



# STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR  
LUKE H. BRITT

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
www.IN.gov/pac

December 23, 2014

Mr. Floyd Lyster  
5337 S. 700 E.  
Waldron, IN 46182

*Re: Formal Complaint 14-FC-311 (Expedited); Alleged Violation of the Access to Public Records Act ("APRA") by the Indiana Board of Animal Health*

Dear Mr. Lyster,

This advisory opinion is in response to your formal complaint alleging the Indiana Board of Animal Health ("BOAH") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* Ms. Sarah A. Simpson, Esq., Director of Legal Affairs and Enforcement, responded on behalf of BOAH. 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 December 12, 2014. Per your request, this Opinion has been expedited.

## BACKGROUND

Your complaint dated December 11, 2014, alleges the Indiana Board of Animal Health violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On November 23, 2014, you sent a public access request to BOAH seeking information related to the situation described in *Opinion of the Public Access Counselor 14-FC-248*. That Opinion is incorporated by reference. Part of the urgency surrounding the immediate situation is your presumption that any of your animals could not be sent for processing while results were being analyzed.

The BOAH responded to your complaint by emphasizing all records have now been disclosed to you and there was no order from BOAH prohibiting you from selling any other animals.

## 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 of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The Indiana Board of Animal 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 the BOAH’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 all requested information has now been provided to you and that you are free to continue your business without restriction.

## CONCLUSION

It is the Opinion of the Public Access Counselor the Indiana Board of Animal Health did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt  
Public Access Counselor

Cc: Ms. Sarah A. Simpson, Esq.