

IN THE MATTER OF	*	BEFORE THE
BLUE MOUNTAIN CARE, LLC	*	MARYLAND MEDICAL
(d.b.a. True Wellness)	*	CANNABIS COMMISSION
and	*	
KALPESH SHAH	*	
Respondents	*	
	*	
Dispensary License No.: D-18-00029	*	Case No. 19-00139
Agent Registration Nos.:D-008255,	*	
D-008230, D-008226, and D-010479	*	
* * * * *		* * * * *

CONSENT ORDER

On or about November 16, 2022, the Natalie M. LaPrade Medical Cannabis Commission (the “**Commission**” or “**MMCC**”) issued administrative charges against **BLUE MOUNTAIN CARE, LLC**, License #**D-18-00029** (“**Respondent-Dispensary**”) and **KALPESH SHAH**, Agent Registration #: **D-008255, D-008230, D-008226, D-010479** (“**Respondent-Agent**”, and collectively with the Respondent-Dispensary, the “**Respondents**”), pursuant to the Natalie LaPrade Medical Cannabis Commission Act (the “**Act**”), codified at Md. Code Ann., Health-Gen. (“**Health Gen.**”) § 13-3301 et seq. (2019 Repl. Vol. and 2021 Supp.).

The pertinent provisions of the Act and corresponding Code of Maryland Regulations (“**COMAR**”) are as follows:

10.62.27

.04 Secure Room.

C. Other than while the licensed dispensary is open for business and 1 hour before and 1 hour after, the inventory of medical cannabis shall be stored in the secure room.

.09 Visitor to a Non-Public Area of the Premises.

A. When a visitor is admitted to a non-public area of the premises of a licensee, a registered dispensary agent shall:

- (1) Log the visitor in and out;
- (2) Retain with the log a photocopy of the visitor's government-issued identification[....]

10.62.28

.04 Sanitary Storage of Medical Cannabis.

A. A licensee shall maintain the cleanliness of any building or equipment used to store or display medical cannabis.

...

C. A licensee shall separately store in the secure room until disposed of any medical cannabis:

- (1) That is outdated, damaged, deteriorated, misbranded, or adulterated [...].

.05 Equipment Sanitation, Accuracy and Maintenance Logs.

A. The licensee shall maintain the sanitation of equipment that comes in contact with medical cannabis to prevent contamination in accordance with the approved standard operating procedure.

...

C. Pursuant to the approved standard operating procedure, the licensee shall maintain an accurate log recording the:

- (1) Cleaning of equipment;
- (2) The maintenance of equipment; and
- (3) The calibration of equipment.

10.62.34

.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.

B. A licensee, registrant, agent, or employee who violates §A of this regulation is subject to a fine of up to \$5,000 per violation. The licensee, registrant, agent, or employee may:

- (1) Elect to pay the imposed fine; or
- (2) Request a hearing not later than 30 days after receipt of notice of the fine.

C. In accordance with the hearing provisions of Regulation .05 of this chapter,

the Commission may deny, suspend, or revoke the license or registration of a licensee, registrant, agent, or employee who violates §A of this regulation.

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. At all times relevant to these Charges, Respondent-Dispensary operated a medical cannabis dispensary located at 226 S. Philadelphia Road, Aberdeen, Maryland.
2. Respondent-Dispensary's license to operate this dispensary was awarded by the Commission on June 28, 2018 under license number **D-18-00029**.
3. At all times relevant to these Charges, Respondent-Agent was a 60% owner and was the operations manager of the dispensary.
4. On April 22, 2019, two Commission investigators conducted an unannounced inspection of Respondent-Dispensary's location.
5. Registered Dispensary Agent and Manager, J.M.¹ accompanied the investigators during their inspection.
6. During the inspection, the MMCC's investigator witnessed multiple instances where medical cannabis was found unattended and outside of the storeroom or vault. The first instance occurred in the service area where the investigator observed six containers on the dispensing counter containing medical cannabis but packaged differently than other medical cannabis in the service area.
7. According to Agent J.M., the product was left on the counter to sell to another employee

¹ Name redacted.

during her break. Agent J.M. reported Respondent-Dispensary does not have a policy on employee purchases, but the practice is that purchases could be made during an employee's break in the presence of the manager. However, the product for this Agent was observed in the service area at approximately 11:30 a.m. when employee breaks did not begin until approximately 12:30 p.m.

8. Improper handling of packages containing medical cannabis was captured on video recordings collected from the dispensary. Respondent-Agent is seen on video mishandling packages containing medical cannabis.
9. The investigator also observed several medical cannabis products stored on shelves in the service area without identifiers such as labels or the weight of the product.
10. The investigator also reviewed the visitor control processes and observed that although 25 visitors had signed into the facility between April 13, 2019 and April 19, 2019, eight failed to log out of the premises.
11. Likewise, although 15 deliveries had been noted between April 13, 2019 and April 19, 2019, copies of delivery personnel identification had not been maintained.
12. While observing visitors enter the non-public areas of the dispensary, the investigator observed that dispensary agents did not scan visitors' identification.
13. The failure to maintain copies of visitor identification and log them in and out is contrary to Respondent-Dispensary's own SOPs.
14. The MMCC investigators also noted that Respondent-Dispensary failed to maintain cleanliness throughout the facility. For instance, the surface areas at the point of sales stations were not clean, and it was observed that only one of the four bud tenders wore gloves while handling and dispensing medical cannabis. Tongs used to assist patients

were reused when handling different strains of cannabis and were not cleaned in between uses. The cleaning log in the retail area showed the space had not been cleaned in two days, even though it is supposed to be cleaned at every shift.

