EDMUND G. BROWN JR., Attorney General
of the State of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
KLINT JAMES MCKAY, State Bar No. 120881
Deputy Attorney General
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 576-1327
Facsimile: (213) 897-9395
E-mail: Klint.McKay@doj.ca.gov

Attorneys for Complainant

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

In the Matter of the Accusation Against: J. VICTOR MONKE, M.D. 6200 Wilshire Blvd., Suite 1607 Los Angeles, CA 90048-5817 Physician's and Surgeon's Certificate No. G 2335 Respondent.	Case No. 06-2007-187068 OAH No. **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 24, 2009, Complainant Barbara Johnston, in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed Accusation No. 06-2007-187068 against J. VICTOR MONKE, M.D. (Respondent) before the Medical Board of California.

2. On or about June 4, 1953, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. G 2335 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2010, unless renewed.

3. On or about March 24, 2009, Arlene Krysinski, an employee of the Complainant Agency, served by Certified Mail a copy of the Accusation No. 06-2007-187068, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which

was and is6200 Wilshire Blvd., Suite 1607
Los Angeles, CA 90048-5817. A copy of the Accusation, the related documents, and Declaration of Service are attached as Exhibit A, and are incorporated herein by reference.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. On or about March 30, 2009, the aforementioned documents were claimed by one Lynne Kass on Respondent's behalf. A true and correct copy of the card reflecting this is attached hereto and incorporated herein as Exhibit B, and is incorporated herein by reference.

6. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

7. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 06-2007-187068.

8. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A and B finds that the allegations in Accusation No. 06-2007-187068 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent J. VICTOR MONKE, M.D. has subjected his Physician's and Surgeon's Certificate No. G 2335 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Medical Board of California is authorized to revoke Respondent's Physician's and Surgeon's Certificate based upon the following violations alleged in the Accusation:

a. Respondent is subject to disciplinary action under California Business and Professions Code (hereinafter "Code") section 2234(b) for gross negligence in that he failed to obtain the appropriate history or perform a mental status examination on a patient before prescribing psychiatric medications.

b. Respondent is subject to disciplinary action under Code section 2234(b) for gross negligence in that he continued to prescribe Clonazepam to Mr. F. even after Mr. F.'s history of substance abuse became known to Respondent.

c. Respondent is subject to disciplinary action under Code section 2234(b) for gross negligence in that he failed to educate himself as to the risks and benefits of psychiatric medications he was prescribing, and ensure that Mr. F. gave informed consent to same.

d. Respondent is subject to disciplinary action under Code section 2234(c) in that the above acts and omissions of Respondent constitute repeated acts of negligence within the meaning of that statute.

e. Respondent is subject to disciplinary action under Code section 2234(c) for repeated acts of negligence, in that Respondent did not document any collateral history to confirm the diagnosis of Attention Deficit Disorder, including a history from his patient's psychiatrists, psychotherapists or family members, and Respondent failed to communicate with his patient's treating physician, about the results of tests the patient whould have taken related to his illness, nor did he perform them himself.

f. Respondent is subject to disciplinary action under Code sections 2227 and 2234(d), because the above facts indicate that he is incompetent to practice medicine

safely lacks the knowledge and clinical ability to competently function as a physician.

g. Respondent is subject to disciplinary action under section 2266 of the Code for failure to maintain adequate and accurate records in that he failed to maintain full, accurate and complete records of the treatment of his patient, including but not limited to timely recording the medical justification for the prescriptions for Adderall and Clonazepam.

ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. G 2335, heretofore issued to Respondent J. VICTOR MONKE, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on June 15, 2009.

It is so ORDERED May 14, 2009

FOR THE MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

Barbara Johnston
Executive Director

50433726.wpd
DOJ Matter ID: LA2009504919

Attachments:

Exhibit A: Accusation No.06-2007-187068, Related Documents, and Declaration of Service
Exhibit B: Copy of Certified Mail Receipt

Exhibit A

Accusation No. 06-2007-187068,
Related Documents and Declaration of Service

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 24 2009
BY [signature] ANALYST

EDMUND G. BROWN JR., Attorney General
of the State of California
KLINT JAMES MCKAY, State Bar No. 120881
Deputy Attorney General
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 576-1327
Facsimile: (213) 897-9395
E-mail: Klint.McKay@doj.ca.gov

Attorneys for Complainant

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

In the Matter of the Accusation Against: J. VICTOR MONKE, M.D. 6200 Wilshire Boulevard, Suite 1607 Los Angeles, California 90048-5817 Physician's & Surgeon's Certificate G2335, Respondent.	Case No. 06-2007-187068 OAH No. **ACCUSATION**

Complainant alleges:

PARTIES

1. Barbara Johnston (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California (Board).

2. On or about June 4, 1953, the Board issued Physician's and Surgeon's Certificate number G2335 to J. Victor Monke (Respondent). That license will expire on March 31, 2010 unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated..

