TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS
1946 South IH 35, Suite 306
Austin, Texas 78704

DOCKET NUMBER 1995-15
GARY SMRSTICK, D.V.M.
LICENSE NUMBER 5138

NEGOTIATED SETTLEMENT

This negotiated settlement has been entered by agreement between Dr. Gary Smrstick, the Executive Director of the Texas State Board of Veterinary Medical Examiners, and in concurrence with the Board Secretary. It is presented to the Board as a recommendation only. If the Board elects to reject or amend this negotiated settlement, the defendant, Dr. Smrstick, may be granted a continuance at his option.

Dr. Smrstick does not contest the allegations set forth in the Complaint, attached as Exhibit "A" and incorporated herein for all purposes, and agrees that: (1) the Board may treat the allegations of fact and law as true; and (2) the findings shall have the same force and effect as if evidence and argument were presented in support of the allegations. Respondent understands and intends that by so stating, he is not admitting the truth of the allegations, but is merely agreeing that the Board may enter an Order treating the allegations as true without the necessity of receiving evidence in support thereof.

SUMMARY OF CHARGES: Dr. Smrstick has failed to properly maintain his patient records as required by rule.

RECOMMENDED DISCIPLINARY ACTION: Reprimand

CONDITIONS:

1. Submit to unannounced quarterly inspections with focus on record keeping.

2. Take and pass the State Board Jurisprudence Examination.

3. Abide by the Laws and Rules of the State of Texas as they pertain to the practice of veterinary medicine.
The foregoing Agreed Settlement, entered into between Dr. Gary Smrstick, Board Secretary, and the Board Executive Staff, and having been presented to the Texas State Board of Veterinary Medical Examiners as a No Contest Plea, was accepted by the Board, and the Board, on the 8th day of June, 1995, ORDERED that all penalties and conditions as stated therein be complied with the same as if evidence had been heard and Finding and Order issued.

Executed this the 8th day of June, 1995.

Alton F. Hopkins, Jr., D.V.M., President

John N. Wood, D.V.M., Vice-President

James N. Gomez, D.V.M., Secretary

Robert I. Hughes, Jr., D.V.M., Member

Sharon O. Matthews, Member

Michael J. McCulloch, D.V.M.

Joyce G. Schiff, Member

Guy A. Sheppard, D.V.M., Member

Clark S. Willingham, Member

Date

Date

Date

Date

Date

6/8/95

Date
DOCKETED COMPLAINT NO. 1995-15

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS
vs.
GARY SMRSTICK, D.V.M.

TEXAS VETERINARY MEDICAL LICENSE NO. 5138
$ 1995 RENEWAL CERTIFICATE
$ NUMBER 3316

COMPLAINT AFFIDAVIT

Before me, the undersigned authority, a Notary Public in and for Texas, on this day personally appeared Mike Carroll, who after being duly sworn, did depose and say:

On or about June 17, 1994, Mike Carroll, being an employee of the Texas State Board of Veterinary Medical Examiners, did in the course of such employment, make certain investigations into the professional conduct of one Gary Smrstick, D.V.M., 12202 Mopac Expressway, Austin, Texas, 78758, Veterinary License Number 5138, 1995 Renewal Certificate Number 3316, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, Mike Carroll, do hereby present the following complaint against Gary Smrstick, D.V.M.

I.

On or about March 12, 1994, Linda Steidel presented a two year old male Norwegian Elkhound for euthanasia. Ms. Steidel told Dr. Smrstick that the dog had attacked her niece. Dr. Smrstick failed to maintain proper medical records to reflect that the dog had not actually bitten anyone.
II.

On or about November 20, 1994, Dr. Smrstick changed the strength of Primidone he dispensed to "Kitty" McKelvy from 50mg to 250mg. Dr. Smrstick failed to record the necessary information in the patient record to reflect the reason for this change.

III.

On or about September 6, 1994, Sandra McDonough presented her eleven week old puppy, "Sally", to the Wells Branch Pet and Bird Clinic at 12202 MoPac Expressway. Dr. Smrstick examined the dog and diagnosed Parvo Virus. Dr. Smrstick treated the dog for Parvo but failed to record in the patient records the necessary information on medications used.

IV.

By not recording the complete information of the dog attack as described in paragraph I, Dr. Smrstick has violated 573.52 - Patient Record Keeping, of the Rules of Professional Conduct.

V.

By not recording the information concerning the changing of strengths of Primidone as described in paragraph II, Dr. Smrstick has violated 573.52 - Patient Record Keeping, of the Rules of Professional Conduct.
VI.

By failing to record the amounts of medication administered as described in paragraph III, Dr. Smrstick has violated 573.52 - Patient Record Keeping, of the Rules of Professional Conduct.

VII.

By violating the above listed Rules of Professional Conduct, Dr. Smrstick has also violated Section 14 (a) (5) of the Veterinary Licensing Act, Article 8890.

ARTICLE 8890, SECTION 14

(a). . . the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a licensee. . . . if it finds that a licensee:

(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with a law;
ARTICLE 8890, SECTION 14B

(a) If a person violates this act in a manner that constitutes grounds for disciplinary action by the Board, the Board may assess an administrative penalty against that person in addition to taking action under Section 14 or 14A of this Act.

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the _____ day of _____, 1995.

Further, Affiant sayeth not.

________________________________________
Mike Carroll, Affiant

SUBSCRIBED and SWORN TO before me by the said Mike Carroll this the _____ day of _____, 1995.

________________________________________
Charles A. Adkins, Notary Public in and for Texas
Gary Smrstick, DVM

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The foregoing Complaint is hereby filed and docketed with the Texas State Board of Veterinary Medical Examiners and styled Texas State Board of Veterinary Medical Examiners vs. Gary Smrstick, D.V.M. under Docketed Number 1995-15 this the 17 day of May, 1995

James N. Gomez, DVM, Board Secretary

Texas State Board of Veterinary Medical Examiners