

IN RE MIMD OPERATING 1,LLC	*	BEFORE THE MARYLAND
DBA COOKIES BALTIMORE	*	CANNABIS ADMINISTRATION
Respondent	*	
License No. D-17-00016	*	Case Nos. 23-000185, 23-00189, 23-00194
* * * * *		

ORDER OF SUMMARY SUSPENSION

The Maryland Cannabis Administration (the “Administration” or “MCA”) pursuant to the Cannabis Reform Act found at Alcoholic Beverages & Cannabis § 36-101, et seq. (the “Act”), as well as Code of Maryland Regulations (COMAR) 10.26, hereby issues this **Order of Summary Suspension** to Respondent **MIMD Operating 1, LLC, d.b.a Cookies Baltimore** (“Respondent”) for violations described herein.

The pertinent provisions of the Act include:

§ 36-202 Powers and Duties of Administration

- (a) The Administration shall:
- (7) after a determination that a violation of this title or a regulation adopted under this title has occurred, **suspend**, fine, restrict, or revoke cannabis licenses and cannabis registrations, whether active, expired, or surrendered, or impose any other penalty authorized by this title or any regulation adopted under this title[.]

§ 36-903 Prohibitions on advertising; age verification

- (a)(1) This subsection does not apply to an advertisement placed on property owned or leased by a dispensary, grower, or processor.
- (2) An advertisement for a cannabis licensee, cannabis product, or cannabis-related service may not:
 - (i) violate Title 13, Subtitle 3 of the Commercial Law Article;
 - (ii) directly or indirectly target individuals under the age of 21 years;
 - (iii) contain a design, an illustration, a picture, or a representation that:
 - 1. targets or is attractive to minors, including a cartoon character, a mascot, or any other depiction that is commonly used to market products to minors;
 - 2. displays the use of cannabis, including the consumption, smoking, or vaping of cannabis;
 - 3. encourages or promotes cannabis for use as an intoxicant; or

- 4. is obscene;
 - (iv) engage in advertising by means of television, radio, Internet, mobile application, social media, or other electronic communication, or print publication, unless at least 85% of the audience is reasonably expected to be at least 21 years old as determined by reliable and current audience composition data; or
 - (v) engage in advertising by means of placing an advertisement on the side of a building or another publicly visible location of any form, including a sign, a poster, a placard, a device, a graphic display, an outdoor billboard, or a freestanding signboard.
- (b)(1)(i) Subject to subparagraph (ii) of this paragraph, each cannabis-related website shall employ a neutral age-screening mechanism that verifies that the user is at least 21 years old, including by using an age-gate, age-screen, or age verification mechanism before the user may access or view any content and before the website may collect the user's address, e-mail address, phone number, or contact information to disseminate advertisements.
- (ii) If a website is appropriate for a qualifying patient who is under the age of 21 years, the website shall provide an alternative screening mechanism for the qualifying patient.
- (2) An advertisement placed on social media or a mobile application shall include a notification that an individual must be at least 21 years old to view the content.
 - (3) The provisions of this subtitle applicable to cannabis licensees may not be avoided by hiring or contracting with a third-party, or outsourcing advertisements that do not comply with this subtitle.
 - (4) A cannabis licensee may not allow the use of the licensee's trademarks, brands, names, locations, or other distinguishing characteristics for third-party use for advertisements that do not comply with this subtitle.
- (c) The Administration shall adopt regulations to establish procedures for the enforcement of this section.

Further, the relevant provisions of COMAR include the following¹:

10.62.27

.07 Video Surveillance Requirements

A. A licensee shall maintain a motion-activated video surveillance recording system at the premises that:

- (1) Records all activity in images of high quality and high resolution capable of clearly revealing facial detail;
- (2) Operates 24-hours a day, 365 days a year without interruption; and
- (3) Provides a date and time stamp for every recorded frame.

B. A licensee shall post appropriate notices advising visitors of the video surveillance.

¹ Pursuant to the Cannabis Reform Act, the Maryland Medical Cannabis Commission has been replaced by the Maryland Cannabis Administration, and thus the references herein to the Commission have been replaced with reference to the Administration.

C. A surveillance camera shall be located and operated to capture activity at each exit from the premises.

D. A surveillance camera shall capture activity at each:

(1) Entrance to an area where medical cannabis is packaged, stored, or dispensed; and

(2) Area where medical cannabis is packaged, stored, or dispensed.

E. Recordings of security video surveillance shall be:

(1) Access-limited;

(2) Secured by a security alarm system that is independent of the main premises security alarm system;

(3) In a format that can be easily accessed for investigational purposes; and

(4) Retained for a minimum of 90 calendar days.

F. Any recording of security video surveillance shall be made available to the [Administration] or law enforcement agency for just cause as requested -within 48 hours.

G. Violation.

(1) Failure to provide the [Administration] with any recording of video surveillance within 48 hours of a request from the [Administration] is a violation of COMAR 10.62.34.01.

(2) Each day of recording that a licensee fails to provide to the [Administration], within the minimum of 90 calendar days that shall be retained, constitutes a separate violation.

10.62.33

.06 Action Upon Findings in Inspection.

A. In the event that an inspector has reasonable suspicion of an operational failure or of conditions that create a likelihood of diversion, contamination, or a risk to the public health:

(1) An inspector may:

(a) Suspend the distribution of some or all medical cannabis from the licensed or registered premises;

(b) Order immediate evacuation of the premises and seal the entry door; or

(c) Quarantine some or all medical cannabis;

10.62.34

.01 Operational Failure Risking Diversion or Endangering Health

A. A licensee, registrant, agent, or employee may not divert or contaminate medical cannabis, or otherwise risk the health of a patient or any other individual.

