

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Jim Forbes (WFSB),

FINAL DECISION

Complainant

Docket #FIC83-232

against

April 25, 1984

State Department of Health
Services of the State of
Connecticut,

Respondent

The above captioned matter was heard as a contested case on February 1, 1984 at which time the complainant and the respondent appeared, and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record the following facts are found:

1. The respondent is a public agency within the meaning of §1-18a(a), G.S.

2. One of the respondent's functions is the licensure of health care professionals.

3. On November 15, 1983 the complainant made a written request of the respondent for access to the "Yale-New Haven Hospital personnel file of Dr. E-Fun Tsai," with psychiatric records omitted. The respondent had obtained Dr. Tsai's personnel file in the course of investigating allegations that Dr. Tsai was not competent to practice medicine due to a drug abuse problem.

4. The complainant's request was orally denied by the respondent on November 18, 1983.

5. By letter of complaint filed with the Commission on November 21, 1983 the complainant appealed the denial of his request.

6. At hearing the respondent moved to dismiss the complaint on the ground that Dr. Tsai and Yale-New Haven Hospital had not been designated as parties.

7. Dr. Tsai and Yale-New Haven Hospital lack any legal rights, duties or privileges with respect to the disclosure of public records maintained or possessed by the respondent. The respondent's motion is therefore denied.

8. The respondent submitted the following list of documents which it claims are exempted from disclosure by §1-19(b)(2), G.S.:

1. Application for employment letters and forms.
2. Curriculum Vitae (resume).
3. Appointment letters and forms.
4. Letters regarding appointment to position.
5. Personnel profile forms (birth date, social security number etc).
6. Performance evaluations with salary data.
7. October 24, 1977 letter summarizing incidents.
8. Two February 2, 1981 letters summarizing incident, notifying Tsai leave of absence to start.
9. April 18, 1981 notation of progress during leave of absence by Dr. Tsai.
10. June 16, 1981 memos notating leave of absence.
11. June 25, 1981 memos confirming end of leave of absence.
12. July 1, 1981 letter confirming end of leave of absence.
13. July 1, 1981 response to prior memo re end of leave of absence.
14. Clearance letter from personnel MD (physician in charge of employee medical services at Yale-New Haven Hospital).
15. Benefit change forms.
16. Salary listing documentation.
17. Course approval form.
18. Tuition Assistance form.
19. Medical insurance forms.
20. Employee status notice forms.
21. Interview records form.
22. Memo re rotation schedule.
23. Memo re attendance at weekly conferences.
24. Requisition forms regarding work assignments with salary data.

9. The respondent claims that the above information is personal in nature, that the disclosure of such information would invade the personal privacy of Dr. Tsai and that the information was not relevant to the investigation of Dr. Tsai and therefore not a matter of public interest. The respondent further claims that those who wrote letters of recommendation for Dr. Tsai were assured that their letters would remain confidential and that such persons' personal privacy would be invaded by the disclosure of such letters.

10. It is found that the file in question is a personnel, medical or similar file within the meaning of §1-19(b)(2), G.S.

11. It is found that the public has a legitimate interest in the performance and capabilities of health care professionals licensed by the respondent. The public also has a legitimate interest in knowing how the respondent responds to allegations

that one of its licensees is impaired. Such interests are not limited to the concerns treated in the respondent's investigation, but extends to all areas directly related to Dr. Tsai's performance and capabilities as a licensee of the respondent.

12. It is concluded that disclosure of information regarding Dr. Tsai's qualifications and performance as a licensee of the respondent would not constitute an invasion of personal privacy within the meaning of §1-19(b)(2), G.S.

13. It is found, however, that the public's interest in the performance of a licensee of the respondent does not necessarily extend to all personal, medical and financial information unrelated to such performance, nor to Dr. Tsai's social security number.

14. It is found that the respondent has jurisdiction over hospitals as employers of physicians and therefore the public has a legitimate interest in how such hospitals screen and supervise their physicians-employees.

15. It is further found, however, that disclosure of information such as birth date, birth place and marital status would not constitute an invasion of personal privacy within the meaning of §1-19(b)(2), G.S.

16. It is further found that representations by the respondent or by Yale-New Haven Hospital that letters of reference would be kept confidential are not sufficient to exempt such letters from disclosure under the Freedom of Information Act.

17. It is also found that the respondent failed to prove that such letters of reference contain information which, if disclosed, would constitute an invasion of the personal privacy of the writers thereof.

18. It is further found that the respondent has provided the complainant with information regarding Dr. Tsai's alleged drug abuse problem and that such information has received television coverage due to the efforts of the complainant, an investigative reporter.

19. It is concluded that disclosure of the information directly relating to Dr. Tsai's alleged drug problem would not constitute an invasion of personal privacy within the meaning of §1-19(b)(2), G.S.

20. It is found that with the exception of items 16, 18, and 19, each of the documents withheld by the respondent relates to the professional qualifications or performance of Dr. Tsai or to administrative responses to Dr. Tsai's alleged drug abuse problem.

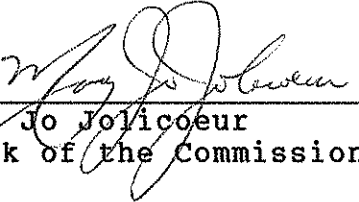
21. It is found that items, 16, 18 and 19 are only exempted from disclosure to the extent that they contain information the disclosure of which would constitute an invasion of privacy within the meaning of §1-19(b)(2), G.S.

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

1. The respondent shall forthwith provide the complainant with the documents listed at paragraphs 8(1)-(24), above.

2. The respondent may mask or delete from such documents psychiatric information, Dr. Tsai's social security number and personal, medical or financial information, the disclosure of which would constitute an invasion of personal privacy within the meaning of §1-19(b)(2), G.S. and which is unrelated to Dr. Tsai's job performance or to her employer's response to her drug problem.

Approved by order of the Freedom of Information Commission at its regular meeting of April 25, 1984.



Mary Jo Jolicoeur
Clerk of the Commission