penalty(ies).

**Informal Conference** - Please be advised that it may be possible to informally settle any potential dispute without initiating the more elaborate proceedings brought on by a petition for review. Prior to filing a petition for review, you may request an informal conference concerning any of the results of the inspection (safety orders, penalties, abatement dates, etc.) by contacting the Indiana Department of Labor/IOSHA, preferably by telephone, in a prompt manner. Please be advised that a request for an informal conference cannot extend the fifteen working day period for filing a petition for review. Informal conferences frequently resolve any possible disputes, and therefore you are urged to take advantage of this opportunity. Because of the limited time period and in order to facilitate scheduling, any requests for an informal conference should be made promptly upon your receipt of the safety order(s) and notification(s) of penalty.

**Right to Contest** - You are hereby also notified that you are entitled to seek administrative review of the safety order(s), penalty(ies), or both by filing a written petition for review at the above address postmarked within fifteen working days of your receipt of the safety order(s) and notification(s) of penalty. ("Working days" means

Mondays through Fridays, but does not include Saturdays, Sundays, legal holidays under a state statute or days on which the Indiana Department of Labor's offices are closed during regular business hours). If you do not file such a petition for review (contest), the safety order(s) and penalty(ies) shall be deemed final orders of the Board of Safety Review and not subject to review by any court or agency. The issuance of a safety order does not constitute a finding that a violation has occurred unless no petition for review is filed, or if a petition for review (contest) is filed, it must contain a statement of its basis and should reference the above inspection number. Upon receipt of your petition for review, we will affirm, amend or dismiss the safety order(s) and notification(s) of penalty. If we affirm, your petition for review will be granted (unless it was not timely) and the dispute will be certified by the Board of Safety Review for further proceedings. The Board of Safety Review is an independent agency appointed by the governor with authority to conduct hearings and to issue decisions concerning disputed safety order(s) and notification(s) of penalty. If we amend the safety order(s) or notification(s) of penalty, your petition for review shall be deemed moot. However, you will then be given an opportunity to file a petition for review concerning the amended safety order(s) and notification(s) of penalty.

Please be advised that an employee or representative of employees may file a petition for review to contest the reasonableness of the time stated in the safety order(s) for the abatement of any violation.

**Posting** - Upon receipt of any safety order(s) you are required to post such safety order(s), or a copy thereof, unedited, at or near each place an alleged violation referred to in the safety order(s) occurred. However, if your operations are such that it is not practicable to post the safety order(s) at or near each place of alleged violation, such safety order(s) shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, if you are engaged in activities which are physically dispersed, the safety order(s) may be posted at the location from which the employees operate to carry out their activities. You must take steps to ensure that the safety order is not altered, defaced, or covered by other material. Posting shall be until the violation is abated, or for three working days, whichever is longer.

**Penalties** - Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Abatement does not constitute payment of penalties.

**Abatement** - The conditions cited in the safety order(s) must be corrected (abated) on or before the date shown for each item on the safety order(s) and notification(s) of penalty unless:

(1) You file a petition for review concerning the violation, in which case the full abatement period shall commence from the issuance of a final decision by the Board of Safety Review or the courts which requires compliance with the safety order; or

(2) The abatement period is extended by the granting of a petition for modification of abatement date.

**PMAs** - The petition for modification of abatement date is a manner in which you may seek additional time to correct (abate) a violation without having to file a petition for review concerning the safety order, or after the expiration of the time period to file such a petition for review when it becomes apparent that you need extra time to abate the violation. A petition for modification of abatement date shall be in writing and shall include the following information:

(1) All steps you have taken, and the dates of such actions, in an effort to achieve compliance during the prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

(4) All available interim steps being taken to safeguard employees against the cited hazard during the abatement period.

(5) A certification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, and a certification of the date upon which such posting and service was made.

A petition for modification of abatement date shall be filed with the Indiana Department of Labor/IOSHA no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted until the time period for the filing of a petition for review of the Commissioner's granting or denying the petition expires. Where affected employees are represented by an authorized representative, said representative shall be served a copy of such petition.

