



**STATE OF
OHIO**
BOARD OF PHARMACY

IN THE MATTER OF:

**CASE No. A-2022-0183
I-2021-1908**

ICP, Inc.
c/o Mike Lavengood
7537 Easy St.
Mason, OH 45040

License No. 01-2230900

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and ICP, Inc., for the purpose of resolving all issues between the parties relating to the Board investigation of illegal sales of medical grade oxygen to an unlicensed entity. Together, the Board and ICP Inc. are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.56 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, restrict, limit, or refuse to grant or renew any license issued pursuant to Section 4729.52 of the Ohio Revised Code.
2. ICP, Inc. is a licensed Distributor of Dangerous Drug, License No. 01-2230900, which lists Mike Lavengood, as the Responsible Person.

FACTS

1. The Board initiated an investigation of ICP, Inc., Distributor of Dangerous Drugs License No. 01-2230900 related to ICP, Inc.'s illegal sales of medical grade oxygen to an unlicensed entity.
2. On or about April 25, 2023, the Board sent a Notice of Opportunity for Hearing to ICP, Inc., which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative proceedings.

77 South High Street, 17th Floor, Columbus, Ohio 43215

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TERMS

NOW THEREFORE, in consideration of the mutual promises herein expressed, the parties knowingly and voluntarily agree as follows:

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. ICP, Inc. neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 25, 2023; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. ICP, Inc. agrees to pay to the Board a monetary penalty in the amount of \$125.00. This fine will be attached to your license record and must be paid no later than 60 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. The Board hereby imposes a written reprimand on ICP, Inc.'s WDDD license, number 01-2230900.
5. ICP, Inc. agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
6. ICP, Inc. agrees to comply with all federal and state requirements related to Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by ICP, Inc. of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to ICP, Inc. by the Board and will NOT discharge ICP, Inc. from any obligation under the terms of this Agreement.
7. ICP, Inc. agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. ICP, Inc. understands that it has the right to be represented by counsel for review and execution of this agreement.
9. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom ICP, Inc. will operate.

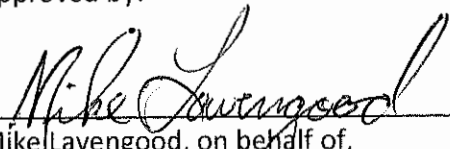


10. ICP, Inc. waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
11. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
14. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.
15. This Agreement shall become effective upon the date of the Board President's signature below.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties to this Agreement have executed it and/or cause it to be executed by their duly authorized representatives.

Approved by:




Mike Lavengood, on behalf of,
ICP, Inc., Respondent



Date of Signature

Attorney for Respondent (if applicable)

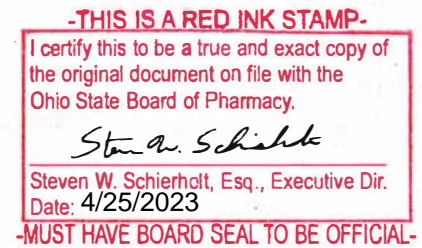
Date of Signature



Shawn Wilt, RPh, President,
State of Ohio Board of Pharmacy

05.18.2023

Date of Signature



**NOTICE OF OPPORTUNITY FOR HEARING
PROPOSAL TO TAKE DISCIPLINARY ACTION AGAINST LICENSEE**

IN THE MATTER OF:

**CASE No. A-2022-0183
I-2021-1908**

ICP, Inc.
c/o Mike Lavengood
7537 Easy St.
Mason, OH 45040

License No. 01-2230900

April 25, 2023

Dear ICP, Inc. and Mike Lavengood:

You are hereby notified, in accordance with the provisions of Section 119.07 of the Ohio Revised Code the State of Ohio Board of Pharmacy (Board) proposes to take action against your license as a Wholesale Distributor of Dangerous Drugs under authority of Section 4729.56 of the Revised Code.

JURISDICTION

1. Pursuant to Section 4729.56 of the Ohio Revised Code (ORC) and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to renew any registration certificate issued to a wholesale distributor of dangerous drugs (WDDD) pursuant to section 4729.52 of the Revised Code or may impose a monetary penalty of forfeiture not to exceed in the severity any fine designated under the Revised Code for a similar offense or \$2,500 if the acts committed have not been classified as an offense by the Revised Code.
2. ICP, Inc. has a current WDDD license with the Board under license number 01-2230900, which lists Mike Lavengood as the Responsible Person.

