

**BEFORE THE OKLAHOMA MEDICAL MARIJUANA AUTHORITY
STATE OF OKLAHOMA**

STATE OF OKLAHOMA *EX REL.* THE
OKLAHOMA MEDICAL MARIJUANA
AUTHORITY,

PETITIONER,

v.

LION LABS, LLC,
LIC # GAAA-PFDM-WDLO

RESPONDENT.

FILED

FEB 16 2023

Oklahoma
Medical Marijuana
Authority

Case No.: OMMA-2023-005

EMERGENCY ORDER OF SUMMARY SUSPENSION

THIS ORDER is issued pursuant to 75 O.S. §§ 314(C)(2), 314.1 and Oklahoma Administrative Code (“OAC”) 442:1-1-7 upon a finding that public health, safety, or welfare imperatively requires emergency action. In support thereof, the following findings are made:

FINDINGS

1. Respondent, Lion Labs, LLC (“Respondent”), holds medical marijuana commercial grower license GAAA-PFDM-WDLO, initially issued on or about February 29, 2022.
2. Respondent operates a medical marijuana commercial grow in Edmond, Oklahoma.
3. OMMA licensed commercial licenses are required to “use the State inventory tracking system by inputting inventory tracking data required to be reported to the Authority directly into the State inventory tracking system or by utilizing a seed-to-sale tracking system that integrates with the State inventory tracking system.” OAC 442:10-5-6(d).
4. The State inventory tracking system used RFID tags to track and trace all medical marijuana grown in Oklahoma. For licensed growers, OAC 442:5-6(f)(3)(E) requires a RFID tag be attached to “each medical marijuana plant . . . [at] a lower supporting branch. The RFID tag shall remain affixed for the entire life of the plant until disposal.” Where the plant cannot yet

support the weight of the RFID tag, “the RFID tag may be securely fastened to the stalk or other similarly situated position approved by the Authority.” *Id.*

5. Through the use of RFID tags in conjunction with the State inventory tracking system, commercial growers are required to track:

“[t]he entire life span of a licensee’s stock of medical marijuana and medical marijuana products, including, at a minimum, notifying the Authority:

- (A) When medical marijuana seeds or clones are planted;
- (B) When medical marijuana plants are harvested and/or destroyed;
- (C) When medical marijuana is transported, or otherwise transferred, sold, stolen, diverted, or lost;
- (D) When medical marijuana changes form, including, but not limited to, when it is planted, cultivated, processed, and infused into a final form product;
- (E) A complete inventory of all medical marijuana; seeds; plant tissue; clones; usable marijuana; trim; shake; leaves; other plant matter; and medical marijuana products;
- (F) All samples sent to a testing laboratory or used for internal quality and testing or other purposes. . . .”

OAC 442:10-5-6(d)(2)(A)-(F).

6. Through the required use of the State inventory tracking system, OMMA commercial growers report to OMMA every stage of their medical marijuana inventory. OAC 442:10-5-6(f)(2) requires all commercial licensees to “ensure all on-premises and in-transit medical marijuana and medical marijuana products inventories are reconciled each day in the State inventory tracking system at the close of business, if not already done.”

7. The State inventory tracking system is required to be used for all medical marijuana sales and transfers. OAC 442:10-3-6(a) requires “[C]ommercial transporters, growers, processors, dispensaries, laboratories, research facilities, and education facilities shall utilize the State inventory tracking system in accordance with OAC 442:10-5-6(d) to create and maintain shipping manifests documenting all transport of medical marijuana and medical marijuana products throughout the State of Oklahoma.”

8. Under OAC 442:10-5-6(h), commercial licensees who lose access to the State inventory tracking system due to circumstances within their control “may not perform any business activities that would be required to be reported into the State inventory tracking system until access is restored and reporting is resumed; any transfer, sale or purchase of medical marijuana or medical marijuana products shall be an unlawful sale.”

9. OAC 442:10-5-6(f)(3)(A) requires commercial licensees to “ensure its inventories are properly tagged and that a RFID tag is properly assigned to medical marijuana, medical marijuana products, and medical marijuana waste as required by the Authority.”

10. OAC 442:10-5-6(f)(8) requires “All packages of medical marijuana waste shall have a RFID tag affixed and the contents of the waste package shall be reported in the State inventory tracking system.”

11. Medical marijuana waste includes:

- (A) unused, surplus, returned or out-of-date marijuana; recalled marijuana; unused marijuana; plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts, except the term shall not include seeds, roots, stems, stalks and fan leaves,
- (B) all product which is deemed to fail laboratory testing and cannot be remediated or decontaminated, or
- (C) all products and inventory from commercial licensees that: (i) have gone out of business; (ii) are not subject to the provisions of Section 1560 of Title 12 of the Oklahoma Statute; and (iii) are unable to lawfully transfer or sell the product and inventory to another commercial licensee.

12. OAC 442:10-5-3.2 provides that a person who was involved in the management or operation of any commercial licensee that, after the initiation of a disciplinary action, has had a medical marijuana license revoked, not renewed, or surrendered during the five (5) years preceding submission of the application and for the following violations:

- (A) unlawful sales or purchases;
- (B) any fraudulent acts, falsification of records or misrepresentation to the Authority, medical marijuana patient licensees, caregiver licensees, or medical marijuana business licensees;
- (C) any grossly inaccurate or fraudulent reporting;
- (D) threatening or harming any medical marijuana patient, caregiver, medical practitioner, or employee of the Authority;
- (E) knowingly or intentionally refusing to permit the Authority access to premises or records;
- (F) using prohibited, hazardous substance for processing in a residential area;
- (G) criminal acts relating to the operation of a medical marijuana business; or
- (H) any violation that endangers public health and safety or product safety, including, but not limited to, failure to test medical marijuana or medical marijuana products in accordance with these rules, failure to assist in a recall or embargo, or failure to adhere to any order or directive by the Authority that may endanger public health and safety.

