

MINUTES OF THE MEETING OF THE  
INDIANA DEPARTMENT OF HEALTH  
EXECUTIVE BOARD  
January 8, 2025

The in-person and virtual (Microsoft Teams) meeting of the Executive Board of the Indiana Department of Health (IDOH) was called to order at 10:30 am in the Robert O. Yoho Executive Board Room of the IDOH building by Dr. Stephen Tharp, Chairperson. The following Board members were present for all or part of the meeting:

Amelia Clark, DrPH, MA  
Brenda Goff, HFA  
Robin Marks, DVM, JD  
Joanne Martin, DrPH, RN, FAAN  
Rex McKinney, FACHE (virtual)  
Dan Cutshaw, PE  
Holly Robinson, MD  
Suellyn Sorensen, PharmD, BCPS (virtual)  
Armando Soto Rojas, DDS  
Matthew Sprunger, MD (virtual)  
Stephen Tharp, MD (Chair)  
Troy Weirick, MD (virtual)

Those not able to attend:

Lindsay Weaver, MD, FACEP (Secretary)

The following staff members were present for all or part of the meeting (in-person or via teams):

Guy Crowder, MD, MPHTM, Chief Medical Officer  
Jon Ferguson, Deputy Chief of Staff  
Pam Pontones, Deputy Health Commissioner of Local Health Services  
Rachel Swartwood, Director of Legislative and External Affairs  
Jordan Stover, JD, Assistant Commissioner, Consumer Services & Health Care Regulation  
Randy Snyder, Director, Acute & Continuing Care  
Megan Lytle, Assistant Commissioner, Public Health Protection  
Kelly MacKinnon, JD, Office of Legal Affairs  
Megan Lavender, Office of Legal Affairs  
Kian Hoss, Office of Legal Affairs  
Vivien McCurdy, Director, Food Protection Program

Guests:

Andy VanZee, Indiana Hospital Association  
Laura Brown, Indiana Hospital Association

## Call to Order

Dr. Stephen Tharp, Chair, stated that a quorum was present. He then called the meeting to order at 10:30 am. He asked if Board members had any known conflicts of interest to declare. Hearing none he proceeded with the meeting.

## Minutes

Dr. Tharp asked for discussion and/or corrections to the minutes of the November 13, 2024, Executive Board meeting. Hearing none, he entertained a motion for approval. On a motion made by Joanne Martin, seconded by Brenda Goff and passed by majority roll call vote of in-person and virtual attendees, the Board approved the minutes as presented.

## **OFFICIAL BUSINESS OF THE INDIANA DEPARTMENT OF HEALTH**

### **Secretary's Report**

Pam Pontones, Deputy Health Commissioner of Local Health Services, presented an update on Health First Indiana (HFI). All funding allocations have been dispersed. HFI packets have been distributed to each legislator, so they are aware of the funding amounts for 2024/2025. These packets also included success stories, scorecard data, and county level key performance indicators. Pam stated that Dr. Weaver is optimistic that this funding will continue in the next biennium. Statewide and regional videos are being developed by the IDOH Office of Public Affairs and will be posted to the website. Dr. Weaver, Pam and Rachel Swartwood visited all 93 counties/95 local health departments from May, 2023 to December, 2024. County visits will resume in June, 2025.

Pam reported that the Public Health Day at the State House is scheduled for March 12, 2025 from 10:00 am to 12:00 pm. Local health departments will receive awards based on nominations submitted from January 13 to February 7, 2025. Joanne Martin stated she has heard many cross-county success stories, especially with smaller rural counties. Dr. Robyn Marks was glad to know that MOUs/MOAs were being used to share staff between counties and/or other partners. Dr. Matthew Sprunger suggested working with the chambers of commerce for synergy throughout the state. Rachel Swartwood stated that staff met with local chambers virtually on January 7, 2025.

### **Consumer Services & Health Care Regulation Commission**

#### Site of Service (Health Care Billing) Rule 410 IAC 42 for Discussion

Jordan Stover, JD, Assistant Commissioner for Consumer Services & Health Care Regulation, presented the initial draft of the Site of Service (Health Care Billing) Rule 410 IAC 42 for discussion. In 2023, the Indiana Legislature passed P.L. 203-2023, adding a new Indiana Code section regulating health care billing by certain nonprofit hospitals which earn more than \$2,000,000,000 in revenue. Specifically, the statute prohibits using an institutional provider form for billing if the health care services are provided

more than 250 yards from the main building of a hospital. Billing for those services are considered being done in an office setting and must be done on an individual provider form. This law is effective as of January 1, 2025.

