



# STATE OF INDIANA

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December 16, 2013

Ms. Rachael Ehlich, Esq.  
Indiana Bureau of Motor Vehicles  
100 N. Senate Avenue  
Indianapolis, IN 46204

*Re: Informal Inquiry 14-INF-32; BMV records containing medical or disability information*

Dear Judge Ehlich:

This is in response to your informal inquiry regarding records maintained by the Indiana Bureau of Motor Vehicles ("BMV"). Pursuant to Ind. Code § 5-14-4-10(5), I issue the following informal opinion in response to your inquiry. My opinion is based on applicable provisions Ind. Code § 9-14-3.5 *et. seq.*

## **BACKGROUND**

The Bureau of Motor Vehicles seeks to address whether certain information qualifies as medical or disability information under Ind. Code § 9-14-3.5-2.5. Specifically whether "a finding that a customer is afflicted with or suffering from a physical or mental disability or disease which prevents the individual from exercising reasonable and ordinary control over a motor vehicle while operating the vehicle upon the public highways" is considered to fall under that definition.

## **ANALYSIS**

According to Ind. Code § 9-14-3.5-2.5 "highly restricted personal information" is information which identifies an individual by digital photograph or image, Social Security number, medical or disability information. Highly restricted information may only be released under narrow circumstances pursuant to Ind. Code § 9-14-3.5-10.5. Chapter 3.5 does not define "medical or disability information".

When interpreting a statute the words and phrases in a statute are to be given their plain, ordinary, and usual meaning unless a contrary purpose is clearly shown by the statute itself." *Journal Gazette v. Board of Trustees of Purdue University*, 698 N.E.2d 826, 828

(Ind. Ct. App. 1998). Statutory provisions cannot be read standing alone; instead, they must be construed in light of the entire act of which they are a part. *Deaton v. City of Greenwood*, 582 N.E.2d 882 (Ind. Ct. App. 1991).

Medical information can reasonably be construed as analogous to health information. Health information is defined by the Federal Code of Regulations as relating “to the past, present, or future physical or mental health or condition of an individual”. 45 CFR 160.103.

Furthermore, 42 U.S.C. § 12102 (1) defines disability information as “a physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

Based upon these definitions “a finding that a customer is afflicted with or suffering from a physical or mental disability or disease which prevents the individual from exercising reasonable and ordinary control over a motor vehicle while operating the vehicle upon the public highways” would, in the opinion of this Office, be considered to fall under the definition of medical or disability information.

Please do not hesitate to contact me with any further questions.

Best regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long, sweeping underline.

Luke H. Britt  
Public Access Counselor