

**Questions for the Record for Tara Koslov**  
**Hearing on “The Pet Medication Industry: Issues and Perspectives”**  
**House Committee on Energy and Commerce**  
**Subcommittee on Commerce, Manufacturing and Trade**  
**April 29, 2016**

**The Honorable Michael C. Burgess, M.D.**

- 1. Ms. Koslov, please detail the number of complaints the FTC has received where a consumer asked for a prescription from their veterinarian and it was not given to them.**

In preparation for the October 2012 public workshop,<sup>1</sup> FTC staff interviewed numerous industry stakeholders. We repeatedly heard that while many veterinarians provide portable prescriptions to their clients under at least some circumstances, some veterinarians refuse to provide portable prescriptions or are reluctant to do so. Several public comments received in conjunction with the workshop, as well as a few recent emails from consumers, noted difficulties in obtaining portable prescriptions.

Furthermore, since 2011, the FTC has received 37 non-public consumer complaints regarding veterinary prescription practices through our Consumer Sentinel website. Most of these complaints concerned veterinarians refusing to honor client requests for prescriptions, with many originating in states that require veterinarians to provide prescriptions upon request. Some of the complaints concerned veterinarians reluctantly providing prescriptions after being pressed by consumers, and charging fees for the prescriptions or making disparaging statements about online veterinary pharmacies. A few of the complaints concerned veterinarians requiring additional examinations or diagnostic tests as a condition for providing prescriptions, some of which may not have been necessary. For example, some veterinarians allegedly wanted to conduct multiple heartworm tests in an annual period as a condition for providing a portable prescription, even though best practices indicate that typically this test is only necessary once annually.

- 2. Ms. Koslov, are there other sources of complaints against veterinarians outside of the FTC’s complaint system? If so, please detail those sources. Do you have any data from those sources about the number of instances, or complaints from individuals, where a client asked their veterinarian for a prescription and the request was denied?**

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<sup>1</sup> Information about the workshop is available on the workshop’s webpage. *Pet Medications Workshop*, FED. TRADE COMM’N (Oct. 2, 2012), <http://www.ftc.gov/news-events/events-calendar/2012/10/pet-medicationsworkshop>. A transcript of the proceedings is also available. Transcript of Pet Medications Workshop, Fed. Trade Comm’n (Oct. 2, 2012), [http://www.ftc.gov/sites/default/files/documents/public\\_events/pet-medicationsworkshop/petmedtranscript-1.pdf](http://www.ftc.gov/sites/default/files/documents/public_events/pet-medicationsworkshop/petmedtranscript-1.pdf).

As stated in our 2015 report,<sup>2</sup> FTC staff did not identify any comprehensive data sources that quantify the extent to which veterinarians provide portable prescriptions. We are aware that some state veterinary medical associations have surveyed veterinarians on this issue; our understanding is that survey responses indicate that some veterinarians refuse to provide prescriptions to clients when requested, even in states with laws, regulations, or policies requiring them to do so. As explained above, FTC staff also received anecdotal evidence in written public comments and emails, and reviewed other publicly available sources, indicating that some veterinarians refuse to provide prescriptions to clients when requested.<sup>3</sup>

Based on informal conversations with some state veterinary boards, it is FTC staff's understanding that boards receive few consumer complaints about this issue. The complaints they do receive are usually informal (*e.g.*, a telephone call) and resolved on an informal basis (*e.g.*, via a follow-up telephone call to a veterinarian, informing her that she should comply with the client's request), typically without official written documentation. Therefore, it is difficult to ascertain the actual number of complaints that these boards have received. Based on FTC staff's understanding of consumer behavior in this industry, we also believe it is unlikely that a significant number of consumers would know how, or expend the time and effort necessary, to file a formal written complaint with a state veterinary board.

**3. Ms. Koslov, are there any provisions of law, or industry codes, which bar pharmaceutical manufacturers from providing physicians with payments, gifts, or other benefits as an inducement to prescribe their products? If so, please explain the impact of such restrictions.**

FTC staff are unaware of any laws or regulations barring pharmaceutical manufacturers from providing veterinarians with payments, gifts, or other benefits as an inducement to prescribe their pet medication products. Although such practices have been banned in the human medications industry with respect to physicians, it is our understanding that these restrictions have not been extended to the pet medications industry and veterinarians.

