

IN THE MATTER OF	*	BEFORE THE MARYLAND
MARYLAND EARTHWORKS d/b/a	*	MEDICAL CANNABIS COMMISSION
DISPENSARY WORKS, LLC		
Respondent	*	
License No.: D-18-00023	*	Case No.: 18-00038
* * * * *		

CONSENT ORDER

On February 26, 2019, members of the Maryland Medical Cannabis Commission (the “Commission”) held a pre-charge Case Resolution Conference (CRC) with Maryland Earthworks, dba Dispensary Works (the “Respondent”), license number D-18-00023, pursuant to its authority to regulate medical cannabis dispensaries under the Natalie M. 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 purpose of the CRC was to attempt to reach resolution of allegations against the Respondent prior to the issuance of formal charges.

The pertinent provisions of the Act provide the following:

§ 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.

§ 13-3316. Regulations

The Commission shall adopt regulations to implement the provisions of this subtitle.

The pertinent Code of Maryland Regulations (COMAR) (2018) for which the Respondent's license is being disciplined provide as follows:

10.62.30.03 Procedure for Dispensing Medical Cannabis

B. Before any distribution of medical cannabis, a dispensary agent shall query the Commission data network and verify that:

- (1) The qualifying patient or caregiver is currently registered;
- (2) A certifying physician issued a valid written certification to the qualifying patient, and
- (3) The amount of medical cannabis that has already been dispensed pursuant to the written certification.

10.62.30.07 Limit or Transfer of Medical Cannabis

A licensee or registered dispensary agent may not transfer any medical cannabis to any person if the licensee or registered dispensary agent knows, or may have reason to know, that the transfer or the medical cannabis does not comply with any provision of the Health-General Article, Title 13, Subtitle 33, Annotated Code of Maryland or this subtitle.

10.62.34.01 Operational Failure Risking Diversion or Endangering Health

In the event the Commission finds there is a reasonable likelihood of diversion, contamination of medical cannabis, or any risk to the health of a patient or any other individual, after written notice and a hearing in accordance with the State Government Article, §§10-201—10-226, Annotated Code of Maryland, the Commission may:

- A. Impose a fine of up to \$10,000 per violation on a licensed grower, licensed processor, licensed dispensary or registered independent testing laboratory;
- B. Deny the license or registration;
- C. Suspend the license, licensee, agent, employee, registration or registrant; or
- D. Revoke the licenses, licensee, agent, employee, registration or registrant.

In lieu of proceeding with an evidentiary hearing in this matter, the parties agreed to the following Findings of Fact, Conclusions of Law and Order as set forth herein.

FINDINGS OF FACT

The Commission finds that:

1. The Respondent was initially licensed to dispense medical cannabis on April 10, 2018, license number D-18-00023, and operates a dispensary in White Plains, Maryland.

2. On August 9, 2018, the Commission's Quality Assurance Specialist informed the Commission's investigator about two sales of medical cannabis products made by agents of the Respondent.

3. Respondent, during the sales in question, was using a Point of Sale ("POS") software authorized by the Commission to interface with the Marijuana Enforcement Tracking Regulation and Compliance system ("METRC").¹ Respondent has found that there have been some preliminary challenges making sure that the POS software and METRC databases are syncing perfectly.

4. The sales occurred on two separate days from a single purchaser. The purchaser was a patient who was not certified at the time of either purchase.

5. The first sale was made on June 28, 2018 and involved the purchase of a 3.5 gram package of flower sold for \$38.00.

6. The second sale occurred on July 14, 2018 and involved the purchase of a 3.5 gram package of flower sold for \$40.00.

¹ METRC is a software system licensed by the Commission to track sales of medical cannabis throughout the State.

7. The investigator checked the METRC, which revealed that on both dates of sale, the patient was not registered with the Commission.

8. In fact, a warning in red letters appeared on the screen which stated: "Patient does not have a current certification. Patient is not eligible to purchase cannabis."

9. The Commission investigator went to Maryland Earthworks on August 13, 2018 and met with the operations manager and the bud tender and was able to verify that the sales had occurred.

