

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Linda T. Wihbey,

Complainant

against

Docket #FIC 2025-0043

Commissioner, State of Connecticut,
Department of Social Services; and
State of Connecticut, Department of
Social Services,

Respondents

January 14, 2026

The above-captioned matter was heard as a contested case on May 12, 2025 and August 25, 2025, at which times the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits, and argument on the complaint.

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

1. It is found that the respondents are public agencies within the meaning of §1-200(1), G.S.

2. It is found that, on October 1, 2020, Dr. Abbas Mohammadi and his companies, Columbia Dental, P.C. (“Columbia Dental”) and Columbia Oral Maxillofacial Imaging, LLC (“Columbia Oral”), paid \$300,000 to resolve a federal qui tam action¹ alleging violations of both the Federal False Claims Act and the Connecticut False Claims Act for overbilling for dental services and other related matters under the Connecticut Medicaid Assistance Program (“Medicaid”). It is found that, on the same date, Attorney General William Tong (the “Attorney General”) and the former Commissioner of the respondent department, Deirdre S. Gifford (the “former Commissioner”) issued a press release announcing the settlement, claiming that they had uncovered Medicaid fraud and abuse on a large scale. It is found that, on May 25, 2023, the complainant’s² clients, Dr. Mohammadi, Columbia Dental, and

¹ A qui tam action is “[a]n action brought by an informer, under a state statute which establishes a penalty for the commission or omission of a certain act, and provides that the same shall be recoverable in a civil action, [with] part of the penalty to go to any person who... bring[s] such action and the remainder to go to the state or some other institution....” Black’s Law Dictionary 1126 (5th ed. 1979).

² The Commission notes that the complainant is a licensed Connecticut attorney.

Columbia Oral, filed a state court civil action against the Attorney General and the former Commissioner (the “state court action”).³

3. It is found that, on April 13, 2023, the respondent department suspended Dr. Mohammadi’s ability to receive Medicaid payments. It is further found that on January 14, 2025, the respondent department suspended Columbia Oral’s ability to receive Medicaid payments.⁴ It is further found that, on or about September 13, 2024, the complainant, on behalf of Dr. Mohammadi and his companies, filed a federal action against Marcus Campbell, the respondent department’s current Program Administration Manager; the former Commissioner; the current Commissioner of the respondent department, Andrea Barton Reeves (the “current Commissioner”), and the Attorney General, alleging abuse of authority, and violations of constitutional rights and due process (the “federal action”).⁵

4. It is found that, by email dated January 17, 2025, the complainant requested that the respondents provide her with a copy of the following records:

- a. [A]ll documents related to the following, including but not limited to correspondence, letters, emails, texts, written communications, complaints, memos, and any communication that is recorded including audio or visual involving or relating to:
 - (i) Columbia Dental;
 - (ii) Columbia Oral; and
 - (iii) Dr. Mohammadi; and
- b. [A]ll documents to and from Marcu [sic] Campbell including but not limited to correspondence, letters, emails, texts, inter and intra office, inter and intra department, inter and intra agency communications,

³ Based upon evidence provided by the respondents, it is found that the defendants in the state court action filed a motion to dismiss, which was granted on April 18, 2024. It is further found that on April 25, 2024, the plaintiffs appealed the lower court’s decision to the Appellate Court. *See Abbas Mohammadi, et al. v. Willaim M. Tong, et al.*, AC 47598. To date, a decision by the Appellate Court has yet to issue.

⁴ Based upon the complainant’s testimony, it is found that, in February 2025, the respondent department removed the suspension against Columbia Oral; however, the suspension against Dr. Mohammadi remained in place as of the date of the August 25, 2025 hearing on this matter.

⁵ Based upon evidence provided by the parties, it is found that the federal action was filed against Mr. Campbell, the former and current Commissioners of the respondent department, and the Attorney General in their official capacities, and against Mr. Campbell and the former and current Commissioners of the respondent department, in their individual capacities. It is found that on June 18, 2025, the respondent department filed a motion to dismiss the Second Amended Complaint in its entirety, which motion remains pending. *See Abbas Mohammadi, et al. v. William Tong, et al.*, Docket No. 3:24-cv-01473-KAD.

written communications, complaints, memos, and any communication that is recorded including audio or visual involving or relating to:

- (i) Columbia Dental;
- (ii) Columbia Oral; and
- (iii) Dr. Mohammadi.

5. It is found that the timeframe for the requests set forth in paragraph 4, above, is September 20, 2020 through January 17, 2025.

6. It is found that, by email dated January 17, 2025, the complainant informed the respondents that the correct spelling of the individual identified in paragraph 4.b, above, is “Marcus” Campbell.

7. It is found that, by letter dated January 22, 2025, the respondents acknowledged receipt of the complainant’s request but denied it in its entirety due to a pending investigation.

8. By email dated and filed January 22, 2025, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide her with a copy of the requested records. The complainant also requested that the Commission consider the imposition of civil penalties.

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

“[p]ublic 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, videotaped, printed, photostated, photographed or recorded by any other method.

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

[e]xcept 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 . . . (3) receive a copy of such records in accordance with section 1-212.

11. 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.”

12. It is concluded that the requested records, to the extent that they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

The First Contested Case Hearing on May 12, 2025 and the Submission of the In Camera Records

13. At the first contested case hearing on this matter, the complainant contended that the respondents had failed to provide her with any responsive records. In addition, the complainant clarified that she sought copies of records created by the respondents after the settlement of the federal qui tam action referenced in paragraph 2, above, which pertain to any *new or continued investigation(s)* of Dr. Mohammadi or his companies from September 20, 2020 through January 17, 2025.

14. The respondents conceded at the first contested case hearing that their denial of the complainant’s request in its entirety was overbroad and they represented that they were in the process of reviewing approximately 3600 *documents* in order to provide the complainant with all non-exempt, responsive records.

15. On August 6, 2025, the respondents submitted the records at issue to the Commission for in camera inspection. Such records shall be identified as IC-2025-0043-1 through IC-2025-0043-3475.

16. The Commission notes that the following in camera records, which had been provided to the complainant on or about August 6, 2025, *see* ¶79, below, were included in the in camera submission to provide context for the Commission’s in camera review:

IC-2025-0043-1 through 2025-0043-12; IC-2025-0043-15 through IC-2025-0043-20; IC-2025-0043-23 through IC-2025-0043-27; IC-2025-0043-30 through IC-2025-0043-35; IC-2025-0043-48 through IC-2025-0043-77; IC-2025-0043-398 and IC-2025-0043-399; IC-2025-0043-403 and IC-2025-0043-404; IC-2025-0043-408 and IC-2025-0043-409; IC-2025-0043-413 and IC-2025-0043-414; IC-2025-0043-418 and IC-2025-0043-419; IC-2025-0043-640 and IC-2025-0043-641; IC-2025-0043-1687 through IC-2025-0043-1694; IC-2025-0043-1716 and IC-2025-0043-1717; IC-2025-0043-1721 and IC-2025-0043-1722; IC-2025-0043-1726 and IC-2025-0043-1727; IC-2025-0043-1731 and IC-2025-0043-1732; and IC-2025-0043-1739 and IC-2025-0043-1740.

