

STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

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

NOTICE OF CORRECTIONS

In the State of Vermont's Memorandum in Support of Request to Amend Report of Hearing Committee, filed on September 7, 2007, there are two errors in the first sentence of the first paragraph of Section I on Page 5 of the Memorandum. The sentence in the memorandum as filed reads as follows:

In each of the ten cases where the Committee determined Respondent engaged in unprofessional conduct, the Committee also found that each of the patients' records contained what the Committee described as "inaccuracies, misunderstandings, or overstatements" and concluded that these entries were "deliberate falsifications."

(footnote omitted). The sentence should read as follows:

In each of the ten cases where the Committee determined Respondent engaged in unprofessional conduct, the Committee also found that each of the patients' records contained what the Committee described as "inaccuracies, misunderstandings, or overstatements" ~~and~~ but concluded that these entries were not "deliberate falsifications."

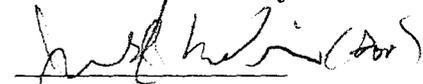
A corrected page is attached for the convenience of the Hearing Panel.

Dated at Montpelier, Vermont this 10th day of September, 2007.

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



Joseph L. Winn
Assistant Attorney General



Michael O. Duane
Assistant Attorney General

I. THE FINDINGS OF THE COMMITTEE SUPPORT THE CONCLUSION THAT THE FALSE STATEMENTS IN THE PATIENTS' RECORDS WERE WILLFULLY MADE.

In each of the ten cases where the Committee determined Respondent engaged in unprofessional conduct, the Committee also found that each of the patients' records contained what the Committee described as "inaccuracies, misunderstandings, or overstatements" but concluded that these entries were not "deliberate falsifications."¹ It is not necessary, however, for the State to prove and for the Board to find that a physician made "deliberate falsifications" in order for there to be a violation of 26 V.S.A. §1354(b). The term "deliberate falsifications" is one that has been created as a standard in this case by the Committee. The only logical and reasonable conclusion that can be drawn from the Committee's own findings is that these entries were willfully made. These same false entries were consistently made in each of the relevant patients' files and the entries dealt with substantive criteria for determining the need for cataract surgery under the Preferred Practice Patterns of the AAO.

It may be that the Committee was reluctant to find that Respondent acted "willfully" given the State's insistence throughout the proceedings that it need not prove motive. A willful act and the possible motive behind the willful act are two distinctly different legal concepts when determining whether a physician engaged in unprofessional conduct in the licensing context. To prove that Respondent acted

¹ *Rec., Conclusions of Law*, ¶¶ 3, 15, 27, 41, 56, 64, 74, 83, 91, 103.