LEGAL BRIEFS

Prescribing and Dispensing Prescription Drugs – Some Do's and Don'ts

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What do you do when the person vacationing in your area (who, of course, left their pet's medications at home) asks you to dispense a drug for an animal that you've never seen? Or, another common event, how do you respond when a client asks for a prescription to be filled elsewhere rather than having you dispense the drug? The practice of prescribing and dispensing drugs generates many questions, and we'll address these two this month. In the future, we'll address other questions.

Prescribing and dispensing drugs is governed by Sec. 453.068, Wis. Stats. Paraphrasing the language of Sec. 453.068 and the related definitions set forth at Sec. 453.02, a veterinarian may only prescribe a drug for a patient (i) after personally examining the patient, unless (ii) a veterinary-client-patient relationship exits between the veterinarian, client and patient and the veterinarian determines that the client has sufficient knowledge to administer the drug properly. Under the same law, a veterinarian may only dispense a drug for a patient (i) after meeting the requirements set forth for prescribing a drug, or (ii) pursuant to a prescription from another veterinarian. A close reading of the language of Sec. 453.068 , as well as Sec. VE 7.06(10) of the Wisconsin Administrative Code, would appear to prohibit the dispensing of a drug without meeting the requirements for prescribing the drug. However, the definition of "prescription" at Sec. 453.02(6m) appears to allow a veterinarian to dispense a drug on the prescription of another veterinarian. At our request, the Veterinary Examining Board considered this issue and concluded that "a second veterinarian could dispense prescription drugs that are written by the primary veterinarian who had examined the animal and initially wrote the prescription." See, Minutes of Veterinary Examining Board, August 08, 2007.

In the instance of the vacationing pet owner, the alternatives are: (i) have the patient's regular veterinarian fax a prescription to you, or (ii) do an examination of the patient. It is not otherwise permissible to dispense the requested drug.

Your clients are inundated with advertisements on the internet and in print media claiming that the client can obtain drugs at lower cost than from their veterinarian. Not unexpectedly, a client may ask you for a prescription to be filled elsewhere rather than having you dispense the drug. Are you required to grant the request? The answer is "no".

There is nothing in the statutes or administrative code in Wisconsin that requires a veterinarian to write a prescription rather than to dispense the drug directly. See, Minutes of Veterinary Examining Board, May 24, 2006. It is the view of the American Veterinary Medical Association that a veterinarian should honor a client's request for a prescription in lieu of dispensing the drug. See, AVMA Principles of Veterinary Medical Ethics. Approximately half of the states have adopted, in some fashion, the AVMA's approach. However, Wisconsin is not one of those states.

Certainly, there is the practical concern that your client will be unhappy, and perhaps become a former client, if you refuse to write the prescription. An alternative is to write the prescription and charge an additional fee for the service.

When the client is obtaining drugs from a third-party source, there is a concern whether the source is legitimate and the drugs of high quality. Although not an action that we believe is required, we suggest that it's a good practice, when writing the prescription, to also counsel the client to be certain that the drugs are coming from an appropriately licensed source.