17. Because it is found that the respondents have provided the records identified in paragraph 16, above, to the complainant without redactions, such records will not be further

addressed herein.

The Second Contested Case Hearing on August 25, 2025

18. At the second contested case hearing on this matter, the respondents raised the following claims of exemption: (1) §1-210(b)(1), G.S., (preliminary drafts and notes); (2) §1-210(b)(2), G.S., (invasion of personal privacy); (3) §1-210(b)(10), G.S., (communications privileged by the attorney-client relationship); and (4) §1-210(b)(13), G.S., (records of an investigation under the provisions of §4-276, et al., G.S.). In addition, following the hearing, the respondents filed a motion seeking permission to file a post-hearing exhibit in support of a claim of exemption pursuant to §1-210(b)(5)(A), G.S., (trade secrets), and the hearing officer granted such motion. Such filing has been marked as Respondents' post-hearing Ex. 5. *See also* Discussion of other exemptions, fn. 8 and 10, below.

19. John Jakubowski, the respondents' Director of Office Quality Assurance (the "Director of QA"), appeared at the second contested case hearing and testified on behalf of the respondents.

20. It is found that the respondents' Office of Quality Assurance (the "Office of QA") is responsible for ensuring the fiscal and programmatic integrity of the programs administered by the respondent department, including Medicaid. It further found that the Office of QA oversees both an Audit Division and a Special Investigations Division. It is found that while the Audit Division conducts random samplings of providers receiving Medicaid payments, the Audit Division receives and investigates complaints through various channels, including complaints from individuals employed by providers receiving Medicaid payments (referred to hereinafter as "DSS complaints").

21. It is found that, when the respondents' Special Investigations Division receives a DSS complaint, it logs the complaint and assigns it to a forensic fraud investigator. It is found that the forensic fraud investigator will investigate the complaint and review his or her findings with a special investigations manager, and then make a determination as to whether there is sufficient indicia of Medicaid fraud and/or abuse such that the Special Investigations Division's investigation should be referred to one or more of the respondents' law enforcement partners for further investigation. It is found that the respondents' Special Investigations Division partners with the following law enforcement partners: (1) the Office of the Attorney General ("OAG"); (2) the Medicaid Fraud Control Unit within the Chief State's Attorney's Office; and (3) the United States Health and Human Services Office of the Inspector General ("HHS").⁶

22. It is found that if the respondents' Special Investigations Division refers an investigation to one (or more) of its law enforcement partners, such partner has 45 days to

⁶ Pursuant to federal law, upon receipt of a complaint alleging Medicaid fraud, the respondent department is required to conduct a preliminary investigation to determine whether there is a sufficient basis to warrant a full investigation. *See* 42 CFR §455.14. Upon finding that there is reason to believe that an incident of Medicaid fraud or abuse has occurred, the respondent department must refer the case to the appropriate law enforcement partner(s) for a full investigation. *See* 42 CFR §455.15.

accept the referral for further investigation or decline the referral. If none of the law enforcement partners accepts the referral, the referral is returned to the respondent department's Special Investigations Division for final action, including a determination of whether to: (1) issue a recoupment letter to the provider for Medicaid overpayment, (2) reassign the matter to the Audit Division, or (3) close its investigation.

23. It is found that if one or more of the law enforcement partners accepts the referral, such partner may instruct the respondents' Special Investigations Division to issue a Medicaid payment suspension letter to the provider. It is further found that if one of the law enforcement partners instructs the Special Investigations Division to issue a suspension letter, the Special Investigations Division must issue the letter and set up a receivership for the provider. Accordingly, it is found that a provider who has received a suspension letter may continue to see Medicaid patients and bill Medicaid, but such payments are withheld from the provider with the respondent department pending the conclusion of the investigation. It is further found that while one or more of the law enforcement partners are investigating a provider, the respondent's Special Investigations Division may assist in the investigation when requested to do so by the law enforcement partner but otherwise awaits the final conclusions and recommendations of the law enforcement partner's investigation in order to take its final action.

24. Finally, it is found that if all of the law enforcement partners accept the Special Investigations Division's referral and all partners ultimately determine that such investigations should be closed with no recommended action, the underlying matter is returned to the respondent department's Special Investigations Division for final action, including whether to take one or more of the final actions set forth in paragraph 22, above.

25. Regarding the underlying matters concerning Dr. Mohammadi and his companies, referenced in paragraphs 2 and 3, above, it is found that the respondents' Special Investigations Division received a DSS complaint concerning Medicaid fraud and abuse. It is further found that a forensic fraud investigator from the respondents' Special Investigations Division investigated the complaint and reviewed his or her findings with a special investigations manager. It is further found that the respondents' Special Investigations Division determined that its investigation should be referred to one or more of the respondents' law enforcement partners. It is found that the investigation was referred to and accepted by one or more of the law enforcement partners and, to date, the investigation has yet to be returned to the respondents. *See* ¶¶ 21-24, above.⁷

⁷ For example, based upon evidence submitted by the respondents, it is found that the Special Investigations Division's investigation was referred to and accepted by the OAG for further investigation. *See* Respondents' Ex. 3, letter dated Aug. 18, 2025 (wherein a Deputy Associate Attorney General states that, on February 27, 2023, the respondent department referred its investigation concerning Columbia Oral to the OAG and that "the OAG continues to investigate" such matter); *see also* Audio Trans. at 12:00:00 to 12:02:00 (Aug. 25, 2025 contested case hearing).

Section 1-210(b)(1), G.S., Preliminary Drafts and Notes

26. First, the respondents contended that all of the remaining in camera records are exempt from disclosure in their entirety pursuant to the provisions of §1-210(b)(1), G.S., which provides, that nothing in the FOI Act shall be construed to require disclosure of:

preliminary drafts or notes provided the public agency has determined that the public interest in withholding such documents clearly outweighs the public interest in disclosure[.]

27. Section 1-210(e)(1), G.S., additionally provides in relevant part that:

(e) Notwithstanding the provisions of subdivisions (1) . . . of subsection (b) of this section, disclosure shall be required of:

(1) Interagency or intra-agency memoranda or letters, advisory opinions, recommendations or any report comprising part of the process by which governmental decisions and policies are formulated, except disclosure shall not be required of a preliminary draft of a memorandum, prepared by a member of the staff of a public agency, which is subject to revision prior to submission to or discussion among the members of such agency....

28. The respondents contended that the records, including investigation records that they created and provided to one or more of their law enforcement partners, are preliminary drafts because an investigation by one or more of their partners is ongoing. The respondents further contended that: it can only take final action once their law enforcement partners have finalized their respective investigations; releasing the Special Investigations Division's investigative records before any of the law enforcement partners have concluded their investigations could afford a provider under investigation with the opportunity to interfere with an investigation by backdating records, tampering with witnesses, or otherwise covering up wrongdoing, or could otherwise harm a provider's reputation in the event that the Special Investigations Division's initial determination of Medicaid fraud or abuse was erroneous. The respondents further contended that releasing draft records could create confusion for the public.

29. Upon careful in camera inspection, it is found that IC-2025-0043-1549 and IC-2025-0043-1550 constitute a draft letter.

