

STATE OF FLORIDA
DEPARTMENT OF HEALTH

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OFFICE OF THE CLERK

McCRORY'S SUNNY HILL NURSERY, LLC,

Petitioner,

CASE NO. _____

vs.

FLORIDA DEPARTMENT OF HEALTH,

Respondent.

PETITION FOR FORMAL ADMINISTRATIVE PROCEEDINGS

Pursuant to Sections 120.569 and 381.986, Florida Statutes, and Chapter 28-106, Florida Administrative Code (and other applicable statutes, if any), the Petitioner, **McCrory's Sunny Hill Nursery, LLC** ("McCrory's") hereby requests formal administrative proceedings to challenge Respondent, Florida Department of Health's, Office of Compassionate Use ("DOH"), intended decisions to (i) grant the application submitted by Knox Nursery, LLC ("Knox") to become a Low-THC Cannabis Dispensing Organization for the Central Region, and to approve Knox Nursery, Inc.,¹ as the dispensing organization for the Central Region; and (ii) deny the application submitted by McCrory's to become a Low-THC Cannabis Dispensing Organization for the Central Region. In support of its petition, McCrory's states as follows:

1. **Rule 28-106.201(2)(a), Florida Administrative Code. The name and address of each agency affected and each agency's file or identification number, if known.** The state

¹ The November 23, 2015 letter by which DOH announced its intention to approve the application submitted by Knox is addressed to "Knox Nursery, Inc." ("Knox Inc."). However, for the reasons set forth in Paragraph 3(f) of this Petition, Knox Nursery, Inc. did not submit an application to become a Low-THC Cannabis Dispensing Organization for the Central Region, and therefore cannot be approved to become a Low-THC Cannabis Dispensing Organization for the Central Region.

agency affected by this proceeding is DOH, 2585 Merchants Row Boulevard, Bin # A, Tallahassee, FL 32399-3265.

2. **Rule 28-106.201(2)(b), Florida Administrative Code. The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination.**

Petitioner is McCrory's, a Florida limited liability company. McCrory's' Florida Department of Agriculture and Consumer Services certificate address is 35152 LaPlace Court, Eustis, Florida 32736, and its mailing address is 309 South Acuff Road, Lake Wales, Florida 33859. For the purposes of this proceeding, its email address, mailing address, and telephone number are those of its undersigned attorneys, David C. Ashburn, Esq. (ashburnd@gtlaw.com), and Lorence Jon Bielby, Esq. (bielbyl@gtlaw.com), Greenberg Traurig, P.A., 101 E. College Avenue, Tallahassee, Florida 32301, telephone (850) 222-6891.

3. **Rule 28-106.201(2)(c), Florida Administrative Code. an explanation of how the petitioner's substantial interests will be affected by the agency determination.** An explanation of how McCrory's substantial interests will be affected by the DOH determinations that are the subject of this Petition, and pertinent background information is provided as follows:

a. Pursuant to the Compassionate Medical Cannabis Act of 2014 (the "Medical Cannabis Act"), codified at Section 381.986, Florida Statutes, DOH was required, by January 1, 2015, to:

Authorize the establishment of five dispensing organizations to ensure reasonable statewide accessibility and availability as necessary for patients

registered in the compassionate use registry and who are ordered low-THC cannabis under this section, one in each of the following regions: northwest Florida, northeast Florida, central Florida, southeast Florida, and southwest Florida. The department shall develop an application form and impose an initial application and biennial renewal fee that is sufficient to cover the costs of administering this section.

Sec. 381.986(5)(b), Fla. Stat.

b. In furtherance of its statutory mandate under the Medical Cannabis Act, DOH adopted rules now set forth in Chapter 64-4, Florida Administrative Code (the “Medical Cannabis Rule”), pursuant to which DOH, among other things, adopted and incorporated by reference:

- i. an application form for submission by entities seeking to become a “dispensing organization” (“DO”) as that phrase is defined in Section 381.986(1)(a), Florida Statutes (the “Application”), and
- ii. a “Scorecard for Low-THC Cannabis Dispensing Organization Selection” to be used by persons charged with the responsibility for reviewing submitted Applications.

c. The Medical Cannabis Rule provides that the following persons were to review Applications submitted by entities seeking to become a DO (collectively, the “Reviewers”):

- i. Director of the Office of Compassionate Use;
- ii. A member of the Drug Policy Advisory Council appointed by the State Surgeon General; and,
- iii. A Certified Public Accountant appointed by the State Surgeon General.

d. Applications seeking approval by DOH to become the DO in the Central Florida Region (as defined in Rule 64-4.001(9)(c), Florida Administrative Code, and hereinafter the “Central Region”) were submitted by the following (collectively the “Applicants”):

