

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 KLINT JAMES MCKAY, State Bar No. 120881  
Deputy Attorney General  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
5 Telephone: (213) 576-1327  
Facsimile: (213) 897-9395  
6 E-mail: Klint.McKay@doj.ca.gov

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:	Case No. 06-2007-187068
12 J. VICTOR MONKE, M.D. 6200 Wilshire Blvd., Suite 1607 13 Los Angeles, CA 90048-5817 Physician's and Surgeon's Certificate No. G 2335	OAH No.  <b>DEFAULT DECISION AND ORDER</b>
14 Respondent.	[Gov. Code, §11520]

15  
16 FINDINGS OF FACT

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

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

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

1 was and is 6200 Wilshire Blvd., Suite 1607

2 Los Angeles, CA 90048-5817. A copy of the Accusation, the related documents, and  
3 Declaration of Service are attached as Exhibit A, and are incorporated herein by reference.

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

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

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

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

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

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

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

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

26 DETERMINATION OF ISSUES

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

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

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

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

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

11                   b.     Respondent is subject to disciplinary action under Code section  
12 2234(b) for gross negligence in that he continued to prescribe Clonazepam to Mr. F. even after  
13 Mr. F.'s history of substance abuse became known to Respondent.

14                   c.     Respondent is subject to disciplinary action under Code section  
15 2234(b) for gross negligence in that he failed to educate himself as to the risks and benefits of  
16 psychiatric medications he was prescribing, and ensure that Mr. F. gave informed consent to  
17 same.

18                   d.     Respondent is subject to disciplinary action under Code section  
19 2234(c) in that the above acts and omissions of Respondent constitute repeated acts of negligence  
20 within the meaning of that statute.

21                   e.     Respondent is subject to disciplinary action under Code section  
22 2234(c) for repeated acts of negligence, in that Respondent did not document any collateral  
23 history to confirm the diagnosis of Attention Deficit Disorder, including a history from his  
24 patient's psychiatrists, psychotherapists or family members, and Respondent failed to  
25 communicate with his patient's treating physician, about the results of tests the patient would  
26 have taken related to his illness, nor did he perform them himself.

27                   f.     Respondent is subject to disciplinary action under Code sections  
28 2227 and 2234(d), because the above facts indicate that he is incompetent to practice medicine

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

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

6 ORDER

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

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

14 This Decision shall become effective on June 15, 2009.

15 It is so ORDERED May 14, 2009

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17  
18   
FOR THE MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS

19 Barbara Johnston  
20 Executive Director

21 50433726.wpd

22 DOJ Matter ID: LA2009504919

23 **Attachments:**

24 Exhibit A: Accusation No.06-2007-187068, Related Documents, and Declaration of Service  
25 Exhibit B: Copy of Certified Mail Receipt  
26  
27  
28

**Exhibit A**

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

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 KLINT JAMES MCKAY, State Bar No. 120881  
Deputy Attorney General  
3 300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
4 Telephone: (213) 576-1327  
Facsimile: (213) 897-9395  
5 E-mail: Klint.McKay@doj.ca.gov

6 Attorneys for Complainant

7 **BEFORE THE**  
8 **MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:  
12 J. VICTOR MONKE, M.D.  
13 6200 Wilshire Boulevard, Suite 1607  
Los Angeles, California 90048-5817  
14 Physician's & Surgeon's Certificate G2335,  
15 Respondent.  
16

Case No. 06-2007-187068  
OAH No.

**ACCUSATION**

17 Complainant alleges:

18 **PARTIES**

- 19 1. Barbara Johnston (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Director of the Medical Board of California (Board).  
21 2. On or about June 4, 1953, the Board issued Physician's and Surgeon's  
22 Certificate number G2335 to J. Victor Monke (Respondent). That license will expire on March  
23 31, 2010 unless renewed.

24 **JURISDICTION**

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

28 ///

1           4.       Section 2004 of the Code states:

2           "The Division of Medical Quality<sup>1</sup> shall have the responsibility for the  
3 following:

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

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

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

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

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

13           5.       Section 2220 of the Code states:

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

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

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25 \_\_\_\_\_  
26 1. California Business and Professions Code section 2002, as amended and effective  
27 January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in  
28 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.

