

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE MARYLAND</b>
<b>EMMANUELV. BERTRAND, R.Ph.</b>	*	<b>STATE BOARD OF</b>
<b>LICENSE NO. 13099</b>	*	<b>PHARMACY</b>
<b>Respondent</b>	*	<b>Case No. 13-042</b>
* * * * *		* * * * *

**CONSENT ORDER IN LIEU OF  
SUMMARY SUSPENSION**

**Background**

Based on information received and a subsequent investigation by the Maryland Board of Pharmacy (the “Board”), and subject to the Maryland Pharmacy Act (the “Act”), Md. Code Ann., Health Occ. §§ 12-101, *et seq.*, (2009 Repl. Vol.), and the Maryland Administrative Procedure Act, Md. Code Ann., State Gov’t §§ 10-201 *et seq.*, the Board issued a Notice of Intent to Summarily Suspend the pharmacist’s license held by Emmanuel V. Bertrand (the “Respondent”) on November 15, 2017. Specifically, the Board found reliable evidence demonstrated that the public health, safety or welfare imperatively required emergency action, pursuant to Md. Code Ann., State Gov’t §10-226(c)(2)(2009 Repl. Vol.).

On January 3, 2018, the Board held a hearing before a quorum of the Board to allow the Respondent the opportunity to show cause why the Respondent did not pose an imminent threat to the health, safety and welfare of the public. In lieu of the issuance of a summary suspension, the Board determined, and the Respondent agreed, that a resolution of this matter by way of this Consent Order with the terms contained herein will allow the Respondent to continue practicing while protecting the public’s health, safety and welfare.

## **FINDINGS OF FACT**

1. At all times relevant hereto, the Respondent was licensed to practice pharmacy in Maryland. The Respondent was first licensed on July 28, 1993. The Respondent's license expires on December 31, 2019.

2. At all times relevant herein, the Respondent was employed as a pharmacist at a community pharmacy in Montgomery County, Maryland ("Pharmacy A").

3. On August 29, 2013, the Board and the Respondent entered into a Pre-Charge Consent Order, based on medication errors involving the Respondent. The Consent Order placed the Respondent on probation for at least one (1) year during which time the Respondent was monitored in the event that he committed further medication errors.

4. On September 21, 2016, the Board and the Respondent entered into a subsequent Pre-Charge Consent Order, based on additional medication errors involving the Respondent. The Consent Order placed the Respondent's license on probation for another year, effective September 21, 2016. Again, the Respondent was monitored by the Board for his involvement in any additional medication errors.

5. As part of its monitoring efforts under the September 21, 2016, Consent Order, the Board discovered that the Respondent was involved in at least thirty (30) additional medication errors of various types (e.g., wrong drug, wrong drug form, wrong directions, wrong NDC) and degrees of severity.

6. Based on the continuing and increasing number of medication errors committed by the Respondent, the Board determined that the public's health, safety and welfare was at risk and issued a Notice of Intent to Summarily Suspend the Respondent's license to practice on

November 15, 2017.<sup>1</sup> On January 3, 2018, the Board held a show cause hearing during which time the Respondent was given the opportunity to demonstrate conditions under which he could continue to practice without posing a risk to the public.

7. The Respondent represented that on December 1, 2017, he transferred to another pharmacy location that dispenses significantly less prescriptions, and voluntarily took a demotion from pharmacy manager to staff pharmacist, in order to allow him more opportunity to focus on quality assurance procedures.

8. The Respondent submits that he has not committed any medication errors at the current pharmacy location.

9. The Respondent represented that he has completed 5 continuing education credits in medication errors since receiving the Notice of Intent to Summarily Suspend.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Board finds that the Respondent violated Md. Code Ann., Health Occ. §§ 12-313(b)(21) and (25), and COMAR 10.34.10.01B(1) .

### **ORDER**

Based on agreement of the parties, it is this 12<sup>th</sup> day of January, 2018, by an affirmative vote of the Board, hereby

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

**ORDERED** that during the probationary period, the Respondent:

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<sup>1</sup> The Board originally scheduled a hearing on this matter on December 20, 2017. The Respondent requested a postponement of the hearing. The Board granted the Respondent's request provided that the Respondent agreed to cease practicing pending the rescheduling of the hearing.

(1) Shall submit to the Board, by the 10<sup>th</sup> of each month, reports from his pharmacy employer, as described in COMAR 10.34.26.04, detailing any medication errors involving the Respondent, which shall include a root cause analysis of the error(s) and any remedial action taken in response. Patient names may be redacted; and be it further,

(2) Shall not practice pharmacy more than 40 hours per week, or 9 hours per day;

(3) Shall not practice at a pharmacy that dispenses over an average of 200 prescriptions per day;

(4) Shall conduct a daily self-audit of prescriptions filled by the Respondent, and document the results of the daily audits for review by the Board upon request; and be it further,

**ORDERED** that should the employer reports indicate that the Respondent has committed additional medication errors, the Board may take further action against the Respondent's license to include an immediate summary suspension, provided that the Respondent is given a show cause hearing within a reasonable time thereafter; and be it further,

**ORDERED** that the Respondent shall at all times cooperate with the Board in monitoring, supervision, and investigation of 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 terms and a violation of this Consent Order; and be it further,

**ORDERED** that the Respondent may petition the Board to terminate probation after ONE (1) YEAR of probation provided that the Respondent has been fully compliant with the conditions and there are no pending complaints or medications errors involving the Respondent; and be it further,

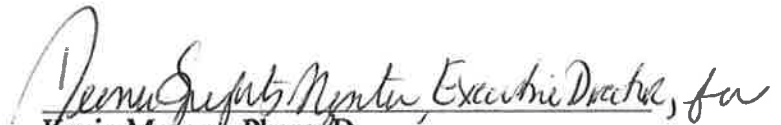
**ORDERED** that the Respondent shall bear the expenses associated with this Order; and

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be it further,

**ORDERED** that this document constitutes a formal disciplinary action of the Maryland Board of Pharmacy and is therefore a public document for purposes of public disclosure, pursuant to the Public Information Act., General Provisions Art. § 4-333.

1-19-18  
Date

  
Kevin Morgan, Pharm.D.  
Treasurer, Board of Pharmacy

**CONSENT**

By signing this Consent, I hereby consent to the foregoing Findings of Fact and Conclusions of Law, and agree to be bound by the foregoing Consent Order and its conditions.

1. By this Consent, I submit to the foregoing Consent Order as a resolution of this matter. By signing this Consent, I waive any rights I may have had to contest the findings of fact and conclusions of law contained in this Consent Order.

2. I acknowledge the validity of this Consent Order as if it were made after a hearing in which I would have had the right to counsel, to confront witnesses on my own behalf, and to all other substantial procedural protections provided by law.

3. I acknowledge the legal authority and the jurisdiction of the Board to enter and enforce this Consent Order.

4. I acknowledge that, by entering into this Consent Order, I am waiving my right to appeal any adverse ruling of the Board that might have followed an evidentiary hearing.

5. 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.

11/12/2018

Date

Emmanuel V. Bertrand

Emmanuel V. Bertrand, R.Ph.

READ AND APPROVED:

George H. Parsells, III

George H. Parsells, III  
Counsel for Emmanuel V. Bertrand, R.Ph.

STATE OF MARYLAND.

COUNTY/CITY OF Prince Georges

I hereby certify that on this 12 day of January, 2018, before me, a Notary Public of the State of Maryland and County/City aforesaid, personally appeared EMMANUEL V. BERTRAND, and made an oath in due form that the foregoing Consent was his voluntary act and deed.



Notary Public

My commission expires: 11-30-2021