



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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March 16, 2015

Alvin M. Best
1946 West US Highway 40
Greencastle, IN 46135

Re: Formal Complaint 15-FC-45; Alleged Violation of the Access to Public Records Act by Eskenazi Health

Dear Mr. Best,

This advisory opinion is in response to your formal complaint alleging Eskenazi Health ("Eskenazi") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Eskenazi has responded to your complaint via Ms. Kimberly Brown of the medical records department. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on February 9, 2015.

BACKGROUND

Your complaint dated January 28, 2015 alleges Eskenazi Health violated the Access to Public Records Act by failing to acknowledge your public records request.

On January 5, 2015, you submitted a public records request to Eskenazi. You requested all mental health, psychosocial assessments and all psychologists written statements related to your care. As of the date of the filing of your complaint, you had not received a response.

On March 4, 2015, Ms. Kimberly Brown contacted the Indiana Public Access Counselor. Ms. Brown notes she rejected your request and has informed you that the available records cannot be released until you provide patient authorization to disclose the records.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties



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of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. Eskenazi Health is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy Eskenazi’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14-3-3(a).

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. See Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

It appears as if Eskenazi was prompted to acknowledge your request and solicit a patient authorization form after the filing of your complaint. While it appears as if your request is now properly processed, I encourage Eskenazi to be mindful of the provisions of the Access to Public Records Act requiring a public agency to acknowledge a request (even if it is denied) within seven (7) days.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor

Cc: Ms. Kimberly Brown