30. Based upon the testimony at the second contested case hearing, it is found that the respondents determined that the public interest in withholding the records referenced in paragraph 29, above, clearly outweighed the public interest in disclosure. In this regard, it is

found that releasing a draft letter could create confusion, making it difficult for the public to determine what letters are the respondents' final drafts. It is further found that the respondents' reasons for withholding such records were not frivolous or patently unfounded.

31. Moreover, it is found that such records constitute an interagency or intra-agency letter comprising part of the process by which governmental decisions and policies are formulated and that such letter was prepared by a member of the staff of a public agency and was subjected to revision prior to submission to or discussion among members such agency within the meaning of §1-210(e)(1), G.S.

32. It is therefore found that IC-2025-0043-1549 and IC-2025-0043-1550 are permissively exempt from disclosure pursuant to the provisions of §1-210(b)(1), G.S.

33. It is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) or 1-212(a), G.S., when they declined to disclose such records to the complainant.

34. However, upon careful in camera inspection, it is found that other than the records specifically identified in paragraph 29, above, the remaining records do not constitute preliminary drafts or notes within the meaning of §1-210(b)(1), G.S. In this regard, it is found that the remaining records contain the respondents' Special Investigations Division's investigative findings and determinations regarding a DSS complaint raising allegations of Medicaid fraud and abuse.

35. Moreover, even if such investigation records could somehow be deemed to be the respondents' Special Investigations Division's "preliminary drafts," it is found that the respondents failed to prove that such records are not "[i]ntra-agency memorandum or letters, advisory opinions, recommendations or any report comprising party of the process by which governmental decisions...are formulated," within the meaning of §1-210(e)(1), G.S.

36. Accordingly, it is concluded that remaining records are not exempt from disclosure pursuant to the provisions of §1-210(b)(1), G.S.

Section 1-210(b)(2), G.S., Invasion of Personal Privacy

37. Next, the respondents contended that most of the remaining in camera records are exempt from disclosure in their entirety pursuant to the provisions of §1-210(b)(2), G.S., which provides that, nothing in the FOI Act shall be construed to require disclosure of "...personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy...."

38. The Supreme Court set forth the test for the exemption contained in §1-210(b)(2), G.S., in *Perkins v. Freedom of Info. Comm'n*, 228 Conn. 158, 175 (1993) ("*Perkins*"). The claimant must first establish that the files in question are personnel, medical or similar files. Second, the claimant must show that disclosure of the records would constitute an invasion of personal privacy. In determining whether disclosure would constitute an invasion of personal privacy, the claimant must establish both of two elements: first, that the information sought

does not pertain to legitimate matters of public concern, and second, that such information is highly offensive to a reasonable person.

39. Section 1-214, G.S., provide in relevant part that:

(b)(1) Whenever a public agency receives a request to inspect or copy records contained in any of its employees' personnel or medical files and similar files and the agency reasonably believes that the disclosure of such records would legally constitute an invasion of privacy, the agency shall immediately notify in writing (A) each employee concerned....

(b)(2) Whenever a public agency receives a request to inspect or copy records contained in any of its employees' personnel or medical files and similar files, and the agency reasonably believes that the disclosure of such records would not legally constitute an invasion of privacy, the agency shall first disclose the requested records to the person making the request to inspect or copy such records and subsequently, within a reasonable time after such disclosure, make a reasonable attempt to send a written or an electronic copy of the request to inspect or copy such records, if applicable, or a brief description of such request, to each employee concerned and the collective bargaining representative, if any, of each employee concerned.

(b)(3) Nothing in this section shall require an agency to withhold from disclosure the contents of personnel or medical files and similar files when it does not reasonably believe that such disclosure would legally constitute an invasion of personal privacy.

(c) A public agency which has provided notice under subdivision (1) of subsection (b) of this section shall disclose the records requested unless it receives a written objection from the employee concerned or the employee's collective bargaining representative, if any, within seven business days from the receipt by the employee or such collective bargaining representative of the notice or, if there is no evidence of receipt of written notice, not later than nine business days from the date the notice is actually mailed, sent, posted or otherwise given. Each objection filed under this subsection shall be on a form prescribed by the public agency, which shall consist of a statement to be signed by the employee or the employee's collective

bargaining representative, under the penalties of false statement, that to the best of his knowledge, information and belief there is good ground to support it and that the objection is not interposed for delay. Upon the filing of an objection as provided in this subsection, the agency shall not disclose the requested records unless ordered to do so by the Freedom of Information Commission pursuant to section 1-206. Failure to comply with a request to inspect or copy records under this section shall constitute a denial for the purposes of section 1-206. Notwithstanding any provision of this subsection or subsection (b) of section 1-206 to the contrary, if an employee's collective bargaining representative files a written objection under this subsection, the employee may subsequently approve the disclosure of the records requested by submitting a written notice to the public agency.

40. It is found that the in camera records do not constitute a “personnel” or “similar” files within the meaning of §1-210(b)(2), G.S. However, it is further found that some of the records contained within the in camera submission are “medical files” within the meaning of §1-210(b)(2), G.S.

41. It is found that the respondents did not “immediately” notify any individuals that the complainant had made the request for records set forth in paragraph 4, above, as required under §1-214(b)(1), G.S. It is further found that the respondents did not present any evidence to establish that any individual filed a written objection to disclosure within the meaning of §1-214(c), G.S.

42. Moreover, regarding whether disclosure of the remaining records would constitute an invasion of personal privacy, it is found that there is legitimate public interest in how a public agency investigates DSS complaints filed by private citizens pertaining to Medicaid fraud.

43. Accordingly, it is concluded that the in camera records are not exempt from disclosure pursuant to the provisions of §1-210(b)(2), G.S.

44. However, because it is found that some of the records contained in the in camera submission constitute “medical” files—particularly, dental records of private citizens, the Commission will consider such records under the provisions of §1-210(b)(13), G.S. See ¶¶ 65-74, below.

Section 1-210(b)(5)(A), G.S., Trade Secrets

45. Next, the respondents contended that IC-2025-0043-427 through IC-2025-0043-628 are exempt from disclosure in their entirety pursuant to §1-210(b)(5)(A), G.S., which provides that, nothing in the FOI Act shall be construed to require disclosure of:

(5) (A) Trade secrets, which for purposes of the Freedom of Information Act, are defined as information, including formulas, patterns, compilations, programs, devices, methods, techniques, processes, drawings, cost data, customer lists, film or television scripts or detailed production budgets that (i) derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use, and (ii) are the subject of efforts that are reasonable under the circumstances to maintain secrecy.

46. The definition of “trade secret” in §1-210(b)(5)(A), G.S., “on its face, focuses exclusively on the nature and accessibility of the information.” *University of Connecticut v. Freedom of Info. Comm’n*, 303 Conn. 724, 733 (2012) (“*UConn*”). The information claimed to be a trade secret must “be of the kind included in the nonexhaustive list contained in the statute.” *Elm City Cheese Co., Inc. v. Federico*, 251 Conn. 59, 70 (1999) (“*Elm City Cheese Co.*”). In addition, “to qualify for a trade secret exemption under §1-210(b)(5)(A)[, G.S.], a substantial element of secrecy must exist, to the extent that there would be difficulty in acquiring the information except by the use of improper means.” (Citation omitted; internal quotation marks omitted.) *Dir., Dep’t of Info. Tech. of Town of Greenwich v. Freedom of Info. Comm’n*, 274 Conn. 179, 194 (2005) (“*Greenwich*”).

