

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

In the Matter of the Accusation Against:

Case No. 3910

**MARK GORDON VAN EWYK**  
1792 Waterside Drive  
Kennesaw, GA 30152

**Pharmacist License No. RPH 56848**

Respondent.

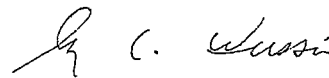
**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 12, 2012.

It is so ORDERED on March 13, 2012.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 BRIAN S. TURNER  
Deputy Attorney General  
4 State Bar No. 108991  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-0603  
Facsimile: (916) 327-8643  
7 E-mail: Brian.Turner@doj.ca.gov  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3910

12 **MARK GORDON VAN EWYK**  
13 **1792 Waterside Dr.**  
14 **Kennesaw, GA 30152**  
**Pharmacist License No. RPH 56848**

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

15 Respondent.

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
18 proceeding that the following matters are true:

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
21 She brought this action solely in her official capacity and is represented in this matter by Kamala  
22 D. Harris, Attorney General of the State of California, by Brian S. Turner, Deputy Attorney  
23 General.

24 2. Mark Gordon Van Ewyk (Respondent) is representing himself in this proceeding and  
25 has chosen not to exercise his right to be represented by counsel.

26 3. On or about March 14, 2005, the Board of Pharmacy (Board) issued Pharmacist  
27 License No. RPH 56848 to Mark Gordon Van Ewyk (Respondent). The Pharmacist License will  
28 expire on December 31, 2012, and unless renewed.

1 **JURISDICTION**

2 4. Accusation No. 3910 was filed before the Board, Department of Consumer Affairs,  
3 and is currently pending against Respondent. The Accusation and all other statutorily required  
4 documents were properly served on Respondent on March 17, 2011. Respondent timely filed his  
5 Notice of Defense contesting the Accusation. A copy of Accusation No. 3910 is attached as  
6 Exhibit A and incorporated by reference.

7 **ADVISEMENT AND WAIVERS**

8 5. Respondent has carefully read, and understands the charges and allegations in  
9 Accusation No. 3910. Respondent also has carefully read, and understands the effects of this  
10 Stipulated Surrender of License and Order.

11 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
12 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at  
13 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
14 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
15 the attendance of witnesses and the production of documents; the right to reconsideration and  
16 court review of an adverse decision; and all other rights accorded by the California  
17 Administrative Procedure Act and other applicable laws.

18 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
19 every right set forth above.

20 **CULPABILITY**

21 8. Respondent admits the truth of each and every charge and allegation in Accusation  
22 No. 3910, agrees that cause exists for discipline and hereby surrenders his Pharmacist License  
23 No. RPH 56848 for the Board's formal acceptance.

24 9. Respondent understands that by signing this stipulation he enables the Board to issue  
25 an order accepting the surrender of his Pharmacist License without further process.

26 **CONTINGENCY**

27 10. This stipulation shall be subject to approval by the Board. Respondent understands  
28 and agrees that counsel for Complainant and the staff of the Board may communicate directly

1 with the Board regarding this stipulation and surrender, without notice to or participation by  
2 Respondent. By signing the stipulation, Respondent understands and agrees that he may not  
3 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers  
4 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the  
5 Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this  
6 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
7 be disqualified from further action by having considered this matter.

8 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of  
9 License and Order, including facsimile signatures thereto, shall have the same force and effect as  
10 the originals.

11 12. This Stipulated Surrender of License and Order is intended by the parties to be an  
12 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
13 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
14 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
15 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
16 executed by an authorized representative of each of the parties.

17 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
18 the Board may, without further notice or formal proceeding, issue and enter the following Order:

19 **ORDER**

20 IT IS HEREBY ORDERED that Pharmacist License No. RPH 56848, issued to Respondent  
21 Mark Gordon Van Ewyk, is **surrendered and accepted** by the Board of Pharmacy.

22 14. The surrender of Respondent's Pharmacist License and the acceptance of the  
23 surrendered license by the Board shall constitute the imposition of discipline against Respondent.  
24 This stipulation constitutes a record of the discipline and shall become a part of Respondent's  
25 license history with the Board.

26 15. Respondent shall lose all rights and privileges as a Pharmacist in California as of the  
27 effective date of the Board's Decision and Order.

