



# STATE OF INDIANA

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May 10, 2010

Mr. Hans Markland  
58 W. 1000 N.  
Wheatfield, IN 46392

*Re: Formal Complaint 10-FC-87; Alleged Violation of the Access to Public Records Act by the Jasper County Hospital*

Dear Mr. Markland:

This advisory opinion is in response to your formal complaint alleging the Jasper County Hospital (the "Hospital") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*, by denying you access to public records. A copy of the Hospital's response to your complaint is enclosed.

## BACKGROUND

In your complaint, you allege that on March 30, 2010, you submitted a request to inspect certain Hospital records. Michael Bayci, vice president of the Hospital, informed you that the information was secured inside the chief financial officer's office. On March 31st, Mr. Bayci left you a voicemail message informing you that the Hospital would make the information available to you. Mr. Bayci requested, however, that you call ahead before coming. On April 1st, you called ahead and left a message on the chief financial officer's answering machine stating that you were coming to get the information. When you arrived at the Hospital, you were told that Mr. Bayci and the chief financial officer were in a meeting. You further allege that "[n]one of the secretaries could get me the info."

My office forwarded a copy of your complaint to the Hospital. Jeffrey Webb, vice president of financial services for the Hospital, responded. Mr. Webb states that the information you requested was copied and prepared for you to pick up on the afternoon of April 1st. He claims that you were contacted by telephone message and informed that the documents were ready and that there would be a \$3 charge to cover the cost of the copies. Further, he says three different voice messages were left for you and, after receiving no response from him, Mr. Webb followed up via letter dated April 5, 2010. He claims that in all three messages, he asked you to call prior to coming to the Hospital to make sure he would be available to provide you with the information, but you called

and arrived twice when he was out of the office at lunch. Mr. Webb states that he has no made three other people in the office aware of your request and believes the Hospital has made every effort to comply with your request.

#### ANALYSIS

The public policy of the APRA states, “[p]roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” I.C. § 5-14-3-1. The Commission does not contest that it is a “public agency” under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Commission’s public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Here, I am not convinced that the Hospital ever denied your request within the meaning of the APRA. *See* I.C. §§ 5-14-3-3; 5-14-3-9. Rather, it appears the Hospital made a good faith effort to provide you with the record you requested, but when you called ahead to inform the Hospital that you were coming to pick up the records there was no agreement as to when you would arrive for them. The Hospital has assured me that it is willing to provide you with the records you requested. I encourage you to contact the Hospital and find a mutually convenient time for you to pick up the records. If the Hospital denies you access under those circumstances, please feel free to contact me again at that point.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the Hospital did not violate the APRA.

Best regards,



Andrew J. Kossack  
Public Access Counselor

Cc: Jeffrey D. Webb