47. The Supreme Court has recognized that “the ‘independent economic value’ requirement...has been interpreted as a codification of the common-law requirement that a trade secret must give its owner a competitive advantage.” *Elm City Cheese Co.*, 251 Conn. at 88 n.27; see also *Robert S. Weiss & Assocs., Inc. v. Wiederlight*, 208 Conn. 525, 538 (1988) (“A trade secret may consist of any formula, pattern, device or compilation of information which is used in one’s business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.”); *Allco Renewable Energy Limited v. Freedom of Info. Comm’n*, 205 Conn. App. 144, 158-59 (2021) (“*Allco*”) (“[I]n accordance with the holding of *UConn*, to address the nature of the information at issue, the analysis must consider the competitive nature of the industry involved” (Quotation marks omitted.))

48. In addition, *Allco* provided additional guidance in determining the definition of “trade secret” within the meaning of §1-210(b)(5)(A), G.S. There, the court stated:

to address the nature of the information at issue, the analysis must consider the competitive nature of the industry involved.... The inquiry necessarily considers the extent to which the economic value of the thing being assessed inheres in the secrecy by which it is developed and maintained. Beyond [the required element of secrecy], it is not possible to state precise criteria for determining the existence of a trade secret. The status of information claimed as a trade secret must be ascertained through a comparative evaluation of all the relevant factors,

including the value, secrecy, and definiteness of the information....

(Citations omitted; quotation marks omitted.) *Id.* at 158-59.

49. It is found that IC-2025-0043-43-427 through IC-2025-0043-628 comprise a report entitled “Quarterly Report #8, Torch™ Fraud Investigations for the State of Connecticut, Rev. 1 (Mar. 2, 2016) (the “Quarterly Report”).

50. It is further found that, in the Fall of 2013, the Connecticut Office of Policy and Management and the respondent department selected a company called 21CT, which was later acquired by Pulselight Holdings, Inc. (“Pulselight”), to implement their “Torch Light Fraud Detection Solution” (“Torch Solution”). It is found that the Torch Solution includes patented and proprietary advanced data analytics technology, a secure data repository, which hosts specific data sources that Pulselight curates and regularly updates based on the respondent department’s internal update needs and Pulselight’s data engineering and tradecraft. It is further found that, through this technology system, Pulselight has created a unique and proprietary method for detecting fraud, waste and abuse in Medicaid Programs.

51. It is further found that Pulselight’s unique and proprietary method for detecting fraud, waste and abuse in Medicaid Programs, gives the company a competitive advantage that is of great value to its business, and if disclosed, would provide immediate value to its competitors, who would be able to use Pulselight’s technology to improve their offerings at the expense of Pulselight.

52. It is further found that a substantial element of secrecy exists surrounding the Torch Solution, such that there would be great difficulty in acquiring the information except by improper means. *See Greenwich*, 274 Conn. at 194, *see also* Respondents’ Post-Hearing Ex. 5 at 5.

53. Upon careful in camera inspection, it is found that IC-2025-0043-427 through IC-2025-0043-628 are the kind of records included in the non-exhaustive list contained in §1-210(b)(5)(A), G.S., and described by the Court in *Elm City Cheese Co.*

54. Accordingly, it is found that the records identified in paragraph 49, above, constitute “trade secrets” within the meaning of §1-210(b)(5)(A), G.S., and are therefore permissively exempt from disclosure pursuant to said provision.

55. It is therefore concluded that the respondents did not violate the disclosure provisions of §§1-210(a) or 1-212(a), G.S., when they declined to disclose such records to the complainant.⁸

⁸ The Commission considered whether IC-2025-0043-427 through IC-2025-0043-628 are permissively exempt from disclosure in the context of this case because the respondents included such records in their in camera submission, and thus implicitly considered such records responsive to the request. However, as found in paragraph 5, above, the scope of the request in this case is September 20, 2020 through January 17, 2025. The Commission notes that the date of the Quarterly Report at issue is

Section 1-210(b)(10), G.S., Attorney-Client Privilege

56. Next, the respondents contended that most of the remaining in camera records are exempt from disclosure in their entirety pursuant to §1-210(b)(10), G.S., which permits an agency to withhold from disclosure records of “communications privileged by the attorney-client relationship.”

57. Section 52-146r(b), G.S., provides that “[i]n any civil or criminal case or proceeding or in any legislative or administrative proceeding, all confidential communications shall be privileged and a government attorney shall not disclose any such communications unless an authorized representative of the public agency consents to waive the privilege and allow disclosure.”

58. Section 52-146r(a)(2), G.S., defines “confidential communications” to mean:

all oral and written communications transmitted in confidence between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney relating to legal advice sought by the public agency or a public official or employee of such public agency from that attorney, and all records prepared by the government attorney in furtherance of the rendition of such legal advice.

59. *In Maxwell v. Freedom of Info. Comm’n*, 260 Conn. 143, 149 (2002), the Connecticut Supreme Court held that §52-146r, G.S., “merely codif[ies] the common law attorney-client privilege as this court previously defined it.” The Court further stated that “both the common-law and statutory privileges protect those communications between a public official or employee and an attorney that are confidential, made in the course of the professional relationship that exists between the attorney and his or her public agency client

March 2, 2016, which date predates the scope of the request. *See* ¶¶ 5 and 49, above. When this issue was raised at the second contested case hearing on this matter, the respondents represented that they believed that the Quarterly Report was attached to an email that was within the scope of the request and therefore considered both the email and the attachment responsive to the request. The Commission further notes that the respondents also contended that IC-2025-0043-427 through IC-2025-0043-628 are exempt in their entirety pursuant to several other exemptions, including §1-210(b)(5)(B), G.S., (commercial or financial information given in confidence, not required by statute); §1-210(b)(20), G.S., (disclosure of certain records that would compromise the security or integrity of an information technology system), and §1-210(b)(26), G.S., (records obtained during the course of an inspection, investigation and audit activities of an institution that are confidential pursuant to a contract between the department of Public Health and HHS relating to Medicaid programs). However, because it is found that IC-2025-0043-427 through IC-2025-0043-628 are exempt in their entirety pursuant to the provisions of §1-210(b)(5)(A), G.S., the Commission will not consider the respondents’ additional claims of exemption for such records.

and relate to legal advice sought by the agency from the attorney.” *Id.*

60. The Supreme Court has adopted a four part test to determine whether communications are subject to the attorney-client privilege: “(1) the attorney must be acting in a professional capacity for the agency; (2) the communications must be made to the attorney by current employees or officials of the agency; (3) the communications must relate to the legal advice sought by the agency from the attorney; and (4) the communications must be made in confidence.” *Shew v. Freedom of Info. Comm’n*, 245 Conn. 149, 159 (1998). “The burden of establishing the applicability of the privilege rests with the party invoking it.” *Harrington v. Freedom of Info. Comm’n*, 323 Conn. 1, 12, (2016). If it is clear from the face of the records, extrinsic evidence is not required to prove the existence of the attorney-client privilege.” *Lash v. Freedom of Info. Comm’n*, 300 Conn. 511, 516-17 (2011).