- i. McCrory’s
- ii. Knox

- iii. Deleon's Bromeliads, Inc.
- iv. Dewar Nurseries, Inc.
- v. Razbuton, Inc.
- vi. Redland Nursery, Inc.
- vii. Spring Oaks Greenhouses, Inc.
- viii. Treadwell Nursery

e. McCrory's Application was timely submitted. McCrory's has an existing state of the art, highly secure and dedicated facility that is more than 180,000 square feet, and is available to implement DO activities, and McCrory's is prepared to timely commence such operations upon receipt of approval from DOH.

f. Knox's Application should have been rejected by DOH because, upon information and belief, Knox is not an entity authorized to transact business in the State of Florida. Knox Inc. is an entity identified in the records of the Florida Secretary of State as an active corporation. However, a search of the Florida Secretary of State records reveals that there is no entity known as "Knox Nursery, LLC" that is authorized to transact business in the State of Florida.

g. Knox Inc. did not submit an Application, timely or otherwise, to DOH and therefore cannot be approved as the DO for the Central Region.

h. Pursuant to Section 381.986 (5)(b), Florida Statutes, the Applicants were required to demonstrate:

- i. The technical and technological ability to cultivate and produce low-THC cannabis. The applicant must possess a valid certificate of registration issued by the Department of Agriculture and Consumer Services pursuant to s. 581.131 that is issued for the cultivation of more than 400,000 plants, be operated by a nurseryman as defined in s. 581.011, and have been operated as a registered nursery in this state for at least 30 continuous years.
- ii. The ability to secure the premises, resources, and personnel necessary to operate as a dispensing organization.

- iii. The ability to maintain accountability of all raw materials, finished products, and any byproducts to prevent diversion or unlawful access to or possession of these substances.
- iv. An infrastructure reasonably located to dispense low-THC cannabis to registered patients statewide or regionally as determined by the department.
- v. The financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financials to the department. Upon approval, the applicant must post a \$5 million performance bond.
- vi. That all owners and managers have been fingerprinted and have successfully passed a level 2 background screening pursuant to s. 435.04.
- vii. The employment of a medical director who is a physician licensed under chapter 458 or chapter 459 to supervise the activities of the dispensing organization.

Section 381.986 (5)(b), Florida Statutes.

i. DOH reviewed the Applications submitted by the Applicants and requested that McCrory's and other applicants provide additional information that DOH contended was not included in the Applications originally submitted. Copies of the letters from DOH to the Applicants requesting additional information are attached as Composite Exhibit A (the "DOH Request Letters").

j. McCrory's timely submitted the information requested in the DOH Request Letter it received from DOH.

k. Knox failed to provide all information required to be included in its Application. For example, and without limitation, Knox's Application was deficient in the following respects:

- i. Rule 64-4.002, Florida Administrative Code, provides that a completed application must include, "An explanation or written documentation, as applicable, showing how the Applicant meets the statutory criteria listed in Section 381.986(5)(b), F.S." Knox failed to provide an explanation or documentation showing how Knox meets the statutory criteria in the cited statute. In the section of Knox's application titled, "Part II.A. Certification and

Background Checks” Knox states, “Knox Nursery, LLC meets all requirements for an Applicant to receive approval to operate a Low-THC Dispensing Organization in the State of Florida” but that statement does provide “[a]n explanation or written documentation . . . showing how [Knox] meets the statutory criteria listed in Section 381.986(5)(b), F.S.”

- ii. Rule 64-4.002(b), Florida Administrative Code, provides that the Applicant must provide, “Written documentation demonstrating that the applicant possesses a valid certificate of registration issued by the Department of Agriculture and Consumer Services pursuant to Section 581.131 that is issued for the cultivation of more than 400,000 plants, is operated by a nurseryman as defined in Section 581.011, and has operated as a registered nursery in this state for at least 30 continuous years.” Knox provided no such documentation in its Application, nor, upon information and belief, did Knox provide such documentation in response to a DOH Request Letter.
- iii. Knox identified as its Director of Security an individual who had not completed a level 2 background review prior to Knox’s submission of its Application, as required.
- iv. Knox identified as its Medical Director a person who had not completed required medical education prior to Knox’s submission of its Application, as required.
- v. The Knox Application failed to include evidence of proper zoning approval for Knox to engage in all activities in which Knox would be required to engage in order to serve as the DO for the Central Region, as required.

l. Due to those deficiencies and other deficiencies in the Knox Application, DOH was required to deny Knox’s Application. Upon information and belief, DOH denied the Applications of other Applicants based upon deficiencies in those Applications, as well as the applications of applicants in other regions of Florida based upon Application deficiencies.

m. The Reviewers reviewed the Applications submitted by the Applicants and assigned scores to components of each Application pursuant to the Scorecard. DOH has posted on its website the Scorecards completed by each reviewer for each Applicant.

n. The scores assigned to each of the Applications submitted by the Applicants were to be weighted and tallied to determine a total score for each Applicant.