28

1           16. Respondent shall cause to be delivered to the Board his pocket license and, if one was  
2 issued, his wall certificate on or before the effective date of the Decision and Order.

3           17. If Respondent ever files an application for licensure or a petition for reinstatement in  
4 the State of California, the Board shall treat it as a new application for licensure. Respondent  
5 must comply with all the laws, regulations and procedures for a pharmacist license at the time the  
6 application is filed, and all of the charges and allegations contained in Accusation No. 3910 shall  
7 be deemed to be true, correct and admitted by Respondent when the Board determines whether to  
8 grant or deny the application for a new license.

9           18. Prior to the issuance of a new license, Respondent shall pay to the Board costs  
10 associated with its investigation and enforcement pursuant to Business and Professions Code  
11 section 125.3 in the amount of \$765.00. Respondent shall be permitted to pay these costs in a  
12 payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the  
13 Board from reducing the amount of cost recovery upon issuance of a new license.

14           19. If Respondent should ever apply or reapply for a new license or certification, or  
15 petition for reinstatement of a license, by any other health care licensing agency in the State of  
16 California, all of the charges and allegations contained in Accusation, No. 3910 shall be deemed  
17 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any  
18 other proceeding seeking to deny or restrict licensure.

19           20. Respondent shall not apply for a new license for three (3) years from the effective  
20 date of the order adopting this stipulation.

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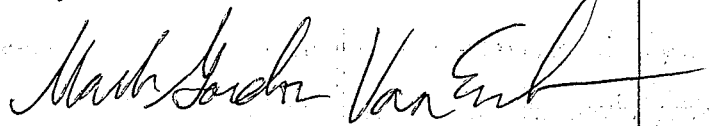
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1 ACCEPTANCE

2 I have carefully read the Stipulated Surrender of License and Order. I understand the  
3 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated  
4 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound  
5 by the Decision and Order of the Board of Pharmacy.

6  
7 DATED:

10/14/11



8 MARK GORDON VAN EWY  
9 Respondent

10 ENDORSEMENT

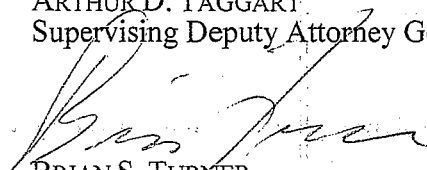
11 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
12 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

13 Dated: ~~September~~, 2011.

14 October 14

15 Respectfully submitted,

16 KAMALA D. HARRIS  
17 Attorney General of California  
18 ARTHUR D. TAGGART  
19 Supervising Deputy Attorney General



20 BRIAN S. TURNER  
21 Deputy Attorney General  
22 Attorneys for Complainant

23 SA2011100076  
24 Stipulation.rtf  
25  
26  
27  
28

**Exhibit A**

**Accusation No. 3910**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 BRIAN S. TURNER  
Deputy Attorney General  
4 State Bar No. 108991  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-0603  
Facsimile: (916) 327-8643  
7 E-mail: Brian.Turner@doj.ca.gov  
Attorneys for Complainant  
8

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

12 In the Matter of the Accusation Against:

Case No. 3910

13 **MARK GORDON VAN EWYK**

14 1792 Waterside Dr.  
Kennesaw, GA 30152

**ACCUSATION**

15  
16 Pharmacist License No. RPH 56848

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

23 2. On or about March 14, 2005, the Board of Pharmacy issued Pharmacist License  
24 Number RPH 56848 to Mark Gordon Van Ewyk (Respondent). The Pharmacist License was in  
25 full force and effect at all times relevant to the charges brought herein and will expire on  
26 December 31, 2012, unless renewed.

27 ///

28 ///



1 JURISDICTION

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
3 Consumer Affairs, under the authority of the following laws. All section references are to the  
4 Business and Professions Code unless otherwise indicated.

5 STATUTORY AND REGULATORY PROVISIONS

6 4. Section 4300 provides in relevant part:

7 "a) Every license issued may be suspended or revoked."

8 5. Section 4301 provides in relevant part that unprofessional conduct includes:

9 "n) The revocation, suspension, or other discipline by another state  
10 of a license to practice pharmacy, operate a pharmacy, or do any other act for which  
11 a license is required by this chapter."