Some observers have suggested that there is an inherent conflict of interest associated with veterinarians recommending and prescribing medications that they also sell, and that the conflict may be exacerbated when pharmaceutical companies offer financial incentives to veterinarians for recommending or dispensing their products. For example, economic self-interest could lead some veterinarians to be biased toward over-prescribing medications, or recommending more expensive categories of medications, in an effort to generate greater revenues. Many veterinarians, however, strongly deny that these financial incentives affect their decisions regarding the products they recommend or prescribe to their patients.<sup>4</sup>

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<sup>2</sup> FED. TRADE COMM'N STAFF REPORT, COMPETITION IN THE PET MEDICATIONS INDUSTRY: PRESCRIPTION PORTABILITY AND DISTRIBUTION PRACTICES (May 2015), <https://www.ftc.gov/system/files/documents/reports/competition-pet-medications-industry-prescription-portability-distribution-practices/150526-pet-meds-report.pdf> [hereinafter "FTC Staff Report"].

<sup>3</sup> See FTC Staff Report, *supra* note 2, at 38.

<sup>4</sup> See FTC Staff Report, *supra* note 2, at 72-73.

Notably, the American Veterinary Medical Association (AVMA) Principles of Veterinary Medical Ethics advise veterinarians not to accept financial incentives from pharmaceutical companies. This guidance is generally only prescriptive unless states have adopted it via statute or regulation.

**4. Ms. Koslov, in its 2015 report, the FTC discussed the practice of pet owners being required to sign a waiver of liability prior to receiving the copy of a prescription. Does the FTC have any data about the terms of these waivers? Are veterinarians liable for any damages which occur as a result of a pharmacy incorrectly filling a prescription or any other pharmacy performance failures?**

Based on the workshop record and additional research, FTC staff believe such liability concerns are unfounded. Some veterinarians have expressed concerns about possible liability if a pharmacist dispenses an incorrect, counterfeit, or otherwise adulterated pet medication. FTC staff are unaware of any instances where a veterinarian has been held liable for a pharmacist's dispensing error. Some pharmacy boards have expressly indicated that pharmacists, not veterinarians, are responsible for any prescription misfills. As long as an animal is properly examined and diagnosed, and a prescription is written properly, it is unlikely that liability would attach to a veterinarian in the event a retail pharmacist incorrectly dispensed a medication.<sup>5</sup>

As stated in our 2015 report, FTC staff are aware that some veterinarians nevertheless require clients to sign a waiver of liability before providing them with a portable prescription, and would be concerned by proposals to prohibit the use of such waivers. FTC staff have collected some examples of liability waivers, and there are numerous examples available online.<sup>6</sup> These waivers typically state that the prescribing veterinarian is released from any liability potentially stemming from the purchase and administration of medications from alternative retail sources, or from any complications that may arise from the use of these medications. Often, these waivers recite purported safety concerns associated with purchasing pet medications from retail sources other than the prescribing veterinarian, including risks of improper storage and handling procedures, questionable sourcing (*i.e.*, products not purchased directly from manufacturers, which allegedly might negate product guarantees), incorrect or mislabeled products, and compromised product integrity (*e.g.*, products that are expired, counterfeit, or unapproved by the U.S. Food and Drug Administration).

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<sup>5</sup> See FTC Staff Report, *supra* note 2, at 62-64.

<sup>6</sup> See, *e.g.*, [http://www.wsvh.net/wp-content/uploads/2014/02/prescription\\_policy.pdf](http://www.wsvh.net/wp-content/uploads/2014/02/prescription_policy.pdf); <http://aplusanimalhospital.com/doc/Internet-Pharmacy-Waiver.pdf>; <http://www.whitesburganimalhospital.com/forms/pharmacy-waiver-form.pdf>; <http://www.alpinehospitalforanimals.com/files/2014/03/Online-Waiver.pdf>; <http://nmah.com/faqs/can-i-fill-my-pets-prescription-at-an-online-pharmacy>.