o. DOH has not revealed all relevant components of the required scoring methodology. For example, and without limitation, DOH has not revealed the methodology employed by DOH to assign weights to scores for Application components, or to calculate the total scores for each Application reviewed by the Reviewers.

p. A review of the Scorecards completed by the Reviewers for the Central Region Applications reveals clearly erroneously assigned scores, and scores that were assigned in an arbitrary and capricious manner. For example, and without limitation:

- i. DOH assigned scores that could only be assigned if required documentation had been submitted even when that documentation was not submitted by Knox and other Applicants.
- ii. One Reviewer assigned a score of 6 to McCrory's for a component of the Scorecard for which McCrory's was identified by that Reviewer as the Applicant that was superior to all other Applicants. In that case, McCrory's should have been assigned a score of 7.

q. Correction of the clearly erroneous scoring errors would result in McCrory's being the highest scoring Applicant, and DOH would therefore be required to select McCrory's as the DO for the Central Region.

r. Despite the superiority of McCrory's Application relative to all other Applications submitted by all other Applicants, DOH: (i) has notified McCrory's that DOH intends to deny McCrory's Application; and (ii) grant the Application submitted by Knox and approve Knox Inc. as the DO for the Central Region. See, copies of November 23, 2015, letters from DOH to McCrory's (the "DOH/McCrory's Denial Letter") and Knox (the "DOH/Knox Approval Letter"), attached as Composite Exhibit B.

s. Pursuant to Rule 64-4.002(5)(e), Florida Administrative Code, Knox, was required to post a \$5 million performance bond with DOH by 5:00 p.m. on December 9, 2015. See, also, the DOH/Knox Approval Letter.

t. Knox failed to timely post the required performance bond. Therefore, DOH is required to revoke its intended approval of Knox's Application and is required to select McCrory's as the DO for the Central Region. See, R. 64-4.002(5)(e)4 and 64-4.002(5)(f), F.A.C.

u. Upon information and belief, Knox Inc. attempted to file a \$5 million bond with DOH by 5:00 p.m. on December 9, 2015, but failed to do so. Regardless, any bond with a principal other than Knox would not satisfy the performance bond requirement. See, R. 64-4.002(5)(e)3, F.A.C., which states that the performance bond must "Be written so that the nursery name on the bond corresponds exactly with the Applicant name."

v. McCrory's substantial interests will be affected by this proceeding because McCrory's is an Applicant seeking approval as the sole DO for the Central Region, and this proceeding will determine whether McCrory's or a competing Applicant will receive that approval. If Knox's Application is denied, DOH must approve McCrory's Application.

4. **Rule 28-106.201(2)(c), Florida Administrative Code. A statement of when and how the petitioner received notice of the agency decision.** McCrory's received notice of the DOH decisions that are the subject of its challenge upon its receipt on November 23, 2015, of the DOH/McCrory's Denial Letter, and its review of the DOH/Knox Approval Letter which was posted on a DOH website.

5. **Rule 28-106.201(2)(d), Florida Administrative Code. A statement of all disputed issues of material fact.** Disputed issues of material fact included, without limitation, and subject to receipt of documents responsive to public records requests and discovery:

a. Whether the facts set forth in Paragraph 3 of this Petition demonstrate that DOH's intended decisions to approve Knox's Application and to approve Knox as the dispensing organization for the Central Region should be overturned.

b. Whether DOH's intended decision to deny McCrory's Application should be reversed, and McCrory's Application should be approved.

c. Whether Knox timely submitted its Application.

d. Whether the Application Knox submitted was incomplete or deficient, and should therefore have been denied.

e. Whether Knox must be rejected as an Applicant because it is not an entity authorized to transact business in the State of Florida.

f. Whether the Reviewers assigned scores to the Applications submitted by the Applicants in a manner that was clearly erroneous, arbitrary or capricious.

g. Whether Knox failed to timely file a \$5 million performance bond with DOH as required by Section 381.986(5)(b)5, Florida Statutes, and Rule 64-4.002(5)(e), Florida Administrative Code.

h. Whether DOH must revoke its intended approval of the Knox Application and select McCrory's as the DO for the Central Region.

i. Whether the methodology applied by DOH to score Applications was clearly erroneous, arbitrary, capricious, or failed to comply with applicable statutes and rules.

6. **Rule 28-106.201(2)(e), Florida Administrative Code.** A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action. As a matter of ultimate fact and

law, for the reasons set forth in Paragraph 3 of this Petition, DOH's intended decisions to approve Knox's Application and to deny McCrory's Application should be reversed, and McCrory's Application should be approved.

7. **Rule 28-106.201(2)(f), Florida Administrative Code. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes.** For the reasons set forth in Paragraph 3 of this Petition, applicable statutes and rules that require reversal of the DOH decisions at issue in this proceeding include:

- a. Section 381.986, Florida Statutes;
- b. Sections 120.569, 120.57, Florida Statutes;
- c. Rule Chapter 64-4, Florida Administrative Code; and
- d. All statutes and rules cited in this Petition.

