

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In Re:	)	MPC 15-0203	MPC 110-0803
	)	MPC 208-1003	MPC 163-0803
	)	MPC 148-0803	MPC 126-0803
	)	MPC 106-0803	MPC 209-1003
David S. Chase	)	MPC 122-0803	MPC 89-0703
	)		MPC 90-0703
Respondent	)		MPC 87-0703

**STATE'S REPLY MEMORANDUM IN SUPPORT OF MOTION TO AMEND
NOTICE OF HEARING**

For reasons the State cannot discern, Respondent opposes the State's request that, as a matter of procedure, the notice of hearing (not a "prior order" as characterized by Respondent) in the above-captioned actions be amended to include notice to Respondent of the *possible* consequences if Respondent fails to appear personally at hearing. Contrary to Respondent's argument in his memorandum in his opposition, Rule 16.1(c) of the Board's rules does require Respondent's personal appearance at hearing. Respondent should be apprised of the consequences if he should decide to not appear at hearing. The Board should therefore amend the Notice of Hearing as requested by the State.

The State is compelled to respond to Respondent's assertion that the State has no reason to believe that Respondent will not personally appear. Though immaterial to whether the Notice should be amended, the State does have concerns regarding the possibility that Respondent may not attend the hearing. Respondent has sought, unsuccessfully, to preliminarily enjoin the Board proceedings from taking place. In seeking the preliminary injunction, the Respondent vehemently

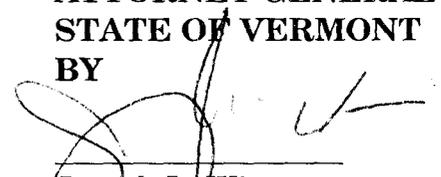
argued that he would suffer irreparable harm if the Board hearing goes forward. It is therefore legitimate for the State to have concerns regarding Respondent's willing participation in proceedings Respondent views as detrimental to his interests.

There are other factors that contribute to the State's concerns. First, Respondent's argument in his current memorandum that he is not obligated to personally appear at hearing is troubling to the State. Second, Respondent correctly notes in his memorandum that a subpoena has been issued by the State for Respondent's appearance at hearing. However, as of the date of this filing, such subpoena has yet to be personally served despite several attempts by the Chittenden County Sheriff's Office. Finally, Respondent's past conduct does not assuage the State's concerns--especially in the absence in the memorandum of an affirmative statement that Respondent will be personally present at hearing.

The State's motion to amend the notice of hearing must be **GRANTED**.

Dated at Montpelier, Vermont this 27th day of August, 2006.

**WILLIAM SORRELL
ATTORNEY GENERAL
STATE OF VERMONT
BY**



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