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4. Section 2004 of the Code states:

"The Division of Medical Quality[1] shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to 'findings made by a medical quality review committee, the division, or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board."

5. Section 2220 of the Code states:

"Except as otherwise provided by law, the Division of Medical Quality may take action against all persons guilty of violating this chapter. The division shall enforce and administer this article as to Physician's and Surgeon's certificate holders, and the division shall have all the powers granted in this chapter for these purposes including, but not limited to:

"(a) Investigating complaints from the public, from other licensees, from health care facilities, or from a division of the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying any report received pursuant to Section 805 within 30 days to determine if an interim suspension order or temporary restraining order

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1. California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Cal. Bus. & Prof. Code, §§2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805.

"(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

"(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon."

6. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the division, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the division.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the division.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the division.

"(4) Be publicly reprimanded by the division.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the division or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations,

continuing education activities, and cost reimbursement associated therewith that are agreed to with the division and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

7. Section 2228 of the Code states:

"The authority of the board or a division of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

"(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or division or the administrative law judge.

"(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the division. If an examination is ordered, the board or division shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

"(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

"(d) Providing the option of alternative community service in cases other than violations relating to quality of care, as defined by the Division of Medical Quality."

8. Section 2234 of the Code states:

"The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5,

the Medical Practice Act].

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate."

9. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

10. Respondent is subject to disciplinary action under Code section 2234(b) for gross negligence in that he failed to obtain the appropriate history or perform a mental status examination on a patient before prescribing psychiatric medications. The facts and circumstances are as follows:

A. On or about April 14, 2005, R.F.[2] saw Respondent for the first time. R.F. had a variety of complaints, and gave Respondent a long list of psychiatric medications he was taking, including Adderall, Clonazepam, Prozac, Seroquel and Trazodone. He also told Respondent that he was taking Vicodin ES for pain. R.F. had, and readily admitted to, a long history of drug use; he had been previously treated for drug abuse.

B. On April 18, 2005, R. F. saw Respondent again, and Respondent's medical records again note the above medications, and reference Weschler intelligence tests which had been administered some years before. During this appointment, Respondent wrote a prescription for Adderall and Clonazepam.

C. Adderall (a mixture of four amphetamine salts) is a brand-name pharmaceutical psycho stimulant used to treat ADHD (Attention Deficit Hyperactivity Disorder) and narcolepsy (excessive daytime sleepiness). Side effects include stomach pain, dry mouth, loss of appetite, sleep difficulties, weight loss, extreme irritability and mood swings, severe headache, muscle and joint pain, hyperactivity, and delusions and hallucinations.

D. Clonazepam is a benzodiazepine, one of a family of drugs that relieves nervousness, tension, and other symptoms by slowing the central nervous system. Side effects include drowsiness, impairment of cognition and judgment, irritability and aggression, psychomotor agitation, impaired motor function, coordination and balance, dizziness, sleepwalking, hallucinations, short term memory loss and anterograde amnesia (particularly common with higher doses). Clonazepam is marketed by Roche under the trade-name Klonopin in the United States.

E. Prozac is a trade name for fluoxetine hydrochloride, an antidepressant of the selective serotonin reuptake inhibitor (SSRI) class. Fluoxetine is approved for the treatment of major depression (including pediatric depression), obsessive-compulsive disorder (in both adult and pediatric populations), bulimia nervosa, anorexia nervosa, panic disorder and premenstrual dysphoric disorder.

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2. Respondent's patient is identified by initials R.F. only to preserve his privacy.

F. Seroquel is the trade name for Quetiapine marketed by AstraZeneca. It is an antipsychotic used in the management of schizophrenia and bipolar I disorder, and used off-label for a variety of other purposes, including treating insomnia and anxiety disorders.

G. Trazodone is a psychoactive compound with sedative, anxiolytic (that is, anti-anxiety), and antidepressant properties.

H. Because the side effects of these drugs can be so severe, it is critical that a complete and thorough psychiatric, family and medical history be obtained and a mental status examination be performed prior to prescribing them. Respondent did none of this; such an omission constitutes an extreme departure from the standard of practice and is gross negligence within the meaning of Code section 2234(b).

