

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CANNABIS REGULATORY AGENCY

In the Matter of

THERAPEUTIC HEALTH CHOICES, LLC
License No.: SC-000011

ENF Nos.: 20-00124, 21-00172,
21-00168

_____/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

On May 17, 2021, the Cannabis Regulatory Agency (CRA) issued a second superseding formal complaint against the medical marijuana safety compliance facility license (SC-000011) of Therapeutic Health Choices, LLC (“Respondent”) under the Medical Marijuana Facilities Licensing Act (MMFLA), MCL 333.27101 *et seq.*, and the administrative rules promulgated thereunder. The second superseding formal complaint alleged Respondent violated Mich Admin Code R 420.209(6)(a)(i), R 420.602(6), R 420.602(7), R 420.209(12), R 420.602(2)(b), R 420.602(2)(c), R 420.206(8)(a), 420.112(4)(e), R 420.212(1), R 420.112(4)(g)(i)-(iv), R 420.305(1)(c), R 420.305(2)(b), and R 420.305(13).

The executive director reviewed the stipulation contained in this document and agrees the public interest is best served by resolution of the second superseding formal complaint. Therefore, the executive director finds that some of the allegations contained in the second superseding formal complaint are true and that Respondent violated Mich Admin Code R 420.209(6)(a)(i), R 420.209(12), 420.112(4)(e), R 420.212(1), R 420.112(4)(g)(i)-(iv), R 420.305(13), and second instance of R 420.206(8)(a).

Accordingly, for these violations, IT IS ORDERED:

1. Respondent must pay a fine in the amount of fourteen thousand and 00/100 dollars (\$14,000). This fine shall be paid within 30 days of the effective date of

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this order by check, money order, or online through Accela Citizen Access (ACA). Instructions on how to make online payments can be found under the Tips for Licensees bulletin section at www.michigan.gov/cra. Check or money orders shall be made payable to the State of Michigan with enforcement numbers "20-00124, 21-00172, 21-00168" and license number "SC-000011" clearly displayed on the check or money order. Respondent shall mail the fine to Department of Licensing and Regulatory Affairs, Cannabis Regulatory Agency, PO BOX 30205, Lansing, Michigan 48909.

2. If Respondent fails to timely comply with the terms of this order, Respondent's license shall be suspended until compliance is demonstrated.
3. The alleged violations of Mich Admin Code R 420.602(6) and (7) are DISMISSED.
4. The alleged violations of Mich Admin Code R 420.602(2)(b) & (c), and the first alleged violation of Mich Admin Code R 420.206(8)(a) are DISMISSED.
5. The alleged violations of Mich Admin Code R 420.305(1)(c) and R 420.305(2)(b) are DISMISSED.
6. Unless otherwise specified in this order, Respondent shall direct any communications to the CRA that are required by the terms of this order to CRA-LegalHearings@michigan.gov.
7. Respondent shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this consent order.
8. If Respondent violates any term or condition set forth in this order, Respondent will be subject to fines and/or other sanctions under section 407(1) of the MMFLA, MCL 333.27407(1), and Mich Admin Code, R 420.808.

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9. Upon timely compliance of the terms of this order by Respondent, the matters set forth in the second superseding formal complaint shall be deemed resolved and closed subject to this Consent Order.

This order shall be effective 30 days after the date signed by the CRA's executive director or his designee, as set forth below.

CANNABIS REGULATORY AGENCY

Signed on: 03/28/2023

By: Adam Sandoval
Digitally signed by Adam Sandoval
Date: 2023.03.28 12:35:21 -04'00'
Brian Hanna, Executive Director
and/or his designee
Cannabis Regulatory Agency

STIPULATION

The parties stipulate to the following:

1. The facts alleged in the second superseding formal complaint pertaining to the violations under Mich Admin R 420.209(6)(a)(i), R 420.209(12), 420.112(4)(e), R 420.212(1), R 420.112(4)(g)(i)-(iv), R 420.305(13), and the second alleged violation of R 420.206(8)(a), are true, and constitute violations of the administrative rules promulgated under the MMFLA.
2. Respondent understands and intends that by signing this stipulation, Respondent is waiving the right under the MMFLA, the administrative rules promulgated thereunder, and the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, to require the CRA to prove the charges set forth in the formal complaint by presentation of evidence and legal authority, and to present a defense to the charges.
3. The parties considered the following in reaching this agreement:

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- a. There is no evidence that the four package tags allegedly not entered in Metrc were illicit product. The tags were found incorrectly entered in Metrc as items.
- b. The alleged R 420.602(6) and (7) violations are unfounded. Respondent provided employment agreements showing that its lab managers were contracted employees that were not required to be logged and monitored.
- c. Respondent' indicated its lab managers were added as employees in Metrc for their other medical licenses, and they did not realize they needed to be added for this license as well.
- d. There was insufficient proof to support the alleged R 420.305(1)(c) and R 420.305(2)(b) violations.
- e. Respondent hired Stacey Anderson, PhD as a new Lab Director, and she updated their SOPs and processes for internal audit and controls, validations, and data integrity of results.
- f. Respondent was cooperative and wishes to resolve the allegations without the need for and expense of an administrative hearing.
- g. Respondent has been licensed as a medical marijuana safety compliance facility since 2020 and has no prior discipline against its license.

