

Prepared Testimony
Rep. Dean Knudson
Assembly Committee on Agriculture
February 5, 2013

Thank you, Mr. Chairman and members of the committee.

The Prescription Drug Monitoring Program (PDMP) is an important tool to identify and prevent the intentional misuse of narcotics and other controlled substances. Last month, Wisconsin joined 47 other states when our PDMP law went into effect. As one of the last states to adopt PDMP, Wisconsin can learn from the experience of other states. That experience has revealed that the inclusion of veterinarians in the program does nothing to protect public health and safety while imposing unnecessary costs. AB 3 simply exempts veterinarians from participation in the PDMP.

Nearly two-thirds of states that have similar programs exempt veterinarians. Several states that originally included veterinarians have since taken steps toward their exemption. Why?

Not Necessary - There is no evidence that significant drug diversion or "doctor shopping" involving veterinarians exists. This is probably because the person seeking a prescription would have to present an animal with a condition warranting the prescription.

Economic Impact - Veterinary practices are small businesses that will bear an economic burden of over \$7 million per year. This unjustified additional expense will be passed along in increased cost to farmers and clients with no benefit to the public health or safety.

Urgent Action - The regulation went into effect on January 1st with the first required report due after 90 days. Action by the legislature before the end of March will prevent the unjustified expenditure of thousands of hours in the preparation of reports.

Over the last 100 years, Wisconsin has developed tens of thousands of pages of rules and regulations. Recently members of the Assembly have embarked on the first ever complete review of **all** Wisconsin's regulations. We will strengthen and modernize those rules by retaining those necessary to protect the environment and public health. When we find regulations that impose an unjustified burden on our citizens, or unnecessary costs on small businesses, we should carefully consider repeal of those rules.

AB 3 is a common sense bill with broad, bi-partisan support. The repeal of this rule by passing AB 3 will in no way jeopardize public safety. I ask for your support for AB 3. Working together we'll protect public safety while moving Wisconsin forward toward economic growth, job creation and a more prosperous future.



Assembly Bill 3
Testimony of Representative Sandy Pasch
Assembly Committee on Agriculture
February 5, 2013

Good morning, Chairman Nerison and members of the Agriculture Committee. I would like to thank you, Mr. Chairman, for holding a hearing on this bill quickly.

Assembly Bill 3 is legislation that would remedy a problem in the Prescription Drug Monitoring Program that the Legislature passed in the 2009-10 session on overwhelming bipartisan votes in each House. This law was intended to track the use and abuse of prescription drugs in our state; abuse of these drugs by people, not animals.

This law is necessary for the tracking of all prescription medicine and to detect abuse, but there was an unintended consequence created in its enactment. I believe that this law was never meant to include veterinarians.

The bill before you today exempts licensed veterinarians from the requirements of the program. Keeping veterinarians in the PDMP would diminish the value of the database and add to the total cost of the program. In addition, it does nothing for us to track the usage and abuse of human drug abusers.

According to the Wisconsin Veterinary Medical Association (WVMA), a vast majority of veterinarians do not have electronic patient records. To require veterinarians to comply with this law would be costly, time intensive and would undoubtedly take away from their practice of treating animals. It is estimated that the total compliance cost for veterinarians in our state could exceed \$7 million *per year*.

In fact, last May, the Small Business Regulatory Review Board examined the economic impact of this program on Wisconsin veterinarians, in addition to the potential for application of this program to effect human prescription drug abuse. The conclusion they reached was that the costs of this program for veterinarians outweighed the public policy benefit.

The recently released 2013 Wisconsin Regulatory Review Report also notes that a large number of veterinarian survey responders had many concerns about the impact of this program on their businesses. Seeing that it is current law, and they are required to follow it, they feel a statutory change is needed to remove them from the program.

This bill addresses their concerns, and concerns I have for the proper running and maintenance of this program.

Thank you again for this hearing on the bill, and feel free to contact my office with any questions.

