

**STATE OF OREGON
OREGON HEALTH AUTHORITY**

IN THE MATTER OF

7 Leaf LLC, MMD No. 71616
Mike Warren, PRD

)
) DEFAULT FINAL ORDER REVOKING
) REGISTRATION
)
)

HISTORY OF THE CASE

The Oregon Health Authority (OHA), Oregon Medical Marijuana Program (OMMP) issued a Notice of Proposed Revocation dated February 8, 2017 (Notice) to 7 Leaf LLC, MMD No. 71616 (Registrant) notifying Registrant of OHA's intent to revoke its dispensary registration based on Registrant's numerous violations of applicable statutes and rules.

The Notice offered the Registrant the opportunity to request a hearing to dispute the proposed revocation. The Notice stated that if Applicant did not request a hearing or withdrew the request for hearing, OHA may issue a final order by default revoking Registrant's dispensary registration. To request a hearing, the Notice required the Registrant to request a hearing within 21 days. The Notice designated OHA's files, including any materials Registrant might submit, as the record for purposes of an order by default if the Registrant waived the right to a hearing.

On February 28, 2017, Registrant requested a hearing to contest the revocation. However, on April 25, 2017, Registrant withdrew the request for a hearing.

After considering the relevant portions of OHA's file in this matter, OHA enters the following:

FINDINGS OF FACT

1. Registrant has been a registered dispensary since June 20, 2014.
2. Between October 1, 2015 and December 31, 2016, registered medical marijuana dispensaries were permitted to sell limited marijuana retail products to a person 21 years of age or older, without an OMMP card (herein after "non-cardholders").¹
3. On and after January 1, 2017, registered medical marijuana dispensaries were only permitted to sell or transfer medical marijuana to registry identification cardholders and designated primary caregivers (collectively, "cardholders").²
4. On December 7, 2016, OHA sent a bulletin to all dispensaries that December 31, 2016 would be the last day registered dispensaries could sell marijuana to non-cardholders.

¹ Oregon Laws 2015, ch. 784, Sections 2, 3; OAR 333-008-1500(2); and OAR 333-008-1245(1).

² ORS 475B.450; OAR 333-008-1245.

5. On December 20, 2016, OHA sent out a press release reminding registered medical marijuana dispensaries that sales of marijuana to non-cardholders would no longer be permitted after December 31, 2016.

6. On January 19, 2017, an OMMP investigator conducted a compliance check at Registrant's premises. The compliance check revealed that Registrant sold marijuana items to non-cardholders between January 1 and January 19, 2017.

7. On January 20, 2017, the OMMP investigator returned to Registrant's premises and observed Registrant's continued sale of marijuana items to non-cardholders.

8. The OMMP investigator also observed the following at Registrant's premises:

- a. Registrant's tracking and point of sale system could not capture all the information required to be documented in OAR 333-008-1230 and 333-008-1245.
- b. Registrant's tracking and point of sale system could not generate inventory, transaction and transfer reports.
- c. Registrant was unable to produce required documentation regarding the transfer of marijuana items to the dispensary.
- d. Registrant failed to verify individuals' cardholder status before permitting individuals in to the points of sale area.
- e. Registrant transferred marijuana items to individuals without verifying their cardholder status.
- f. Registrant failed to document, prior to transfer, the recipient's name and OMMP card number.
- g. Registrant did not have an installed and fully operational electronic data management system.
- h. Registrant only had 20 days of video surveillance recording available.
- i. Registrant could not make all required video surveillance recordings immediately available to OHA upon OHA's request.

9. Registrant compiled from hand written receipts a document summarizing the transfers out of the dispensary that occurred during January 2017 and provided a copy to OMMP on January 29, 2017. Those records document numerous transfers to non-cardholders occurred between January 1, 2017 and January 26, 2017.