13. On February 7, 2023, OMMA conducted an operational status visit of Respondent's licensed premises.

14. During the inspection of Respondent's licensed premises, OMMA identified marijuana plants that while tagged with RFID tags were not accounted for in the State inventory tracking system.

15. As of the date of the operational status visit, Respondent reported zero plants in its State inventory tracking system inventory.

16. During the operational status visit, OMMA identified harvested medical marijuana despite there being no reported harvests in the State inventory tracking system nor any transfers of medical marijuana identified through manifests created in the State inventory tracking system.

17. During the inspection, OMMA identified medical marijuana waste which was not RFID tagged.

18. Respondent violated OAC 442:5-6(f)(3)(E) by failing to attach RFID tags to each medical marijuana plant for its entire life span. Respondent's failure to comply with the tagging requirements, coupled with Respondent's other violations including, but not limited to, failure to

account for the entire lifespan of medical marijuana in the State inventory tracking system, and/or inaccurate or fraudulent reporting pose a public health and safety risk.

19. Respondent violated OAC 442:5-6(d)(2)(A)-(F) and OAC 442:10-5-6(f)(3)(A) by failing to account for the entire life span of medical marijuana including, but not limited to, the harvesting of medical marijuana and medical marijuana waste. Respondent's failure to comply with the mandatory reporting requirements, coupled with Respondent's other violations including, but not limited to, inaccurate or fraudulent reporting, pose a public health and safety risk.

20. Alternatively, Respondent violated OAC 442:10-3-6(a) by failing to utilize the State inventory tracking system in accordance with OAC 442:10-5-6(d) to create and maintain shipping manifests documenting all transportation of medical marijuana product throughout the State of Oklahoma. Respondent's failure to comply with the manifest requirements resulting in an unlawful transfer or sale, coupled with Respondent's other violations including, but not limited to, Respondent's failure to account for the entire lifespan of medical marijuana in the State inventory tracking system and Respondent's inaccurate or fraudulent reporting pose a public health and safety risk.

21. Respondent has engaged in inaccurate and/or fraudulent reporting which cannot reasonably be attributed to normal human error in violation of OAC 442:10-5-6.1(b) and unlawful sale in violation of OAC 442:10-5-6(h). Violations of OAC 442:10-3-6, OAC 442:10-5-6, and/or OAC 442:10-5-6.1 pose a health and safety risk.

ORDER

22. **WHEREFORE**, it is found that public health, safety and/or welfare imperatively require emergency action:

23. **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that medical marijuana commercial business license GAAA-PFDM-WDLO is hereby **SUSPENDED** pending the final outcome of proceedings instituted pursuant to 75 O.S. §§ 250-317 including a proceeding for revocation or other action. Pursuant to this Emergency Order of Summary Suspension, Respondent may not take any of the below actions pending the final outcome of future proceedings. Failure to comply with the below limitations shall be punishable by contempt and/or any other administrative, civil, and/or criminal penalty authorized by law:

- a. Respondent shall not plant any medical marijuana seeds, clones, or plants from the date of this Order.
- b. Respondent shall not harvest any medical marijuana from the date of this Order.
- c. Respondent shall not dry any medical marijuana from the date of this Order.
- d. Respondent shall not cure any medical marijuana from the date of this Order.
- e. Respondent shall not package any medical marijuana from the date of this Order.
- f. Respondent shall not create any non-infused pre-rolled medical marijuana from the date of this Order.
- g. Respondent shall not sell or transfer any medical marijuana from the date of this Order.
- h. Respondent shall not transport or cause to transported any medical marijuana from the date of this Order.
- i. Respondent shall take no additional action in violation of Oklahoma law from the date of this Order.

- j. Respondent shall take no additional action which would be permitted by law because Respondent is the holder of a medical marijuana commercial growers license without the express authorization of OMMA.

24. **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Respondent's violations including, but not limited to, fraudulent acts, falsification of records, misrepresentation to OMMA, grossly inaccurate or fraudulent reporting, unlawful transfer, and violations endangering public health and safety meet the requirements of OAC 442:10-5-3.2(a)(7). No person involved in the management or operation of Respondent shall be eligible to hold a medical marijuana commercial business license for a period of five (5) years if, after the initiation of this action and/or any future action, Respondent's license is revoked, not renewed, or is surrendered.

ADMINISTRATIVE HEARING REQUEST

25. Pursuant to OAC 442:1-1-7(b), Respondent may make a request for a hearing no later than ten (10) days after the date of this Order. Upon such request a hearing will be promptly held before the assigned administrative law judge in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling with the burden on the licensee to show good cause why the suspension should be set aside. Respondent may request a hearing by email to HearingClerk@omma.ok.gov.

26. Pursuant to OAC 442:1-1-5, "All parties to a proceeding must enter an appearance or may be determined to have waived their right to appear. Corporate entities, limited liability companies, other business entities, and governmental units or entities may appear only by an

attorney licensed to practice law in Oklahoma or by an out-of-state attorney admitted to practice before the Agency pursuant to the rules of the Oklahoma Bar Association.”

27. Pursuant to OAC 442:1-1-6, failure to appear at the requested hearing may be deemed a waiver of Respondent’s right to present a defense and be present at a hearing.

DATED THIS 16th DAY OF FEBRUARY, 2023.

OKLAHOMA MEDICAL MARIJUANA AUTHORITY


ADRIA G. BERRY
EXECUTIVE DIRECTOR