MEMORANDUM

TO: Members of the Assembly Agriculture Committee

FROM: Kim Pokorny, Executive Director of the WVMA
Jordan Lamb, DeWitt Ross & Stevens

DATE: February 5, 2013

RE: Support for Passage of Assembly Bill 3, Repeal of the
PDMP for Wisconsin Veterinarians

The Wisconsin Pharmacy Examining Board (PEB), housed at the Department of Safety and Professional Services (DSPS), has promulgated new administrative rule called Phar 18, which creates a statewide Prescription Drug Monitoring Program (PDMP) that applies to health care practitioners, pharmacists *and veterinarians*. Assembly Bill 3, authored by Representative Knudson, Representative Pasch, Senator Moulton and Senator Vinehout, would repeal the application of the PDMP to veterinarians. On behalf of the 2,400 members of the Wisconsin Veterinary Medical Association, we ask that you support AB 3 today and recommend this legislation for passage.

A. Background – PDMP Rule Required by 2009 Act 362

The proposed PDMP rule was created by the PEB under the supervision of the DSPS (formerly the Department of Regulation and Licensing) as directed by the Wisconsin Legislature in 2009 Wisconsin Act 362. Act 362 directed the Board to create a PDMP that requires “... a pharmacist or practitioner to generate a record documenting each dispensing of a prescription drug and to deliver the record to the board, except that the program may not require the generation of a record when a drug is administered directly to a patient.” Wis. Stat. § 450.19(2)(a) (2011) (*emphasis added*). The inclusion of the word “practitioner” in the statute applies the monitoring rule to veterinarians.

PDMP Applies to Controlled Substances and Tramadol. The PDMP collects and maintains data regarding the prescribing and dispensing of monitored prescription drugs. “Monitored prescription drugs” include federally controlled substances in Schedules II-V, state controlled substances in Schedules II-V and Tramadol, a drug identified by the Board as having a substantial potential for abuse. A controlled substance that can be legally dispensed without a prescription order is not a monitored prescription drug under the proposed rule.

Collection of Dispensing Data. Each time a monitored prescription drug is dispensed, dispensers must compile and submit the following data to the Board: dispenser’s full name; the dispenser’s identifier (*i.e.*, dispenser’s DEA registration number, license number, NPI number, etc.); the date dispensed; prescription number; NDC number or the name and strength of the monitored prescription drug; quantity dispensed; estimated number of days of drug therapy; practitioner’s full name; practitioner’s identifier; date prescribed; quantity prescribed; patient’s full name; patient’s address, including street address, city, state and ZIP code (if an animal patient, the owner’s address); patient’s date of birth (if an animal patient, the owner’s DOB); and the patient’s gender. Wis. Admin. Code § Phar 18.04(3).

Electronic Reporting is Required. Dispensers are required to create accounts with the Board and electronically submit the data to the Board in the format established by the version and release of the American Society for Automation in Pharmacy's (ASAP's) Implementation Guide for Prescription Monitoring Programs "or other electronic format identified by the Board." Wis. Admin. Code § Phar 18.05.

Veterinarians Do Not Have Electronic Medical Records. Most veterinarians do not currently use electronic records systems and, when they do, they are not consistent with the ASAP standards or any particular standard patient record format. There are multiple reasons for this. One is the fact that there is no health insurance, Medicaid or Medicare system for animal patients. As a result, there isn't the necessity for having consistent electronic medical records as there is in the human patient population.

In addition, electronic record keeping systems are expensive. For most veterinary clinics, it is more cost effective to develop their own recordkeeping systems, which usually involve paper medical records combined with electronic billing software.