The IDOH has the authority to promulgate rules to enforce the statute though it does not specify any specific enforcement authority. This draft rule is intended to clarify issues of concern from the regulated community. The IDOH has included definitions of terms in accordance with federal billing laws to clarify exempt facilities and to address remote locations based on Indiana licensure laws. The rule also requires hospitals to submit a list of their facilities that are subject to billing on the individual provider form to IDOH and insurance companies, if asked. It prohibits hospitals from billing facility fees on the individual provider form. Finally, the rule uses the existing dispute resolution processes and remedies in the contracts/existing law between the parties for resolution of disputes arising from this chapter.

The IDOH submitted this rule for Office of Management & Budget/State Budget Agency review on December 27, 2024. There was much discussion and many questions that Jordan Stover responded to. Brenda Goff requested that statutes be included with the information to the Executive Board members as appropriate. Jon Ferguson quickly provided copies of the statute for the in-person attendees and this information will be e-mailed to virtual attendees.

### **Public Health Protection Commission**

#### **Retail Food Establishments Rule for Final Adoption (Amends 410 IAC 7-23, Repeals 410 IAC 7-24 and Adopts 410 IAC 7-26)**

Megan Lytle, Assistant Commissioner for Public Health Protection, introduced Vivien McCurdy, Director, Food Protection Program to present the Retail Food Establishments Rule 410 IAC 7-26 for final adoption. This final rule amends 410 IAC 7-23, repeals 410 IAC 7-24 and adopts 410 IAC 7-26, which are rules related to food establishments. This rule is substantially the same as the interim food rule that was presented to the Executive Board in March 2024.

The purpose of this rule is to adopt the 2022 Model Food Code that was developed by the U.S. Food and Drug Administration (FDA) and released on January 18, 2023. While individual states are not required to adopt the Model Food Code, it serves as an industry recognized food safety standard. Indiana has not updated its food safety standards since the development of the 2001 Model Food Code, which has been creating regulatory uncertainty throughout the state and increasing compliance and training costs for food establishments. The majority of 42,000 food establishments in Indiana already comply with the 2022 Model Food Code because that is the standard utilized by ServSafe. ServSafe is a nationally recognized food safety training course, operated by the National Restaurant Association, for retail food managers and its curriculum is developed on the FDA Model Food Code.

The rule minimizes costs of compliance for retail food establishments because they have been complying with the 2022 Model Food Code through the ServSafe program. This rule also contains civil penalties that are currently set forth in 410 IAC 7-23 to allow regulated entities to have a grace period during the rollout of the new standards set by the 2022 Model Food Code. However, adopting this rule is necessary

because of Indiana specific requirements that are not reflected in ServSafe and because food establishments that are attempting to comply with currently accepted food safety standards must request variances from the IDOH. The reliance on variances to comply with currently accepted food safety standards creates a large cost on both businesses and IDOH that this rule seeks to reduce.

Given that the Rapid Response Team within the IDOH Food Protection Division investigated 49 cases of food-borne illness between 2020 and 2023 and that the local health departments have investigated many more cases, IDOH standardizing and updating food safety standards will result in significant savings to the industry. IDOH estimates this rule will impact an estimated 32,000+ retail food establishments inspected by local health departments, with an estimated 10,000+ facilities regulated by various state entities such as the Department of Education, Department of Correction, Family and Social Services Administration, and the IDOH Long Term Care Division. An up-to-date food code minimizes the risk of food-borne illness outbreaks, promoting public confidence and a booming retail restaurant industry.

A public hearing was held on December 13, 2024, and there were no attendees present.

Dr. Tharp asked for discussion and/or comments from the Board, staff and/or public. Hearing none, he entertained a motion for approval. On a motion made by Brenda Goff, seconded by Joanne Martin and passed by majority roll call vote of in-person and virtual attendees, the Board approved the Retail Food Establishments Rule 410 IAC 7-26 for final adoption.

## **Other**

### **Legislative Update**

Rachel Swartwood, Director of Legislative and External Affairs provided a legislative update.

### **Regulatory Clean up:**

#### 1) Alignment with Federal Regulations in Acute Care Settings

The Acute Care and Home Health Divisions seek a statutory code change to allow IDOH to reference the current version of the components of the federal rules that are intended to align state and federal standards regarding hospitals and residential facilities. Currently, each time a federal regulation changes, IDOH must undertake additional rulemaking – a process that is time-consuming and complex. As a result, there is a mismatch between state and federal rules. *Fiscal impact (State/Local):* None.

#### 2) Background Checks for Home Health Agencies

The current statute specifies disqualifying crimes from employment, such as rape and other violent crimes, at long-term care facilities. However, the statute does not specify the same disqualifying crimes for home health agencies. IDOH seeks to standardize background check requirements across long-term care facilities, home health agencies, and FSSA regulations. Additionally, IDOH needs authority to remove individuals from the nurse aid registry when an individual has been convicted of a disqualifying crime. *Fiscal impact (State/Local):* None.