ALLEGATIONS

1. From on or about July 12, 2021, to on or about November 22, 2021, ICP, Inc., located at 7537 Easy Street, Mason, Ohio 45050, sold medical grade oxygen, a dangerous drug, to Ohio Living Llanfair, located at 1701 Llanfair Avenue, Cincinnati, Ohio 45224, as set forth in Attachment A, attached hereto and incorporated as though fully set forth herein. Ohio Living Llanfair was operating without a Board-issued Terminal Distributor of Dangerous Drugs license during this time.

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POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of Section 4729.51(B)(1) of the ORC, as effective December 16, 2020, no wholesale distributor shall possess for sale, sell, or distribute, at wholesale, dangerous drugs or investigational drugs or products to any person other than the following: Subject to division (D) of this section, a licensed terminal distributor of dangerous drugs, each sale being a first-degree misdemeanor, each punishable by a maximum fine of \$5,000 if committed by an organization.
2. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of Section 4729.60(A)(1) of the ORC, as effective September 29, 2017. Before a licensee identified in division (B)(1)(a) of section 4729.52 of the Revised Code may sell or distribute dangerous drugs at wholesale to any person, except as provided in division (A)(2) of this section, the licensee shall query the roster established pursuant to section 4729.59 of the Revised Code to determine whether the purchaser is a licensed terminal distributor of dangerous drugs, each punishable by a maximum fine of \$2,500 if committed by an organization.
3. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of Rule 4729:6-3-04 of the OAC, as effective March 1, 2019, each violation punishable by a maximum penalty of \$2,500: Before a drug distributor may sell or distribute dangerous drugs to any person in this state, except as provided in paragraph (C) of this rule, the distributor shall conduct a documented query of a roster maintained by the Board to determine if the purchaser is licensed as either:
 - a. A terminal distributor of dangerous drugs...For a limited terminal distributor of dangerous drugs license, a drug distributor shall also review a current version of the licensee's drug list to ensure the purchaser is authorized to possess the drug ordered, OAC Rule 4729:6-3-04(B)(1); and/or
 - b. A distributor of dangerous drugs, OAC Rule 4729:6-3-04(B)(2).
4. Such conduct as set forth in the Allegations Section, if proven, each constitutes the following violations of Section 4729.56 of the ORC, effective September 29, 2017, each violation punishable by a maximum fine of \$2,500 if committed by an organization:
 - a. Violating any federal, state, or local drug law; any provision of chapter 4729. or Chapter 2925., 3715., or 3719. of the Revised Code; or any rule of the Board, ORC Section 4729.56(A)(2)(b); and/or
 - b. Any other cause for which the board may impose sanctions as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.56(A)(2)(g).
5. Such conduct as set forth in Allegations Section, if proven, each constitutes a violation of the following sections of Rule 4729:6-4-01 of the OAC, as effective March 1, 2019, each violation punishable by a maximum penalty of \$2,500 if committed by an organization:
 - a. Violating any rule of the Board, OAC Rule 4729:6-4-01(B)(2); and/or
 - b. Violating any provision of Chapter 4729. of the Revised Code, OAC Rule 4729:6-4-01(B)(3).

YOU ARE FURTHER NOTIFIED, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, that you are entitled to a hearing before the State of Ohio Board of Pharmacy, if you request such a hearing within thirty 30 days of the date of the mailing of this notice.

IF YOU DESIRE A HEARING, such request shall either be mailed to the State of Ohio Board of Pharmacy, Attn: Legal, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126 or an e-mail request may be sent to legal@pharmacy.ohio.gov (please note faxes will not be accepted). **YOUR REQUEST MUST BE RECEIVED ON OR PRIOR TO THE 30TH DAY FOLLOWING THE MAILING DATE OF THIS NOTICE.** Please note that if you submit a request via email, your request will be acknowledged within one business day of receipt. If you do not receive an acknowledgment, please contact the Board offices at 614-466-4143 and request the legal department. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you. **If you are a corporation, you must be represented at the hearing by an attorney licensed to practice in the state of Ohio.**

YOU ARE FURTHER ADVISED that if there is no request for such a hearing received by the Board on or prior to the 30th day following the mailing of this notice, the State of Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

If you have questions regarding the Chapter 119. Administrative Hearing process, please e-mail your questions to legal@pharmacy.ohio.gov or call the Board office at 614-466-4143 and ask for the legal department.

BY ORDER OF THE STATE BOARD OF PHARMACY



Steven W. Schierholt, Esq., Executive Director

SWS/zas/jrn

CMRRR: 7021 0350 0000 5581 5905

Enclosure: Attachment A