

August 31, 2005

David R. Neal
DOC #110281
Wabash Valley Correctional Facility
P.O. Box 2222
Carlisle, IN 47838

Re: Formal Complaint 05-FC-158; Alleged Violation of the Access to Public Records Act by the Indiana Professional Licensing Agency

Dear Mr. Neal:

This is in response to your formal complaint alleging that the Indiana Professional Licensing Agency ("IPLA") violated the Access to Public Records Act ("APRA") by failing to respond to your request for records.

BACKGROUND

On August 1, 2005 you filed a formal complaint with the Office of the Public Access Counselor. Your complaint was assigned complaint # 05-FC-158. You stated that you filed a request for records with the "Division of Consumer Protection (Medical Licensing Board)." I can only assume that you were referring to the Indiana Professional Licensing Agency. You stated that your request had been filed approximately one month prior to the filing of your complaint. You stated that you had not received a response from the agency "on Dr. Sheriff Alli-Baluson M.D., Dr. Michael Mitcheff, and Dr. Noie Justin Marandet." However, you do not state what type of records you seek regarding the named individuals.

Ms. Torria Hawkins responded to your complaint on behalf of the IPLA. That response, dated August 11, 2005, is included for your reference. Ms. Hawkins' explanation is as follows: "A public record search was accomplished; however, there was no record found, nor receipt of the request. I would advise you to contact the Consumer Protection Agency which is located in the Attorney General's Office."

ANALYSIS

Any person may inspect and copy the public records of any public agency during the agency's regular business hours, except as provided in section 4 of the APRA. Ind. Code 5-14-3-3(a). A public agency that receives a request for a record by mail, facsimile, or e-mail, must respond to the request within seven calendar days. IC 5-14-3-9(b).

The IPLA has denied receiving your request. It is probable that the IPLA did not receive your request as the address that you provided to this office for the agency that you called the "Consumer Protection Agency (Medical Licensing Board)" was "I.G.C.S. 302 W. Washington Street." The address for the Medical Licensing Board is 402 W. Washington Street. Additionally, while the Medical Licensing Board is associated with the IPLA, the Consumer Protection *Division* is part of the Indiana Attorney General's Office. The address for the Attorney General's Office is 302 W. Washington St.. If your letter was received in the Government Center Complex it is uncertain where the letter would have been directed with an inaccurate agency name and without a specific room number to inform the mailroom as to where the letter should be delivered. If the IPLA did not receive your request, its duty to respond within seven days would not be triggered. Based upon the facts provided I find that the IPLA did not violate the Access to Public Records Act.

Additionally, Ms. Hawkins indicated that a search was performed and that no record was found. It was not clear what information she searched for. Should you wish to renew your request to the appropriate agency I would suggest that you identify with reasonable particularity those records that you seek, as required by IC 5-14-3-3(a)(1). In addition to the names of the doctors you should indicate what specific information or records you are seeking concerning the named doctors. You may also include a range of dates for the records you seek, particularly if the records are not current. If you intend to make your request to the Medical Licensing Board it should be directed to the Professional Licensing Agency; Attn. Medical Licensing Board of Indiana; 402 W. Washington, Room W072; Indianapolis, IN 46204.

CONCLUSION

For the foregoing reasons, I find that the Indiana Professional Licensing Board did not violate the Access to Public Records Act when it did not respond to a request for public records that it did not receive.

Sincerely,

Karen Davis
Public Access Counselor

cc: Torria L. Hawkins