

December 10, 1998

Ms. Mary L. DePrez
Acting Chief Legal Counsel
Bureau of Motor Vehicles
100 North Senate Avenue, Room N440
Indianapolis, Indiana 46204

Re: PAC Opinion 98-7: Disclosure under Indiana Code 9-14-3.5-10(1).

Dear Ms. DePrez:

You have asked whether the Bureau of Motor Vehicles (hereinafter "BMV,") may disclose personal information to the Indiana University School of Medicine for research purposes. In particular, the Driver Protection and Privacy Act (hereinafter "DPPA,") provides that personal information may only be disclosed to a governmental agency under Indiana Code 9-14-3.5-10(1). It is my opinion that a state university is a governmental agency to which information may be disclosed under the DPPA.

Background

The BMV received a request for personal information from drivers' license information for women between the ages of 45 and 64 who live in Marion County, Indiana. The Division of Rheumatology of the Indiana University School of Medicine in Indianapolis submitted this request for the purpose of soliciting these women to participate in a research project concerning the progression of knee osteoarthritis. The BMV may release such information to governmental agencies for the purpose of carrying out their functions. The question presented, therefore, is whether the Indiana University School of Medicine is a governmental agency for the purposes of the DPPA.

Analysis

Under the DPPA, there are specific restrictions on access to drivers' license information. The BMV may disclose:

(p)ersonal information to a person if the person requesting the information provides proof of identity and represents that the use of the personal information will be strictly limited . . . for use by a governmental agency, including a court or law enforcement agency, in carrying out its functions, or a person acting on behalf of a government agency in carrying out its functions.

IND. CODE 9-14-3.5-10(1). The BMV's enabling statute does not define "governmental agency." Under these circumstances, we must determine what the General Assembly meant by relying upon the rules of

statutory construction.

The primary goal of statutory construction is to determine and give effect to the intent of the legislative body. *Freeman v. State*, 658 N.E.2d 68, 70 (Ind. 1995). The General Assembly is "presumed to have existing statutes in mind when it adopts a new law." *State v. Wynne*, 699 N.E.2d 717, 719 (Ind. App. 1998). There is at least one definition of the term "governmental agency" that was in existence at the time the DPPA was enacted. Under Indiana Code section 5-20-1-2, the definitions governing the State Housing Finance Authority, a governmental agency is defined as:

Any department, division, public agency, political subdivision or other public instrumentality of the state of Indiana, the federal government, any other state or public agency, or any two (2) or more thereof.

Given this definition, there are a number of bases upon which Indiana University and its School of Medicine qualify as a "governmental agency" under the DPPA. Indiana University is "recognized as the university of the state" and its board of trustees, which is responsible for the Medical School, is considered a "body politic ." IND. CODE §§ 20-12-23-1 & 2. The Indiana University School of Medicine was created by statute to provide medical education in the State. IND. CODE § 20-12-29-1. In a recent decision of the Indiana Court of Appeals, the Court described the Indiana University as a "state institution." *Indiana State Board of Accounts v. Consolidated Health Group, Inc.*, 700 N.E.2d 247, 253 (Ind. App. 1998). The Indiana University School of Medicine is, therefore, a governmental agency for the purposes of disclosure under Indiana Code section 9-14-3.5-10(1).

Conclusion

It is my opinion that the Indiana University School of Medicine is a governmental agency for the purposes of the DPPA.

Sincerely,

Anne Mullin O'Connor