8. **Rule 28-106.201(2)(g), Florida Administrative Code. A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.** McCrory's requests that:

- a. This Petition be referred to the Division of Administrative Hearings for the assignment of an administrative law judge to conduct formal administrative proceedings;
- b. Recommended and Final Orders be entered approving McCrory's Application for approval as the sole DO for the Central Region, and rejecting or denying the Applications of Knox and all Applicants other than McCrory's; and
- c. Such other relief be granted, including an award of costs and attorney fees, as available under law.

Reservation of Right to Amend

McCrary's reserves its right to amend this Petition following its receipt and review of additional documents and information that will be received through public records requests and discovery conducted in this proceeding and those materials are analyzed.

Respectfully submitted,

GREENBERG TRAUIG, P.A.

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Tallahassee, FL 32302

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LORENCE JON BIELBY

Florida Bar No. 393517

BielbyL@gtlaw.com

*Attorneys for the Petitioner, McCrary's Sunny Hill
Nursery, LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that original and one copy of the foregoing has been furnished by **Hand Delivery** to the Agency Clerk, Office of General Counsel, Florida Department of Health, 2585 Merchant's Row Boulevard, Suite 110, Tallahassee, Florida 32399, and a true and correct copy by hand delivery to Nichole Geary, Esq., General Counsel, Florida Department of Health at the same address this 14th day of December, 2015.



DAVID C. ASHBURN

Composite Exhibit A

Copies of the letters from DOH to the Applicants (central region) requesting additional information

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

**Rick Scott**

Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 29, 2015

Certified Mail No.: 7015 0640 0004 5576 5168

McCrory's Sunny Hill Nursery
309 S Acuff Road
Lake Wales FL 33859

In Re: Application to become a Licensed Dispensing Organization Pursuant to section 381.986,
Florida Statutes

Dear Applicant:

The Florida Department of Health, Office of Compassionate Use (Department) received the above-referenced application on July 7, 2015. A preliminary review of the application indicated the following deficiencies:

- The application did not contain the required certification by the Florida Department of Agriculture and Consumer Services ("DACS") for the cultivation of more than 400,000 plants. Section 381.986(5)(b), Florida Statutes, requires that McCrory's Sunny Hill Nursery must possess a valid certificate of registration issued by the DACS pursuant to section 581.131, Florida Statutes, for more than 400,000 plants.

The Department has no discretion to remove this statutory requirement. This requirement may be met by a letter from the DACS, which can be obtained by contacting the DACS Division of Plant Industry.

- The application did not contain the required certification DACS that McCrory's Sunny Hill Nursery has been operating in this state for at least 30 continuous years. Section 381.986(5)(b), Florida Statutes, requires that an applicant must have been operating as a registered nursery in this state for at least 30 continuous years.

The Department has no discretion to remove this statutory requirement. This requirement may be met by a letter from the DACS, which can be obtained by contacting the DACS Division of Plant Industry.

Florida Department of Health
Office of Compassionate Use
4052 Bald Cypress Way, Bin #A-06
Tallahassee, FL 32399-3265
PHONE: 850/245-4444 • FAX 850/245-4748

www.FloridaHealth.gov

TWITTER: HealthyFLA
FACEBOOK: FLDepartmentofHealth
YOUTUBE: fhdoh
FLICKR: HealthyFla
PINTEREST: HealthyFla

Please provide a response regarding these deficiencies to the Department within 14 days of receiving this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christian Bax', with a stylized flourish at the end.

Christian Bax, Director
Office of Compassionate Use

CX/ce

Cc: Office of the General Counsel

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Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

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July 29, 2015

Certified Mail No.: 7015 0640 0004 5576 5144

Knox Nursery, Inc.
940 Avalon Road
Winter Garden FL 34787-9701

In Re: Application to become a Licensed Dispensing Organization Pursuant to section 381.986,
Florida Statutes

Dear Applicant:

The Florida Department of Health, Office of Compassionate Use (Department) received the above-referenced application on July 8, 2015. A preliminary review of the application indicated the following deficiencies:

- The application did not contain the required certification by the Florida Department of Agriculture and Consumer Services ("DACS") that Knox Nursery, Inc. has been operating in this state for at least 30 continuous years. Section 381.986(5)(b), Florida Statutes, requires that an applicant must have been operating as a registered nursery in this state for at least 30 continuous years.

The Department has no discretion to remove this statutory requirement. This requirement may be met by a letter from the DACS, which can be obtained by contacting the DACS Division of Plant Industry.

Please provide a response regarding these deficiencies to the Department within 14 days of receiving this letter.