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

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

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

13 6. Section 2227 of the Code states:

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

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

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

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

24 “(4) Be publicly reprimanded by the division.

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

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



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

5 7. Section 2228 of the Code states:

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

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

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

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

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

23 8. Section 2234 of the Code states:

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

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

1 the Medical Practice Act].

2 "(b) Gross negligence.

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

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

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

15 "(d) Incompetence.

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

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

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

23 **FIRST CAUSE FOR DISCIPLINE**

24 (Gross Negligence)

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

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

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

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

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

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

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27  
28           2. Respondent's patient is identified by initials R.F. only to preserve his privacy.

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

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

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

### 11 SECOND CAUSE FOR DISCIPLINE

12 (Gross Negligence)

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

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

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

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

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

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

28 ///

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

4 **THIRD CAUSE FOR DISCIPLINE**

5 (Gross Negligence)

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

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

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

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

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

- 22 1. To obtain an adequate knowledge of the drugs he was prescribing;  
23 2. To communicate the risks and benefits to R.F.; and  
24 3. To provide R.F. with a disclosure regarding same.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 (Repeated Acts of Negligence)

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

1 meaning of that statute.

2 **FIFTH CAUSE FOR DISCIPLINE**

3 (Repeated Acts of Negligence)

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

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

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

18 **SIXTH CAUSE FOR DISCIPLINE**

19 (Incompetence)

20 15. Respondent is subject to disciplinary action under Code sections 2227 and  
21 2234(d), because the facts indicate that Respondent is incompetent to practice medicine safely  
22 and lacks the knowledge and clinical ability to competently function as a physician.

23 **SEVENTH CAUSE FOR DISCIPLINE**

24 (Failure to Maintain Adequate and Accurate Records)

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

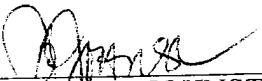
1 addition, he did not record any medical rationale for prescribing the various drugs prescribed to  
2 R.F.

3 **PRAYER**

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

- 6 1. Revoking or suspending Physician's and Surgeon's Certificate number  
7 G2335, issued to J. Victor Monke;
- 8 2. Revoking, suspending or denying approval of his authority to supervise  
9 physician assistants pursuant to Section 3527 of the Code;
- 10 3. If placed on probation, ordering him to pay the costs of probation  
11 monitoring; and
- 12 4. Taking such other and further action as deemed necessary and proper.

13 DATED: March 24, 2009

14   
15 \_\_\_\_\_  
16 BARBARA JOHNSTON  
17 Executive Director  
18 Medical Board of California  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

20 LA2008500531  
21 50411696.wpd

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 KLINT JAMES MCKAY, State Bar No. 120881  
Deputy Attorney General  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
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7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 06-2007-187068

13 J. VICTOR MONKE, M.D.  
6200 Wilshire Boulevard, Suite 1607  
Los Angeles, California 90048-5817

OAH No.

**STATEMENT TO RESPONDENT**

14 Physician's & Surgeon's Certificate G2335

[Gov. Code §§ 11504, 11505(b)]

15 Respondent.

16  
17 TO RESPONDENT:

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

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

26 The request for hearing may be made by delivering or mailing one of the enclosed  
27 forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided  
28



1 in section 11506 of the Government Code, to

2 **Klint James McKay**  
3 **Deputy Attorney General**  
4 **Ronald Reagan Building**  
5 **300 South Spring Street, Suite 1702**  
6 **Los Angeles, CA 90013.**