CONCLUSIONS OF LAW

Based upon OHA's findings of fact and application of existing legal standards, the OHA makes the following conclusions of law:

1. *Registrant transferred marijuana items to non-cardholders after December 31, 2016, in violation of Oregon Laws 2015, chapter 784, Section 2 and 3, ORS 475B.450, OAR 333-008-1500(2), OAR 333-008-1245, and OAR 333-008-2180(1)(c).*

Oregon law only allows a registered marijuana dispensary to transfer medical marijuana items to registered cardholders, not to non-cardholder adults over the age of 21 as allowed for OLCC-licensed retailers.³ The Oregon Legislature passed a *time-limited* authorization that allowed registered dispensaries to sell certain marijuana items to non-cardholders between October 1, 2015 through December 31, 2016 if the individual was 21 years of age or older.⁴

As of January 1, 2017, medical marijuana dispensaries were no longer authorized to sell marijuana items to non-cardholders and it is a violation for a registrant to transfer a marijuana item to a non-cardholder.⁵ OHA may inspect the premises of a registered dispensary to ensure compliance with this restriction.⁶

Between January 1 and January 26, 2017, Registrant transferred marijuana items to numerous non-cardholders. Registrant therefore violated Oregon Laws 2015, chapter 784, Section 2 and 3, ORS 475B.450, OAR 333-008-1500(2), OAR 333-008-1245, and OAR 333-008-2180(1)(c).

2. *Registrant's tracking and point of sale system could not capture all the information required to be documented in OAR 333-008-1230 and 333-008-1245, in violation of OAR 333-008-1200(4)(c).*

The dispensary must install and maintain an inventory tracking and point of sale system that captures all of the required transfer information for marijuana items received by the dispensary, including the number of seeds and immature plants, the name of the marijuana item, the date received, all harvest, process, or batch information, the amount paid, etc.⁷ The system must also capture the same transfer information for any item transferred to a cardholder.⁸ The dispensary must comply with these requirements for continued registration with OHA.

The Registrant failed to install and maintain a tracking and point of sale system capable of capturing the following information: weight in metric units of all usable marijuana received and transferred, the number of seeds and immature plants received and transferred, the amount of medical cannabinoid products, concentrates, or extract received and transferred, the name of the marijuana items received and transferred, the date marijuana items are received and transferred, and the amount paid for marijuana items received and transferred. Registrant therefore failed to install and maintain a system capable of capturing all the information required to be documented in OAR 333-008-1230 and 333-008-1245, and violated OAR 333-008-1200(4)(c). Registrant failed to comply with requirements necessary for continued registration.

3. *Registrant's tracking and point of sale system could not generate inventory, transaction and transfer reports, in violation of OAR 333-008-1200(4)(d).*

³ ORS 475B.450(1)(a)(C).

⁴ Oregon Laws 2015, Chapter 784; OAR 333-008-1500(2).

⁵ Oregon Laws 2015, Chapter 784, Section 3; OAR 333-008-2180(1)(c).

⁶ ORS 475B.450(8).

⁷ OAR 333-008-1200(4)(c) (citing OAR 333-008-1230).

⁸ OAR 333-008-1200(4)(c) (citing OAR 333-008-1245).

For continued registration, the dispensary must install and use a fully operational integrated inventory tracking system and point of sale system that can generate inventory, transaction, and transfer reports.⁹

Registrant violated OAR 333-008-1200(4)(d) because its tracking and point of sale system could not generate inventory, transaction and transfer reports. Registrant failed to comply with requirements necessary for continued registration.

4. *Registrant failed to maintain documentation about the transfer of marijuana items to the dispensary, in violation of OAR 333-008-1230(4)(a)(A), (C), (D), (E), and (G).*

At the time a marijuana items is transferred to a dispensary, the dispensary must document the weight in metric units of all usable marijuana received, the number of seeds and immature plants received, the amount of medical cannabinoid products, concentrates, or extract received, the name of the item, the date received, and the amount paid.

Registrant failed to maintain documentation for marijuana items transferred to the dispensary that recorded the weight in metric units of all usable marijuana received, the number of seeds and immature plants received, the amount of medical cannabinoid products, concentrates, or extract received, the name of the item, the date received, and the amount paid. Registrant therefore violated OAR 333-008-12340(a) by failing to maintain the required documentation for marijuana items received by the dispensary.