B. A licensee, registrant, agent, or employee who violates §A of this regulation is subject to a fine of up to **\$10,000 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 [Administration] may deny, suspend, or revoke the license or registration of a licensee, registrant, agent, or employee who violates §A of this regulation.

(Emphasis added.)

.06 Summary Suspension

A. The [Administration] shall order the summary suspension of a license or registration if the [Administration] determines that the threat to public health, safety, or welfare requires the immediate suspension of the license or registration.

INVESTIGATIVE FINDINGS²

Based on information received by, and made known to the Administration and the investigatory information obtained by, received by, and made known to and available to the Administration, including the instances described below, the Administration has reason to believe that the following information is true:

1. Respondent obtained its license to operate a medical cannabis facility in Baltimore, Maryland, on or about May 15, 2023.
2. Respondent does not presently hold a Maryland license authorizing adult use cannabis sales, nor does any other current Maryland cannabis licensee.
3. Prior to Respondent's opening, one of the Administration's investigators conducted an unannounced inspection of Respondent's location on or about May 26, 2023, noted numerous COMAR violations, and requested numerous items from Respondent be provided in advance of Respondent's opening.
4. Respondent failed to provide the requested items.

²The statements about Respondent's conduct set forth in this document are intended to provide Respondent with reasonable notice of the basis for this suspension. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against Respondent in connection with this action.

5. Nonetheless, Respondent was operational on May 27, 2023.
6. On the same date, the Administration viewed publicly available video and information on social media and posted to Respondent's Instagram account stories which purported to take place at Respondent's opening.
7. The video appeared to show large plumes of medical cannabis smoke being blown from a large gun apparatus into the mouths of persons outside the dispensary. The gun contained a sticker with a Cookies logo on it. The video also captured images of this individual inside Respondent's dispensary.
8. Further, Respondent currently has advertisements circulating on social media, to include LinkedIn and Instagram, that are in violation of the Act's provisions, specifically Alc. Bev. & Cann. § 36-903, in at least the following ways:
 - a. It contains the likeness of two celebrities;
 - b. It contains cartoons depicting two human likenesses and several local mascots;
 - c. It targets or is attractive to minors, including a cartoon character, a mascot, or any other depiction that is commonly used to market products to minors;
 - d. It uses at least three publicly known non-cannabis trademarks; and
 - e. It displays the use of cannabis by three individuals in the ad.
9. In addition, "[a]n advertisement placed on social media or a mobile application shall include a notification that an individual must be at least 21 years old to view the content", but the advertisement at issue did not contain such a notification. Alc. Bev. & Cann. § 36-903(b)(2). Respondent's ad contained no such statement.
10. The Administration's investigators conducted an inspection of Respondent's location on May 30, 2023, and requested numerous items from Respondent, including Respondent's

surveillance footage from outside its dispensary on May 27, 2023, as well as inside its patient area.

11. Respondent failed to provide the requested footage.
12. Further, Respondent informed the Administration's investigator that it did not maintain any of its video surveillance footage.
13. Administration investigators returned to Respondent's dispensary on May 31, 2023, to try again to obtain the requested footage and noted more violations, to include Respondent's removal of the secure door between Respondent's service area and its operations area. This constitutes a security and safety violation.
14. This failure to maintain video surveillance footage constitutes an operational failure risking diversion and endangering the public's health because if Respondent's statements are true, it is impossible to accurately identify who was coming and going in the dispensary and if any product was diverted.
15. Respondent's failure to keep a secure door between its service and operational areas also creates a risk of operational failure risking diversion because the purpose of the door is to help monitor and limit the number of cannabis agents with access to all parts of Respondent's operation.
16. In addition, Respondent's advertisement content is attractive to minors and creates confusion between the medical and adult use markets, the latter having not launched yet in Maryland.
17. On May 31, 2023, Administration investigators inspected Respondent's dispensary and informed its agents it would need to close until in compliance with the Act and again requested a list of documents from Respondent.

18. Based on the foregoing, the Administration has reason to believe that Respondent is in violation of the Act and COMAR provisions set forth herein.

CONCLUSIONS OF LAW

Based on the foregoing investigative findings, the Administration concludes as a matter of law that the public health, safety, and welfare imperatively require emergency action in this case, pursuant to Md. Code Ann., Alc. Bev. & Cann. §§ 36-202, 36-903, and COMAR 10.62.27.07, and 10.62.34.

ORDER

Based on the foregoing Investigative Findings and Conclusions of Law, it is this 2nd day of June 2023, hereby

ORDERED that pursuant to the authority vested in the Administration by Md. Code Ann., Alc. Bev. & Cann. § 36-202, Respondent's license to operate a medical cannabis dispensary in the State of Maryland under license number **D-17-00016** is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that Respondent is prohibited from operating a medical cannabis dispensary in the State of Maryland; and it is further

ORDERED that Respondent shall immediately return all copies of its license to the Administration; and it is further

ORDERED that Respondent has the opportunity to appear before the Administration for a post-deprivation show cause hearing pursuant to State Gov't § 10-226(c)(2). A request for a post-deprivation show cause hearing must be in writing and be made **WITHIN THIRTY (30) DAYS**; and it is further

ORDERED that if Respondent fails to request a post-deprivation show cause hearing in writing in a timely manner, or if Respondent requests a post-deprivation show cause hearing but fails to appear when scheduled, Respondent's license will remain **SUSPENDED**; and it is further

ORDERED that this **ORDER FOR SUMMARY SUSPENSION** is a **Public Document** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2021).

June 2, 2023

Date



William Tilburg, Acting Director
Medical Cannabis Administration