61. In Connecticut, the attorney-client privilege protects both the confidential giving of professional advice by an attorney acting in the capacity of a legal advisor to those who can act on it, as well as the giving of information to the lawyer to enable counsel to give sound and informed advice....The privilege fosters full and frank communications between attorneys and their clients and thereby promote[s] the broader public interests in the observation of law and [the] administration of justice.” *PSE Consulting, Inc. v. Frank Mercede & Sons, Inc.*, 267 Conn. 279, 329–30 (2004).

62. Upon careful in camera inspection, it is found that the following records, or portions thereof, are communications “between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney,” which “relate to legal advice” sought by the public agency client from the attorney, and which were “transmitted in confidence,” within the meaning of §52-146r(a)(2), G.S.:

IC-2025-0043-13 (lines 1 through 10, ending with “FYI”);
IC-2025-0043-21 (lines 1 through 29, ending with “FYI”);
IC-2025-0043-28 (lines 1 through 35, ending with “FYI”);
IC-2025-0043-36 (all); IC-2025-0043-38 (lines 1 through
36, ending with “FYI”); IC-2025-0043-40 (all); IC-2025-
0043-41 (lines 1 through 5, ending with “FYI”); IC-2025-
0043-43 (all); IC-2025-0043-44 (lines 1 through 11, ending
with “FYI”); IC-2025-0043-46 (lines 1 through 21, ending
with “FYI”); IC-2025-0043-78 through IC-2025-0043- 82
(all); IC-2025-0043-83 (lines 1 through 28, ending with
“/ag/”); IC-2025-0043-85 (all); IC-2025-0043-86 (lines 1
through 30, ending with “/ag/”); IC-2025-0043-88 (all); IC-
2025-0043-89 (lines 1 through 28, ending with “/ag/”); IC-
2025-0043-91 (all); IC-2025-0043-92 (lines 1 through 28,
ending with “/ag/”); IC-2025-0043-94 through 96 (all); IC-
2025-0043-97 (lines 1 through 6, ending with “/ag/”); IC-
2025-0043-98 (all); IC-2025-0043-99 (lines 1 through 38,
ending with “/ag/”); IC-2025-0043-101 and IC-2025-0043-

102 (all); IC-2025-0043-103 (lines 1 through 39, ending with “/ag/”); IC-2025-0043-105 through IC-2025-0043-107 (all); IC-2025-0043-108 (lines 1 through 9, ending with “/ag/”); IC-2025-0043-109 (line 21 through end of page); IC-2025-0043-110 and IC-2025-0043-111 (all); IC-2025-0043-112 (lines 1 through 28, ending with “/ag/”); IC-2025-0043-114 (line 35 through end of page); IC-2025-0043-115 through IC-2025-0043-117 (all); IC-2025-0043-120 (line 15 through end of page); IC-2025-0043-121 and IC-2025-0043-122 (all); IC-2025-0043-123 (lines 1 through 20, ending with “/ag/”); IC-2025-0043-125 (line 21 through end of page); IC-2025-0043-126 (all); IC-2025-0043-127 (lines 1 through 17, ending with “/ag/”); IC-2025-0043-130 (all); IC-2025-0043-131 (lines 1 through 33, ending with “/ag/”); IC-2025-0043-133 and IC-2025-0043-134 (all); IC-2025-0043-135 (lines 1 through 11, ending with “rectified”); IC-2025-0043-136 (line 11 through end of page); IC-2025-0043-137 (all); IC-2025-0043-138 (lines 1 through 3); IC-2025-0043-139 (line 19 through end of page); IC-2025-0043-140 (all); IC-2025-0043-141 (lines 1 through 25, ending with “rectified”); IC-2025-0043-142 (line 21 through end of page); IC-2025-0043-143 (all); IC-2025-0043-144 (lines 1 through 15, ending with “/ag/”); IC-2025-0043-145 (line 17 through end of page); IC-2025-0043-146 (all); IC-2025-0043-147 (lines 1 through 23, ending with “rectified”); IC-2025-0043-148 (line 19 through end of page); IC-2025-0043-149 (all); IC-2025-0043-150 (lines 1 through 13, ending with “/ag/”); IC-2025-0043-151 (last two lines); IC-2025-0043-152 and IC-2025-0043-153 (all); IC-2025-0043-154 (lines 1 through 9, ending with “rectified”); IC-2025-0043-155 (line 3 through end of page); IC-2025-0043-156 (lines 1 through 36, ending with “/ag/”); IC-2025-0043-158 (lines 1 through 27, ending with “LD”); IC-2025-0043-159 and IC-2025-0043-160 (all); IC-2025-0043-161 (lines 1 through 9, ending with “rectified”); IC-2025-0043-162 (line 3 through end of page); IC-2025-0043-163 (lines 1 through 36, ending with “/ag/”); IC-2025-0043-165 (line 17 through end of page); IC-2025-0043-166 (line 15 through end of page); IC-2025-0043-167 (all); IC-2025-0043-168 (lines 1 through 19, ending with “rectified”); IC-2025-0043-169 (line 16 through end of page); IC-2025-0043-170 (all); IC-2025-0043-171 (lines 1 through 7, ending with “/ag/”); IC-2025-0043-172 (line 19 through end of page); IC-2025-0043-173 and IC-2025-0043-174 (all); IC-2025-0043-175 (lines 1 through 23, ending with “rectified”); IC-2025-