## The Honorable Susan Brooks

- 1. In regards to pet owners filing complaints claiming their veterinarian would not provide a prescription upon request (i.e. withholding the prescription), what specific practices by veterinarians have complaints been filed about? What specific types of complaints have been filed? How many complaints have been filed? Which state(s) do the complainant(s) live in? Do the state(s) in which complaints have been filed already have state-level legislation or regulation in regards to issuing pet medication prescriptions?**

In preparation for the October 2012 public workshop, FTC staff interviewed numerous industry stakeholders. We repeatedly heard that while many veterinarians provide portable prescriptions to their clients under at least some circumstances, some veterinarians refuse to provide portable prescriptions or are reluctant to do so. Several public comments received in conjunction with the workshop, as well as a few recent emails from consumers, noted difficulties in obtaining portable prescriptions.

Specifically, the following types of concerns have been expressed about veterinarians: refusing to provide prescriptions to clients upon request; actively discouraging clients from requesting prescriptions and filling them elsewhere; providing misleading information about non-veterinary retailers; requiring waivers of liability that exaggerate the purported dangers of purchasing from non-veterinary retailers; and requiring extra fees for portable prescriptions.

Furthermore, since 2011, the FTC has received 37 non-public consumer complaints regarding veterinary prescription practices through our Consumer Sentinel website. Most of these complaints concerned veterinarians refusing to honor client requests for prescriptions, with many originating in states that require veterinarians to provide prescriptions upon request. Some of the complaints concerned veterinarians reluctantly providing prescriptions after being pressed by consumers, and charging fees for the prescriptions or making disparaging statements about online veterinary pharmacies. A few of the complaints concerned veterinarians requiring additional examinations or diagnostic tests as a condition for providing prescriptions, some of which may not have been necessary. For example, some veterinarians allegedly wanted to conduct multiple heartworm tests in an annual period as a condition for providing a portable prescription, even though best practices indicate that typically this test is only necessary once annually.

As stated in our 2015 report, FTC staff did not identify any comprehensive data sources that quantify the extent to which veterinarians provide portable prescriptions. We are aware that some state veterinary medical associations have surveyed veterinarians on this issue; our understanding is that survey responses indicate that some veterinarians refuse to provide prescriptions to clients when requested, even in states with laws, regulations, or policies requiring them to do so. As explained above, FTC staff also received anecdotal evidence in written public comments and emails, and reviewed other publicly available sources, indicating that some veterinarians refuse to provide prescriptions to clients when requested.

In addition, FTC staff have been informed that retail pharmacies selling pet medications regularly receive denials from veterinary practices in response to prescription authorization requests. We have some examples of these denials on file.

Based on informal conversations with some state veterinary boards, it is FTC staff's understanding that boards receive few consumer complaints about this issue. The complaints they do receive are usually informal (*e.g.*, a telephone call) and resolved on an informal basis (*e.g.*, via a follow-up telephone call to a veterinarian, informing her that she should comply with the client's request), typically without official written documentation. Therefore, it is difficult to ascertain the actual number of complaints that these boards have received. Based on FTC staff's understanding of consumer behavior in this industry, we also believe it is unlikely that a significant number of consumers would know how, or expend the time and effort necessary, to file a formal written complaint with a state veterinary board.

FTC staff are unaware of any state-by-state comparison data that might demonstrate variation in the number of consumer complaints depending on state laws, regulations, or policies.

## The Honorable Kurt Schrader

- 1. During the hearing, you referenced veterinarians generating 20% of their revenue coming from pet medication sales. Please provide your reference for such data.**

In our 2015 report, FTC staff stated that veterinarians have long relied upon pet medication sales as a source of revenue, and that pet medication sales comprise approximately 20 percent of the total income for a typical primary care veterinary practice. Our sources for these statements include the FTC workshop transcript, public comments, publications by the American Animal Hospital Association and American Veterinary Medical Association, presentations by veterinary consultants, and interviews with veterinarians and other industry participants.<sup>7</sup>

- 2. During the hearing, you stated that the FTC had received a number of complaints about veterinarians failing to honor a request for the written prescription or not being aware that they could have a prescription filled outside of the veterinarian's office. How many complaints have you received, what are the nature of the complaints, and are these complaints from states with or without laws, policies, or regulations requiring veterinarians to honor a client's request? Additionally, how do complaints received from states compare – those from Arizona and California (which require veterinarians to notify clients of their option to fill the prescription elsewhere and then honor the request) versus those from states where veterinarians simply must honor a request versus those states with no laws, policies or regulations?**

In preparation for the October 2012 public workshop, FTC staff interviewed numerous industry stakeholders. We repeatedly heard that while many veterinarians provide portable prescriptions to their clients under at least some circumstances, some veterinarians refuse to provide portable prescriptions or are reluctant to do so. Several public comments received in conjunction with the workshop, as well as a few recent emails from consumers, noted difficulties in obtaining portable prescriptions.

