

IN THE MATTER OF FARMALOGICS \* BEFORE THE NATALIE M. LAPRADE

HEALTH AND WELLNESS, LLC \* MEDICAL CANNABIS COMMISSION

Respondent \*

\*

License No. D-18-00038

\*

Case No. 21-00430

\* \* \* \* \*

### CONSENT ORDER

On or about December 1, 2022, the Maryland Medical Cannabis Commission (the “Commission” or “MMCC”) filed administrative charges against **Farmalogics Health and Wellness, LLC** (the “Respondent”), license number **D-18-00038** (the “License”), pursuant to the Natalie LaPrade Medical Cannabis Commission Act (the “Act”), codified at Md. Code Ann., Health-Gen. § 13-3301 et seq. (2015 Repl. Vol. and 2018 Supp.). The pertinent provisions of the Act provide as follows:

#### § 13-3307. Dispensary License Requirements

. . .

(f) The Commission shall establish requirements for security and product handling procedures that a dispensary must meet to obtain a license under this section, including a requirement for a product-tracking system.

(g) The Commission may inspect a dispensary licensed under this section to ensure compliance with this subtitle.

(h) The Commission may impose penalties or rescind the license of a dispensary that does not meet the standards for licensure set by the Commission.

. . .

(k) The Commission may impose penalties or rescind the license of a dispensary that does not meet the standards for licensure set by the Commission.

. . .

The pertinent provisions of the Commission’s corresponding Code of Maryland Regulations (“COMAR”) are as follows:

**10.62.27 Licensed Dispensary Premises**

**.08 Licensed Dispensary Premises Organization.**

**B. Public Zone.**

(3) The licensed dispensary's hours of business shall be displayed at the entrance to the public zone.

**10.62.28 Licensed Dispensary Operations**

**.02 Standard Operating Procedure.**

A licensee shall:

- (1) Establish a standard operating procedure for all aspects of the receipt, storage, packaging, labeling, handling, tracking and dispensing of products containing medical cannabis and medical cannabis waste;
- (2) Create and enter timely and accurate data into a perpetual inventory control system that identifies and tracks the licensee's stock of medical cannabis from the time it is delivered or produced to the time it is delivered to another licensee, a licensed grower, or a qualifying patient or caregiver....

**10.62.30 Dispensing Medical Cannabis**

**.06 Dispensing Controls.**

D. A registered dispensary agent shall record in the inventory control and in the Commission data network each item dispensed including lot and batch number and the weight of medical cannabis that was dispensed.

**10.62.31 Licensed Dispensary Clinical Director**

**.01 Clinical Director Responsibilities.**

B. During the hours of operation, a licensed dispensary shall have a clinical director:

- (1) On-site; or
- (2) Available via electronic communication.

### **10.62.32 Records**

#### **.02 Licensee Records.**

A. A licensee shall maintain, independent of the inventory control, a searchable, secure, tamper-evident record of each distribution that contains:

- (1) The name and address of the recipient;
- (2) The quantity delivered; and
- (3) The name, strength, batch number and lot number of the product.

B. Upon request, a licensee shall provide in a reasonable time and manner to a certifying provider a copy of the record of each distribution by the licensee to a qualifying patient of the certifying provider of the quantity delivered, name, strength, batch number, and lot number of medical cannabis.

C. A licensee shall retain the records of production and distribution of each batch and lot and of daily checklists to maintain uniformity from batch to batch, and lot to lot.

D. A licensee shall maintain a record of test methods and test results for each batch and lot, including graphs, charts, or spectra from laboratory instrumentation.

E. A licensee shall maintain a log of individuals visiting each premises.

### **10.62.34 Discipline and Enforcement**

#### **.02 Pattern of Deviation from Standard Operating Procedure.**

(A). A licensee or registrant may not substantially deviate or demonstrate a pattern of deviation from the standard operating procedures, or the terms set forth in the license.

The parties met for a case resolution conference (CRC) on January 13, 2023 to see if the matter could be resolved without the need for a formal evidentiary hearing.

Thereafter, the parties agreed upon this Consent Order.

