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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

LEON J. RADANT, M.D.,

Respondent

ORDER DENYING MOTION TO DISMISS

On December 26, 2002, a formal Complaint and Notice of Hearing was filed in the above-captioned matter. On June 5, 2003, Gilbert C. Lubcke, attorney for the Division of Enforcement, filed his Motion to Dismiss and Affidavit in support of the motion, seeking dismissal of the proceedings against Dr. Radant. By letter dated June 5, 2003, Patricia J. Epstein, attorney for Dr. Radant, joined in the Motion to Dismiss. The board considered the matter on June 18, 2003.

The basis for the parties' motion, as set forth in Mr. Lubcke's Affidavit, may be excerpted as follows:

"The primary issue presented by Dr. Radant's conduct in this disciplinary proceeding is Dr. Radant's failure to make a timely transfer of an acute myocardial infarction patient to a tertiary care center after he developed congestive heart failure and pulmonary edema while hospitalized at a small community hospital without interventional capabilities.

"Affiant was also the prosecuting attorney in a disciplinary proceeding commenced against James R. Deming, M.D. The factual circumstances and the primary issue presented in the Deming matter were substantially identical to the factual circumstances and primary issue involved in this disciplinary proceeding against Dr. Radant.

"On June 4, 2003, the Wisconsin Medical Examining Board entered a Final Decision and Order reversing the Proposed Decision of the Administrative Law Judge and dismissing the disciplinary proceedings against Dr. Deming.

"Affiant believes that the similarity of the facts and the primary issues in the Radant matter and in the Deming matter dictate that the [board], to maintain consistency, . . . cannot reasonably find a violation in the Radant matter when no violation was found in the Deming matter."

After deliberation, the board concludes that while one of the principal allegations of the formal complaint filed in the Radant matter is similar to an alleged violation in the Deming matter, other allegations of the formal complaint filed in this case are not sufficiently similar to those issues raised in the Deming matter to militate for a similar result. The board concludes that those allegations raise issues different from those raised in the Deming matter, and therefore orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that the parties' Motion to Dismiss the proceedings in this matter is denied, and the matter is hereby remanded to the Administrative Law Judge for further proceedings.

Dated this 23rd day of June, 2003.

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

Alfred L. Franger, M.D.

Secretary