Specifically, the following types of concerns have been expressed about veterinarians: refusing to provide prescriptions to clients upon request; actively discouraging clients from requesting prescriptions and filling them elsewhere; providing misleading information about non-veterinary retailers; requiring waivers of liability that exaggerate the purported dangers of purchasing from non-veterinary retailers; and requiring extra fees for portable prescriptions.

Furthermore, since 2011, the FTC has received 37 non-public consumer complaints regarding veterinary prescription practices through our Consumer Sentinel website. Most of these complaints concerned veterinarians refusing to honor client requests for prescriptions, with many originating in states that require veterinarians to provide prescriptions upon request. Some of the complaints concerned veterinarians reluctantly providing prescriptions after being pressed by consumers, and charging fees for the prescriptions or making disparaging statements about online veterinary pharmacies. A few of the complaints concerned veterinarians requiring additional examinations or diagnostic tests as a condition for providing prescriptions, some of

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<sup>7</sup> See FTC Staff Report, *supra note 2*, at 66, fn. 262 and 263.

which may not have been necessary. For example, some veterinarians allegedly wanted to conduct multiple heartworm tests in an annual period as a condition for providing a portable prescription, even though best practices indicate that typically this test is only necessary once annually.

As stated in our 2015 report, FTC staff did not identify any comprehensive data sources that quantify the extent to which veterinarians provide portable prescriptions. We are aware that some state veterinary medical associations have surveyed veterinarians on this issue; our understanding is that survey responses indicate that some veterinarians refuse to provide prescriptions to clients when requested, even in states with laws, regulations, or policies requiring them to do so. As explained above, FTC staff also received anecdotal evidence in written public comments and emails, and reviewed other publicly available sources, indicating that some veterinarians refuse to provide prescriptions to clients when requested.

In addition, FTC staff have been informed that retail pharmacies selling pet medications regularly receive denials from veterinary practices in response to prescription authorization requests. We have some examples of these denials on file.

Based on informal conversations with some state veterinary boards, it is FTC staff's understanding that boards receive few consumer complaints about this issue. The complaints they do receive are usually informal (*e.g.*, a telephone call) and resolved on an informal basis (*e.g.*, via a follow-up telephone call to a veterinarian, informing her that she should comply with the client's request), typically without official written documentation. Therefore, it is difficult to ascertain the actual number of complaints that these boards have received. Based on FTC staff's understanding of consumer behavior in this industry, we also believe it is unlikely that a significant number of consumers would know how, or expend the time and effort necessary, to file a formal written complaint with a state veterinary board.

FTC staff are unaware of any state-by-state comparison data that might demonstrate variation in the number of consumer complaints depending on state laws, regulations, or policies.

**3. The FTC report acknowledges veterinarians face increased price competition from other retail distribution channels and have responded by lowering prices on some medications. Pet owners, the report says, have many more choices for purchasing pet medications than a decade ago. Pet Med Express claims to have 2.5 million customers with 50 percent of its business being prescription medications. So lots of people are using portable prescriptions and competition is increasing. Why does the government need to create a new mandate in this environment?**

Many consumers of pet medications already appear to have benefitted from price competition between veterinarians and non-veterinary retail pharmacies, and many veterinarians already provide portable prescriptions to their clients under at least some circumstances. Nevertheless, greater prescription portability is likely to further enhance competition, with the potential to yield additional procompetitive benefits for consumers, including lower prices, improved service, more choices, and greater convenience.