As a result, our members will have to either invest in electronic medical records systems or create their own paper record equivalent in order to collect the required PDMP data. Then, once collected, they will have to either manually upload the required dispensing information into the PDMP system or request permission from the PEB to file paper records. See Wis. Admin. Code § Phar 18.05(3), *allowing a waiver request to file paper forms.*

B. Estimated Economic Impact on Wisconsin Veterinarians

As discussed above, the vast majority of Wisconsin veterinarians do not have electronic patient records. Therefore, to comply with this rule as it is proposed, they will retype the information requested for each monitored substance into a reportable form or electronic database to send it to the DSPS.

Based on the WVMA's records, there are **719 veterinary clinics** in Wisconsin. Based on DSPS's records, there are about **3,000 licensed veterinarians** in Wisconsin. Therefore, the average number of veterinarians per clinic is 4.17.

The WVMA interviewed a representative clinic with 6 veterinarians and a representative clinic with 3 veterinarians – both using veterinary recordkeeping software, but different software in each clinic. We asked them to *retroactively* pull out the information listed in the rule from their records. The average time per week spent to collect this information was 4.5 hours for a week's worth of records. This estimate assumes that a clinic has some kind of electronic records management tool. If a clinic lacks electronic records software, then these estimates would rise. This estimate does not include the time or costs associated with securing the state vendor's platform software or any additional software/hardware purchase.

In response to criticism from DSPS on pulling the information retroactively, we also asked a clinic using paper records to pull out the information *prospectively* throughout one week. It took about 4 minutes per appointment to go through the patient file and collect the required information. A veterinarian on average has 14 appointments per day. That equates to **about 56 minutes per day to extract the information prospectively**. However, the clinic would have to upload the information manually into the selected electronic software. It is unclear how long that would take, but additional time would be required.

It costs about \$24/hour to pay a veterinary clinic staff member to collect and upload this information.

If a clinic spends 1 hour per day, 5 days a week to pull out the information and then 2 additional hours uploading that information, and pays its staff person \$24/hour, the clinic will spend **\$168/week or \$8,400 per year** (assuming 50 weeks) complying with the rule. (Note: This estimate is only wages paid and does not include an estimate for lost revenue.)

Therefore, if each of our 719 veterinary clinics in Wisconsin spent an average of \$8,400 per year complying with this rule, the total compliance cost for Wisconsin veterinarians would be at least \$6,039,600 per year. If you included an estimate for lost revenue, that number would rise.

C. The Public Policy Behind the PDMP

Wisconsin's PDMP was created to assist law enforcement with the identification and prosecution of human prescription drug abusers who seek controlled substances from multiple health care sources (*i.e.*, "doctor shop.") The WVMA wholly supports the public policy behind the creation of this system and the application of the PDMP to human health practitioners. We do not, however, believe that there is evidence that human prescription drug abusers have or will start seeking controlled substances from animal clinics. There are three reasons for this.

First, in order to get a veterinarian to dispense a controlled substance for animal, an animal must be presented with an injury or set of documentable symptoms that would warrant the dispensing of such a drug. Unlike humans, an animal cannot tell a doctor that they feel chronic pain and, therefore, need continuous pain medication.

Second, even if a person were successful in getting a veterinarian to dispense a controlled substance for an animal, the dosage provided for a 10 pound cat would not be very meaningful to a 200 pound man.

Finally, there is no health insurance coverage for veterinary services. Accordingly, the person bringing the animal to the vet would be responsible for both the cost of the doctor's visit and the purchase of the drugs out of their own pockets. That cost, alone, is a significant deterrent to bringing animals to veterinarians in the pursuit of controlled substances to support an addiction.

Conclusion

Thank you for allowing the WVMA to testify today in support of AB 3. If you have any questions, we would be happy to answer them.

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Kim Brown Pokorny
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Good morning. Chairman Nerison and members of the committee, thank you for the opportunity to speak to you this morning. My name is Dr. K.C. Brooks. I am a graduate of the UW-School of Veterinary Medicine. My wife and I live in rural Dane County. I am the CEO and managing partner of Lodi Veterinary Care, a 19 doctor Mixed animal practice located in Lodi, Wisconsin. Our practice has over 85 employees and provides care for multiple species. I have been practicing Veterinary medicine for almost 25 years and for the past 23 years been actively involved in managing our small business.