### **FINDINGS OF FACT**

The parties agree upon the following findings of fact:

1. Respondent is a licensed medical cannabis dispensary under license number D-18-00038, located at 10169 Baltimore National Pike, Ellicott City, Maryland.
2. Respondent was originally licensed in Maryland on July 26, 2018.

3. Respondent was subject to an unannounced inspection on March 16, 2021, during which the inventory in METRC was spot-checked against the point of sale (POS) system (Case #21-00094). The inspection identified inconsistencies in the weights of several packages and improper notations regarding the reasons for the adjustments that were made in the system. A Letter of Non-Compliance was issued on April 12, 2021, and a Plan of Correction was provided by the Respondent in a timely manner.
4. Respondent was subject to another unannounced inspection on June 3, 2021 during which the inspector identified ongoing issues reconciling the physical inventory, point of sale, and METRC systems (Case #21-00203). In order to address and resolve the issues, the Respondent was directed by the investigator to complete a physical inventory of its cannabis products and reconcile it with its point of sales system no later than July 2, 2021. Acknowledging the process would require numerous package adjustments, agents for Respondent were directed to include a reference to Case #21-00203 in the reason for the adjustment. A Plan of Correction was also timely submitted to address this matter.
5. On November 22, 2021, a Commission investigator conducted another inspection at the Respondent.
6. The store manager, D.R.<sup>1</sup>, was present for the inspection.
7. During the course of the inspection, it was noted that Respondent's hours are not posted at the entrance to the public zone.
8. Respondent repackages cannabis flower at this location. In other words, Respondent receives bulk packages of medical cannabis flower which it then repackages for patients in smaller quantities for the patients' use.

---

<sup>1</sup> The names of individuals who have not been charged at this time have been omitted to protect their privacy.

9. A review of Respondent's recorded package adjustments in METRC<sup>2</sup> was conducted for the period August 1, 2021 through November 17, 2021. During this period of time, Respondent recorded a total of approximately 654 API Adjustments<sup>3</sup>, which included the following:

- a. Dispensary agent A.H. had entered 116 of the recorded adjustments, and they were attributed to "[a]djusting to correct variances between Respondent's POS and METRC as part of clean up." A.H. speculated that these adjustments could have been due to mis-sales, e.g. dispensing one item of medical cannabis, but recording another.
- b. 76 of the recorded adjustments were attributed to "[a]djustment to match on-hand physical quantity."
- c. 12 of the recorded adjustments contained no explanation.
- d. 10 of the recorded adjustments were attributed to "[a]djusting discrepancies to match on hand physical quantity/amount."
- e. Nine of the recorded adjustments were attributed to "[a]djusting for variances found during monthly count."
- f. Eight of the recorded adjustments were attributed to not accurately recording the medical cannabis (lot/batch) dispensed.
- g. Three of the recorded adjustments were attributed to "[c]orrecting variances found during monthly count."

10. Specifically, between August 1, 2021 and November 17, 2021, the licensee recorded adjustments totaling -382.046 grams in flower and +3 each in non-flower items (concentrates, vapes, tinctures, edibles, capsules, etc.)

---

<sup>2</sup> Metrc is the Medical Marijuana (Cannabis/Marijuana) Seed-to-Sale Tracking System for the regulation of legalized medical marijuana, and has the ability to track patients purchases against the control limits and to record any adverse reactions to the product, including RFID Unique Identifiers integrated inside the Metrc software. <https://www.metrc.com/partner/maryland/>. According to METRC's manual, API Adjustment Errors may be recorded to correct an adjustment made in error through the API. An Entry Error may be recorded when a mistake has occurred in pulling or counting packages. Here, Respondent was recording API Adjustments, not because of an interface error between METRC and their POS, but rather to reconcile their physical inventory with METRC, i.e. "adjustment to match on-hand physical quantity."

<sup>3</sup> API stand for Application Program Interface. This is the communication between the licensee's point of sale (POS) system and METRC, the Commission's data network.

