

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

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

**DR. CHASE’S OPPOSITION TO STATE’S MOTION TO AMEND
NOTICE OF HEARING**

The State has filed a nonsensical request to amend the Notice of Hearing issued by the Board in connection with this case. There exists no reason or legal basis for the State’s request, and Dr. Chase therefore opposes it.

As an initial matter, neither the State nor the Board has any reason to believe that Dr. Chase will fail to personally appear and contest the charges filed against him. To the contrary, all of Dr. Chase’s past actions indicate that he will vigorously fight the State’s allegations at the merits hearing. Moreover, the State has already issued a subpoena that would guarantee Dr. Chase’s personal attendance at the hearing. As a result, there is simply no reason to amend the Notice of Hearing as the State suggests.

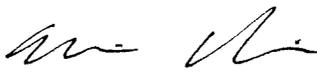
Nor does there exist any legal support for the State’s request, because the State’s interpretation of Board Rule 16.1(c) is badly flawed. First, nothing in that Rule requires the personal appearance of the Respondent at the merits hearing. Notably, the State provides no legal support for its contrary interpretation, simply stating that “it is the State’s position that appearance by Respondent’s counsel alone is not sufficient to avoid default.” (Motion at 1-2.) If the State wishes to amend a prior order of the Board, it must at least provide a reasoned argument in favor of the proposed amendment so that both the Respondent and the Board can analyze and respond to it.

The State's second reason for its proposed amendment—that "Due Process requires that Respondent be notified of the consequences of his failure to appear personally"—carries no more weight. The State's sudden concern for Dr. Chase's due process rights aside, Rule 16.1 does not contemplate that the Board provide Dr. Chase additional notice of the consequences of default prior to any default occurring. Instead, the Rule clearly indicates that if a Respondent fails to appear, the Board must provide him with notice that the allegations will be treated as proven before taking further disciplinary action against him. The Rule does not comprehend or allow that the Board provide such notice of default before any failure to appear occurs.

The State's Motion lacks any legitimate purpose or support in Board Rules and should accordingly be denied.

Dated at Burlington, Vermont, this 21st day of August, 2006.

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