BEFORE THE
DIVISION OF LICENSING
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: Case No. 20-2006-174988

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

Respondent.

Complainant alleges:

PARTIES

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

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

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JURISDICTION

3. This Statement of Issues is brought before the Division of Licensing of the Medical Board of California, Department of Consumer Affairs (hereinafter the “Division”), under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2305 of the Code states:

“The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.”

5. Section 480 of the Code states:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

“(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself.

“(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

“The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

“(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.”
6. Section 141 of the Code states:

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

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

FIRST CAUSE FOR DENIAL OF APPLICATION
(Dishonesty)
[Bus. & Prof. Code §§ 480(a)(2), 480(c)]

7. Respondent's application is subject to denial under sections 480(a)(2) and
480(c) in that on March 4, 2005, respondent checked "no" to question 17C on the initial
application for a physician's and surgeon's license in California, which asked whether any
disciplinary action was then pending, which had been "filed or taken regarding any healing art
license which (respondent) now hold(s) or has ever held?". By responding negatively to question
17C in his application for licensure, responded failed to disclose pending action by the Illinois
medical board. At the time respondent made this response to question 17C, the State of Illinois,
Department of Financial and Professional Regulation, Division of Professional Regulation, had
issued a pending Order To Refuse To Renew respondent's Physician and Surgeon License,
resulting from discipline imposed on respondent's Physician and Surgeon License by the State of
Arizona, which the State of Illinois described as "Sister-State-Discipline" in violation of the
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
due to Sister-State Discipline.” The State of Illinois notified respondent of its intent to refuse to renew his Physician and Surgeon License on January 4, 2005, and advised respondent of his right to request an administrative hearing within 30 days to contest the refusal to renew his license. Respondent failed to request a hearing on the matter. The pending Order To Refuse To Renew thereafter formally issued on March 29, 2005.

SECOND CAUSE FOR DENIAL OF APPLICATION
(Out of State Discipline)
[Bus. & Prof. Code §§ 2305 and 141]

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

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

THIRD CAUSE FOR DENIAL OF APPLICATION
(Out-of-State Discipline)
[Bus. & Prof. Code §§ 2305 and 141]

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

A. On January 24, 1997, respondent was found guilty of unprofessional conduct and a term of probation was imposed, with terms and conditions, relative to proven charges of failure to keep or maintain adequate records on a patient and improper prescribing or dispensing of controlled substance(s). Thereafter, on August 25, 1999, respondent entered into a Consent Agreement For Order of Probation with the Arizona Board in which he agreed obtain 20 hours of pre-approved Continuing Medical Education in psychopharmacology and the diagnosis of psychiatric disorders.
B. On June 19, 2002, the Arizona Board received notice from the Arizona Department of Corrections that respondent had been terminated from employment for performing unauthorized experiments utilizing anti-psychotic medications on prison inmates without their informed consent. Following an investigation into the matter, on October 10, 2003, the Arizona Board entered into an Interim Consent Agreement for Practice Restriction with respondent, in which respondent was restricted from the practice of psychiatry and prescribing of pharmacological agents and required to complete the Physician Assessment and Clinical Education (PACE) program at the University of California, San Diego, School of Medicine. That order was vacated on October 6, 2004, following respondent’s completion of the required PACE program.

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

PRAYER

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

1. Denying the application of Kerwin John Lebeis for a Physician’s and Surgeon’s Certificate;

2. Taking such other and further action as deemed necessary and proper.

DATED: June 8, 2006

[Signature]
DAVID T. THORNTON
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California, Complainant