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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

DENNIS KEITH NESS, M.D.,

Respondent

ORDER AFFIRMING FINDING OF PROBABLE CAUSE

On May 21, 2003, the Medical Examining Board reviewed a formal complaint against Dennis Keith Ness, M.D. The board determined that the formal complaint supported findings of probable cause to believe that unprofessional conduct occurred, and ordered that the formal complaint be filed and that formal disciplinary proceedings be commenced against Dr. Ness.

On May 22, 2003, Gilbert C. Lubcke, attorney for the Division of Enforcement, filed his letter requesting that the board reconsider its decision to commence formal disciplinary proceedings against Dr. Ness. On May 28, 2003, Patricia J. Epstein, attorney for Dr. Ness, joined in Attorney Lubcke's request for reconsideration. The basis for the requests was that the contemplated disciplinary proceeding against Dr. Ness involves issues substantially similar to that in a matter considered by the board on May 21, 2003, captioned in the Matter of Disciplinary Proceedings Against James R. Deming, M.D. The board in the Deming matter dismissed the case based upon its conclusion that the preponderance of the evidence produced at hearing failed to support a finding of violation. The board considered the requests at its meeting of June 18, 2003.

After deliberation, the board concludes that while one of the allegations of the formal complaint filed in the Ness 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. Assuming for the purpose of finding probable cause that the allegations of the Ness complaint are true, the board finds 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 board's finding of probable cause in the matter of disciplinary proceedings against Dennis Keith Ness, M.D., is affirmed, and the parties' request for reconsideration is hereby denied.

Dated this 23rd day of June, 2003.

STATE OF WISCONSIN

MEDICAL EXAMINING BOARD

Alfred L. Franger, M.D.

Secretary