3) Involuntary Transfer Authority (IVT)

IDOH has identified that the IVT program (soon-to-be renamed Residential Eviction Hearings), is not included in IC 4-15-10.5-1. Since IDOH is not listed in any expectations, statutory authority is required for Office of Administrative Law Proceedings to continue handling these proceedings. The IVT program is not classified as “disputed agency actions” – IDOH serves only as the process coordinator. *Fiscal impact (State/Local):* None.

Women, Children and Families (WIC)

- 1) The WIC program is federally funded and governed by federal statutes and regulations. The state WIC agency is required to establish a vendor agreement with participating retailers, outlining the terms and conditions for participation. Federal regulations also mandate that WIC vendors adhere to pricing and stocking standards, which may shift in response to market conditions. Vendor selection criteria—such as pricing, stock, and location—are similarly influenced by market changes. These conditions can fluctuate frequently, making it challenging to keep selection rules current by the time they are enacted. For enforcement, federal regulations use the term “vendor agreement” while the state uses “vendor contract.” IDOH is seeking to add the definition of vendor agreement to Indiana code for consistency. *Fiscal impact (State/Local):* None.
- 2) Data Sharing Between FSSA and IDOH  
A recent request from an IDOH fatality review team to FSSA for access to treatment and community mental health records was declined, as FSSA indicated it lacked the legal authorization to release the requested information. FSSA’s legal team cited the specific mention of only IC 16-50-1-8 within IC 16-39-2-6 as the basis for their inability to search their database or disclose records. Adding explicit references to other fatality review teams would clearly authorize FSSA to share mental health records with all fatality review teams moving forward. All fatality review teams maintain strict confidentiality of private medical data and issue recommendations based solely on de-identified, aggregated information. *Fiscal impact (State/Local):* None.
- 3) Statewide Child Fatality Review Team  
Currently, IC 16-49-4-2(2) requires a member of the Statewide CFRT to be a representative from the Indiana Department of Health (IDOH) who is also a licensed physician specializing in injury prevention. While there are few physicians on staff at IDOH, even fewer physicians who specialize in injury prevention, but there are a number of professionals on staff who specialize in injury prevention. Changing “and” to “or” would allow for the IDOH Commissioner or Chief Medical Officer to serve in this role. *Fiscal impact (State/Local):* None.
- 4) Stillbirth Certificates  
Under current law (IC 16-37-1-3.1), funeral homes or medical professionals initiate the death certification process. This policy recommendation proposes requiring medical professionals to begin certification for stillbirths. This change aims to reduce delays that families often face when obtaining fetal death certificates. In Indiana, fetal death certificates are clinically more comprehensive than standard death certificates, as they combine elements of both birth and

death records and thus require more detailed clinical information. Medical certifiers are therefore best positioned to initiate the fetal death certification process due to their clinical expertise.

Current law mandates that fetal deaths must be reported within five days; however, in 2023, the average time to file a fetal death record was 26.9 days, according to the IDOH Division of Vital Records. By empowering medical professionals to lead the certification process, this change would support more timely and accurate fetal death certificates, benefiting key stakeholders, including the IDOH Divisions of Vital Records, Maternal and Child Health, and Family Health Data and Fatality Prevention, as well as the Fetal-Infant Mortality Review Program and the Indiana Maternal Mortality Review Committee. *Fiscal impact (State/Local):* None.

5) Maternal Mortality Review Committee

The Indiana MMRC is scheduled to sunset in 2027. Given the critical role the MMRC plays in reviewing maternal deaths and providing recommendations to prevent future fatalities, it is essential to ensure the continued support and authorization of their work. *Fiscal impact (State/Local):* None.

6) Epinephrine Standing Order

Indiana Code authorizes IDOH to issue a standing order for epinephrine, a medication used to treat life-threatening allergies, allowing pharmacists to dispense it without a prescription. To receive this medication, individuals must complete approved training on epinephrine administration and present a certificate of completion to the pharmacist. Currently, third-party organizations provide this training, and the Indiana Professional Licensing Agency Board of Pharmacy oversees these organizations. IDOH proposes that it be granted authority to oversee the third-party organizations providing epinephrine administration training, including the ability to list, approve, and, if necessary, revoke their status. Additionally, permitting IDOH to establish these criteria via administrative rule would offer greater flexibility to adjust the requirements as needed in response to evolving circumstances. *Fiscal impact (State/Local):* None.

**Distribution**

Dr. Tharp thanked staff for the professional new hire and separation reports and summary of final orders.

**Adjournment**

Dr. Tharp asked for any other business to come before the Board. Hearing no additional comments from the Board, staff and/or public, he adjourned the meeting at 11:25 am. The next meeting is scheduled for March 5, 2025, at the IDOH building.