

**FILED** October 20, 2017 (Date)

JRE

Board / Commission

[Signature]  
Signature Executive Officer

**BEFORE THE IOWA REAL ESTATE COMMISSION  
200 EAST GRAND, SUITE 350  
DES MOINES, IA 50309**

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IN RE:	)	
	)	<b>CASE NUMBER: 17-194</b>
Timothy H. Smith	)	
	)	<b>ORDER TO DENY LICENSE</b>
1629 Sunset Street #3A	)	
Grinnell, IA 50112	)	
	)	
<b>APPLICANT - SALESPERSON</b>	)	

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**PURSUANT TO IOWA CODE SECTIONS 543B.19 AND 543B.35, THE IOWA REAL ESTATE COMMISSION ISSUES THE FOLLOWING ORDER:**

1. On or about August 2, 2017, Timothy H. Smith (APPLICANT) submitted an Application for Individual License to the Iowa Real Estate Commission (COMMISSION) for a new Iowa real estate salesperson license.

2. On September 13, 2017, the COMMISSION issued a "Notice of Intent to Deny License" (NOTICE) to the APPLICANT. A true and accurate copy of said NOTICE is attached to this order as EXHIBIT 1. The attached NOTICE was served upon the APPLICANT at his address of record via United States Postal Service certified mail on September 19, 2017.

3. The attached NOTICE provided that the APPLICANT's real estate salesperson application would be denied unless the APPLICANT filed an appeal in writing with the offices of the COMMISSION no later than October 16, 2017.

4. As of the date of this order, no notice of appeal has been filed by or on behalf of the APPLICANT with the COMMISSION challenging the denial of the APPLICANT's real estate salesperson license application.

5. The COMMISSION finds that having given the APPLICANT proper written notice of its intention to deny the APPLICANT's real estate salesperson license application; and having received no written notice of appeal challenging said denial; the APPLICANT has waived his right to a hearing contesting the denial of his license application. The COMMISSION is accordingly authorized to deny the APPLICANT's real estate salesperson application for the reasons cited in the attached NOTICE without hearing or further right of appeal.

In re: Timothy H. Smith; IREC Case No. 17-194  
Order to Deny License  
Page 2 of 2

**IT IS THEREFORE ORDERED** that Timothy H. Smith's August 2, 2017 Iowa real estate salesperson application is **DENIED**.

Dated this 20<sup>th</sup> day of October 2017.

  
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Jeffrey M. Evans, Executive Officer  
Iowa Real Estate Commission

BEFORE THE IOWA REAL ESTATE COMMISSION  
200 EAST GRAND, SUITE 350  
DES MOINES, IA 50309

FILED

September 13, 2017 (Date)

I.R.E.C.

Board / Commission

*[Signature]*  
Executive Officer

IN RE:	)	
	)	CASE NUMBER: 17-194
Timothy H. Smith	)	
	)	NOTICE OF INTENT TO
1629 Sunset Street #3A	)	DENY LICENSE
Grinnell, IA 50112	)	
	)	
APPLICANT - SALESPERSON	)	

PURSUANT TO IOWA CODE SECTIONS 543B.19 AND 543B.35, THE IOWA REAL ESTATE COMMISSION ISSUES THE FOLLOWING NOTICE:

1. On or about August 2, 2017, **Timothy H. Smith** (APPLICANT) submitted an Application for Individual License to the Iowa Real Estate Commission (COMMISSION) for a new Iowa real estate salesperson license. Following its review of the APPLICANT's application at its September 7, 2017 meeting, the COMMISSION authorized the issuance of this Notice of Intent to Deny License.

2. An applicant for a real estate salesperson's license who has had a professional license of any kind revoked or suspended or who has had any other form of discipline imposed, in this or any other jurisdiction, may be denied a license by the COMMISSION solely on the ground of the revocation, suspension, or other discipline. See Iowa Code § 543B.15(4) (2017).

3. On November 25, 1987, the Iowa Board of Podiatry (IBOP) issued the APPLICANT license number 00464 to practice as a podiatrist in the state of Iowa. On August 21, 2014, the IBOP issued an Emergency Adjudicative Order indefinitely suspending the APPLICANT's podiatry license. A true and accurate copy of said order is attached as EXHIBIT A. The IBOP specifically found that the APPLICANT "admitted that he has been diverting narcotics with the help of patients." EXHIBIT A at ¶ 5. Furthermore, the IBOP found that the APPLICANT "presented to the Marshalltown Medical & Surgical Center Emergency Room under the effects of Oxycodone" a narcotic for which the APPLICANT did not have a prescription. EXHIBIT A at ¶¶ 6, 7.