Sincerely,

Christian Bax, Director
Office of Compassionate Use

CX/ce

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Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

July 29, 2015

Certified Mail No.: 7015 0640 0004 5576 5083

Deleon's Bromeliads, Inc.
4055 Britt Road
Mount Dora FL 32757

In Re: Application to become a Licensed Dispensing Organization Pursuant to section 381.986, Florida Statutes

Dear Applicant:

The Florida Department of Health, Office of Compassionate Use (Department) received the above-referenced application. on July 8, 2015. A preliminary review of the application indicated the following deficiencies:

- The application did not contain the required certification by the Florida Department of Agriculture and Consumer Services ("DACS") that Deleon's Bromeliads has been operating in this state for at least 30 continuous years. Section 381.986(5)(b), Florida Statutes, requires that an applicant must have been operating as a registered nursery in this state for at least 30 continuous years.

The Department has no discretion to remove this statutory requirement. This requirement may be met by a letter from the DACS, which can be obtained by contacting the DACS Division of Plant Industry.

- The application did not contain financial statements that have been audited in accordance with Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant.

Section 381.986(5), Florida Statutes, requires that an applicant for a dispensing organization must be able to demonstrate "the financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financials to the department." Rule 64-4.001, of the *Florida Administrative Code*, defines "certified financials" as "[f]inancial statements that have been audited in accordance with Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant, licensed pursuant to Chapter 473, F.S."

The Independent Accountants' Review Report included in the application reflects Deleon's Bromeliads, Inc.'s financial statements were reviewed, not audited. As a consequence, the application does not meet the requirements of Rule 64-4.002, of the *Florida Administrative Code*, and section 381.986(5), Florida Statutes. The Department has no discretion to remove this requirement. This requirement may be met by submitting certified financials with an accompanying letter from a Certified Public Accountant indicating that the financials have been audited in accordance with GAAS.

Florida Department of Health

Office of Compassionate Use
4052 Bald Cypress Way, Bin #A-06
Tallahassee, FL 32399-3265
PHONE: 850/245-4444 • FAX 850/245-4748

www.FloridaHealth.gov

TWITTER: HealthyFLA

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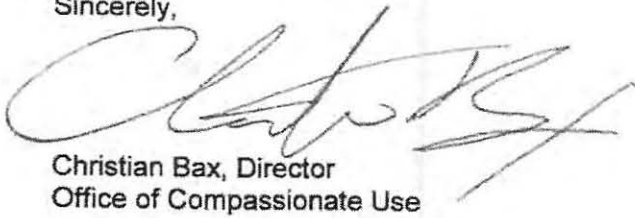
YOUTUBE: fdoh

FLICKR: HealthyFia

PINTEREST: HealthyFia

Please provide a response regarding these deficiencies to the Department within 14 days of receiving this letter.

Sincerely,



Christian Bax, Director
Office of Compassionate Use

CX/ce

Cc: Office of the General Counsel

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**Rick Scott**

Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

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July 29, 2015

Certified Mail No.: 7015 0640 0004 5576 5090

Dewar Nurseries, Inc.
625 W. Keene Road
Apopka, Florida 32703

In Re: Application to become a Licensed Dispensing Organization Pursuant to section 381.986,
Florida Statutes

Dear Applicant:

The Florida Department of Health, Office of Compassionate Use (Department) received the above-referenced application on July 8, 2015. A preliminary review of the application indicated the following deficiencies:

- The application did not contain the required certification by the Florida Department of Agriculture and Consumer Services ("DACS") that Dewar Nurseries, Inc. has been operating in this state for at least 30 continuous years. Section 381.986(5)(b), Florida Statutes, requires that an applicant must have been operating as a registered nursery in this state for at least 30 continuous years.

The Department has no discretion to remove this statutory requirement. This requirement may be met by a letter from the DACS, which can be obtained by contacting the DACS Division of Plant Industry.

Please provide a response regarding these deficiencies to the Department within 14 days of receiving this letter.

Florida Department of Health

Office of Compassionate Use
4052 Bald Cypress Way, Bin #A-06
Tallahassee, FL 32399-3265
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TWITTER: HealthyFLA
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FLICKR: HealthyFla
PINTEREST: HealthyFla

Dewar Nurseries, Inc.
Page Two
July 29, 2015

Sincerely,

A handwritten signature in black ink, appearing to be 'CB', written over a horizontal line.

Christian Bax, Director
Office of Compassionate Use

CX/ce

Cc: Office of the General Counsel

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**Rick Scott**

Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

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July 29, 2015

Certified Mail No.: 7015 0640 0004 5576 5298

Razbuton, Inc.
17599 Sandhill Road
Winter Garden FL 34787

In Re: Application to become a Licensed Dispensing Organization Pursuant to section 381.986,
Florida Statutes

Dear Applicant:

The Florida Department of Health, Office of Compassionate Use (Department) received the above-referenced application on July 8, 2015. A preliminary review of the application indicated the following deficiencies:

- The application did not contain financial statements that have been audited in accordance with Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant.