15. There were no cleaning logs for the scales in the Service Area where Deli Style Transactions were conducted. Further, according to the sanitation log, the last day the scale was cleaned was 18 days prior on April 4, 2019.
16. The Processing Room was also unclean despite a sign saying "This room is a clean room. Please make sure this room is CLEAN before leaving." A log sheet on the wall listed sporadic cleaning dates ranging from November 2018 through March 2019 without any routine frequency and did not include all equipment, such as the pre-roll machine. According to the log sheet, the last cleaning had been performed on March 26, 2019 despite a sign indicating cleaning was to take place every day and after each delivery. The frequency of cleaning is contrary to Respondent-Dispensary's SOP on equipment sanitation, and Respondent-Dispensary could not provide logs to demonstrate routine cleaning of all equipment had been performed in the previous several months.
17. Records show that the above referenced violations were quickly remedied, and there has not been a recurrence. Subsequent inspections conducted since April 2019 do not show an ongoing pattern of violations of cleanliness or recordkeeping. This indicates the violations were a one-time, isolated incident that, when brought to the attention of the managers, were fully and effectively resolved.

—

CONCLUSIONS OF LAW

18. Respondent-Dispensary violated COMAR 10.62.27.04 by failing to keep inventory of medical cannabis stored in the secure room, as described herein.
19. Respondent-Dispensary violated COMAR 10.62.27.09 by failing to maintain a visitor log with a copy of each visitor's photo identification for those visitors to non-public areas of the dispensary.
20. Respondent-Dispensary violated COMAR 10.62.28.04, as described herein, by failing to maintain the cleanliness of its rooms and equipment used to process, sell and display medical cannabis.
21. Respondent violated COMAR 10.62.28.05 by (1) failing to maintain the sanitation of all equipment that comes in contact with medical cannabis; (2) using the same means of handling different strains of product; and (3) failing to maintain clean surfaces and equipment throughout its facility.
22. Respondent-Agent was ultimately directly responsible for the foregoing violations as the Store Manager by failing to properly train and supervise employee agents and managers under his responsibility and by failing to ensure SOPs were being followed.

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 Respondent-Dispensary shall pay a fine to the Commission's Compassionate Use Fund in the amount of **\$20,000** as a single consolidated fine for all violations herein within 10 days of the effective date of this Order; and it is further

ORDERED that Respondent-Dispensary's License number **D-19-00139** be placed on **PROBATION** for a period of 12 months beginning on the effective date of this Consent Order, during which time Respondent-Dispensary shall ensure compliance with the regulations cited herein;

ORDERED that Respondent-Dispensary 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 provided Respondent-Dispensary can demonstrate compliance with the terms and conditions herein and is neither under investigation nor has received disciplinary action during probation for violations of the same regulations as set forth herein, and it is further

ORDERED that the probationary period shall be immediately and automatically terminated in the event of a 100% transfer of ownership in the License to a qualified third party and shall neither impair the approval of, nor be of further force and effect, following the 100% transfer of ownership in the License; and it is further

ORDERED that Respondent-Agent's Agent Registration #s: D-008255, D-008230, D-008226, D-010479 shall be **REPRIMANDED**; and it is further

ORDERED that Respondents 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 Onyewa,
Acting Chair

CONSENT

I, Kalpek Shah, am the MD Market Manager of Blue Mountain Care, LLC and have legal authority to enter into this agreement on behalf of Blue Mountain Care, LLC (hereinafter "Respondent-Dispensary"). Respondent-Dispensary acknowledges that it has had the opportunity to seek advice of counsel in this matter. By this Consent, Respondent-Dispensary agrees and accepts to be bound by this Consent Order and its conditions and restrictions. Respondent-Dispensary waives any rights it may have had to contest the Findings of Fact and Conclusions of Law.

Respondent-Dispensary acknowledges the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which the Respondent-Dispensary would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on its own behalf, and to all other substantive and procedural protections as provided by law. Respondent-Dispensary acknowledges the legal authority and the jurisdiction of the Commission to initiate these proceedings and to issue and enforce this Consent Order. Respondent-Dispensary also affirms that it is waiving its right to appeal any adverse ruling of the Commission that might have followed any such hearing.

I sign this Consent Order with authority on behalf of Respondent-Dispensary 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 Consent Order and understand its meaning and effect.

2/23/23
Date


Representative for Respondent-Dispensary

CONSENT

I, Kalpesh Shih, am the holder of Agent Badge # 20821 and have legal authority to enter into this agreement on behalf of myself (hereinafter "**Respondent-Agent**"). Respondent-Agent acknowledges that it has had the opportunity to seek advice of counsel in this matter. By this Consent, Respondent-Agent agrees and accepts to be bound by this Consent Order and its conditions and restrictions. Respondent-Agent waives any rights it may have had to contest the Findings of Fact and Conclusions of Law.

Respondent-Agent acknowledges the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which the Respondent-Agent would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on its own behalf, and to all other substantive and procedural protections as provided by law. Respondent-Agent acknowledges the legal authority and the jurisdiction of the Commission to initiate these proceedings and to issue and enforce this Consent Order. Respondent-Agent also affirms that it is waiving its right to appeal any adverse ruling of the Commission that might have followed any such hearing.

I sign this Consent Order with authority on behalf of myself 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 Consent Order and understand its meaning and effect.

2/23/21
Date


Representative for Respondent-Agent

NOTARY

STATE OF Maryland

CITY/COUNTY OF: Montgomery

I HEREBY CERTIFY that on this 23rd day of February 2023

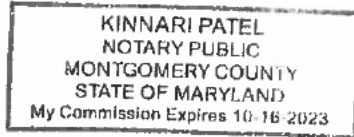
before me, a Notary Public of the State and County aforesaid, personally appeared

Kalpesh 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.



Notary Public

Kinnari K. Patel

My commission expires: 02/23/2023