0043-176 (line 19 through end of page); IC-2025-0043-177 (all); IC-2025-0043-178 (lines 1 through 12, ending with “/ag/”); IC-2025-0043-179 (lines 1 through 25, ending with “LD”); IC-2025-0043-180 and IC-2025-0043-181 (all); IC-2025-0043-182 (lines 1 through 9, ending with “rectified”); IC-2025-0043-183 (line 3 through end of page); IC-2025-0043-184 (lines 1 through 36, ending with “/ag/”); IC-2025-0043-186 (line 21 through end of page); IC-2025-0043-187 (lines 1 through 4, ending with “LD” and line 19 through end of page); IC-2025-0043-188 (all); IC-2025-0043-189 (lines 1 through 23, ending with “rectified”); IC-2025-0043-190 (line 19 through end of page); IC-2025-0043-191 (all); IC-2025-0043-192 (lines 1 through 13, ending with “/ag/”); IC-2025-0043-193 (line 25 through end of page); IC-2025-0043-194 (lines 1 through 9, ending with “LD” and line 24 through end of page); IC-2025-0043-195 (all); IC-2025-0043-196 (lines 1 through 28, ending with “rectified”); IC-2025-0043-197 (line 24 through end of page); IC-2025-0043-198 (all); IC-2025-0043-199 (lines 1 through 18, ending with “/ag/”); IC-2025-0043-202 (lines 1 through 25, ending with “LD” and line 40 through end of page); IC-2025-0043-203 and IC-2025-0043-204 (all); IC-2025-0043-205 (lines 1 through 5, ending with “rectified”); IC-2025-0043-206 (all); IC-2025-0043-207 (lines 1 through 33, ending with “/ag/”); IC-2025-0043-210 (lines 1 through 25, ending with “LD” and line 40 through end of page); IC-2025-0043-211 and IC-2025-0043-212 (all); IC-2025-0043-213 (lines 1 through 5); IC-2025-0043-214 (all); IC-2025-0043-215 (lines 1 through 33, ending with “/ag/”); IC-2025-0043-217 (line 27 through end of page); IC-2025-0043-218 (lines 1 through 11, ending with “LD” and line 26 through end of page); IC-2025-0043-219 (all); IC-2025-0043-220 (lines 1 through 29, ending with “rectified”); IC-2025-0043-221 (line 26 through end of page); IC-2025-0043-222 (all); IC-2025-0043-223 (lines 1 through 19, ending with “/ag/”); IC-2025-0043-225 (line 11 through end of page); IC-2025-0043-226 (lines 1 through 32, ending with “LD”); IC-2025-0043-227 (line 5 through end of page); IC-2025-0043-228 (all); IC-2025-0043-229 (lines 1 through 11, ending with “rectified”); IC-2025-0043-230 (line 11 through end of page); IC-2025-0043-231 (all); IC-2025-0043-232 (lines 1 through 3, ending with “/ag/”); IC-2025-0043-233 (line 17 through end of page); IC-2025-0043-234 (lines 1 through 37, ending with “LD”); IC-2025-0043-235 (line 10 through end of page); IC-2025-0043-236 (all); IC-2025-0043-237

(lines 1 through 14, ending with “rectified”); IC-2025-0043-238 (line 12 through end of page); IC-2025-0043-239 (all); IC-2025-0043-240 (lines 1 through 5, ending with “/ag/”); IC-2025-0043-241 and IC-2025-0043-242 (all); IC-2025-0043-243 (line 20 through end of page); IC-2025-0043-244 through IC-2025-0043-247 (all); IC-2025-0043-248 (line 15 through end of page); IC-2025-0043-249 (all); IC-2025-0043-250 (lines 10 through 27, ending with “iOS”); IC-2025-0043-251 (line 9 through end of page); IC-2025-0043-252 (line 18 through end of page); IC-2025-0043-253 (lines 1 through 3, ending with “iOS” and line 19 through end of page); IC-2025-0043-254 (all); IC-2025-0043-255 (line 22 through end of page); IC-2025-0043-256 (all); IC-2025-0043-258 (line 10 through end of page); IC-2025-0043-259 (all); IC-2025-0043-260 (line 22 through end of page); IC-2025-0043-261 (all); IC-2025-0043-262 (line 30 through end of page); IC-2025-0043-263 (all); IC-2025-0043-265 (line 12 through end of page); IC-2025-0043-266 and IC-2025-0043-267 (all); IC-2025-0043-275 through IC-2025-0043-290 (all); IC-2025-0043-291 (line 23 through end of page); IC-2025-0043-292 through IC-2025-0043-294 (all); IC-2025-0043-296 through IC-2025-0043-298 (all); IC-2025-0043-300 (line 15 through end of page); IC-2025-0043-301 and IC-2025-0043-302 (all); IC-2025-0043-304 (line 24 through end of page); IC-2025-0043-305 through IC-2025-0043-307 (all); IC-2025-0043-308 (lines 1 through 20, ending with “LD”); IC-2025-0043-309 (line 17 through end of page); IC-2025-0043-310 and IC-2025-0043-311 (all); IC-2025-0043-315 (all); IC-2025-0043-316 (lines 1 through 14, ending with “LD”); IC-2025-0043-317 (line 11 through end of page); IC-2025-0043-318 and IC-2025-0043-319 (all); IC-2025-0043-320 (line 13 through end of page); IC-2025-0043-321 (line 29 through end of page); IC-2025-0043-322 through IC-2025-0043-324 (all); IC-2025-0043-325 (lines 27 through end of page); IC-2025-0043-326 (line 1 through 15, ending with “LD”); IC-2025-0043-327 (line 11 through end of page); IC-2025-0043-328 and IC-2025-0043-329 (all); IC-2025-0043-330 (entire email dated October 1, 2023, sent at 18:26:04); IC-2025-0043-331 (entire email dated October 1, 2024, sent at 11:28 am); IC-2025-0043-332 (line 9 through end of page); IC-2025-0043-333 (all); IC-2025-0043-334 (entire email dated October 1, 2024, sent 2:26 pm); IC-2025-0043-335 (entire email dated October 1, 2024, sent at 11:28 am); IC-2025-0043-336 (line 16 through end of page); IC-2025-0043-337 (all); IC-2025-

0043-338 (last four lines) IC-2025-0043-339 (top email carried over from previous page); IC-2025-0043-340 (entire email dated October 1, 2024, sent 11:28 am); IC-2025-0043-341 (line 3 through end of page); IC-2025-0043-342 and IC-2025-0043-343 (all); IC-2025-0043-344 (second email dated October 1, 2024, sent 4:36 pm); IC-2025-0043-345 through IC-2025-0043-350 (all); IC-2025-0043-351 (line 10 through end of page); IC-2025-0043-352 (all); IC-2025-0043-353 (last email on page dated October 3, 2024, sent 7:09 am); IC-2025-0043-354 through IC-2025-0043-364 (all); IC-2025-0043-365 (second email dated October 8, 2024, sent 1:16 pm through end of page); IC-2025-0043-366 (all); IC-2025-0043-367 (first email on page dated October 15, 2025); IC-2025-0043-368 (final email on page dated September 19, 2024); IC-2025-0043-369 (all); IC-2025-0043-370 (last email on page dated October 15, 2024, sent 4:53 pm); IC-2025-0043-372 (second email dated September 19, 2024);⁹ IC-2025-0043-374 (first two emails on page both dated October 21, 2024); IC-2025-0043-375 and IC-2025-0043-376 (all); IC-2025-0043-377 (first two emails on page both dated October 21, 2024); IC-2025-0043-378 (entire page except for line 1);¹⁰ IC-2025-0043-379 (all); IC-2025-0043-380 (second email dated October 21, 2024, sent 1:50 pm through end of page); IC-2025-0043-381 (second email dated October 15, 2024 through end of page); IC-2025-0043-382 (all); and IC-2025-0043-1188 (all).

63. It is concluded that the records, or portions thereof, identified in paragraph 62, above, constitute communications privileged by the attorney-client relationship, within the meaning of §1-210(b)(10), G.S. It is found that the attorney-client privilege has not been waived with respect to such records. Accordingly, it is further concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., when they declined to disclose a copy of such records to the complainant.

⁹ The Commission notes that IC-2024-0043-373 is blank.

¹⁰ The respondents also contended that IC-2025-0043-78 through IC-2025-0043-387 are exempt in their entirety pursuant to §1-210(b)(4), G.S., because such records pertain to strategy and negotiations with respect to pending claims or pending litigation. However, because it is found that all records, or portions thereof, which are potentially exempt from disclosure pursuant to the provisions of §1-210(b)(4), G.S., are determined to be exempt from disclosure pursuant to the provisions of §1-210(b)(10), G.S., the Commission will not consider the respondents' additional claim of exemption for such records.