Section 381.986(5), Florida Statutes, requires that an applicant for a dispensing organization must be able to demonstrate "the financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financials to the department." Rule 64-4.001, of the *Florida Administrative Code*, defines "certified financials" as "[f]inancial statements that have been audited in accordance with Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant, licensed pursuant to Chapter 473, F.S."

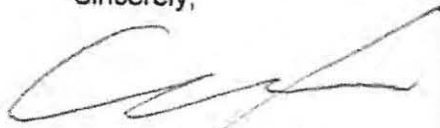
The application includes a Certificate of Nursery Registration issued by the Florida Department of Agricultural and Consumer Services to Razbuton, Inc. Razbuton, Inc. is referenced repeatedly in the application. However, the application does not include certified financials for Razbuton, Inc., nor does it include certified financials for any other entity, as required by Rule 64-4.002, of the *Florida Administrative Code*, and section 381.986(5), Florida Statutes.

The Department has no discretion to remove this requirement. This requirement may be met by submitting certified financials with an accompanying letter from a Certified Public Accountant indicating that the financials have been audited in accordance with GAAS.

[REDACTED]

Please provide a response regarding these deficiencies to the Department within 14 days of receiving this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Bax', with a long horizontal stroke extending to the right.

Christian Bax, Director
Office of Compassionate Use

CX/ce

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Rick Scott
Governor

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State Surgeon General & Secretary

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July 29, 2015

Certified Mail No.: 7015 0640 0004 5576 5205

Redland Nursery, Inc. (Central Dispensing Region)
18456 SW 264th Street
Homestead, FL 33031-1883

In Re: Application to become a Licensed Dispensing Organization Pursuant to section 381.986, Florida Statutes

Dear Applicant:

The Florida Department of Health, Office of Compassionate Use (Department) received the above-referenced application on July 8, 2015. A preliminary review of the application indicated the following deficiencies:

- The application did not contain the required certification by the Florida Department of Agriculture and Consumer Services ("DACS") that Redland Nursery, Inc. has been operating in this state for at least 30 continuous years. Section 381.986(5)(b), Florida Statutes, requires that an applicant must have been operating as a registered nursery in this state for at least 30 continuous years.

The Department has no discretion to remove this statutory requirement. This requirement may be met by a letter from the DACS, which can be obtained by contacting the DACS Division of Plant Industry.

Please provide a response regarding these deficiencies to the Department within 14 days of receiving this letter.

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PINTEREST: HealthyFla

Redland Nursery, Inc. (Central Dispensing Region)
Page Two
July 29, 2015

Sincerely,

A handwritten signature in black ink, appearing to read 'Christian Bax', written in a cursive style.

Christian Bax, Director
Office of Compassionate Use

CX/ce

Cc: Office of the General Counsel

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Rick Scott

Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

July 29, 2015

Certified Mail No.: 7015 0640 0004 5576 5236

Spring Oaks Greenhouse, Inc.
17323 Lake Street
Umatilla, FL 32784

In Re: Application to become a Licensed Dispensing Organization Pursuant to section 381.986, Florida Statutes

Dear Applicant:

The Florida Department of Health, Office of Compassionate Use ("Department") received the above-referenced application on July 8, 2015. A preliminary review of the application indicated the following deficiencies:

- The application did not contain the required certification by the Florida Department of Agriculture and Consumer Services ("DACS") that Spring Oaks Greenhouse, Inc. has been operating in this state for at least 30 continuous years. Section 381.986(5)(b), Florida Statutes, requires that an applicant must have been operating as a registered nursery in this state for at least 30 continuous years.

The Department has no discretion to remove this statutory requirement. This requirement may be met by a letter from the DACS, which can be obtained by contacting the DACS Division of Plant Industry.

- The application did not contain financial statements that have been audited in accordance with Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant.

Section 381.986(5), Florida Statutes, requires that an applicant for a dispensing organization must be able to demonstrate "the financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financials to the department." Rule 64-4.001, of the *Florida Administrative Code*, defines "certified financials" as "[f]inancial statements that have been audited in accordance with Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant, licensed pursuant to Chapter 473, F.S."

The Independent Accountants' Compilation Reports from Linder & Thornley and Stanislawski & Harrison, respectively, included in the application reflects that Spring Oaks Greenhouse Inc.'s financial statements were compiled, not audited. As a consequence, the application does not meet the requirements of of Rule 64-4.002, of the *Florida Administrative Code*, and section 381.986(5), Florida Statutes. The Department has no discretion to remove this requirement. This requirement may be met by submitting certified financials with an accompanying letter from a Certified Public Accountant indicating that the financials have been audited in accordance with GAAS.

