

**IN THE MATTER OF**

\*

**BEFORE THE**

**EMMANUEL BERTRAND, P.D.**

\*

**MARYLAND BOARD**

**LICENSE NO. 13099**

\*

**OF PHARMACY**

\* \* \* \* \*

**PRE-CHARGE CONSENT ORDER - EXTENSION**

**Background**

The Maryland Board of Pharmacy (the “Board”) entered into a Pre-Charge Consent Order with Emmanuel Bertrand (the “Respondent”) on August 29, 2013, based on two medication errors attributed to the Respondent occurring on January 10 and January 26, 2013. As a result of the Consent Order, the Respondent agreed, among other things, to submit to the Board reports of any further medication errors in which he was involved.

The Board received information indicating that the Respondent was involved in numerous medication errors subsequent to the issuance of the above Consent Order. As a result of the Board’s investigation into these errors, and in lieu of formal prosecution of the additional violations, the Board and the Respondent have agreed to resolve this matter by way of this extension of the Consent Order, dated August 29, 2013.

**FINDINGS OF FACT**

1. On August 29, 2013, the Board and Respondent entered into a Pre-Charge Consent Order based on the Respondent’s involvement in two medication errors:
  - (a) On January 10, 2013, the Respondent dispensed Pliva 433 Trazadone Hydrochloride 50 mg instead of TV 58 Tramadol Hydrochloride 50 mg as prescribed. The patient ingested the medication.
  - (b) On January 26, 2013, the Respondent dispensed Zyclara 2.5% cream for a pediatric patient with incorrect instructions to apply 3 times per day instead of the correct

directions to apply three times per week. The patient did not apply the medication incorrectly.

2. Among other terms and conditions, the Consent Order placed the Respondent's license on probation for one (1) year and required that the Respondent ensure that reports of any further medication errors involving the Respondent were submitted to the Board. The Board received no such reports from the Respondent.
3. On October 22, 2014, the Board received a request to terminate probation. The Board reviewed the Respondent's file for compliance with the terms of probation. At that time, the Board received information from the Respondent's pharmacy employer indicating that the Respondent was involved in further medication errors as set forth below.
  - (a) On May 30, 2014, the Respondent dispensed Lyrica 25 mg instead of Oxybutynin ER 15 mg. The patient ingested the medication.
  - (b) On September 11, 2014, the Respondent dispensed Oxycodone 10 mg instead of Oxycontin ER 10 mg. The patient ingested the medication.
  - (c) On April 28, 2015, the Respondent dispensed Lamotrigine 100 mg instead of Lamotrigine 200 mg. The patient ingested the medication.
  - (d) On May 26, 2015, a patient received another patient's prescription for the same drug prescribed. The Respondent was the supervising pharmacist.
  - (e) On June 3, 2015, the Respondent dispensed Butalbital APAP Caffeine 50-325 40 mg instead of Butalbital ASA Caffeine 50-325 40 mg. The patient ingested the medication.
  - (f) On October 11, 2015, the Respondent dispensed Hydrochlorothiazide 25 mg instead of Hydrochlorothiazide 12.5 mg. The patient did not ingest the medication.
  - (g) On October 14, 2015, the Respondent dispensed Hydroxyzine 25 mg instead of Hydralazine 25 mg. The patient ingested the medication.
  - (h) On December 7, 2015, the Respondent dispensed Pyridostigmine ER 60 mg with incorrect directions. The patient ingested the medication.
  - (i) On December 9, 2015, the Respondent dispensed Tramadol 50 mg instead of

Tramadol ER 300 mg. The patient did not ingest the medication.

(j) On February 1, 2016, the Respondent dispensed Medrol Dosepak instead of Nitrofurantoin/Macrocrystals 100 mg. The patient did not ingest the medication.

4. The majority of the medication errors above resulted from data entry errors by a pharmacy technician which were not identified by the Respondent during the final check process.
5. The Respondent mistakenly believed that the Respondent's pharmacy employer was reporting the medication errors directly to the Board under the terms of the August 29, 2013 Consent Order.
6. The Respondent practices in a busy community pharmacy filling approximately 400-500 prescriptions per day.

#### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent is subject to discipline in accordance with Md. Code Ann., Health Occ. § 12-313(b)(25) and COMAR 10.34.10.01B(1).

#### ORDER

Based on an affirmative vote of the Board, it is this 21<sup>st</sup> day of September, 2016, hereby:

**ORDERED** that the Respondent's PROBATION continue for at least ONE (1) YEAR; and be it further,

**ORDERED** that during the probationary period, the Respondent shall submit to the Board, by the 10<sup>th</sup> of each month, written notification of each and any medication error involving the Respondent. Patient names may be redacted; and be it further,

**ORDERED** that the Board may extend the probationary period or otherwise modify the terms of probation of this Order should the Board receive reports or other information of further medication errors, after providing the Respondent with an opportunity for a show cause hearing; and be it further,

**ORDERED** that the Respondent shall at all times fully cooperate with the Board in his compliance with the terms and conditions of this Order; and be it further,


**ORDERED** that the Respondent's failure to fully cooperate with the Board shall be deemed a violation of the probationary terms and a violation of this Order; and be it further,

**ORDERED** that should the Respondent violate any of the terms or conditions of this Order, the Board, in its discretion, after notice and an opportunity for a hearing, may impose any additional sanctions, including suspension, revocation and/or a monetary penalty authorized under the Maryland Pharmacy Act; and be it further,

**ORDERED** that the Respondent may petition the Board for release from probation no earlier than six (6) months after the effective date of this Order provided that he has been fully compliant with all of the terms of probation, the Respondent not committed further medication errors, and there are no pending complaints or actions against him; and be it further,

**ORDERED** that this is a formal order of the Maryland Board of Pharmacy and as such is a public document pursuant to the Maryland Annotated Code, General Provisions Article, Section 4-333.

9/21/2016  
\_\_\_\_\_  
Date


  
\_\_\_\_\_  
Mitra Gavvani, Pharm.D.  
President  
Maryland Board of Pharmacy

**CONSENT**

1. By signing this Consent, I submit to the foregoing Consent Order as a resolution of this matter in lieu of formal charges, which process would have afforded me the right to a full evidentiary hearing. I consent and submit to the foregoing Findings of Fact, Conclusions of Law, and Order as if made after a full evidentiary hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf and to all other substantive and procedural protections provided by law.
2. By signing this Consent, I waive any rights I may have had to contest the findings and determinations contained in this Consent Order.
3. I acknowledge the legal authority and the jurisdiction of the Board to enter into and enforce this Consent Order.
4. I sign this Consent Order freely and voluntarily, after having had the opportunity to consult with counsel. I fully understand the language, meaning, and effect of this Consent Order.

Date

8/22 /2016

  
Emmanuel Bertrand  
License No. 13099

STATE OF MARYLAND:

COUNTY/CITY OF Prince Georges

I hereby certify that on this 22<sup>nd</sup> day of August 2016, before me, a Notary Public of the State and County/City aforesaid, personally appeared EMMANUEL BERTRAND and made an oath in due form that the foregoing Consent was his voluntary act and deed.

Armand St. Jean

Notary Public

My commission expires: November 30 2017