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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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David Taylor,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0336

Director, State of Connecticut, Correctional Managed Health Care, University of Connecticut Health Center; and State of Connecticut, Correctional Managed Health Care, University of Connecticut Health Center,
Respondent(s)

February 2, 2017

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, March 8, 2017**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE February 24, 2017**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE February 24, 2017**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE February 24, 2017**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: David Taylor
Assistant Attorney General Jeffrey Blumenthal

FIC# 2016-0336/Trans/wrbp/TCB/VDH/2017-02-02

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

David Taylor,

Complainant

against

Docket #FIC 2016-0336

Director, State of Connecticut,
Correctional Managed Health
Care, University of Connecticut
Health Center,

Respondents

February 1, 2017

The above-captioned matter was heard as a contested case on August 26, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. See Docket No. CV 03-0826293, Anthony Sinchak v. FOIC et al, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated April 18, 2016, the complainant made a request to the respondents to inspect or copy the following records that pertain to him:
 - a. All medical file entries since 12/24/15;
 - b. All emails, memos, letters, etc., between CMAC, UCONN, and DOC state relating to the applicant since August 2015; and

- c. All initial and final reports generated from the applicant's visit to UCONN Health Center on March 30, 2016.

3. By letter dated April 28, 2016 and filed on May 2, 2016 the complainant appealed to this Commission alleging that the respondents had violated the Freedom of Information ("FOI") Act denying his records request. The complainant requested that this Commission order the respondents to provide the requested records free of charge.

4. Section 1-200(5), G.S., provides:

"Public records or files" means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

5. Section 1-210(a), G.S., provides in relevant part that:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

6. Section 1-212(a), G.S., provides in relevant part that "[a]ny person applying in writing shall receive promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

7. It is found that, by letter dated May 16, 2016, the respondents informed the complainant that in order to receive the records responsive to his request described in paragraphs 2a and 2c, above, he needed to complete the forms enclosed with their letter. With respect to the complainant's request described in paragraph 2b, above, the respondents requested that the complainant specify whose emails he seeks because it was not possible to conduct a search for the requested records otherwise.

8. It is found that on July 15, 2016, the complainant provided the respondents, through one of their employees, Richard Furey, with the signed forms, in order to obtain his medical records, and the list of his providers, in order to obtain the emails he

requested. It is also found, however, that Mr. Furey failed to forward the signed records and the list of providers to the appropriate personnel within the respondent health center.

9. It is found that even though the respondents believed that they had not received the appropriate forms, they provided the complainant with all records responsive to the complainant's request described in paragraphs 2a and 2c, above.

10. By letter dated August 25, 2016, the complainant withdrew his complaint with respect to his request described in paragraph 2a, above. Consequently, said request will not be further addressed herein.

11. With respect to the complainant's request described in paragraph 2c, above, the complainant stated, at the hearing on this matter, that he thought he should have also received handwritten reports in response to his request. It is found, however, that there is no evidence in the record of this case that there are any records responsive to the complainant's request other than those that have already been provided to him.


12. With respect to the complainant's request described in paragraph 2b, it is found that the complainant made a reasonable attempt to comply with the respondents' request that he provide the names of the individuals for whom he wanted emails by providing that information to an employee of the respondents. It is found that as a result of a breakdown in communications between employees of the respondent health center, the respondents failed to comply with the complainant's request with respect to the emails.

13. It is found, therefore, that the respondents violated the disclosure provisions of the FOI Act by failing to comply with the complainant's request for emails, as described in paragraph 2b, above.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complainant shall, again, provide the respondents with the names of whose emails he seeks. Thereafter, the respondents shall forthwith provide the complainant a copy of the emails of those named by the complainant, free of charge.

2. Henceforth, the respondents shall strictly comply with the disclosure provisions of §§1-210(a) and 1-212(a), G.S.



Attorney Tracie C. Brown
as Hearing Officer