4. In lieu of proceeding to hearing on the merits the allegations asserted in the Emergency Adjudicative Order, the APPLICANT chose to voluntarily surrender his podiatry license to the IBOP. The IBOP accepted the APPLICANT'S voluntary surrender his podiatry license on October 10, 2014. A true and accurate copy of the Settlement Agreement and Final Order effectuating the surrender of the APPLICANT's podiatry license is attached as EXHIBIT B. This voluntary surrender has the force and effect of a disciplinary order entered in a contested case comparable to a license revocation. EXHIBIT B at § 6.



5. Subsequently, on January 6, 2015, the Iowa Board of Pharmacy issued an Order to Show Cause why the APPLICANT'S controlled substance registration, number 1709957, should not be revoked as a consequence of the APPLICANT'S voluntary surrender of his podiatry license. A true and accurate copy of said show cause order is attached as EXHIBIT C. The APPLICANT did not contest the revocation of his controlled substance registration.


6. The COMMISSION, when considering the denial of a license, shall consider the nature of the offense that led to previous license discipline; any documented aggravating or extenuating circumstances; the time lapsed since the revocation or conduct; the rehabilitation, treatment, or restitution performed by an applicant; and any other factors the COMMISSION deems relevant. See Iowa Code § 543B.15(6). Upon a balancing of these factors, the COMMISSION finds that the APPLICANT'S actions as a podiatrist that led to the surrender of his podiatry license and the revocation of his controlled substances registration warrant denial of the APPLICANT'S application for a real estate salesperson license.

7. The APPLICANT is hereby notified that his application for an Iowa Real Estate License shall be **DENIED** unless a timely appeal is filed pursuant to Iowa Code § 543B.19. The notice of appeal shall be in writing and must be filed with the offices of the Iowa Real Estate Commission, 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309, no later than **October 16, 2017**. See Iowa Code §§ 543B.19, 543B.35.

8. Upon receipt of a timely notice of appeal, the COMMISSION shall set a hearing to address the issues cited by the COMMISSION for the denial of the APPLICANT'S real estate salesperson license application. The APPLICANT shall have the right to respond to the reasons cited for the license denial, produce evidence on his behalf, cross-examine witnesses and examine any documents introduced at hearing. The APPLICANT may appear personally and be represented by counsel at his own expense at any such hearing.

9. In the event that the COMMISSION does not receive a timely written notice of appeal, a final order confirming the denial of APPLICANT'S real estate salesperson license application shall be issued forthwith and there will be no further opportunities for appeal.

**Notice issued this 13<sup>th</sup> day of September 2017, to Timothy H. Smith via restricted, certified mail, return receipt requested, to resident address 1629 Sunset Street #3A, Grinnell, IA 50112.**

  
\_\_\_\_\_  
Jeffrey M. Evans, Executive Officer  
Iowa Real Estate Commission

September 13, 2017  
\_\_\_\_\_  
Date

Copies to:  
Assistant Attorney General, John Lundquist

BEFORE THE IOWA BOARD OF PODIATRY

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IN THE MATTER OF

Timothy Harold Smith, DPM,

Respondent.

)  
)  
)  
)  
)

No. 14-0120

EMERGENCY  
ADJUDICATIVE ORDER

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COMES NOW the Iowa Board of Podiatry ("Board"), on this 21<sup>st</sup> day of August 2014, and finds it was presented with evidence which establishes that Respondent's continued practice as a podiatrist constitutes an immediate danger to the public health, safety, and welfare. The Board has conducted a full investigation of this matter. A summary of the evidence obtained by the Board is as follows:

**FINDINGS OF FACT**

1. Respondent was issued license # 00464 to practice as a podiatrist in the state of Iowa on November 25, 1987. The license is current through June 30, 2016.
2. Respondent is a podiatrist who operates offices at 311 West Main Street in Marshalltown and 218 1<sup>st</sup> Avenue W in Newton.
3. The Board has jurisdiction over this matter pursuant to Iowa Code Chapters 147, 149, and 272C.
4. The Board received a complaint that Respondent was allegedly diverting narcotics from patients. More specifically, it was alleged that co-pays were not being charged in exchange for Respondent receiving a portion of the patient's pain medication.
5. A Board investigator interviewed Dr. Smith on August 12, 2014. During the interview Dr. Smith initially denied diverting narcotics. However, as the interview progressed, Dr. Smith admitted that he has been diverting narcotics with the help of patients.

**IREC No.17-194  
EXHIBIT A**

6. On August 11, 2014 the Board received a report that Dr. Smith had presented to the Marshalltown Medical & Surgical Center Emergency Room under the effects of Oxycodone. He was given Narcan and had to be resuscitated.