5. *Registrant failed to verify individuals' OMMP cardholder status before allowing them to enter the point of sale area in violation of OAR 333-008-1245(1).*

Dispensaries must verify that an individual is a cardholder before allowing the individual to enter the point of sale area.¹⁰

Registrant failed to verify individuals' OMMP cardholder status before allowing them to enter the point of sale area in violation of OAR 333-008-1245(1).

6. *Registrant transferred marijuana items to individuals without verification of their OMMP cardholder status, in violation of OAR 333-008-1245(2)(a).*

Prior to transferring a marijuana item, the dispensary must verify the individual is a cardholder by comparing the individual's government issued photo identification and OHA-issued card to determine whether the identities match.¹¹

Registrant transferred marijuana items to individuals without verifying their OMMP status in violation of OAR 333-008-1245(2)(a).

7. *Registrant failed to document the recipient's name and OMMP card number prior to the transfer of a marijuana item, in violation of OAR 333-008-1245(2)(c)(A).*

After verifying a cardholder's identify, the dispensary must also document the individual's name,

⁹ OAR 333-008-1200(4)(d)

¹⁰ OAR 333-008-1245(1).

¹¹ OAR 333-008-1245(2)(a).

cardholder identification number, and expiration date prior to transferring a marijuana item.¹²

Registrant failed to document the recipient's name and OMMMP card number prior to the transfer of a marijuana item in violation of OAR 333-008-1245(2)(c)(A).

8. *Registrant failed to install and maintain a fully operational electronic data management system, in violation of OAR 333-008-1247(1)(a).*

For continued registration, the dispensary must install and maintain a fully operational electronic data management system that is capable of maintaining copies of all documents required to be obtained and retained in OAR 333-008-1230 and 333-008-1245.

Registrant failed to install and maintain an electronic data management system capable of storing the required documentation. This violates OAR 333-008-1247(1)(a) and registrant failed to comply with requirements necessary for continued registration.

9. *Registrant maintained only 20 days of video surveillance recording, in violation of OAR 333-008-2110(2)(a).*

Dispensaries must install and maintain a minimum security system that includes video surveillance, an alarm system, and safe.¹³ A registrant must keep all surveillance recordings for a minimum of 45 days in a format that can be easily accessed for viewing and must provide such recordings immediately to OHA upon request.¹⁴

Registrant maintained only 20 days of surveillance recordings, not the required minimum of 45 days, in violation of OAR 333-008-2110(2)(a).

10. *Registrant was unable to make video surveillance recordings immediately available to OHA, in violation of OAR 333-008-2110(2)(c).*

A dispensary must provide video surveillance records and recordings immediately upon request to OHA.¹⁵

Registrant was unable to make available video surveillance recordings to OHA upon its request in violation of OAR 333-008-2110(2)(c).

11. *OHA may revoke Registrant's registration and prohibit Registrant's owners and those with financial interests from applying for a dispensary registration within two years of this final order.*

OHA may revoke the registration of a medical marijuana dispensary if OHA determines that the owner, employee, or person responsible for the dispensary (PRD) violated a provision of ORS 475B.400 to 475B.525 or any rule adopted there under.¹⁶

¹² *Id.* Dispensaries must also keep a copy of the patient or caregiver medical marijuana card or receipt on file.

¹³ ORS 475B.450(10)(c).

¹⁴ OAR 333-008-2110(2)(a), (c).

¹⁵ OAR 333-008-2110(2)(c).

¹⁶ ORS 475B.450(9).

A dispensary registrant includes the individual who owns the registered dispensary, or, if a business entity owns the registered dispensary, each individual who has a financial interest in the registered dispensary, as defined in OAR 333-008-0010(30) (financially-interested registrant).¹⁷

As explained above, Registrant violated numerous statutes and rules. Pursuant to ORS 475B.450(9) and OAR 333-008-2190(2)(a), OHA may revoke Registrant's dispensary registration. OHA has determined to take formal enforcement action of revoking Registrant's registration¹⁸ based on the nature of the violations, including the lack of mitigating circumstances, the ongoing nature of the sales to non-cardholders, and that Claimant violated one of the central limitations imposed by Oregon's marijuana regulatory structure.¹⁹

Thus, OHA revokes Registrant's medical marijuana facility registration and Registrant and registrant's owners and individuals with a financial interest in the dispensary are prohibited from applying for a dispensary registration within two years from the date this final order is issued.

