

BEFORE THE PHARMACY BOARD OF THE STATE OF IOWA

<p>IN THE MATTER OF</p> <p>ERIC ARTHUR SMITH Farm & Family Veterinary Clinics</p> <p>RESPONDENT</p>	<p>CASE NOS.: 2024-0081, 2024-0082, 2024-0083</p> <p>COMBINED NOTICE OF HEARING, STATEMENT OF CHARGES, AND EMERGENCY ADJUDICATIVE ORDER</p>
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COMES NOW the Iowa Board of Pharmacy (“Board”) and files this Notice of Hearing, Statement of Charges, and Emergency Adjudicative Order against Eric Arthur Smith (“Respondent”), pursuant to Iowa Code sections 17A.12(2), 17A.18(3), 17A.18A, 272C.3(1)(e), and 657 IAC 35.35.

A. TIME, PLACE AND NATURE OF HEARING

1. **Hearing.** A contested case hearing shall be held on November 4, 2024, before the Board. The hearing shall begin at 12:00 pm and shall be located in the conference room at the office of the Iowa Board of Pharmacy, 6200 Park Avenue, Ste. 100, Des Moines, Iowa 50321.
2. **Scheduling Conference.** Any party may request a prehearing conference in accordance with 657 IAC 35.22.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are permitted by 657 IAC 36.16 to file an Answer. Should you file an Answer, please note whether you will request a continuance of the date and time of the hearing.

3. **Filing of Pleadings.** Pleadings shall be filed with the Board at the following address: Iowa Board of Pharmacy, 6200 Park Avenue, Ste. 100, Des Moines, Iowa 50321, by email to lacy.hepp@dia.iowa.gov, or electronically using the Administrative Electronic Document Management System (adminhearings.iowa.gov/efile/).

4. **Presiding Officer.** The Board shall serve as presiding officer at the contested case hearing, but the Board hereby delegates to an Administrative Law Judge from the Department of Inspections, Appeals and Licensing, the authority to make initial rulings on prehearing matters, and requests the Administrative Law Judge be present to assist and advise the Board at hearing.

5. **Prehearing Conference.** Any party may request a prehearing conference to discuss evidentiary issues related to the hearing in accordance with 657 IAC 35.22.

6. **Hearing Procedures.** The procedural rules governing the conduct of the hearing are found at 657 IAC 35.35. At the hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 657 IAC 35.23. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

7. **Prosecution.** The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address: Lindsey L. Browning, Assistant Attorney General, Office of the Iowa Attorney General 1305 E. Walnut Street, 2nd Floor, Des Moines, Iowa 50319.

8. **Communications.** You may not contact Board members in any manner, including by phone, letter, facsimile, in person or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board and serve upon all parties in the case. You may contact Amanda Woltz, Executive Officer, Iowa Board of

Pharmacy, at 515-281-6674 or Amanda.Woltz@dia.iowa.gov, or Assistant Attorney General Lindsey L. Browning at 515-281-3441 or lindsey.browning@ag.iowa.gov.

B. LEGAL AUTHORITY AND JURISDICTION

9. **Iowa License.** Respondent maintains individual Controlled Substances Act (“CSA”) registrations as follows:

- a) #1512557 for the Farm & Family Veterinary Clinic located in Victor, IA 52347;
- b) #1512707 for the Farm & Family veterinary Clinic located in Brooklyn, IA 52221; and
- c) #1512708 for the Farm & Family Veterinary Clinic located in Montezuma, IA 50171.

Respondent’s individual CSA registrations are in good standing and all expire on June 30, 2026.

10. **Jurisdiction.** The Board has jurisdiction in this matter pursuant to Iowa Code §§ 124 and 155A.

11. **Legal Authority.** If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code § 155A and 657 Iowa Administrative Code 36.

12. **Default.** The Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code § 17A.12(3) and Iowa Administrative Code 35.27.

C. STATEMENT OF CHARGES

COUNT I

13. Respondent is charged under 657 IAC 36.6(8) with the distribution of drugs for other than lawful purposes which includes, but is not limited to, the disposition of drugs in violation of Iowa Code §§ 124, 126, and 155A.

COUNT II

14. Respondent is charged under 657 IAC 10.24 with failure to include the requirements necessary for a controlled substance prescription under Iowa law.

COUNT III

15. Respondent is charged under 657 IAC 10.25 with failure to maintain dispensing records as required for controlled substances under Iowa law.

COUNT IV

16. Respondent is charged under 657 IAC 10.14 for failing to maintain ultimate accountability of controlled substances and records maintained at a registered location.

D. FINDINGS OF FACT

17. **Practice Setting**. Respondent is an Iowa licensed veterinarian practicing the areas of Brooklyn, Montezuma, and Victor, Iowa, during the time period relevant to these allegations.

18. **Factual Circumstances**. On or about the date of January 17, 2024, the Iowa Department of Agriculture and Land Stewardship (“IDALS”) commenced an investigation into a dog kennel facility in the state of Iowa. Through subsequent investigation, IDALS was able to determine that this facility had a relationship with Dr. Eric Smith, DVM, who had been providing controlled substances to the kennel facility without documentation or receipt. On April 11, 2024, the Iowa Board of Pharmacy initiated investigation against all three of the Respondent’s individual CSA registrations. Subsequent investigation revealed that Respondent had improperly dispensed controlled substances to kennel locations without CSA registrations – not to specific animal patients. Further, Respondent did not keep adequate records to detail the prescriptions or the records of dispensation. Upon inspection, a Board Compliance Officer identified missing controlled substances from Respondent’s inventory at the Montezuma veterinary clinic location.

E. SETTLEMENT

19. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 Iowa Administrative Code 35.24. If you are interested in pursuing settlement of this matter, please contact the Assistant Attorney General identified above.

F. PROBABLE CAUSE FINDING

20. On September 10, 2024, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.

G. CONCLUSIONS OF LAW

21. Iowa Code § 124.304 states in pertinent part,

The Board may suspend; revoke; or restrict a registration under section 124.303, or otherwise discipline a registrant, upon a finding that any of the following apply to the registrant: (d) the registrant has committed such acts as would render the registrant's registration under section 124.303 inconsistent with the public interest.

Iowa Code § 124.304(d).

22. Additionally, pursuant to statute, the Board may take emergency action "as is necessary to prevent or avoid the immediate danger to the public health, safety, or welfare...". Iowa Code § 17A.18A(2).

H. ORDER

IT IS THEREFORE ORDERED:

A. The Board finds:

- i. Respondent does not maintain records of the prescription of dispensation of controlled substances at his three veterinary clinics;
- ii. Respondent provides controlled substances to unauthorized users in the State of Iowa; and
- iii. Respondent has failed to maintain accountability for the controlled substances in

his inventory.

B. For the foregoing reasons, the Board finds the Respondent is an immediate danger to the public health, safety and welfare.

C. Accordingly, Respondent's CSA registration is hereby **INDEFINITELY SUSPENDED** effective October 1, 2024.



Chairperson
Iowa Board of Pharmacy

Copy to:
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PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in this matter because of a disability, immediately call 515-281-0233. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).