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence)

11. Respondent is subject to disciplinary action under Code section 2234(b) for gross negligence in that he continued to prescribe Clonazepam to R.F. even after R.F.'s history of substance abuse became known to Respondent. The facts and circumstances are as follows:

A. R.F. was psychiatrically hospitalized at the University of California, Los Angeles while under Respondent's care. R.F. was discharged with a diagnosis of polysubstance dependence and a recommendation that he be tapered off all medication.

B. Dr. Singh, R.F.'s treating internist at UCLA, was against prescribing high doses of medications to R.F.

C. R.F. had slurred speech at one of his appointments with Respondent.

D. R.F. fell, became unconscious and was transported to Henry Mayo Hospital for treatment.

E. Respondent had a difficult time treating R.F. concerning his substance abuse problem. He did not ask for a second opinion or refer R.F. to a psychiatrist more knowledgeable in treating dual diagnosis patients (here, anxiety/depression and substance abuse).

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F. Notwithstanding the above, Respondent continued to prescribe Clonazepam to R.F. in high dosages up to 6 mg. per day. This is an extreme departure from the standard of practice and gross negligence pursuant to Code section 2234(b).

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence)

12. Respondent is subject to disciplinary action under Code section 2234(b) for gross negligence in that he failed to educate himself as to the risks and benefits of psychiatric medications he was prescribing, and ensure that R.F. gave informed consent to same. The facts and circumstances are as follows:

A. Respondent's file contains no evidence that he ever informed R.F. of the risks and benefits of the drugs Respondent was prescribing, or that R.F. executed any written document indicating he understood them.

B. Indeed, during his interview, Respondent was himself unable to describe the side effects of benzodiazepines, other than "over sedation." He did not mention the addictive potential of these drugs or any of the other side effects set forth above. The addictive potential of Clonazepam in particular was extremely relevant for R.F., a patient with a demonstrated history of substance abuse.

C. Respondent failed to state either during the interview or in R.F.'s medical records that one of R.F.'s diagnoses was polysubstance abuse.

D. Respondent's failure to perform the following acts constitute an extreme departure from the standard of practice and gross negligence pursuant to Code section 2234(b):

1. To obtain an adequate knowledge of the drugs he was prescribing;

2. To communicate the risks and benefits to R.F.; and

3 To provide R.F. with a disclosure regarding same.

FOURTH CAUSE FOR DISCIPLINE

(Repeated Acts of Negligence)

13. Respondent is subject to disciplinary action under Code section 2234(c) in that the above acts and omissions of Respondent constitute repeated acts of negligence within the

meaning of that statute.

FIFTH CAUSE FOR DISCIPLINE

(Repeated Acts of Negligence)

14. Respondent is subject to disciplinary action under Code section 2234(c) for repeated acts of negligence. The facts and circumstances are as follows:

A. Respondent did not document any collateral history to confirm the diagnosis of Attention Deficit Hyperactivity Disorder, including a history from R.F.'s psychiatrists, psychotherapists or family members. Since this disease starts in childhood, such a history is critical. This is a prerequisite for prescribing amphetamines to an adult. The failure to do it constitutes a simple departure from the standard of care and is negligent.

B. The standard of practice of monitoring patients on antidepressant medications and psychostimulants is to follow blood pressure, liver function, and CBC (complete blood count) at a six month to one year interval, or to have contact with a treating physician who is conducting these tests. There is no documentation in Respondent's files that he ever communicated with Dr. Singh, R.F.'s treating physician, about these tests, nor did he perform any of them himself. The failure to either perform appropriate tests or obtain results from another physician constitutes a simple departure from the standard of care and is negligent.

SIXTH CAUSE FOR DISCIPLINE

(Incompetence)

15. Respondent is subject to disciplinary action under Code sections 2227 and 2234(d), because the facts indicate that Respondent is incompetent to practice medicine safely and lacks the knowledge and clinical ability to competently function as a physician.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

16. Respondent is subject to disciplinary action under section 2266 of the Code for failure to maintain adequate and accurate records in that he failed to maintain full, accurate and complete records of the treatment of R.F., including but not limited to timely recording the medical justification for the prescriptions for Adderall and Clonazepam. In

addition, he did not record any medical rationale for prescribing the various drugs prescribed to R.F.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate number G2335, issued to J. Victor Monke;

2. Revoking, suspending or denying approval of his authority to supervise physician assistants pursuant to Section 3527 of the Code;