ORDER

Registrant 7 Leaf LLC's dispensary registration for MMD 71616 is REVOKED. 7 Leaf LLC, Mike Warren and any other owner or individual with a financial interest in the dispensary are PROHIBITED FROM APPLYING for a dispensary registration within two years from the date of this Order.

Dated this 26th day of May, 2017

By: 
Andre' Ourso MPH, JD
OMMP Section Manager
Oregon Health Authority

Appeal Rights: You are entitled to judicial review of this order in accordance with ORS 183.482. You may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon within 60 days from the date this order is served. If this order was personally delivered to you, the date of service is the day you received the order. If this order was mailed to you, the date of service is the day it was *mailed*, not the day you received it. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

¹⁷ OAR 333-008-1010(2).

¹⁸ OAR 333-008-2190(3).

¹⁹ ORS 475B.005(1)(e) and ORS Chapter 475B, generally.

CERTIFICATE OF MAILING

On the 30th day of May, 2017, I served the foregoing DEFAULT FINAL ORDER REVOKING REGISTRATION TO THE FOLLOWING PARTIES:

BY FIRST CLASS & CERTIFIED MAIL:

7 Leaf, LLC
c/o Mike Warren, PRD
1026 Commercial St. NE
Salem, OR 97301

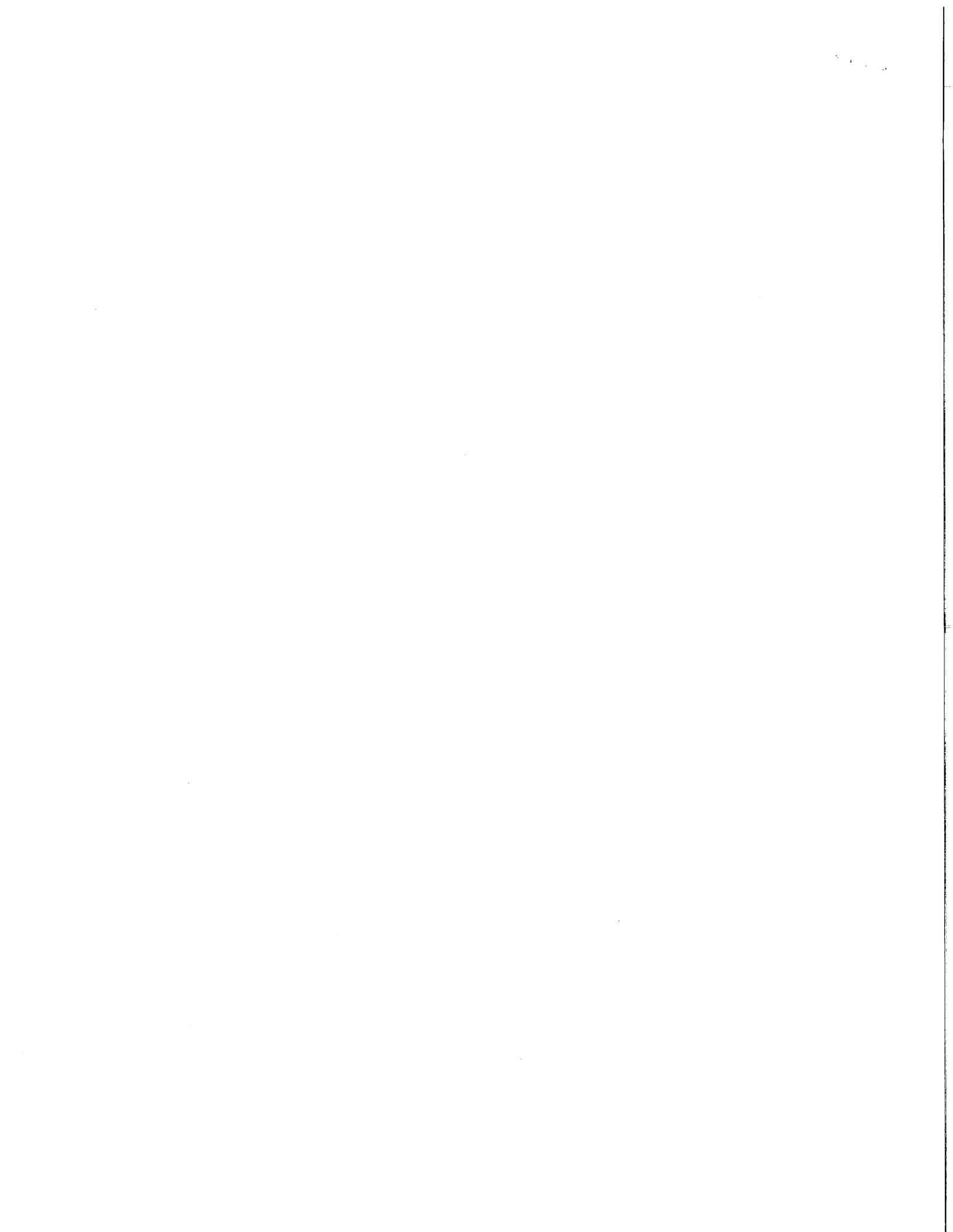
Mike Warren, Registered Agent
1190 Oxford St SE
Salem, OR 97301

