

**From:** Murphy, Laura <Laura.Murphy@vermont.gov>

**Sent:** Friday, September 15, 2023 5:15 PM

**To:** Alex Nelson <Anelson@sheeheyvt.com>

**Cc:** Mishaan, Jessica <Jessica.Mishaan@vermont.gov>; Devin Mcknight <DMcKnight@sheeheyvt.com>; Hannah C. Waite <HWaite@sheeheyvt.com>; Vermont\_SHB <Vermont\_SHB@shb.com>

**Subject:** RE: Public Records Act Request -- AGO

Dear Alex,

Please see the attached response to your request.

Regards,

Laura



STATE OF VERMONT  
OFFICE OF THE ATTORNEY GENERAL  
109 STATE STREET  
MONTPELIER, VT  
05609-1001

September 15, 2023

Alexandrea L. Nelson  
Sheehey Furlong & Behm PC  
30 Main Street, PO Box 36  
Burlington, VT 05402  
By email to: [anelson@sheeheyvt.com](mailto:anelson@sheeheyvt.com)

Dear Alex:

I write in response to the public records request you submitted on August 25, 2023 on behalf of Pharmacia LLC. The request sought:

[A]ll public records in the possession, custody, or control of the Vermont Attorney General regarding Sections 26 and 27 of Act No. 46 (previously S.33), including amendments to 10 V.S.A. §§ 8222, 8015.

The request:

[I]ncludes, but is not limited to:

- (1) All written or oral testimony provided by the Attorney General to the Vermont Legislature, including the Senate Judiciary Committee, Senate Committee on Natural Resources & Energy, House Committee on Judiciary, House Committee on Ways and Means, and House Committee on Appropriations.
- (2) All documents and communications among the Attorney General and the Vermont Legislature, including the Senate Judiciary Committee, Senate Committee on Natural Resources & Energy, House Committee on Judiciary, House Committee on Ways and Means, and House Committee on Appropriations.
- (3) All documents and communications concerning the Attorney General's assertion to the Legislature that Sections 26 and 27 of Act No. 46 would codify the continuing tort doctrine.
- (4) All documents and communications concerning the Attorney General's reasons for introducing Sections 26 and 27 into Act No. 46.

Please find below our response for each category of records.

Category (1): The Attorney General’s Office (AGO) is not the custodian of any responsive records.

Category (2): We have prepared 32 responsive emails with 4 attachments for production.

Categories (3) and (4) and “general” category of “all records . . . regarding . . . Sections 26 and 27 of Act No. 46 (previously S.33)”: The AGO broadly interprets these categories to mean records from January 6, 2023 to June 6, 2023 that are related to the AGO’s proposed revisions to S.33 or that reference the continuing tort doctrine. We have prepared 7 emails for production under these categories.<sup>1</sup> We are withholding 326 emails (many of which are reproduced in other withheld email chains and approximately 66 of which contain one or more attachments, some duplicative of each other) and 15 documents (some of which may be duplicative of email attachments). We are withholding these records as exempt from disclosure under 1 V.S.A. § 317(c)(4). All of the documents are subject to attorney-client privilege and one of the emails also is subject to executive privilege. 52 of the records, some of which include attachments, also are subject to work product protection.

Please be advised that we have considered documents generated in connection with responding to this request as nonresponsive.

To proceed further with processing your request, we ask that you please submit payment totaling the cost of \$393.30. Senior staff spent at least 12 hours responding to the request, which is \$.57/minute under the Secretary of State’s Uniform Charges Schedule for senior-level staff time. There is no charge for the first 30 minutes. Upon receipt of your payment, copies of the records will be made available to you. Please submit payment by ACH or e-Check via the Attorney General’s Office Payment Portal at <https://appengine.egov.com/apps/vt/ago/onlinepayment>. I will be notified when payment has been submitted. Alternatively, you may mail a check to:

Office of the Attorney General  
Attn: Business Office  
109 State Street  
Montpelier, VT 05609-1001

If you believe any information or records have been withheld in error, you may appeal to Deputy Attorney General Robert McDougall at [Robert.McDougall@vermont.gov](mailto:Robert.McDougall@vermont.gov).

Sincerely,

*/s/ Laura B. Murphy*  
Laura B. Murphy  
Assistant Attorney General  
Environmental Protection Unit

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<sup>1</sup> Two of the emails are marked as confidential and privileged, but we have determined privilege does not apply to the emails.