12 "p) Actions or conduct that would have warranted denial of a  
13 license. For the purpose of denial, suspension, or revocation of a personal or facility  
14 license pursuant to Division 1.5 (commencing with Section 475) of the Business and  
15 Professions Code, a crime or act shall be considered substantially related to the  
16 qualifications, functions or duties of a licensee or registrant if to a substantial degree  
17 it evidences present or potential unfitness of a licensee or registrant to perform the  
18 functions authorized by his license or registration in a manner consistent with the  
19 public health, safety, or welfare."

20 6. Title 16 California Code of Regulations section 1770 provides:

21 "For the purpose of denial, suspension, or revocation of a personal or  
22 facility license pursuant to Division 1.5 (commencing with Section 475) of the  
23 Business and Professions Code, a crime or act shall be considered substantially  
24 related to the qualifications, functions or duties of a licensee or registrant if to a  
25 substantial degree it evidences present or potential unfitness of a licensee or registrant  
26 to perform the functions authorized by his license or registration in a manner  
27 consistent with the public health, safety, or welfare."

28 COST RECOVERY

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
the administrative law judge to direct a licentiate found to have committed a violation or  
violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
and enforcement of the case.

1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 8. Respondent is subject to disciplinary action under sections 4301(n) and (p) in that  
4 respondent's Georgia Pharmacist license No 022803 was disciplined in 2006. The circumstances  
5 are as follows:

6 9. On or about December 12, 2006, a stipulated disciplinary order became effective  
7 suspending Respondent's Georgia Pharmacist License on the basis of diversion of and self-  
8 administration of hydrocodone. A true and correct copy of the signed and endorsed consent  
9 order is attached as Exhibit 1 and by this reference incorporated herein.

10  
11 PRAYER

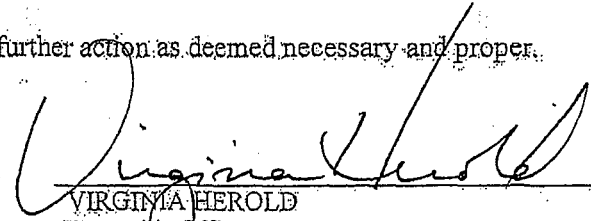
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
13 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

14 1. Revoking or suspending Pharmacist License Number RPH 56848, issued to Mark  
15 Gordon Van Ewyk.

16 2. Ordering Mark Gordon Van Ewyk to pay the Board of Pharmacy the reasonable  
17 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
18 Code section 125.3;

19 3. Taking such other and further action as deemed necessary and proper.

20  
21 DATED: 2/23/11

  
22 VIRGINIA HEROLD  
23 Executive Officer  
24 Board of Pharmacy  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant

**EXHIBIT 1**  
**ACCUSATION**  
**IN RE VAN EWYK**

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PUBLIC ORDER: TO BE ENTERED ON PUBLIC DOCKET  
BEFORE THE GEORGIA STATE BOARD OF PHARMACY

IN THE MATTER OF:

Mark G. Van Ewyk, R.Ph.  
License #RPH022803

Respondent

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\*  
\*  
\*  
\*  
\*

DOCKET NO.

PROFESSIONAL LICENSING BOARD
DEC 12-2006
DOCKET NUMBER 2006-2322

*ALTERNATE*  
PUBLIC INTERIM CONSENT ORDER

By agreement of the Georgia State Board of Pharmacy and Mark G. Van Ewyk, Respondent, the following disposition of this matter is entered pursuant to the provisions of O.C.G.A. 50-13-13 (a) (4).

FINDINGS OF FACT

1.

Respondent is licensed to practice pharmacy in the State of Georgia, and was so licensed at all times relevant to this matter.

2.

On or about *June 27*, 2006 Respondent enrolled in treatment for chemical Impairment at Ridgeview Institute, Smyrna, Georgia,

3.

The Respondent waives any further findings of fact with respect to the above matter.

CONCLUSIONS OF LAW

1.

1

Under O.C.G.A. 26-4-86, the Georgia State Board of Pharmacy may impose such reasonable conditions as it deems appropriate on any license issued under Part 3 of O.C.G.A. Chapter 26-4.

