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September 11, 2012

To Whom It May Concern:

I want to voice my strong opposition to H.R. 1406 as it is currently written. As a licensed veterinarian I would, obviously, be directly affected by this potential legislation. My position as a veterinary healthcare provider also gives me a first-person perspective regarding the issue. If you would permit me, I would like to address my concerns.

H.R.1406 -- Fairness to Pet Owners Act of 2011 (Introduced in House - IH)

The stated purpose of the purposed legislation is:

"To provide pet owners the ability to receive a copy of veterinary prescriptions, and for other purposes."

I do support and encourage facilitating an individual's right to receive a prescription if they desire one. The "other purposes" for which the bill is intended are of concern to me, and, in my opinion, suspect. The wording of this bill is confusing and does not achieve the above stated objective, but rather serves to interfere with communication between the veterinarian and client.

Section 2(1)(A):

"A requirement that the prescriber of an animal drug shall whether or not requested by the pet owner, provide to the pet owner a copy of the veterinary prescription and a written disclosure that the pet owner may fill the prescription through the prescriber (if available), or through another pharmacy determined by the pet owner"

In regard to the first part of this subsection, I do not feel that the mandated issuance of a written prescription *"whether or not requested by the pet owner"* improves a client's options or the doctor-client-patient relationship. Such a requirement would make the relationship less personal and more cumbersome. For example, if a client wishes to purchase a pet's medication at the time of the appointment (and many do because it is convenient, saves a trip and/or eliminates any delay in beginning the medication), the veterinarian would be required to produce a written prescription, hand it to the client and have the client hand it back to be filled.

I believe that language stipulating the following would better serve our clientele without encumbering clinicians:

- Require that a veterinarian provide a written prescription *if requested by the client*, and that the provider may not deny such a request.
- No fee may be imposed for the issuance of a written prescription.
- Display in a conspicuous area, notification that clients may request a written prescription and that such a request may not be denied, nor a fee charged for such a service.

The language also makes no allowance for a hospitalized patient who may require medication

available by prescription. A case could be made that the veterinarian would be obligated to issue a prescription before administering said medication.

By this standard, hospitals would be required to notify patients *in writing* that they may choose to have their medication purchased elsewhere than the hospital pharmacy and delivered to them before it is administered, and that no fee may be imposed for such a service.

Section 2(1)(B):

“A requirement that the prescriber of an animal drug shall provide or verify the prescription by electronic or other means consistent with applicable State law, if requested by any person designated to act on behalf of the pet owner.”

I find this section troubling, as it has no direct benefit to a pet owner, but rather seeks to benefit third parties not directly involved in the care of the patient. If the above language were to be implemented, I believe that it would be incumbent upon me to obtain written designation from my client as to all parties authorized to act on their behalf in order to protect myself from claims of non-compliance, as well as any potential claim related to protection of privacy and/or personal information or unauthorized medication requests.

However, my main concern relates to who is authorized to initiate and write a prescription, and upon whom this responsibility rests. This bill defines a prescriber as:

Section 5(4):

PRESCRIBER- The term ‘prescriber’ means a health care practitioner who is licensed to practice veterinary medicine or other person permitted under State law to issue prescriptions for animal drugs.

I routinely experience instances in which online or mail-order companies send me requests for “prescription authorization” for prescriptions which I did not write nor initiate. These requests are for prescriptions which the owner has self-initiated, requested or prescribed, with the prescription being written *by the online pharmacy*. In many cases the patient has either not been examined for the condition which the medication is intended to treat, or has not been seen in a time frame which would allow me, as a veterinarian, to assess whether the medication is appropriate. This would be analogous to an individual requesting medication from a pharmacy and requiring the individual's physician to verify the prescription, even though the doctor has not examined that individual nor written the prescription.

Again, these are not instances in which I have provided the client with a prescription which has been submitted for filling, but prescriptions that have been generated by the third party pharmacy, who, even under the definitions included in this bill, do not meet the definition of a prescriber. I am concerned that Section 2(1)(B) will be interpreted as a mandate that I respond to these third party requests in cases such as I have outlined above.

In such cases, I believe it is most appropriate for me to communicate directly with my client concerning such requests, rather than a third-party with no direct relationship with the patient.

Section 2(2)(A)(ii):

“A requirement that the prescriber of an animal drug may not require payment in addition to, or as part of, the fee for an examination and evaluation as a condition of providing a copy of the veterinary prescription or verifying such prescription under paragraph (1)”

I strongly support prohibiting a fee being charged in order to obtain a prescription and would support such legislation.

However, in order to provide medication, I must have a valid veterinarian-client-patient relationship, which dictates that I assume responsibility for the patient's care, and that I have

sufficient knowledge of the animal's current health to form a preliminary diagnosis. Such knowledge cannot be gained without detailed history and physical examination of the animal. Therefore, I must examine and evaluate my patient as a condition for providing a prescription medication.

The wording of this section leaves open a potential argument that a “part of” my fee for any examination revealing the need for medication is for writing a prescription.

Section 2(B) may be intended to address this issue, but again the wording is inconsistent and confusing. The section states:

“A requirement that the prescriber of an animal drug may require payment of fees for an examination and evaluation before providing a veterinary prescription, but only if the prescriber requires immediate payment in the case of an examination that reveals no requirement for an animal drug.”

If the intent of this legislation is truly to ensure that a client may be free to obtain their pet's medication at the facility of their choosing, this goal can be achieved without mandating that every client must receive a written prescription, *even if they do not desire one*. Such a mandate increases waste, adds an additional administrative layer to patient care, results in more delay for the client during appointment times, and, most importantly, does not result in improved patient care.

In conclusion, I believe my primary responsibility is to my patient and to my client. My patients are not able to represent themselves, therefore, I must be their advocate. As the majority of my clients do not have medical backgrounds, it is my responsibility to educate, inform and provide them with the best options for the medical care of the animals they bring to me. It is their interests that I represent. I do not represent the interest of third parties who have no direct connection, involvement, nor interaction with a patient's care. I do not feel that this legislation, in its current form, benefits my patients, nor my clients. The only beneficiaries are third parties who wish to circumvent the veterinarian-client-patient relationship in order to sell a product.

Thank you for allowing me to voice my concerns regarding this legislation. I greatly appreciate your time in this matter.

Sincerely,

Mark Swaney DVM
President and Medical Director
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