3. If placed on probation, ordering him to pay the costs of probation monitoring; and

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

DATED: March 24, 2009

BARBARA JOHNSTON
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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EDMUND G. BROWN JR., Attorney General
of the State of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
KLINT JAMES MCKAY, State Bar No. 120881
Deputy Attorney General
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
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Facsimile: (213) 897-9395
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Attorneys for Complainant

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

In the Matter of the Accusation Against: J. VICTOR MONKE, M.D. 6200 Wilshire Boulevard, Suite 1607 Los Angeles, California 90048-5817 Physician's & Surgeon's Certificate G2335 Respondent.	Case No. 06-2007-187068 OAH No. **STATEMENT TO RESPONDENT** [Gov. Code §§ 11504, 11505(b)]

TO RESPONDENT:

Enclosed is a copy of the Accusation that has been filed with the Medical Board of California of the Department of Consumer Affairs (Board), and which is hereby served on you.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the Board, represented by Deputy Attorney General Klint James McKay, within fifteen (15) days after a copy of the Accusation was personally served on you or mailed to you, you will be deemed to have waived your right to a hearing in this matter and the Board may proceed upon the Accusation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by delivering or mailing one of the enclosed forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided

in section 11506 of the Government Code, to

Klint James McKay
Deputy Attorney General
Ronald Reagan Building
300 South Spring Street, Suite 1702
Los Angeles, CA 90013.

You may, but need not, be represented by counsel at any or all stages of these proceedings.

The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any objection to the form of the Accusation unless you file a further Notice of Defense as provided in section 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

If you file any Notice of Defense within the time permitted, a hearing will be held on the charges made in the Accusation.

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013, within ten (10) working days after you discover the good cause. Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

If you desire the names and addresses of witnesses or an opportunity to inspect and copy the items mentioned in section 11507.6 of the Government Code in the possession, custody or control of the Board you may send a Request for Discovery to the above designated Deputy Attorney General.

NOTICE REGARDING STIPULATED SETTLEMENTS

It may be possible to avoid the time, expense and uncertainties involved in an administrative hearing by disposing of this matter through a stipulated settlement. A stipulated settlement is a binding written agreement between you and the government regarding the matters

charged and the discipline to be imposed. Such a stipulation would have to be approved by the Medical Board of California but, once approved, it would be incorporated into a final order.

Any stipulation must be consistent with the Board's established disciplinary guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the Board's Disciplinary Guidelines will be provided to you on your written request to the state agency bringing this action.

If you are interested in pursuing this alternative to a formal administrative hearing, or if you have any questions, you or your attorney should contact Deputy Attorney General Klint James McKay at the earliest opportunity.

DATED: 11 March, 2009

EDMUND G. BROWN JR., Attorney General
of the State of California

ROBERT MCKIM BELL
Supervising Deputy Attorney General

KLINT JAMES MCKAY
Deputy Attorney General

Attorneys for Complainant

50407493.wpd

EDMUND G. BROWN JR., Attorney General
of the State of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
KLINT JAMES MCKAY, State Bar No. 120881
Deputy Attorney General
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 576-1327
Facsimile: (213) 897-9395
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Attorneys for Complainant

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

In the Matter of the Accusation Against: J. VICTOR MONKE, M.D. 6200 Wilshire Boulevard, Suite 1607 Los Angeles, California 90048-5817 Physician's & Surgeon's Certificate G2335 Respondent.	Case No. 06-2007-187068 OAH No. **REQUEST FOR DISCOVERY** [Gov. Code § 11507.6]

TO RESPONDENT:

Under section 11507.6 of the Government Code of the State of California, parties to an administrative hearing, including the Complainant, are entitled to certain information concerning the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code concerning such rights is included among the papers served.

PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE HEREBY REQUESTED TO:

1. Provide the names and addresses of witnesses to the extent known to the Respondent, including, but not limited to, those intended to be called to testify at the hearing, and

2. Provide an opportunity for the Complainant to inspect and make a copy of any of

the following in the possession or custody or under control of the Respondent:

a. A statement of a person, other than the Respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the Respondent as to this person is the basis for the administrative proceeding;

b. A statement pertaining to the subject matter of the proceeding made by any party to another party or persons;

c. Statements of witnesses then proposed to be called by the Respondent and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

d. All writings, including but not limited to reports of mental, physical and blood examinations and things which the Respondent now proposes to offer in evidence;

e. Any other writing or thing which is relevant and which would be admissible in evidence, including but not limited to, any patient or hospital records pertaining to the persons named in the pleading;

f. Investigative reports made by or on behalf of the Respondent pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this Request for Discovery, "statements" include written statements by the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for

Discovery should be deemed to authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney's work product.