BY ELECTRONIC MAIL:

Erin Williams, Assistant Attorney General



OMMP Staff





Public Health Division
 Oregon Medical Marijuana Program
 Kate Brown, Governor

Oregon
Health
 Authority

PO Box 14116
 Portland, OR 97293
 Voice: (855) 244-9580
 Fax: (971) 673-0076
 Email: medmj.dispensaries@state.or.us
 Website: mmj.oregon.gov

<p>In the matter of Registration of: MMD 71616 7 Leaf llc</p>	<p>Order of Emergency Registration Suspension and Notice of Opportunity for a Hearing</p>
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To: Primary PRD
 Mike Warren
 6906 N. Greenwich Ave. Apt. #2
 Portland, OR 97217

REGISTERED AGENT
 Mike Warren
 1190 Oxford St. SE
 Salem, OR 97301

By order of the Oregon Health Authority (OHA), Oregon Medical Marijuana Program (OMMP), your registration as a medical marijuana dispensary is suspended today, January 27, 2017. Effective immediately, you must stop operating as a dispensary under further order of OHA.

This order is made pursuant to ORS 183.430(2), which authorizes OHA to enter a suspension order when it finds that the continued operation of a dispensary presents a serious danger to the public health or safety. This order is also made pursuant to ORS 431A.010(1)(c) which authorizes OHA to issue administrative orders to enforce compliance with public health laws.

During an inspection on January 20, 2017, OHA observed the following violations:

- Sale or transfer of marijuana and marijuana products to persons not registered with OMMP as a patient, caregiver or grower in violation of Sections 2 and 3, chapter 784, Oregon Laws 2015, ORS 475B.450, OAR 333-008-1500(2), OAR 333-008-1245, and OAR 333-008-2180(1)(c).

The violation noted above presents a serious danger to public health and safety because illegal distribution of usable marijuana and marijuana products may be further diverted for criminal purposes and may be accessible to minors.

NOTICE OF RIGHTS

You are entitled to a hearing as provided by the Administrative Procedures Act (chapter 183, Oregon Revised Statutes). If you want a hearing, you must file a written request for a hearing with the program within 60 days from the date this notice was mailed. You have the right to demand that the hearing be held as soon as practicable after OHA receives your written

request. In order for a hearing request that is mailed to be timely, it must be postmarked within 60 days from the date this notice was mailed. You may mail your request for hearing to the address below. **Be sure to include your MMD# in your request.**

Oregon Health Authority
Oregon Medical Marijuana Program
P.O. Box 14116, Portland, OR 97293

You may fax your request for hearing to (971) 673-0076 or e-mail your request for hearing to medmj.dispensaries@state.or.us.