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

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

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

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

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

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

27 **NOTICE REGARDING STIPULATED SETTLEMENTS**

28 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

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

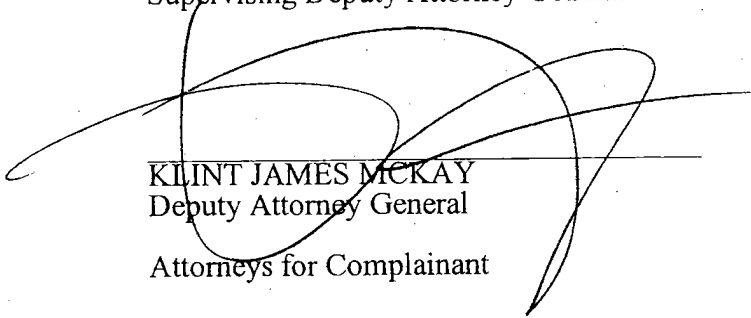
3 Any stipulation must be consistent with the Board's established disciplinary  
4 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the  
5 Board's Disciplinary Guidelines will be provided to you on your written request to the state  
6 agency bringing this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

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

10  
11 DATED: 11 March, 2009

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

13 ROBERT MCKIM BELL  
14 Supervising Deputy Attorney General

15  
16  
17   
18 KLint James McKay  
Deputy Attorney General  
19 Attorneys for Complainant

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1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 KLINT JAMES MCKAY, State Bar No. 120881  
Deputy Attorney General  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
5 Telephone: (213) 576-1327  
Facsimile: (213) 897-9395  
6 E-mail: Klint.McKay@doj.ca.gov

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:  
12 J. VICTOR MONKE, M.D.  
6200 Wilshire Boulevard, Suite 1607  
13 Los Angeles, California 90048-5817  
14 Physician's & Surgeon's Certificate G2335

Case No. 06-2007-187068

OAH No.

**REQUEST FOR DISCOVERY**

[Gov. Code § 11507.6]

15  
16 Respondent.

17  
18 TO RESPONDENT:

19 Under section 11507.6 of the Government Code of the State of California, parties  
20 to an administrative hearing, including the Complainant, are entitled to certain information  
21 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the  
22 Government Code concerning such rights is included among the papers served.  
23

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

- 26 1. Provide the names and addresses of witnesses to the extent known to the  
27 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and  
28 2. Provide an opportunity for the Complainant to inspect and make a copy of any of

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

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

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

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

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

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

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

23  
24 For the purpose of this Request for Discovery, "statements" include written  
25 statements by the person, signed, or otherwise authenticated by him or her, stenographic,  
26 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,  
27 and written reports or summaries of these oral statements.

28 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for

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

4 Your response to this Request for Discovery should be directed to the undersigned  
5 attorney for the Complainant at the address on the first page of this Request for Discovery **within**  
6 **30 days after service** of the Accusation.

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

10  
11 DATED: 11 March, 2009

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

14 ROBERT MCKIM BELL  
15 Supervising Deputy Attorney General

16  
17   
18 KLINT JAMES MCKAY  
19 Deputy Attorney General

20 Attorneys for Complainant

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**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.

\*\*\*\*\*

**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:

<u>Clinical Training Program</u>	<u>Approximate Cost</u>
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+
<a href="http://www.paceprogram.ucsd.edu">www.paceprogram.ucsd.edu</a>	
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+
<a href="http://www.rush.edu">www.rush.edu</a>	
Physician Prescribing Course (PACE)	\$1,800
Professional Boundaries Program (PACE)	\$4,000
<u>Ethics/Professionalism Course</u>	
1) California Medical Association <a href="http://www.cmanet.org">www.cmanet.org</a>	\$1,900
<u>Medical Record Keeping Course</u>	
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

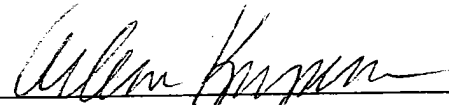
Klint James McKay  
Deputy Attorney General  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013

**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

102 WILSHIRE  
MAR 30 11 58 AM '09  
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:

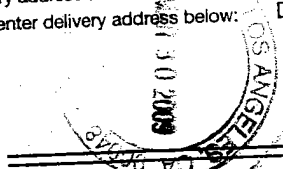
J. Victor Monke, M.D.  
6200 Wilshire Boulevard, Suite 1607  
Los Angeles, CA 90048-5817

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee

B. Received by (Printed Name) C. Date of Delivery

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

ARC

PS Form 3811, February 2004

Domestic Return Receipt 06-2007-187068

102595-02