10. The operations manager indicated that employees of the Respondent relied on information provided in their POS system to verify a patient's status, but apparently, the system did not flag this patient.

11. The second sale occurred 11 days after the Commission sent a bulletin to all licensees titled "Patient Registration Lookup Reminder." The bulletin reminded all licensees, including the Respondent, that a dispensary agent must query the Commission's patient registry system to verify that a patient is currently registered, has a current provider certification, and has not already been dispensed his/her 30-day supply.

MITIGATING CIRCUMSTANCES

13. At all times, Respondent has been forthcoming with the Commission regarding these incidents.

14. In fact, the Respondent asked the patient to contact the Commission and inform the Commission of the events set forth herein.

15. Prior to the pre-charge hearing, and immediately following the transaction, the Respondent spoke to all employees about the seriousness of such a mistake. The single employee who made this mistake was terminated from employment with the dispensary

16. Respondent has issued a formal inter-office memo on the issue to curb any future incidents.

17. Immediately after the incident, the Respondent sent the dispensary's current operating procedures to the Commission's investigator, who agreed that were satisfactory.

18. Regarding the first allegation, the Respondent maintains that had its POS been correctly syncing with the METRC system, the patient's record would have been properly flagged, and the sale would not have occurred. Respondent presents this as mitigation but understands that it is responsible for its own POS and must always verify with the METRC system. To further prevent future incidents like this, the following language has been included in the dispensary's operating procedures:

Dispensary Works, LLC, recognizes the State METRC system as the authoritative source for verifying all patients and their limits. Below processes allow us to use our POS system, but ensure that sale is not finalized until final check of the State of Maryland METRC database.

If the METRC system is down, we will adhere to the State's instructions on whether and how to proceed with sales.

19. The Respondent's conduct of selling to a non-certified patient demonstrates an operational failure creating the risk of diversion.

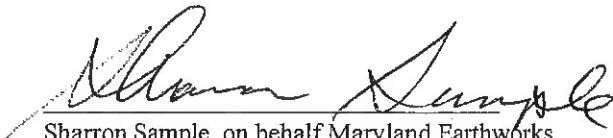
CONSENT

I, Sharron Sample, on behalf of Maryland Earthworks d/b/a Dispensary Works, llc acknowledge that I have had the opportunity to seek advice of counsel in this matter. By this Consent, I agree and accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had 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 as provided by law. I acknowledge the legal authority and the jurisdiction of the Commission to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Commission that might have followed any such hearing.

I sign this Consent Order after having had the opportunity to consult counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order and understand its meaning and effect.

5-2-2019
Date


Sharron Sample, on behalf Maryland Earthworks
d/b/a Dispensary Works, llc
respondent

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NOTARY

STATE OF Maryland

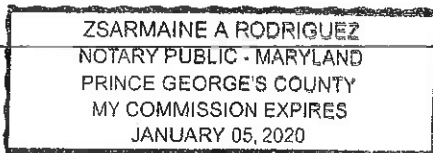
CITY/COUNTY OF: Prince Georges

I HEREBY CERTIFY that on this 2nd day of May 2019, before me, a Notary Public of the State and County aforesaid, personally appeared Sharon Sample, on behalf of Maryland Earthworks d/b/a Dispensary Works, llc and gave oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.


Notary Public

My commission expires: 01/05/2020



CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Commission concludes as a matter of law that there are grounds for discipline of the Respondent's medical cannabis dispensary license pursuant to COMAR 10.62.30.03, 10.62.30.07 and 10.62.34.01. **ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law by the Commission, it is hereby

ORDERED that the Respondent's license to dispense medical cannabis shall be **REPRIMANDED**; and it is further

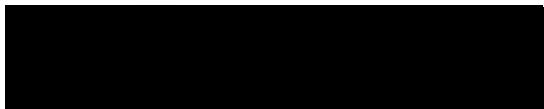
ORDERED that within 30 days of the date of this Order, the Respondent shall pay to the Commission a **fine of \$5,000**; and it is further

ORDERED that the Respondent shall incur all costs associated with this Consent 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).

8/27/19
Date



Commission Chair