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8  
9 **BEFORE THE**  
**DIVISION OF LICENSING**  
10 **MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 20-2006-174988

13 KERWIN JOHN LEBEIS  
P.O. Box 16813  
14 Phoenix, Arizona 85011

**STATEMENT OF ISSUES**

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. David T. Thornton (Complainant) brings this Statement of Issues solely in  
20 his official capacity as the Executive Director of the Medical Board of California, Department of  
21 Consumer Affairs.

22 2. On or about March 7, 2005, the Division of Licensing, Medical Board of  
23 California, received an application for a physician's and surgeon's certificate from Kerwin John  
24 Lebeis, (Respondent). On or about March 4, 2005, Kerwin John Lebeis certified under penalty of  
25 perjury to the truthfulness of all statements, answers, and representations in the application. The  
26 Division of Licensing denied the application on March 21, 2006.

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1           6.     Section 141 of the Code states:

2                     “(a) For any licensee holding a license issued by a board under the  
3 jurisdiction of the department, a disciplinary action taken by another state, by any  
4 agency of the federal government, or by another country for any act substantially  
5 related to the practice regulated by the California license, may be a ground for  
6 disciplinary action by the respective state licensing board. A certified copy of the  
7 record of the disciplinary action taken against the licensee by another state, an  
8 agency of the federal government, or another country shall be conclusive evidence  
9 of the events related therein.

10                    “(b) Nothing in this section shall preclude a board from applying a  
11 specific statutory provision in the licensing act administered by that board that  
12 provides for discipline based upon a disciplinary action taken against the licensee  
13 by another state, an agency of the federal government, or another country.”

14                                     FIRST CAUSE FOR DENIAL OF APPLICATION

15   (Dishonesty)

16   [Bus. & Prof. Code §§ 480(a)(2), 480(c)]

17           7.     Respondent's application is subject to denial under sections 480(a)(2) and  
18 480(c) in that on March 4, 2005, respondent checked “no” to question 17C on the initial  
19 application for a physician’s and surgeon’s license in California, which asked whether any  
20 disciplinary action was then pending, which had been “filed or taken regarding any healing art  
21 license which (respondent) now hold(s) or has ever held?”. By responding negatively to question  
22 17C in his application for licensure, responded failed to disclose pending action by the Illinois  
23 medical board. At the time respondent made this response to question 17C, the State of Illinois,  
24 Department of Financial and Professional Regulation, Division of Professional Regulation, had  
25 issued a pending Order To Refuse To Renew respondent’s Physician and Surgeon License,  
26 resulting from discipline imposed on respondent’s Physician and Surgeon License by the State of  
27 Arizona, which the State of Illinois described as “Sister-State-Discipline” in violation of the  
28 Medical Practice Act, 225 Illinois Compiled Statutes, (2002), Section 60/22 (A) paragraph (S)  
12, finding respondent “unfit for registration as a physician and surgeon in the State of Illinois

1 due to Sister-State Discipline.” The State of Illinois notified respondent of its intent to refuse to  
2 renew his Physician and Surgeon License on January 4, 2005, and advised respondent of his right  
3 to request an administrative hearing within 30 days to contest the refusal to renew his license.  
4 Respondent failed to request a hearing on the matter. The pending Order To Refuse To Renew  
5 thereafter formally issued on March 29, 2005.

6 SECOND CAUSE FOR DENIAL OF APPLICATION

(Out of State Discipline)

[Bus. & Prof. Code §§ 2305 and 141]

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8 9. Complainant re-alleges paragraph 7, above, and incorporates it by  
9 reference herein as if fully set forth at this point.

10 10. Respondent’s application is subject to denial under Code sections  
11 480(a)(2), 480(a)(3), 2305 and 141 in that on March 29, 2005, the State of Illinois issued a  
12 Refusal To Renew the applicant’s Physician and Surgeon License, finding him “unfit for  
13 registration as a physician and surgeon”, thereby constituting disciplinary action taken against  
14 respondent’s medical license within the meaning of the above referenced sections of the Code.

15 THIRD CAUSE FOR DENIAL OF APPLICATION

(Out-of-State Discipline)

[Bus. & Prof. Code §§ 2305 and 141]

16  
17 10. Respondent’s application is subject to denial under Code sections 2305  
18 and 141 in that his Physician and Surgeon’s License was subject to discipline by the Board of  
19 Medical Examiners for the State of Arizona (hereafter “Arizona Board”) on three occasions as  
20 follows:

21 A. On January 24, 1997, respondent was found guilty of  
22 unprofessional conduct and a term of probation was imposed, with terms and  
23 conditions, relative to proven charges of failure to keep or maintain adequate  
24 records on a patient and improper prescribing or dispensing of controlled  
25 substance(s). Thereafter, on August 25, 1999, respondent entered into a Consent  
26 Agreement For Order of Probation with the Arizona Board in which he agreed  
27 obtain 20 hours of pre-approved Continuing Medical Education in  
28 psychopharmacology and the diagnosis of psychiatric disorders.

1 B. On June 19, 2002, the Arizona Board received notice from the  
2 Arizona Department of Corrections that respondent had been terminated from  
3 employment for performing unauthorized experiments utilizing anti-psychotic  
4 medications on prison inmates without their informed consent. Following an  
5 investigation into the matter, on October 10, 2003, the Arizona Board entered into  
6 an Interim Consent Agreement for Practice Restriction with respondent, in which  
7 respondent was restricted from the practice of psychiatry and prescribing of  
8 pharmacological agents and required to complete the Physician Assessment and  
9 Clinical Education (PACE) program at the University of California, San Diego,  
10 School of Medicine. That order was vacated on October 6, 2004, following  
11 respondent's completion of the required PACE program.

12 C. On November 10, 2004, the Arizona Board issued a Letter of  
13 Reprimand to respondent "for performing experimental protocols on patients  
14 without informed consent" relative to the above referenced unprofessional  
15 conduct with regard to prison inmate patients.

16 PRAYER

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
18 alleged, and that following the hearing, the Division issue a decision:

- 19 1. Denying the application of Kerwin John Lebeis for a Physician's and  
20 Surgeon's Certificate;  
21 2. Taking such other and further action as deemed necessary and proper.  
22

23 DATED: June 8, 2006

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25   
26 DAVID T. THORNTON  
27 Executive Director  
28 Medical Board of California  
Department of Consumer Affairs  
State of California, Complainant