11. Between August 1, 2021 and November 10, 2021, the licensee recorded 21 Entry Error Adjustments in METRC. Of the 21 recorded adjustments, 12 were for errors in accurately recording the medical cannabis dispensed.
12. The API Adjustments and Entry Error Adjustments reflects the licensee's failure to accurately track their stock of medical cannabis.
13. COMAR 10.62.28 and 10.62.30 require that the licensee accurately track their inventory of medical cannabis. Specifically, the medical cannabis dispensed from the licensee's inventory must be accurately recorded to a patient's profile, by lot and batch number (i.e. METRC number). Respondent's standard operating procedures (SOPs) contains this same requirement. The above referenced inventory adjustments in METRC appear to be made in an effort to merely reconcile its physical inventory with METRC. Although their inventory may be reconciled with METRC, all of the adjustments represent items of medical cannabis that were not accurately tracked in the first instance.
14. Commission investigators also reviewed Respondent's SOPs regarding the receipt, handling and distribution of medical cannabis, which Respondent had revised on October 10, 2021, just over a month prior to the Commission's inspection.
15. According to Respondent's SOP 800.00 – Product Receipt, Handling and Distribution, Revision 1, ¶ 4, "The Dispensary Agent shall record in the inventory control and in the MMCC mandated tracking system each item dispensed including **lot and batch number and weight** of medical cannabis that was dispensed." (Emphasis in original.)
16. However, given the hundreds of adjustments, it is clear that the lot, batch number and weight of repackaged flower was not routinely and accurately recorded in METRC as directed under this SOP.

17. Respondent's SOP 800.02 – Cannabis Tracking Dispensing Controls, ¶ paragraph 12

states:

The Dispensary Agent will then scan all products into the POS by lot number and follow the steps outlined in the bullets below:

- Read back all orders to the patient or caregiver after all items have been entered into the POS.

18. It is noted that since the issuance of the revised SOP, the licensee has recorded nine Entry Error Adjustments due to not accurately tracking the medical cannabis dispensed.

19. The MMCCC investigator referred Respondent to guidance published in the METRC Maryland Supplemental Guide. According to this publication, which is available to all licensees on the METRC home page, "Package adjustments cannot be used to correct an error in sales data at the center/store." (Emphasis added.) Any errors in sales data (i.e. what was dispensed to a patient/caregiver) must be corrected on the respective transaction receipt. This assures that an accurate recording of what was dispensed to a patient will be recorded on their medical cannabis purchase history.

20. Approximately 420 API Adjustments were recorded as "Approved metrc clean-up and/or non-existent items from data entry error in past." These adjustments referred to certain adjustments that were related to Case #21-00203.

21. However, a review of some of these adjustments made due to "past entry errors" identified a number of entries that were made with respect to medical cannabis products received into inventory after the June 2021 inspection and the MMCC-approved timeframe for this type of adjustment. For example, a sample of entries ascribed to "past entry errors" include but are not limited to the following:

- a. -34500 Guava IX - Received by Licensee 08/09/2021
- b. -24745 Grape Pearls - Received by Licensee 09/06/2021

- c. -15743 Dark Phantom - Received by Licensee 08/19/2021
  - d. -15313 Gorilla Cookies - Received by Licensee 09/01/2021
  - e. -24279 Bluniverse - Received by Licensee 08/11/2021
22. Lastly, during the inspection, D.R. was asked about the dispensary's clinical director. D.R. provided a name and an email address but then on the day following the inspection provided a different email address seeming to name a different individual.
23. MMCC's investigator tried to email the clinical director, but the email was returned as undeliverable.

#### **CONCLUSIONS OF LAW**

24. Respondent has violated COMAR 10.62.27 by failing to post its hours of operation in the public zone of the dispensary.
25. Respondent has violated COMAR 10.62.31 by failing to have a clinical director readily available.
26. Respondent has failed to adhere to its own SOPs regarding inventory tracking multiple occasions, as set forth herein, in violation of COMAR 10.62.34.02(A). Further, Respondent's actions demonstrate a pattern of deviation from their SOPs.
27. Respondent has also violated COMAR 10.62.28.02 and 10.62.30 by failing to receive, create and enter accurate data into a perpetual inventory control system on multiple occasions.