The CRA's enforcement division director or his/her designee must approve this proposed agreement before it is forwarded to the CRA's executive director or his designee for review and issuance of the above consent order. The parties reserve the right to proceed to an administrative hearing without prejudice to either party, should the CRA's enforcement division director, executive director, or their designees reject the proposed consent order.

CONTINUED ON NEXT PAGE

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By signing this stipulation, the parties confirm that they have read, understand, and agree with the terms of the consent order.

AGREED TO BY:

Desmond
Mitchell

Digitally signed by
Desmond Mitchell
Date: 2023.03.03
14:33:44 -05'00'

Desmond Mitchell, Operations Director
and/or his designee
Cannabis Regulatory Agency

AGREED TO BY:



Norman VanWormer, Managing Member
on behalf of Respondent
Therapeutic Health Choices, LLC

Dated: 03/03/2023

Dated: 3-03-2023



R. Lance Boldrey (P53671)
Attorney for Respondent

Dated: 03/02/2023

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MARIJUANA REGULATORY AGENCY

In the Matter of

Therapeutic Health Choices, LLC
ERG No.: 001007
License No.: SC-000011
ENF Nos.: 20-00124, 21-00172, 21-00168

CMP Nos.: 20-000776
21-000156 & 21-000229

SECOND SUPERSEDING FORMAL COMPLAINT

The Marijuana Regulatory Agency (“Complainant”) files this second superseding formal complaint against Therapeutic Health Choices, LLC (“Respondent”) alleging upon information and belief as follows:

1. The Marijuana Regulatory Agency (MRA) is authorized under the Medical Marijuana Facilities Licensing Act (MMFLA), MCL 333.27101 *et seq.*, and Executive Reorganization Order No.2019-2, MCL 333.27001, to investigate alleged violations of the MMFLA and the administrative rules promulgated thereunder, take disciplinary action to prevent such violations, and impose fines and other sanctions against applicants and licensees that violate the MMFLA or administrative rules.

2. Section 402(12) of the MMFLA provides that the expiration of a license does not terminate the MRA’s authority to impose sanctions on the license.

3. Section 206(c) of the MMFLA provides that the administrative rules must ensure the health, safety, and security of the public and integrity of the marijuana facility operations.

4. Respondent’s conduct as described below is a risk to public health and safety and/or the integrity of marijuana facility operations.

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FACTUAL ALLEGATIONS AND INTENDED ACTION OF THE MRA

5. Respondent holds an active state operating license under the MMFLA to operate a medical marihuana safety compliance facility in the state of Michigan.

6. Respondent operated at 903 North Euclid Avenue, Bay City, Michigan, 48706, at all times relevant to this complaint.

7. Following an investigation, the MRA determined that Respondent violated the MMFLA and/or administrative rules promulgated thereunder as set forth below:

ENF 20-00124:

- a. On June 30, 2020, Respondent escorted a transporter with marijuana product into a back office of its licensed facility, where it accepted the marijuana product and completed the chain of custody paperwork. This office was not covered by video surveillance equipment. Respondent failed to ensure that the video surveillance system covered any area where marijuana products are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the marihuana business in violation of Mich Admin Code, R 420.209(6)(a)(i)
- b. On June 30, 2020 Respondent had two individuals, Kemmons Tubbs (Tubbs) and Catherine Washburn (Washburn), who were not employees of Respondent's facility, and who had access to the facility without being logged as visitors or being reasonably monitored and being escorted through any limited access areas in violation of Mich Admin Code, R 420.602(6) and 420.602(7).
- c. Respondent was unable to provide video surveillance coverage requested by the agency in a format that made it viewable to the agency in violation of Mich Admin Code, R 420.209(12) which requires licensees to keep surveillance recordings in a manner that allows the agency to view them immediately upon request.
- d. On September 21, 2020, Respondent had a 90-day inspection. During that inspection Respondent advised the MRA that Tubbs and Washburn were acting as laboratory managers. Neither Tubbs nor Washburn had been entered into the

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statewide monitoring system (METRC) as employees nor had the MRA been notified previously that these individuals were lab managers.