Florida Department of Health

Office of Compassionate Use
4052 Bald Cypress Way, Bin #A-06
Tallahassee, FL 32399-3265
PHONE: 850/245-4444 • FAX 850/245-4748

www.FloridaHealth.gov

TWITTER: HealthyFLA

FACEBOOK: FLDepartmentofHealth

YOUTUBE: fidooh


FLICKR: HealthyFla

PINTEREST: HealthyFla

Spring Oaks Greenhouse, Inc.
Page Two
July 29, 2015

Please provide a response regarding these deficiencies to the Department within 14 days of receiving this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christian Bax', written over a horizontal line.

Christian Bax, Director
Office of Compassionate Use

CX/ce

Cc: Office of the General Counsel

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

**Rick Scott**

Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

July 29, 2015

Certified Mail No.: 7015 0640 0004 5576 5274

Treadwell Nursery
Post Office Box 194
Sorrento, FL 32776

In Re: Application to become a Licensed Dispensing Organization Pursuant to section 381.986,
Florida Statutes

Dear Applicant:

The Florida Department of Health, Office of Compassionate Use (Department) received the above-referenced application on July 8, 2015. A preliminary review of the application indicated the following deficiencies:

- The application did not contain the required certification by the Florida Department of Agriculture and Consumer Services ("DACS") that Treadwell Nursery has been operating in this state for at least 30 continuous years. Section 381.986(5)(b), Florida Statutes, requires that an applicant must have been operating as a registered nursery in this state for at least 30 continuous years.

The Department has no discretion to remove this statutory requirement. This requirement may be met by a letter from the DACS, which can be obtained by contacting the DACS Division of Plant Industry.

- The application did not contain financial statements that have been audited in accordance with Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant.

Section 381.986(5), Florida Statutes, requires that an applicant for a dispensing organization must be able to demonstrate "the financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financials to the department." Rule 64-4.001, of the *Florida Administrative Code*, defines "certified financials" as "[f]inancial statements that have been audited in accordance with Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant, licensed pursuant to Chapter 473, F.S."

The Independent Accountants' Compilation Report included in the application reflects Treadwell Nursery's financial statements were compiled, not audited. As a consequence, the application does not meet the requirements of Rule 64-4.002, of the *Florida Administrative Code*, and section 381.986(5), Florida Statutes. The Department has no discretion to remove this requirement. This requirement may be met by submitting certified financials with an accompanying letter from a Certified Public Accountant indicating that the financials have been audited in accordance with GAAS.

Florida Department of Health

Office of Compassionate Use

4052 Bald Cypress Way, Bin #A-06

Tallahassee, FL 32399-3265

PHONE: 850/245-4444 • FAX 850/245-4748

www.FloridaHealth.gov

TWITTER: HealthyFLA

FACEBOOK: FLDepartmentofHealth

YOUTUBE: fdoeh

FLICKR: HealthyFla

PINTEREST: HealthyFla

Treadwell Nursery
Page Two
July 29, 2015

Please provide a response regarding these deficiencies to the Department within 14 days of receiving this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christian Bax', with a large, stylized initial 'C' and a long horizontal stroke extending to the right.

Christian Bax, Director
Office of Compassionate Use

CX/ce

Cc: Office of the General Counsel

Composite Exhibit B

Copies of November 23, 2015, letters from DOH to McCrory's (the "DOH/McCrory's Denial Letter")
and Knox (the "DOH/Knox Approval Letter")

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November 23rd, 2015

McCrary's Sunny Hill Nursery
309 S Acuff Road
Lake Wales, FL 33859

Re: Low-THC Cannabis Dispensing Organization Application

Dear Applicant:

McCrary's Sunny Hill Nursery's Application to become a Low-THC Cannabis Dispensing Organization for the Central region has been substantively reviewed, evaluated, and scored by a panel of evaluators according to the requirements of Section 381.986, Florida Statutes and Chapter 64-4, of the Florida Administrative Code. As McCrary's Sunny Hill Nursery was not the highest scored applicant in the Central region, your application for the Central region is denied.

Sincerely,

Dr. Celeste Philip
Deputy Secretary for Health

CB/cc

Cc: Office of the General Counsel

McCrory's Sunny Hill Nursery
November 23rd, 2015

NOTICE OF RIGHTS

This notice is agency action for purposes of section 120.569, Florida Statutes. A party whose substantial interest is affected by this action may petition for an administrative hearing pursuant to sections 120.569 and 120.57, Florida Statutes. A petition must be filed in writing and must be received by the Agency Clerk within twenty-one (21) days from receipt of this notice. The petition may be mailed to the Agency Clerk, Department of Health, 4052 Bald Cypress Way, BIN #A-02, Tallahassee, FL 32399-1703; hand delivered to the Agency Clerk, Department of Health, 2585 Merchants Row Blvd., Prather Building, Suite 110, Tallahassee, FL; or sent by facsimile to (850) 413-8743. Such petition must be filed in conformance with Florida Administrative Code Rules 28-106.201 or 28-106.301, as applicable.