64. However, upon careful in camera inspection, it is further found that other than the records, or portions thereof, specifically identified in paragraph 62, above, the remaining records are not “confidential communications,” within the meaning of §52-146r(a)(2), G.S., and are not exempt from disclosure pursuant to the provisions of §1-210(b)(10), G.S.

Section 1-210(b)(13), G.S., Records of an Investigation under the Provisions of §4-276, G.S., et al.

65. Next, the respondents contended that most of the remaining records are exempt from disclosure in their entirety pursuant to §1-210(b)(13), G.S., which section provides that, nothing in the FOI Act shall be construed to require the disclosure of:

Records of an investigation, including any complaint or the name of a person providing information under the provisions of section 4-61dd [i.e., the CT Whistleblower Statute¹¹] or sections 4-276 to 4-280 [the CT False Claims Act], inclusive.

66. Section 4-276, G.S., provides that:

The Attorney General may, within available appropriations, investigate any violation of subsection (a) of section 4-275. Any information obtained pursuant to such an investigation shall be exempt from disclosure under section 1-210. If the Attorney General finds that a person has violated or is violating any provision of subsection (a) of section 4-275, the Attorney General may bring a civil action in the superior court for the judicial district of Hartford under this section in the name of the state against such person.

67. The complainant contends that, because the respondent department is not the Attorney General, it has no statutory or other legal authority to claim §1-210(b)(13), G.S., as an exemption pursuant to the provisions of Connecticut’s False Claims Act.

68. However, this Commission addressed this issue in *Virginia Brown v. Comptroller, State of Connecticut, Office of the Comptroller, et al.*, Docket No. FIC 2015-055 (Dec. 16, 2015) (“*Brown*”), which case involved a request for copies of records maintained by the Office of the State Comptroller concerning a whistleblower investigation conducted pursuant to the provisions of §4-61dd, G.S.

69. In *Brown*, the Commission noted that the Superior Court had found that “[t]he unambiguous language of §1-210(b)(13)...provides two exemptions from disclosure for ‘records of an investigation’ and ‘the name of an employee providing information’ under §4-61dd. See *State of Connecticut, Office of the Attorney General v. Freedom of Information*

¹¹ The respondents are not relying on the provisions of Connecticut’s Whistleblower Statute to raise a §1-210(b)(13), G.S., claim of exemption in this case.

Commission, 2011 WL 522872, *5 (Conn. Super. Ct. Jan. 20, 2011). “By simultaneously enacting the whistleblower statute and subsection 1-210(b)(13) of the [FOI] Act, the legislature set forth its intent to protect whistleblower identity and all records related to a whistleblower investigation....The legislative history supports a consistent application of the whistleblower statute and the FOIA, which complement each other. The legislative history indicates that the legislature intended to protect the identity of whistleblowers and related information....” See *Office of the Attorney General, Opinion No. 2002-025*, 2002 WL 1747704, *2-3 (Conn. A.G. July 24, 2002).

70. Furthermore, and most importantly for purposes of the instant case, the Commission takes administrative notice of the holding in the *Brown* case, as follows:

It is concluded that §1-210(b)(13), G.S., gives a public agency discretion to withhold records prepared or received by such agency relating to a whistleblower investigation. It is concluded that there is no provision in §1-210(b)(13), G.S., limiting its provisions to records of the Attorney General or the State Auditors.

Brown, ¶ 47 (emphasis added).

71. Therefore, based upon careful in camera inspection, it is found that the following records constitute records of an investigation or the name of an employee providing information under the provisions of §§4-276 to 4-280, G.S., inclusive:

IC-2025-0043-268 through IC-2025-0043-270; IC-2025-0043-388¹² through IC-2025-0043-397; IC-2025-0043-400 through IC-2025-0043-402; IC-2025-0043-405 through IC-2025-0043-407; IC-2025-0043-410 through IC-2025-0043-412; IC-2025-0043-415 through IC-2025-0043-417; IC-2025-0043-420 through IC-2025-0043-426; IC-2025-0043-629 through IC-2025-0043-639; IC-2025-0043-642 through IC-2025-0043-668; IC-2025-0043-670 through IC-2025-0043-672; IC-2025-0043-674; IC-2025-0043-676; IC-2025-0043-678; IC-2025-0043-680; IC-2025-0043-682; IC-2025-0043-684; IC-2025-0043-686 and IC-2025-0043-687; IC-2025-0043-689 through IC-2025-0043-704; IC-2025-0043-706 through IC-2025-0043-726; IC-2025-0043-728 through IC-2025-0043-763;¹³ IC-2025-0043-765

¹² For clarity’s sake, the Commission notes that IC-2025-0043-388 also includes the following additional sub-records: IC-2025-0043-388.001 and IC-2025-0043-388.002.

¹³ The Commission notes that IC-2025-0043-764 is blank.

through IC-2025-0043-781¹⁴; IC-2025-0043-782 through IC-2025-0043-908; IC-2025-0043-909¹⁵ through IC-2025-0043-914; IC-2025-0043-915¹⁶ through IC-2025-0043-1174; IC-2025-0043-1176; IC-2025-0043-1178; IC-2025-0043-1180; IC-2025-0043-1182; IC-2025-0043-1184; IC-2025-0043-1186; IC-2025-0043-1189 and IC-2025-0043-1190;¹⁷ IC-2025-0043-1192 through IC-2025-0043-1195 (all); IC-2025-0043-1198 through IC-2025-0043-1275; IC-2025-0043-1277 through IC-2025-0043-1284; IC-2025-0043-1286; IC-2025-0043-1288 through IC-2025-0043-1292; IC-2025-0043-1294; IC-2025-0043-1296 through 1316; IC-2025-0043-1318, IC-2025-0043-1320 through IC-2025-0043-1343;¹⁸ IC-2025-0043-1345 through IC-2025-0043-1348;¹⁹ IC-2025-0043-1350 through IC-2025-0043-1459; IC-2025-0043-1461 through IC-2025-0043-1474; IC-2025-0043-1475²⁰ through IC-2025-0043-1548; IC-2025-0043-1551 through IC-2025-0043-1646; IC-2025-0043-1649 through IC-2025-0043-1651; IC-2025-0043-1654 through IC-2025-0043-1665; IC-2025-0043-1668 through IC-2025-0043-1672;²¹ IC-2025-0043-1676 through IC-2025-0043-1679; IC-2025-0043-1682 and IC-2025-0043-1683; IC-2025-0043-1686; IC-2025-0043-1695 through IC-2025-0043-1700; IC-2025-0043-1702; IC-2025-0043-1704; IC-2025-0043-1706; IC-2025-0043-1708 and IC-2025-0043-1709; IC-2025-0043-1712 through IC-2025-0043-1715; IC-2025-0043-1720; IC-2025-0043-

¹⁴ For clarity's sake, the Commission notes that IC-2025-0043-781 is comprised of 148 individual pages, as follows: IC-2025-0043-781.001 through IC-2025-0043-781.148.