Your response to this Request for Discovery should be directed to the undersigned attorney for the Complainant at the address on the first page of this Request for Discovery **within 30 days after service** of the Accusation.

Failure without substantial justification to comply with this Request for Discovery may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the Government Code.

DATED: 11 March, 2009

EDMUND G. BROWN JR., Attorney General
of the State of California

ROBERT MCKIM BELL
Supervising Deputy Attorney General

KLINT JAMES MCKAY
Deputy Attorney General

Attorneys for Complainant

50407493.wpd

COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7 PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

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

In the Matter of the Accusation Against: J. VICTOR MONKE, M.D. 6200 Wilshire Boulevard, Suite 1607 Los Angeles, California 90048-5817 Physician's & Surgeon's Certificate G2335 Respondent.	Case No. 06-2007-187068 OAH No. **NOTICE OF DEFENSE** [Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; Disciplinary Guidelines; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

Check appropriate box:

☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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COSTS ASSOCIATED WITH SPECIFIC COURSES OR PROGRAMS

The Medical Board of California Enforcement Program provides this form to ensure that you are aware of the costs associated with potential courses or programs as a result of a Citation and Fine, Public Letter of Reprimand, Stipulated Settlement or Decision. The costs provided are a guide and reflect known current prices. Course providers may increase rates, without notification to the Board. Contact the course providers for the most current rate.

PROBATION UNIT MONITORING

The cost of probation unit monitoring is $3,173.00 annually (for calendar year 2005) and subject to increase each fiscal year.

COURSES OR PROGRAMS

The cost of certain training courses/programs currently approved by the Board are specified below:

Clinical Training Program	Approximate Cost
1) University of California, San Diego (UCSD)	
Physician Assessment and Clinical Education (PACE):	
Phase I (assessment)	$6,900
Phase II (training) - minimum $4,000 (varies by specialty and length of training)	$4,000+
www.paceprogram.ucsd.edu	
2) Rush University (Chicago, Illinois)	
Clinical Competency Assessment and Training Program (CCAT):	
Assessment Phase	$4,850
Training Phase - Minimum $3,500 (varies by specialty and length of training)	$3,500+
www.rush.edu	
Physician Prescribing Course (PACE)	$1,800
Professional Boundaries Program (PACE)	$4,000
Ethics/Professionalism Course	
1) California Medical Association www.cmanet.org	$1,900
Medical Record Keeping Course	
1) Medical Record Keeping Course (PACE)	$1,250
2) Case Western Reserve University (Cleveland, Ohio)	$700

Revised 09/05

DECLARATION OF SERVICE BY CERTIFIED AND FIRST CLASS MAIL

In the Matter of the Accusation Against:

J. Victor Monke, M.D. **File No. 06-2007-187068**

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 2005 Evergreen St., Suite 1200, Sacramento, California 95815. I served a true copy of the attached:

STATEMENT TO RESPONDENT; ACCUSATION; REQUEST FOR DISCOVERY; GOVERNMENT CODE SECTIONS 11507.5, 11507.6, 11507.7 and 11455.10; NOTICE OF DEFENSE FORM (2 COPIES); A MANUAL OF MODEL DISCIPLINARY ORDERS AND MODEL DISCIPLINARY GUIDELINES; NOTIFICATION REGARDING COST ASSOCIATED WITH SPECIFIC COURSES OR PROGRAMS

by U.S. Certified mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS	CERTIFICATION #
J. Victor Monke, M.D. 6200 Wilshire Boulevard, Suite 1607 Los Angeles, CA 90048-5817	7007 2680 0000 5781 2553

Klint James McKay
Deputy Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

U.S. MAIL SERVICE

Each said envelope was then, on March 24, 2009, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, either as certified mail or first class U.S. mail with the postage thereon fully prepaid and return receipt requested for the certified mail.

Executed on March 24, 2009, at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Arlene Krysinski, Declarant

RECEIVED

Exhibit B

Copy of Certified Mail Receipt

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

J. Victor Monke, M.D.
6200 Wilshire Boulevard, Suite 1607
Los Angeles, CA 90048-5817

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Lynne Kon
☐ Agent
☐ Addressee

B. Received by (*Printed Name*) Lynne Kon
C. Date of Delivery 3/30

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☐ Yes

2. Article Number (*Transfer from service label*) 7007 2680 0000 5781 2553

PS Form 3811, February 2004 Domestic Return Receipt 06-2007-187068 102595-02