I am here today to testify in support of AB-3 which would repeal the Prescription Drug Monitoring Program for Wisconsin veterinarians.

My view of the Prescription Drug Monitoring Program is that it may be useful in helping address a severe problem that our society is facing if it is structured appropriately. The reality is that the prescription drug abuse problem in our country is being fueled by medications initially prescribed and used in human medicine and dentistry. Putting a program in place that tracks the flow of these medications in a manner that could help identify abusers and inappropriate dispensing practices makes logical sense. Including veterinarians in this program does not make sense and over half of the states with a PDMP program have exempted veterinarians—for very good reasons.

My first point is that the inclusion of veterinarians in PDMP will necessarily make this program significantly more expensive and less efficient for its intended goal.

It is well established that veterinarians are rarely the primary source of drugs for abusers since most of the medications we dispense are not the drugs humans commonly abuse. Most importantly though, the delivery system that almost all veterinarians employ is a system where the prescriber and dispenser are the same person—the veterinarian. And... the patient is an animal that most often is in the same location as the veterinarian. The end result is that as veterinarians we have many more clues in potential abuse situations. Indeed in all the years of my practicing in a very large veterinary hospital, I can count on one hand (with fingers to spare) the number of situations where a client attempted to obtain controlled substances inappropriately. The last case took place about a year ago and was identified by the veterinarian who saw her dog almost immediately. Fortunately, we have veterinary-specific medications as alternatives for most conditions so prescribing abuseable substances to this owner was not necessary. Importantly, while we contribute very little to the problem, veterinarians are likely to drive up the cost of the Prescription Drug Monitoring Program by reporting the dispensing of drugs like Phenobarbital and Butorphanol which although technically controlled substances with some abuse potential, are not the drugs humans commonly abuse.

My second point is that the economic impact of this reporting regulation on veterinary clinics is staggering. What may seem like a very innocuous regulation to some, will cost my small business literally thousands of dollars. This is reality (not theory) as my clinic was one of the clinics used to determine the multi-million dollar economic impact on Wisconsin veterinarians which was submitted by the WVMA to the Small Business Regulatory Review Board. This is predominantly because the system was never intended to be used to report data from the medical records of animals. (For the record, we may have underestimated the time it will take to comply with the data reporting as we are finding we can spend significant amounts of time convincing clients they should give us their birthdate just so they can receive their pet's medications!!) While our practice utilizes computerized medical records, the reports our software generates are very cumbersome and our software vendor (one of the two largest in our industry) does not have a good solution for collecting this data efficiently. For us, every minute we spend collecting and reporting this data is time that could be spent delivering services to our customers and their pets.

At a time where small businesses in our state are being decimated by the effects of a bad economy, the last thing we need to do is to make things more difficult for them by adding burdensome regulation—especially when the costs far outweigh the benefits.

Thirdly, this program is ultimately an animal welfare issue. Forcing veterinarians into this program will undoubtedly result in increasing the cost of certain medications to pet owners. Since most of these medications are used to control pain, seizure activity or anxiety disorders in animals, it is likely that *some* owners will no longer be able to afford these medications and as a result their pets will suffer needlessly. While some in the pharmacy community look at this as an opportunity to force veterinarians into prescribing these medications through human pharmacists, that system is flawed at many levels. Most importantly though, the system we use to dispense these medications has an extremely low incidence of problems—PDMP without an exemption for veterinarians will create problems by trying to fix something that is not broken.

In conclusion, I encourage Wisconsin to follow the lead of many states who have successfully implemented a Prescription Drug Monitoring Program by exempting veterinarians from the reporting requirement but making the data from the program available to them to aid in the identification potential drug diversion. Excluding veterinarians will likely increase the effectiveness of the program, minimize the cost of administering the program and avoid the unintended harmful consequences on over 700 small businesses and thousands of pet owners in Wisconsin.