**Notification of Corrective Action** - Correction of the alleged violations which have an abatement period of thirty (30) days or less should be reported in writing to us promptly upon correction. A "Letter of Abatement" form and an "Abatement Photographs" worksheet are enclosed for your assistance in providing adequate documentation of abatement. Reports of corrections should show specific corrective action on each alleged violation and the date of such action. On alleged violations with abatement periods of more than thirty (30) days, a written progress report should be submitted, detailing what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, we should be so advised. Timely correction of an alleged violation does not affect the initial proposed penalty.

**Followup Inspections** - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation has not been corrected.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the Indiana Department of Labor/IOSHA at the address shown above.

**Notice to Employees** - The law gives an employee or his/her representative the opportunity to object to any

abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Indiana Department of Labor/IOSHA at the address shown above within fifteen (15) working days (excluding weekends and State holidays) or receipt by the employer of this safety order and penalty.

If you wish additional information, you may direct such requests to us at the address or telephone number stated above.



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 03/16/2011. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on \_\_\_\_\_ at \_\_\_\_\_.

Employees and/or representatives of employees have a right to attend an informal conference.

Indiana Department of Labor  
Occupational Safety and Health Administration

Inspection Number: 315041558  
Inspection Dates: 12/06/2010 - 01/24/2011  
Issuance Date: 03/16/2011



**Safety Order and Notification of Penalty**

**Company Name:** Healthcare Services Group  
**Inspection Site:** 202 West 86th Street, Indianapolis, IN 46260

**Safety Order 1 Item 1 Type of Violation: **Serious****

29 CFR 1910.133(a)(1): Protective eye equipment was not required where there was a reasonable probability of injury that could be prevented by such equipment:

Housekeeping Area and Central Bathing Area - Floor technician(s) were required to use Acidulate #417 (corrosive) diluted with water to deep clean the central bathing area floors three times per week.

**Date By Which Violation Must be Abated:** 04/11/2011  
**Proposed Penalty:** \$2,500.00

**Safety Order 2 Item 1 Type of Violation: **Repeat Serious****

29 CFR 1910.151(c): Where employees were exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body were not provided within the work area for immediate emergency use:

Housekeeping Supply Area - Floor Technician(s) were required to transfer Acidulate #417 (corrosive) into a mop bucket for deep cleaning of the central bathing area floors three times per week.

Healthcare Services Group was previously cited for a violation of this Occupational Safety and Health Standard or its equivalent Standard 1910.151(c), which was contained in OSHA inspection number 314453697, citation number 1, item number 1, issued on 08/24/2010, with respect to a workplace located at 2000 17th Ave. South, Saint Petersburg, FL 33712.

**Date By Which Violation Must be Abated:** 04/11/2011  
**Proposed Penalty:** \$25,000.00

  
\_\_\_\_\_  
Robert A. Kattau  
Director, Industrial Compliance

**Indiana Department of Labor**  
Indiana Occupational Safety and Health Administration  
402 West Washington Street  
Room W195  
Indianapolis, IN 46204-2751  
Phone: 317/232-1979 Fax: 317/233-8509



## INVOICE/DEBT COLLECTION NOTICE

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**Company Name:** Healthcare Services Group  
**Inspection Site:** 202 West 86th Street, Indianapolis, IN 46260  
**Issuance Date:** 03/16/2011

**Summary of Penalties for Inspection Number 315041558**

Safety Order 01, Serious	=	\$2,500.00
Safety Order 02, Repeat Serious	=	\$25,000.00
		\$27,500.00

Total Proposed Penalties

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Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Make your check or money order payable to: "Indiana DOL/IOSHA". Please indicate IOSHA's Inspection Number (indicated above) on the remittance.

IOSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Corrective action, taken by you for each alleged violation should be submitted to this office on or about the abatement dates indicated on the Safety Order and Notification of Penalty.

A work sheet has been provided to assist in providing the required abatement information. A completed copy of this work sheet should be posted at the worksite with the safety order(s).

  
\_\_\_\_\_  
Robert A. Kattau  
Director, Industrial Compliance

3-16-11  
\_\_\_\_\_  
Date