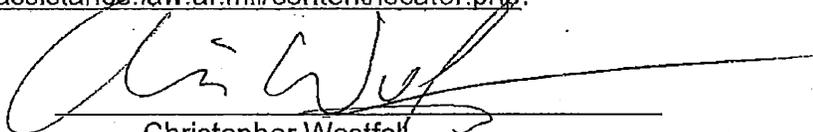
If you fax your request for hearing, it must be received by OHA by 5:00 p.m. PST, within 60 days from the date this notice was mailed. If you e-mail your request for hearing, it must be sent to OHA by 5:00 p.m. PST, within 60 days from the date this notice was mailed.

If you request a hearing, you will be notified of the time and place of the hearing. You may be represented by legal counsel at the hearing. Legal aid organizations may be able to assist those with limited financial resources. Per ORS 413.041, a party that is not a natural person may be represented by an attorney or by any officer or authorized agent or employee of the party. Parties are ordinarily represented by counsel. The Oregon Health Authority will be represented by an Assistant Attorney General. You will be provided information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, assigned as required by ORS 183.635.

If a request for hearing is not received within this 60-day period, your right to a hearing under ORS chapter 183 shall be considered waived. If you do not request a hearing within 60 days, or if you withdraw a request for hearing, or if you notify the Program or the administrative law judge that you will not appear, or if you fail to appear at a scheduled hearing, the program may issue a final order by default. If the Oregon Medical Marijuana Program issues a final order by default, the program designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purposes of proving a prima facie case upon default.

Notice to Active Duty Service members. Active duty service members have a right to stay proceedings under the federal Service members Civil Relief Act and may contact the Oregon State Bar at 1 (800) 452-8260 or the Oregon Military Department at 1 (800) 452-7500 for more information. The internet address for the United States Armed Forces Legal Assistance Locator website is <http://legalassistance-law.af.mil/content/locator.php>.

Dated: January 27, 2017



Christopher Westfall
Compliance Unit Manager
Oregon Medical Marijuana Program
Oregon Health Authority



Public Health Division
Oregon Medical Marijuana Program
Kate Brown, Governor

Oregon
Health
Authority

PO Box 14116
Portland, OR 97293
Voice: (855) 244-9580
Fax: (971) 673-0076
Email: medmj.dispensaries@state.or.us
Website: mmj.oregon.gov

Notice of Violation and Suspension

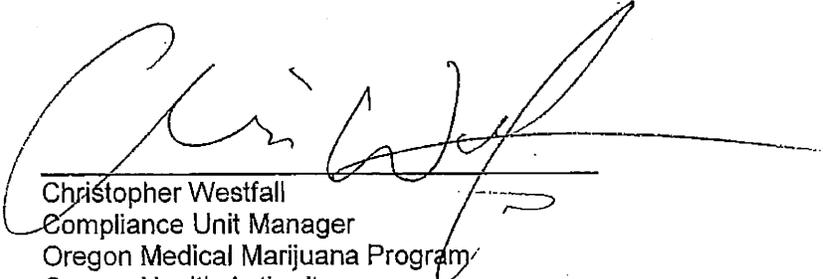
Facility: 7 Leaf Ilc 1026 Commercial St. NE Salem, OR 97301	MMD No : 71616 Inspection date: January 20, 2017
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To: Mike Warren
6906 N. Greenwich Ave. Apt. #2
Portland, OR 97217

Please find the enclosed Order of Emergency Registration Suspension and Notice of Opportunity for a Hearing.

You may not operate or intake any marijuana/marijuana products until approved by the Authority. The Authority will be performing a re-inspection of your facility on Monday, January 30, 2017. Failure to comply with the rules may result in revocation of the dispensary registration.

Dated: January 27, 2017



Christopher Westfall
Compliance Unit Manager
Oregon Medical Marijuana Program
Oregon Health Authority