2.

Respondent waives any further conclusions of law with respect to this matter.

ORDER

The Board having considered the particular facts and circumstances of this case, it is hereby ordered, and the Respondent hereby agrees, as follows:

1.

The Respondent agrees that his license to practice pharmacy as a pharmacist shall be SUSPENDED until further order of the Board. If Respondent engages in the practice of pharmacy without express permission of the Board, Respondent's license shall be subject to revocation, upon substantiation thereof. However, if during the time of suspension, the respondent's license is scheduled for renewal, and the respondent receives a renewal notification from the Board, the respondent is required to pay the biennial renewal fee and submit any requested Pharmacy Continuing Education for audit purposes to prevent their license from lapsing. The Respondent's license will still be suspended, but by paying the renewal fee, it will prevent the respondent from having to pay a penalty fee and other possible reactivation fees once the suspension is lifted by the Board.

2.

The Respondent agrees to complete a treatment program for chemical

2

EXHIBIT 6

12 OF 22 PAGES

dependence acceptable to the Board. The Respondent shall completely abstain from the consumption of alcohol or controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose and in a legitimate manner.

3.

During the treatment program, the Respondent is required to attend ninety (90) Alcoholic Anonymous and/or Narcotics Anonymous meetings in ninety (90) days. These meetings must be completed prior to the Respondent applying with the Board to discuss reinstatement of his pharmacist license.

4.

Upon completion of therapy, the Respondent shall enter into an aftercare program as may be recommended upon completion of the treatment phase of the program, or by further order of the Board. Respondent shall provide the Board with a copy of his aftercare contract.

5.

After the Respondent completes treatment, enters into an appropriate aftercare agreement, the Respondent shall request an appointment to personally meet with the Board to discuss the course of the Respondent's rehabilitation. The Board shall have the discretion following such meeting to reinstate Respondent's privilege to practice as a registered pharmacist, to place upon Respondent's license any conditions that the Board may deem appropriate, or to deny reinstatement if the Board determines that Respondent needs further rehabilitation.

6.

The Respondent agrees to undergo random alcohol/drug screening at

Respondent's expense at the request of the Board or its representative at any time during the period of suspension.

7.

This Consent Order shall constitute a <sup>PRIVATE</sup> public order of the Board. Once docketed, it becomes a <sup>PRIVATE</sup> public record and is available for copying or viewing by the general public. Further, this consent order may be released to another lawful licensing authority or enforcement agency in this or any other State, and may be released pursuant to any other state or federal law authorizing or requiring such release. Provided, further, that should Respondent violate or attempt to violate this Consent Order, any state or federal laws which relate to or regulate the practice of pharmacy or the rules and regulations of the Board, this Consent Order shall also be admissible in any proceeding to substantiate such violations, and may become part of the public record in such proceedings.

8.

Respondent acknowledges that Respondent has read this Consent Order and understands its contents. Respondent understands that Respondent has the right to a hearing in this matter, and Respondent freely, knowingly and voluntarily waives such right by entering into this Consent Order. Respondent understands that this Consent Order will not become effective until approved by the Georgia State Board of Pharmacy and docketed by the Division Director for the Professional Licensing Boards.

Respondent further understands and agrees that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Order.

If this Consent Order is not approved, it shall not constitute an admission against interest

in this proceeding, or prejudice the ability of the Board to adjudicate this matter.

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Respondent consents to the terms and sanctions contained herein.

4

Approved, this 6<sup>th</sup> day of December, 2006

GEORGIA STATE BOARD OF PHARMACY

By: [Signature]  
Bill Prather, R.Ph.  
President

ATTEST: [Signature]  
Mollie L. Fleeman  
Division Director  
Professional Licensing Boards

(Board Seal)

CONSENTED TO: [Signature], R.Ph. 10/5/06  
Mark Van Ewyk, R.Ph.  
Respondent

Sworn to and subscribed  
before me this 5 day  
of 10, 2006

[Signature]  
Notary Public  
My commission expires:

LISA LUBBE  
NOTARY PUBLIC  
Cherokee County  
State of Georgia  
My Comm. Expires July 10, 2009

(NOTARY SIGNATURE & SEAL REQUIRED)