- e. Tubbs and Washburn were hired on June 10, 2020. The agency advised Respondent to enter them into METRC on or about July 16, 2020. Respondent's failure to act is in violation of Mich Admin Code, R 420.602(2)(b) and 420.206(8)(a).
- f. On November 11, 2020, Respondent terminated the employment of Tubbs and Washburn.
- g. Respondent did not remove their access and permissions from METRC until November 25, 2020 in violation of Mich Admin Code, R 420.602(2)(c) which requires removal of access and permissions from METRC within 7 days of termination of employment.
- h. Respondent did not notify the agency of the removal of Tubbs and Washburn as laboratory managers and only reported on November 23, 2020 that a new laboratory manager was hired in violation of Mich Admin Code, R 420.206(8)(a), which requires notification of loss/termination of a laboratory manager be provided to the agency within 7 days.

ENF 21-00172

- a. On January 27, 2021, Respondent indicated that it did not have any marijuana product in its possession to perform validations.
- b. On review of METRC, it was noted that there were marijuana products listed in Respondent's METRC inventory.
- c. Upon completion of an audit of its inventory (physical vs METRC) it was determined that Respondent had four METRC package tags that were in its physical inventory but were not listed in its METRC inventory. Those four package tags being:
 - i. 1A40501000096C9000000014,
 - ii. 1A40501000096C9000000015,
 - iii. 1A40501000096C9000000016, and
 - iv. 1A40501000096C9000000017.

- d. Respondent failed to enter all transactions, current inventory, and other information into the statewide monitoring system in violation of Mich Admin Code, R 420.112(4)(e) and 420.212(1).

ENF 21-00168

- a. During a semi-annual inspection on December 16, 2020 the Respondent's Laboratory Manager was unable to provide details regarding standard operating procedures (SOPs), could not identify quality management practices, or ensure that tests being performed were accurate or valid in violation of Mich Admin Code, R 420.112(4)(g)(i)-(iv).
- b. During the same semi-annual inspection, it was determined that Respondent did not have an SOP in place that met the requirements of the agency. The SOP in place, had the initial demonstration of capabilities (IDOCs) which did not include required data. Respondent did not have in place and has not maintained a quality control and quality assurance program that conforms to ISO/IEC 17025:2017 standards and meets agency requirements in violation of Mich Admin Code, R 420.305(1)(c).
- c. During the above noted inspection, the MRA requested Respondent's SOP for performing validations. The SOP is required to include specific parameters listed in the Marihuana Sampling and Testing – Technical Guidance for Marijuana Products, the AOAC Appendix and SMPRs. The SOP was not in compliance with ISO/IEC 17025:2017 and was not approved by the agency prior to use. Respondent's conduct in failing to maintain the appropriate, approved SOP to perform testing is in violation of Mich Admin Code, R 420.305(2)(b).
- d. Upon a review of Respondent's METRC test results, it was observed that Respondent failed to enter test results into METRC within 3 days of completion of testing in violation of Mich Admin Code, R 420.305(13). Respondent was asked to create an SOP to ensure compliance with this administrative rule. Respondent has failed to provide appropriate documentation to ensure compliance with this rule.

THEREFORE, based on the above, the MRA gives notice of its intent to impose fines and/or other sanctions against Respondent's license, which may include the suspension, revocation, restriction, and/or refusal to renew Respondent's license.

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Under MCL 333.27407(4) and Mich Admin Code, R 420.704(2), any party aggrieved by an action of the MRA suspending, revoking, restricting, or refusing to renew a license, or imposing a fine, shall be given a hearing upon request. A request for a hearing must be submitted to the MRA in writing within 21 days after service of this complaint. Notice served by certified mail is considered complete on the business day following the date of the mailing.

Respondent also has the right to request a compliance conference under Mich Admin Code, R 420.704(1) A compliance conference is an informal meeting at which Respondent has the opportunity to discuss the allegations in this complaint and demonstrate compliance under the MMFLA and/or the administrative rules. A compliance conference request must be submitted to the MRA in writing.

Hearing and compliance conference requests must be submitted in writing by one of the following methods:

By Mail: Department of Licensing & Regulatory Affairs
Marijuana Regulatory Agency
P.O. Box 30205
Lansing, Michigan 48909

By Email: MRA-LegalHearings@michigan.gov

If Respondent fails to timely respond to this formal complaint, a contested case hearing will be scheduled to resolve this matter. The MRA reserves the right to review the formal complaint and amend it should this matter proceed to a contested case hearing.

Questions about this complaint should be directed to the Marijuana Regulatory Agency at (517) 284-8599 or MRA-LegalHearings@michigan.gov.

Dated: 5/17/21

MARIJUANA REGULATORY AGENCY

By: **Claire
Patterson**

Digitally signed by Claire
Patterson
Date: 2021.05.17
20:37:51 -04'00'

Claire Patterson, Scientific and Legal Section Manager
Enforcement Division

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