7. Dr. Smith does not have a prescription for Oxycodone.

### CONCLUSIONS OF LAW

8. The facts set forth above indicate that Respondent is unable to continue to practice podiatry at this time.

9. The Board concludes that this matter has been fully investigated and that this investigation has been sufficient to ensure the Board is proceeding on the basis of reliable information.

10. Respondent was given an opportunity to respond to the allegations against him.

11. The facts set forth above establish that there is a serious and immediate threat to public safety if Respondent is allowed to continue to practice podiatry.

12. The imposition of other interim safeguards would not be sufficient to protect the public health, safety, or welfare.

13. The Board finds that suspension of Respondent's ability to practice podiatry is necessary to protect the public health, safety or welfare until this matter is finally resolved.

14. Respondent shall be notified immediately of this order pursuant to 645 IAC 11.28(3)(b).

15. A hearing on this Emergency Adjudicative Order shall be held on September 15, 2014. The hearing will begin at 9:00 a.m., and will be held at the Board office, located at Department of Public Health, Lucas State Office Building, Room 526, 321 East 12<sup>th</sup> Street, Des Moines Iowa 50319-0075.

**ORDER**

IT IS HEREBY ORDERED, in accordance with Iowa Code section 17A.18A and 645 Iowa Administrative Code 11.28, that Respondent's license shall be immediately and indefinitely suspended until such time as Respondent can affirmatively demonstrate an ability to practice podiatry safely and in accordance with the law.

A hearing on this Emergency Adjudicative Order shall be held on September, 15, 2014. The hearing will begin at 9:00 a.m., and will be held at the following location: Iowa Department of Public Health, Lucas State Office Building, Room 526, 321 East 12<sup>th</sup> Street, Des Moines Iowa 50319-0075.

This Emergency Adjudicative Order was approved by the Board this 21<sup>st</sup> day of August, 2014.



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Mindi Feilmeier, Chair,  
Iowa Board of Podiatry

**BEFORE THE IOWA BOARD OF PODIATRY**

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IN THE MATTER OF:

TIMOTHY HAROLD SMITH, DPM,

RESPONDENT.

) POD 14-0120  
)  
) **SETTLEMENT AGREEMENT**  
) **AND FINAL ORDER**  
)

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COMES NOW the Iowa Board of Podiatry ("Board") and Timothy Harold Smith ("Respondent"), and pursuant to Iowa Code sections 17A.10 and 272C.3(4), hereby enter into the following Settlement Agreement and Final Order resolving the matter currently on file against the Respondent:

1. The State of Iowa issued Respondent a license on November 25, 1987.
2. Respondent holds license number 00464.
3. The Board issued an Emergency Adjudicative Order suspending Respondent's license to practice podiatry on August 21, 2014. A hearing in the matter is scheduled for September 15, 2014 at 9:00 a.m.
4. The Board has jurisdiction over the parties and of the subject matter.
5. Respondent denies the allegations contained in the Statement of Charges; but, in order to amicably resolve the matter without proceeding to, and bearing the cost of, a hearing, has decided to surrender his license.
6. Respondent has the right to a hearing on the Emergency Adjudicative Order, but waives his right to a hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily agreeing to this Settlement Agreement and Final Order. Once entered, this Settlement Agreement and Final Order shall have the force and effect of a disciplinary order entered following a contested case hearing.

**IREC No.17-194**  
**EXHIBIT B**



7. Respondent is freely and voluntarily entering into this Settlement Agreement and Final Order. Respondent agrees that the State's counsel may present this agreement to the Board and may have *ex parte* communications with the Board while presenting it.

8. This Settlement Agreement and Final Order is subject to approval by the Board. If the Board approves this Settlement Agreement and Final Order, it becomes the final disposition of the matter. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.

9. This Settlement Agreement and Final Order shall be part of Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.

10. In the event Respondent violates or fails to comply with any of the terms of this Settlement Agreement and Final Order, the Board may initiate appropriate action to revoke or suspend Respondent's license or to impose other licensee discipline in accordance with Iowa Code section 272C.3(2)(a).

11. This Settlement Agreement and Final Order is a public record available for inspection and copying upon execution of this Settlement Agreement and Final Order in accordance with the requirements of Iowa Code chapters 22 and 272C. The Emergency Adjudicative Order is also a public record that became available for inspection and copying the date it was filed in accordance with the requirements of Iowa Code chapters 17A, 22, and 272C.

12. The Board's approval of this Settlement Agreement and Final Order shall constitute a **FINAL ORDER** of the Board.

**IT IS THEREFORE ORDERED:**

13. Respondent's decision to surrender his license to resolve the pending matter is accepted by the Board.

14. Respondent may apply for reinstatement of his license in accordance with Board rule 645 Iowa Administrative Code 11.31.