As discussed extensively in the FTC staff report, it appears that some consumers do not always receive a portable pet medications prescription from their veterinarians, or are uncomfortable requesting one. Likewise, despite the marketing efforts of non-veterinary retailers, it appears that some consumers are not aware that they can request portable prescriptions and comparison-shop. Federal legislation requiring automatic prescription release may be an effective way to raise consumer awareness about this option and ensure that consumers actually receive portable prescriptions when they want them, especially in comparison to the current patchwork of state statutes, rules, and policy statements that require veterinarians to provide prescriptions only upon request, and the many states with no such requirements.

**4. The FTC report says the traditional distribution model of pet owners purchasing medications directly from veterinarians has been challenged by the expansion of retail businesses, both on-line and brick-and-mortar. How could this expansion be taking place if owners are not aware of their opportunity to fill prescriptions outside of the veterinary office?**

Many pet owners are aware of the option to fill prescriptions outside of the veterinary office, and many veterinarians provide portable prescriptions to clients in at least some circumstances. FTC staff believe this has resulted in greater competition between veterinarians and non-veterinary retailers, and that consumers have benefitted from this competition. It appears, however, that many pet owners remain unaware of this option, or may be uncomfortable requesting prescriptions from their veterinarians, which means the benefits of competition are not yet being fully realized. Therefore, FTC staff support policies that would enhance prescription portability and increase consumer awareness of non-veterinary retail options.

**5. During the hearing you stated that FTC staff reviewed and considered 700 public comments the FTC received in response to the 2012 workshop that was conducted by the FTC. You stated that “complaints persist” that “not all requests [for a written prescription] are honored.” Can you provide additional information on these complaints and the nature of the complaints and with whom they were filed? Also, how many of the 700 public comments indicated that requests for a written prescription were not being honored and how many of these were from states that already have state laws on the books requiring veterinarians to provide the written prescription?**

Of the more than 700 public comments received in connection with the 2012 workshop,<sup>8</sup> approximately 70 came from consumers and consumer advocate organizations and approximately 14 came from non-veterinary retailers and pharmacies that sell pet medications. Many of these comments included allegations that consumer requests for written prescriptions are not always honored by veterinarians, or that veterinarians try to discourage clients from requesting prescriptions by providing misleading information about non-veterinary retailers, requiring waivers of liability that exaggerate the dangers of purchasing from non-veterinary retailers, or requiring extra fees for portable prescriptions. Some of these comments originated in

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<sup>8</sup> The FTC held a public comment period from June 29 to November 1, 2012. All comments received are posted on the FTC website. *List of Public Comments Regarding Pet Medications*, FED. TRADE COMM’N, <http://www.ftc.gov/policy/public-comments/initiative-433>.



states that already have regulations, statutes, or policies requiring veterinarians to provide written prescriptions upon request.

In addition, we received over 580 comments from veterinarians and veterinary hospitals. A small portion of these included statements from veterinarians indicating that they refuse to provide clients with portable prescriptions or actively try to discourage clients from requesting prescriptions.

In addition to these written public comments, FTC staff heard anecdotally from numerous stakeholders that while most veterinarians are willing to provide portable prescriptions to clients upon request, some refuse to provide portable prescriptions or are reluctant to do so. Also, we are aware that some state veterinary medical associations have surveyed veterinarians on this issue; our understanding is that survey responses indicate that some veterinarians refuse to provide prescriptions to clients when requested, even in states with laws, regulations, or policies requiring them to do so.

Since the workshop, FTC staff have continued to receive anecdotal information from pet owners indicating that requests for prescriptions were not being honored by veterinarians. For example, we recently received emails from two different pet owners in Michigan whose veterinarians refused to provide prescriptions to Vet-VIPPS-accredited online veterinary pharmacies so the pet owners could purchase less expensive heartworm medications. Michigan does require veterinarians to honor a client's request for a portable prescription. We also received a phone call and emails from a pet owner in Washington whose veterinarian refused to provide a portable prescription upon request. Washington does not currently require veterinarians to release portable prescriptions to clients, but the Washington veterinary board has proposed to adopt a new rule that would require veterinarians to provide clients with a prescription upon request.