Mediation is not available.

Failure to file a petition within 21 days shall constitute a waiver of the right to a hearing on this agency action.

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**Rick Scott**

Governor

John H. Armstrong, MD, FACS

State Surgeon General & Secretary

Vision: To be the Healthiest State in the NationNovember 23rd, 2015

Knox Nursery, Inc.
940 Avalon Road
Winter Garden, FL 34787-9701

Re: Low-THC Cannabis Dispensing Organization Application

Dear Applicant:

I am pleased to inform you that Knox Nursery, Inc.'s Application to become a Low-THC Cannabis Dispensing Organization for the Central region has been substantively reviewed, evaluated, and scored by a panel of evaluators according to the requirements of Section 381.986, Florida Statutes and Chapter 64-4, of the Florida Administrative Code. As your application received the highest score for the Central region, your application is granted. Knox Nursery, Inc. is approved as the dispensing organization for the Central region of Florida.

Knox Nursery, Inc. has 10 business days to post a \$5 million performance bond in accordance with Rule 64-4.002(5)(e), of the Florida Administrative Code. The original bond, payable to the Florida Department of Health, must be received by the Department no later than 5:00 PM EST on December 9th, 2015. If the performance bond is canceled and Knox Nursery, Inc. fails to file a new bond with the Department in the required amount on or before the effective date of cancellation, Knox Nursery, Inc.'s approval shall be revoked.

Knox Nursery, Inc. must notify the Department that it is prepared to be inspected and seek authorization to begin cultivation, processing, and dispensing. The following deadlines, as outlined in Rule 64-4.005, of the Florida Administrative Code, apply.

Cultivation

Knox Nursery, Inc. has 75 days from this approval to request Cultivation Authorization. No less than 30 calendar days prior to the initial cultivation of low-THC cannabis Knox Nursery, Inc. shall notify the Department that it is ready to begin cultivation, is in compliance with Section 381.986, F.S., and Chapter 64-4, of the Florida Administrative Code, and is seeking Cultivation Authorization. Failure to meet the deadline to seek Cultivation Authority may result in the revocation of the Department's approval. Please note, no low-THC cannabis plant source material may be present in any Dispensing Organization facility prior to Cultivation Authorization.

Knox Nursery, Inc.
November 23rd, 2015

Processing

No less than 10 calendar days prior to the initial processing of low-THC cannabis, Knox Nursery, Inc. must notify the Department that it is ready to begin processing, is in compliance with Section 381.986, F.S., and Chapter 64-4, of the Florida Administrative Code, and is seeking Processing Authorization.

Dispensing

Knox Nursery, Inc. must begin dispensing derivative product within 210 calendar days of being granted cultivation authorization. No less than 10 calendar days prior to the initial dispensing of derivative product, Knox Nursery, Inc. must notify the Department that it is ready to begin dispensing, is in compliance with Section 381.986, F.S., and Chapter 64-4, of the Florida Administrative Code, and is seeking Dispensing Authorization. Failure to meet the deadline to begin dispensing may result in the revocation of the Department's approval.

Finally, submission of an application for Dispensing Organization approval constitutes permission for entry by the Department at any reasonable time, into any Dispensing Organization facility to inspect any portion of the facility; review the records required pursuant to Section 381.986, F.S., or Chapter 64-4, of the Florida Administrative Code; and identify samples of any low-THC cannabis or Derivative Product for laboratory analysis, the results of which shall be forwarded to the Department.

Once again, congratulations on receiving approval to become the Low-THC Dispensing Organization for Central region. Should you have any questions about this approval, please contact the Florida Department of Health, Office of Compassionate Use.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dr. Celeste Philip", with a long horizontal line extending to the right.

Dr. Celeste Philip
Deputy Secretary for Health

CB/cc
Cc: Office of the General Counsel

Knox Nursery, Inc.
November 23rd, 2015

NOTICE OF RIGHTS

This notice is agency action for purposes of section 120.569, Florida Statutes. A party whose substantial interest is affected by this action may petition for an administrative hearing pursuant to sections 120.569 and 120.57, Florida Statutes. A petition must be filed in writing and must be received by the Agency Clerk within twenty-one (21) days from receipt of this notice. The petition may be mailed to the Agency Clerk, Department of Health, 4052 Bald Cypress Way, BIN #A-02, Tallahassee, FL 32399-1703; hand delivered to the Agency Clerk, Department of Health, 2585 Merchants Row Blvd., Prather Building, Suite 110, Tallahassee, FL; or sent by facsimile to (850) 413-8743. Such petition must be filed in conformance with Florida Administrative Code Rules 28-106.201 or 28-106.301, as applicable.

Mediation is not available.

Failure to file a petition within 21 days shall constitute a waiver of the right to a hearing on this agency action.