**AGREED AND ACCEPTED:**



TIMOTHY SMITH  
License No. 00464

Date

09/12/14

  
IOWA BOARD OF PODIATRY  
CHAIRPERSON

Date

10/10/14

cc:

David Van Compernelle  
Attorney General's Office  
Hoover Building, 2<sup>nd</sup> Floor  
1305 E. Walnut  
Des Moines, IA 50319  
ATTORNEY FOR THE STATE

Chad Frese  
Kaplan & Frese, LLP  
111 E Church St.  
Marshalltown, IA 50158  
ATTORNEY FOR THE RESPONDENT

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re: ) CASE NO. 2014-172  
Controlled Substance Registration of )  
) **ORDER TO SHOW CAUSE**  
)  
**TIMOTHY SMITH** )  
Registration No. 1709957 )  
Respondent. )

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TO: Timothy Smith  
311 W Main Street  
PO Box 879  
Marshalltown, IA 50158

**NOTICE:**

Pursuant to the provisions of Iowa Code sections 124.304 and 124.305 (2013) and 657 IAC 10.12, you are hereby ordered to show cause why controlled substance registration number 1709957 should not be revoked.

To request a full hearing regarding the revocation of your controlled substance registration, you must file a request for a hearing in writing with the Board within thirty (30) days of service of this Order.

If you do not request a hearing in this matter within thirty (30) days of service of this order, your controlled substance registration will be **REVOKED**.

**I. JURISDICTION**

Pursuant to Iowa Code chapter 124 (2013) and 657 IAC 10, the Iowa Board of Pharmacy ("Board") has jurisdiction over those who prescribe controlled substances in Iowa. The Board issued Timothy Smith ("Respondent") controlled substance registration number 1709957, subject to the laws of the State of Iowa and the rules of the Board. Controlled substance registration number 1709957 is currently active and expires on February 28, 2016.

**II. BASIS FOR ORDER TO SHOW CAUSE**

1. Respondent was a licensed podiatrist (license number 00464) with the Iowa Board of Podiatry.
2. On October 10, 2014, the Iowa Board of Podiatry approved a Settlement Agreement and Final Order in which Respondent voluntarily surrendered his license to practice podiatry.
3. Iowa Code section 124.304(1)"d" and 657 IAC 10.12(1)"e" authorize the Board to suspend, revoke, or restrict a controlled substance registration if the registrant has been

**IREC No.17-194  
EXHIBIT C**

disciplined by the registrant's professional licensing board and the discipline revokes, suspends, or modifies the registrant's authority regarding controlled substances.

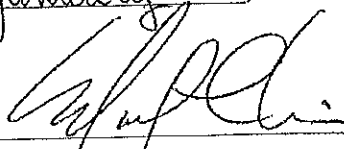
### III. ORDER

Respondent is hereby ordered to show cause why controlled substance registration number 1709957 should not be revoked.

Respondent may request a hearing before the Board in response to this Order by filing a written request with the Board within thirty (30) days of service of this Order. Respondent's written request for a hearing should be directed to Lloyd Jessen, Executive Director, Iowa Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. If Respondent submits a timely request for a hearing on the matter, a hearing will be scheduled for the Board's next available hearing date. A separate notice of hearing will be sent to Respondent detailing the date, time, and location of the hearing.

**If Respondent does not request a hearing in this matter within thirty (30) days of service of this Order, controlled substance registration number 1709957 will be REVOKED.**

IT IS SO ORDERED on this 6th day of January, 2015.

  
EDWARD MAIER, Chairperson  
Iowa Board of Pharmacy

cc: Laura Steffensmeier  
Assistant Attorney General  
Hoover Building, 2<sup>nd</sup> Floor  
Des Moines, IA 50319  
ATTORNEY FOR THE STATE

Chad Frese  
Kaplan & Frese, LLP  
111 E Churst Street  
Marshalltown, IA 50158  
ATTORNEY FOR RESPONDENT

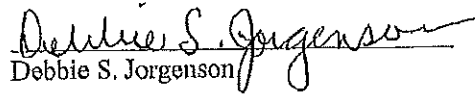
PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon Respondent to the above cause by:

- |   |   |
|---|---|
| <input type="checkbox"/> personal service                         | <input type="checkbox"/> first class mail |
| <input type="checkbox"/> certified mail, return receipt requested | <input type="checkbox"/> facsimile        |
| Article Number <u>9171999991703106755910</u>                      | <input type="checkbox"/> other            |

on the 7<sup>th</sup> day of January, 2015.

I declare that the statements above are true to the best of my information, knowledge and belief.

  
Debbie S. Jorgenson