- 6. There have been documented incidences of pet harm from pharmacy mistakes in filling prescriptions, including such things as not recognizing different doses of insulin, thyroid medication, nonsteroidal anti-inflammatory medication, or confusing cc's with tablespoons. Are incidents like this expected to increase if more consumers obtain their pet medications from pharmacies? And have there been any developments since the 2012 workshop to improve training of pharmacists on animal pharmacology so that they reduce errors related to correct dosages, contraindications, side effects, and drug interactions for animal patients?**

As discussed extensively in our report, we believe that the safety concerns expressed by veterinarians regarding pharmacists are exaggerated to some degree. FTC staff are unaware of any data indicating that pharmacists routinely alter pet medication prescriptions, and both the AVMA and state pharmacy boards encourage pharmacists to always contact the prescribing veterinarian if they have questions regarding pet medication prescriptions. Therefore, we do not expect that increased prescription portability would lead to more pharmacy mistakes. Even if this were to occur, inaccurate dispensing of pet medications would violate existing pharmacy laws, which means there is already a regulatory mechanism to address this hypothetical problem.<sup>9</sup>

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<sup>9</sup> See FTC Staff Report, *supra* note 2, at 52-59.

FTC staff are aware that in 2012-2013 some state veterinary medical associations attempted to collect information regarding alleged instances of pharmacist errors when dispensing pet medications. It does not appear that this information resulted in any substantiated claims or formal actions taken by state pharmacy boards. We are aware that the Oregon Board of Pharmacy subsequently received and investigated additional reports of pharmacist error, and that some have resulted in disciplinary fines being imposed, but most of these reported incidents were related to accidental changes rather than deliberate substitutions.<sup>10</sup>

Notably, some stakeholders have suggested that veterinarians may be just as likely to make prescribing and dispensing errors as medical doctors and pharmacists. The FDA Center for Veterinary Medicine has learned that errors may occur in veterinary clinics, pharmacies, and households when pet owners administer medications to their pets. The FDA has stated that it has not received specific adverse events reports involving intentional alteration of prescriptions by pharmacists without verification from prescribing veterinarians.<sup>11</sup>

With respect to the training of retail pharmacists in veterinary pharmacology, we note that many retail pharmacies that sell pet medications are owned and operated by veterinarians who have adequate training, particularly online pharmacies that are Vet-VIPPS certified. In addition, many retail pharmacies now offer additional pet medications training to their employees, and several pharmacy schools now offer courses in basic veterinary pharmacology. If consumer demand for purchasing pet medications from non-veterinary retail pharmacists were to increase, so might the level and extent of training in veterinary pharmacology.

**7. Given legislation related to prescription writing mirrors that for contact lens prescribers, can you tell us how well the contact lens rule is working? Are you having to take enforcement action against prescribers for failing to provide the written prescription, and what does that action look like?**

The Fairness to Contact Lens Consumers Act (“FCLCA”) and the Contact Lens Rule (“Rule”) have helped to promote competition in the contact lens industry by requiring eye care prescribers to (1) provide a copy of a consumer’s prescription to the consumer after a contact lens fitting and (2) provide the prescription to, or verify it with, authorized contact lens sellers. The Commission currently is conducting its periodic review of the Rule. FTC staff are reviewing all comments and evidence submitted to evaluate how well the Rule is working and to determine if any modifications are warranted. In particular, staff are considering whether the Rule’s automatic prescription release framework is operating as intended to promote competition or, conversely, whether consumers’ lack of access to their prescriptions may frustrate their ability to comparison-shop and, ultimately, dampen sellers’ incentives to compete on price and quality aspects of contact lens sales and service.

While we believe the FCLCA and Rule have been successful in promoting competition, the Commission remains vigilant against noncompliance. In April 2016, the Commission issued forty-five warning letters to contact lens prescribers that potentially violated the Rule and statute by failing to comply with automatic prescription release requirements, thus impeding consumers’

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<sup>10</sup> See FTC Staff Report, *supra* note 2, at 55, fn. 218.

<sup>11</sup> See FTC Staff Report, *supra* note 2, at 31-32.

ability to shop in a competitive market.<sup>12</sup> These letters reminded prescribers of their obligations under the Rule and statute and warned them that violations of the Rule and statute may result in legal action, including civil penalties of up to \$16,000 per violation. Along with the letters, FTC staff also provided copies of the Rule, as well as guidance regarding obligations under the Rule. We will continue to monitor the marketplace and take action against violations of the Rule and statute, as appropriate.

