

IN THE MATTER OF

*

BEFORE THE MARYLAND

K. B.,

Respondent

*

Patient No. XXXX-XXXX-XXXX-████████

*

Case No.: 19-00323

* * * * *

CONSENT ORDER

On August 22, 2019, members of the Maryland Medical Cannabis Commission (the “Commission”) held a pre-charge Case Resolution Conference (“CRC”) with K. B. (the “Respondent”), a certified patient, pursuant to its authority under 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 a case in which the Respondent allegedly diverted medical cannabis when he stole from a licensed dispensary.

The pertinent provision of the relevant statute states:

§ 13-3313. [P]enalty for distributing, possessing, manufacturing, or using diverted cannabis.

(b) (1) A person may not distribute, possess, manufacture, or use cannabis that has been diverted from a qualifying patient, a caregiver, a licensed grower, or a licensed dispensary.

(2) A person who violates this subsection is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$ 10,000 or both.

(3) The penalty under this subsection is in addition to any penalties that a person may be subject to for manufacture, possession, or distribution of marijuana under the Criminal Law Article.

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. On March 9, 2019, the Respondent went to a licensed medical cannabis dispensary in Germantown, Maryland to seek reimbursement for a product that he had purchased there. The general manager spoke to the Respondent and, because of the general manager's personal experience with the Respondent, the general manager offered the Respondent a discount on a future purchase but did not reimburse the Respondent for his prior purchase.

2. During the Respondent's conversation with the general manager, the Respondent asked the general manager to show him an item for sale in the patient area, a container containing 1/8g of medical cannabis flower, worth about \$50.00. As the general manager showed the Respondent the container, the Respondent took it from the general manager's hands and left the dispensary.

3. The general manager then contacted the Montgomery County Police Department and filed a police report. The Montgomery County State's Attorney issued criminal charges against the Respondent for misdemeanor theft.

4. On June 13, 2019, the Respondent appeared for trial at the Montgomery County District Court. The dispensary employee who had appeared to serve as a witness was unavailable for the length of time needed for him to testify at the Respondent's trial later that day. As a result, the district court judge dismissed the criminal case against the Respondent conditionally.

5. The district court judge's conditions for dismissing the criminal case against the Respondent included requiring the Respondent to pay restitution to the dispensary and to stay away

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from the dispensary. As of August 22, 2019, the day of the CRC, the Respondent has fully complied with these conditions.

6. Respondent has an ongoing need for access to medical cannabis.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Commission concludes as a matter of law that the Respondent diverted medical cannabis in violation of the Maryland Medical Cannabis Law, Health-Gen. § 13-3313.

ORDER

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


ORDERED that beginning on the date this Order is signed by the Commission Chair, the Respondent's patient certification shall be **SUSPENDED** for a period of twenty-four (24) months; and it is further

ORDERED that this **SUSPENSION shall be STAYED** for a probation period of twenty-four (24) months but that this stay may be lifted and the suspension fully imposed at any time by the Commission or by a group of Commissioners meeting as a committee or during a later CRC, for good cause shown;

ORDERED that should the Respondent commit any infraction or violation of the law during the probationary period described above, the Respondent's certification shall be **REVOKED**, subject to a show-cause hearing; and it is further

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

9-26-19
Date


Brian Lopez
Commission Chair

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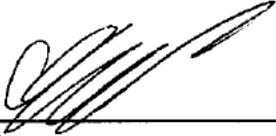
CONSENT

I, K.B., 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.

11/1/2019
Date



K. B.,
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NOTARY

STATE OF Maryland

CITY/COUNTY OF: Montgomery

I HEREBY CERTIFY that on this 1st day of November 2019, before me, a Notary Public of the State and County aforesaid, personally appeared K. B., 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.

N. Rico

Notary Public

My commission expires: 03/03/2021