¹⁵ For clarity's sake, the Commission note that IC-2025-0043-909 is comprised of 4 individual pages, as follows: IC-2025-0043-909.001 through IC-2025-909.004.

¹⁶ For clarity's sake, the Commission note that IC-2025-0043-915 is comprised of 4 individual pages, as follows: IC-2025-0043-915.001 through IC-2025-0043-915.004.

¹⁷ The Commission notes that IC-2025-0032-1191 is blank.

¹⁸ The Commission notes that IC-2025-0043-1344 is blank.

¹⁹ The Commission notes that IC-2025-0043-1349 is blank.

²⁰ For clarity's sake, the Commission note that IC-2025-0043-1475 is comprised of 4 individual pages, as follows: IC-2025-0043-1475.001 through IC-2025-1475.004 and that the in camera submission contains two copies of each such page.

²¹ The Commission notes that IC-2025-0043-1673 is blank.

1725; IC-2025-0043-1730; IC-2025-0043-1735 through IC-2025-0043-1738; IC-2025-0043-1743 through IC-2025-0043-2937;²² IC-2025-0043-2939 through IC-2025-0043-2954;²³ IC-2025-0043-2956 through IC-2025-0043-2969;²⁴ IC-2025-0043-2971 through IC-2025-0043-2980;²⁵ IC-2025-0043 through 2982 through IC-2025-0043-3004;²⁶ and IC-2025-0043-3006 through IC-2025-0043-3475.²⁷

72. It is concluded that the records, or portions thereof, identified in paragraph 71, above, are permissively exempt from disclosure pursuant to the provisions of §§1-210(b)(13) and 4-276 to 4-280, G.S.

73. It is therefore concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., when they declined to disclose a copy of such records or portions thereof to the complainant.

74. However, upon careful in camera inspection, it is further concluded that other than the records, or portions thereof, specifically identified in paragraph 71, above, the remaining records are not exempt from disclosure pursuant to the provisions of §§1-210(b)(13) or 4-276 to 4-280, G.S.

75. In sum, it is finally concluded that, other than the records, or portions thereof, specifically identified in paragraphs 29, 49, 62 and 71, above, the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by declining to disclose a copy of the remaining records, or portions thereof, to the complainant.

²² The Commission notes that IC-2025-0043-2938 is blank.

²³ The Commission notes that IC-2025-0043-2955 is blank.

²⁴ The Commission notes that IC-2025-0043-2970 is blank.

²⁵ The Commission notes that IC-2025-0043-2981 is blank.

²⁶ The Commission notes that IC-2025-0043-3005 is blank.

²⁷ The Commission notes that the following in camera records are stamped "Page Image Missing" and thus such records contain no information responsive to the request: IC-2025-0043-669; IC-2025-0043-673; IC-2025-0043-675; IC-2025-0043-677; IC-2025-0043-679; IC-2025-0043-681; IC-2025-0043-683; IC-2025-0043-685; IC-2025-0043-688; IC-2025-0043-705; IC-2025-0043-727; the backside of IC-2025-0043-782, which does not contain a Bates number; the backside of IC-2025-0043-908, which does not contain a Bates number; the backside of IC-2025-0043-914, which does not contain a Bates number; IC-2025-0043-1175; IC-2025-0043-1177; IC-2025-0043-1179; IC-2025-0043-1181; IC-2025-0043-1183; IC-2025-0043-1185; IC-2025-0043-1187; the backside of IC-2025-0043-1474, which does not contain a Bates number; IC-2025-0043-1701; IC-2025-0043-1703; IC-2025-0043-1705; and IC-2025-0043-1707.

76. Finally, with regard to whether the respondents have acted promptly in responding to the instant request, this Commission has previously opined that the word "promptly" in §1-210, G.S., means "quickly and without undue delay, taking into account all of the factors presented by a particular request . . . [including] the volume of records requested; the amount of personnel time necessary to comply with the request; the time by which the requester needs the information contained in the records; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without loss of the personnel time involved in complying with the request." *See* FOI Commission Advisory Opinion #51 (Jan. 11, 1982). The Commission also recommended in Advisory Opinion #51 that, if immediate compliance is not possible, the agency should explain the circumstances to the requester.

77. Based upon the testimony of the respondents' FOI Officer (the "FOI Officer"), it is found that the respondents received the request set forth in paragraph 4, above, on January 17, 2025. Upon receipt, it is found that the FOI Officer reviewed and logged the request, and then forwarded it to the individuals within the respondent department whom she believed maintained records responsive to the request, including: the Director of QA; Mr. Campbell, who at the time was the Assistant Director of QA; and the Head of the Dental Commission.

78. It is found that, on January 22, 2025, the Director of QA informed the FOI Officer that the requested records pertained to a provider who was still under investigation by one or more of the respondent department's law enforcement partners; as such, all of the requested records pertained to an ongoing investigation and could not be disclosed at such time. It is found that, on the same date, the FOI Officer informed the complainant that the request was denied in its entirety due to a pending investigation. *See* ¶ 7, above. It is further found that, on this same date, the complainant appealed to this Commission. *See* ¶ 8, above.

79. It is found that, on February 28, 2025, the respondents' counsel filed his appearance in this matter. It is further found that, on or about March 26, 2025, the respondents' blanket exemption to disclosure was retracted, the parties began to engage in substantive discussion about the request, and the respondents began to gather the responsive records. *See* Respondents' Post-Hearing Ex. 6. It is further found that, at the time of the first contested case hearing on May 12, 2025, the respondents had gathered all responsive records but had only just begun to review them. It is further found that it was only shortly before submitting the in camera records to this Commission on August 6, 2025, that the respondents disclosed responsive records to the complainant. It is therefore found that approximately 201 days elapsed between the date that the respondents received the request for records in this case and the date that they disclosed responsive records to the complainant.

80. Based on the facts and circumstances of this case, it is concluded that the respondents violated the promptness requirements of §§1-210(a) and 1-212(a), G.S.

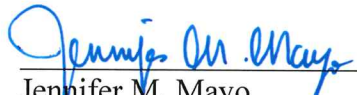
81. The Commission, in its discretion, declines to consider the imposition of civil penalties against the respondents in this case.

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

1. Within 45 days of the date of the Notice of Final Decision in this matter, the respondents shall provide to the complainant, free of charge, a copy of all the in camera records, or portions thereof, except for the in camera records, or portions thereof, specifically identified in paragraphs 29, 49, 62, and 71 of the findings, above.

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

Approved by Order of the Freedom of Information Commission at its regular meeting of January 14, 2026.



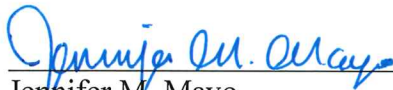
Jennifer M. Mayo
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

LINDA T. WIHBEY, c/o Linda T. Wihbey, 483 Middle Turnpike West, Suite 309, Manchester, CT 06040

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF SOCIAL SERVICES; AND STATE OF CONNECTICUT, DEPARTMENT OF SOCIAL SERVICES, c/o Attorney Adam Prizio, Department of Social Services, 55 Farmington Ave., Hartford, CT 06105



Jennifer M. Mayo
Acting Clerk of the Commission