**8. You're likely aware of concerns by the FDA regarding medications obtained for pets. We're also aware of some safety issues related to contact lenses obtained online. Has the FTC taken any steps to educate consumers about safe sources of contact lenses and would similar action be taken regarding pet medications?**

FTC staff are aware that the FDA has issued warnings to consumers about purchasing pet medications from unscrupulous online pharmacies that operate illegally. In consumer guidance documents, the FDA has specifically noted that reputable online pharmacies also sell pet medications. The FDA recommends that consumers purchase pet medications only from Vet-VIPPS accredited pharmacies, or from pharmacies recommended by veterinarians, to ensure product quality.<sup>13</sup> FTC staff agree with the FDA recommendation that consumers should purchase pet medications only from accredited pharmacies that operate legally. Vet-VIPPS accreditation appears to be an easy way for consumers to identify safe retail sources for pet medications, and the FTC has issued its own consumer guidance to this effect.<sup>14</sup> FTC staff will continue to monitor the marketplace to determine whether additional consumer guidance is warranted regarding safe sources of pet medications. As you note, FTC staff have relevant experience relating to contact lenses and other prescription products. FTC staff have issued numerous consumer guidance pieces about identifying safe sources for contact lenses, glasses, and other health products and services.<sup>15</sup>

**9. We are aware of a number of states without laws, regulations or policies requiring that veterinarians honor a client's request for the written prescription. Have you seen consumers in these states adversely affected as to price and quality of pet medication services? Or for those states with a requirement, are you finding consumer complaints or veterinarians not in compliance?**

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<sup>12</sup> The Commission issued ten similar letters to contact lens retailers that potentially violated the Rule by dispensing contact lenses without a valid prescription. See FTC Press Release (Apr. 7, 2016), <https://www.ftc.gov/news-events/press-releases/2016/04/ftc-issues-warning-letters-regarding-agencys-contact-lens-rule>. The FTC also has taken enforcement actions against ten contact lens sellers. Our settlement orders have provided injunctive relief that, among other things, prohibits the defendants from selling contact lenses without obtaining a prescription from a consumer; from selling contact lenses without verifying prescriptions by communicating directly with the prescriber; and from failing to maintain records of prescriptions and verifications.

<sup>13</sup> See FTC Staff Report, *supra* note 2, at 15-16, 59.

<sup>14</sup> See Consumer Information Blog Post by Pablo Zylberglait (May 27, 2016), <https://www.consumer.ftc.gov/blog/your-best-bet-pet-meds>.

<sup>15</sup> See Consumer Information Guidance (Apr. 2016), <https://www.consumer.ftc.gov/articles/0116-prescription-glasses-and-contact-lenses>; Consumer Information Blog Post by Colleen Tressler (Apr. 7, 2016), <https://www.consumer.ftc.gov/blog/buying-contacts-you-should-see-prescription-first>; Consumer Information Guidance (Oct. 2011), <https://www.consumer.ftc.gov/articles/0088-buying-cosmetic-contact-lenses>; Consumer Information Guidance (Sept. 2011), <https://www.consumer.ftc.gov/articles/0023-buying-health-products-and-services-online>.

FTC staff are unaware of any state-by-state comparison data that might demonstrate variation in the number of consumer complaints depending on state laws, regulations, or policies. Similarly, FTC staff are unaware of empirical evidence regarding the degree of price variation among different retail distribution channels, or of data comparing the price and quality of pet medication services across states. As discussed in our report, however, FTC staff believe that greater prescription portability is likely to enhance competition, and that the procompetitive benefits to consumers may include lower prices, improved services, more choices, and greater convenience.

**10. Have you investigated the bigger health threat to animals posed by online prescription retailers refilling a prescription outside of the veterinarians' recommendations causing preventable harm and pain not to mention death of a person's pet?**

As discussed in our 2015 report, FTC staff carefully examined claims of health and safety concerns when pet medication prescriptions are filled by retailers other than the prescribing veterinarian. FTC staff are unaware of any data indicating that pharmacists, including online prescription retailers (many of which are owned and managed by veterinarians), routinely alter pet medication prescriptions or provide information contrary to the prescribing veterinarians' recommendations. If this were to occur, inaccurate dispensing of pet medications would violate existing pharmacy laws and could be addressed via available regulatory mechanisms.