#### **ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, by an affirmative vote of a quorum of the Commission, it is hereby



ORDERED that within six months, of this Order, Respondent shall pay a fine to the Commission's Compassionate Use Fund in the amount of \$30,000 as a single consolidated fine for all violations referenced herein; and it is further

ORDERED that Respondent's license **D-18-00038** be placed on **PROBATION** for a period of 12 months beginning on the effective date of this Consent Order, during which time Respondent shall ensure compliance with the regulations cited herein; and it is further

ORDERED that Respondent shall ensure all staff receive at least 5 hours of METRC inventory training, to include properly updating METRC inventory when entering sales and how to properly enter adjustments and errors and provide evidence of the same to the Commission within 30 days of the date of this Order; and it is further

ORDERED that Respondent retain an independent inventory consultant at its own expense to conduct an audit on a quarterly basis and submit reports reflecting its findings to the Commission within 10 days of completion thereof, the first of which shall be completed no later than 45 days following the effective date of this Order; and it is further

ORDERED that Respondent may submit a written petition to the Commission or its successor agency requesting that the probation be terminated no fewer than six (6) months from the effective date of this Consent Order if Respondent can demonstrate compliance with the terms and conditions herein and is neither under investigation nor has received disciplinary action during the period of probation; and it is further

ORDERED that the requirements herein relating to METRC training and retaining an independent inventory consultant to conduct inventory audits are NOT terms of probation and such requirements will not automatically terminate upon the approval of any transfer of

ownership of the License but instead such requirements will transfer to any new ownership group for the License as approved by the MMCC or its successor-in-interest, and it is further

ORDERED that, in the event ownership of the Respondent or the License is transferred to a new owner within six months after the effective date of this Consent Order, the licensee under new ownership will be required to retain an independent inventory consultant at its own expense to conduct an audit on a monthly basis and submit reports reflecting its findings to the MMCC or its successor within 10 days of completion thereof, the first of which reports shall be submitted no later than 45 days following the effective date of this Consent Order; this obligation would extend through three monthly audits unless a pattern of inconsistencies in inventory records is identified, and it is further


ORDERED that, in the event that the Respondent or the License is NOT transferred to a new owner within six months after the effective date of the Consent Order, Respondent under its current management will be required to retain an independent inventory consultant at its own expense to conduct an audit on a monthly basis and submit reports reflecting its findings to the Commission or its successor within 10 days of completion thereof, the first of which reports shall be submitted no later than 45 days following the effective date of this Order; this obligation would proceed through three monthly audits and if the audits do not indicate a pattern of inconsistencies in inventory records, then audits and reports will be due every other month until twelve months have passed from the effective date of this Consent Order and if a pattern of inconsistencies in inventory records is identified after the third monthly audit, Respondent may be required to continue with monthly audits not to extend beyond twelve months from the effective date of the order, and it is further

ORDERED that conversion of Respondent s medical license to an adult use license shall not affect the terms set forth herein; and it is further

ORDERED that Respondent shall be responsible for the costs associated with complying with this Order; and it is further

ORDERED that this Consent Order is a PUBLIC DOCUMENT pursuant to Md. Code Ann , Gen. Prov. §§ 4-401 et seq. (2014).

4/10/2023  
Date

  
\_\_\_\_\_  
Dr. C. Obi Onyewu, Chair

NOTARY

STATE OF Maryland

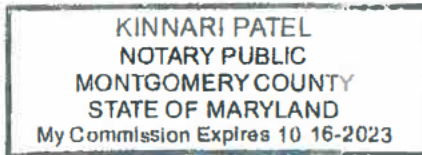
CITY/COUNTY OF: Montgomery

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of February 2023,  
before me, a Notary Public of the State and County aforesaid, personally appeared  
Kareshk Shukh on behalf of  
\_\_\_\_\_, and gave oath in due form of law  
that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Kinnari M. Patel

Notary Public



My commission expires: 10-16-2023