I strongly encourage you to support the passage of AB-3 .

Good Morning

Thank You Mr Chairmann & committee members

I am Robert J Klostermann DVM

I began mixed practice in 1978 at MVH after graduating from Iowa State University . After 12 years, I narrowed my practice to Small Animal exclusive for the final 20 years. I am semi retired but the practice currently has 5 veterinarians with 3 veterinarians working most shifts.

I am here to support AB 3_ the repeal of the PDMP for Veterinarians.

The clients from MVH come from a 5-10 mile radius w/ most under 5 miles we get to know our clients quite well. We do occasional referrals to UWSVM but most veterinary activity stays in house including prescription dispensing and specialty surgery.

This culture as opposed to the human specialist model with 3rd party payment provides us with a good grasp of our clients intentions and we quickly spot aberrant activity.

I recollect 2 incidences of potential abuse over the years that we addressed. 1 was human abuse and one was a cat addicted to narcotics. We picked up potential abuse situations and addressed them without further problems.

We already log our controlled substances internally and these can be evaluated by the DEA if problems arise. We reconcile our controlled drug logs weekly.

The amount of time and effort applying this law to a veterinary clinic is a bit excessive for the human medical problem it is trying to address. The rules do not work well in the veterinary clinic setting.

Other than break-ins we have not experienced an inordinate demand for controlled and abused pain meds.

Thank you for your time and we would appreciate your support for the passage of AB _3__

Any questions

Introduction

Good morning, Chairman Nerison and members of the Committee, and thank you for allowing me to testify today. My name is Kimberly Kratt. I am a veterinarian from Onalaska, WI. I live in La Crosse, WI with my husband and two children. I obtained my veterinary degree from the University of Wisconsin School of Veterinary Medicine in 2000, and I have been practicing in Onalaska for the last 12 years. I am here today to testify in support of AB3, which would repeal the PDMP for Wisconsin veterinarians.

Practice Background

I am an associate veterinarian at Central Animal Hospital, which is a small animal practice in the suburban area of Onalaska. Our clinic employs 16 people; three veterinarians, five certified veterinary technicians (CVTs), three receptionists, and five kennel assistants. We are a general medicine practice, and in addition accept patient referrals from the surrounding community for a variety of surgical and diagnostic imaging needs. Most of our clients are well-known to all staff members; we take pride in developing bonds with them and their pets. We are very active in our community. As a result, we often see our clients outside of work in our children's schools, churches, and grocery stores. I cannot think of a place I could go in our community where there would be no potential to see a client, including my backyard.

PDMP Compliance at Central Animal Hospital

The purpose of the PDMP is understood. We have been collecting the required data since January 1st. Our system involves collecting the required data for each dispensed drug on an individual spreadsheet. The data is recorded exclusively by our CVTs; other staff members do not access them. Although we run one of the most up to date practice management software systems available, it does not fulfill the parameters required by PDMP. Recording the data has been a real challenge for our CVTs. Our lead technician has reported that simply logging the information for each prescription takes them 5 minutes, and those 5 minutes are not concurrent. They often must access the log to record data more than once for each prescription due to the required parameters. In addition, it takes an hour to go back through each of the logs monthly to ensure accuracy. Our technicians are the core of our practice; time taken managing the PDMP log takes away from their time anesthetizing patients, performing laboratory tests, assisting with surgeries, etc. Every minute one of our technicians is away from their primary role of patient care is measurable in lost revenue for the practice. Their salary alone makes this requirement very costly to the practice. In addition, the specifics of having to request a pet owner's date of birth is intrusive, especially when the owner's name is not required data.

Experience with Drug Abusers

To the best of my knowledge, there has been only one person to be suspected of seeking narcotics since I joined the practice in 2000. This was a client whose pet was on tramadol for chronic pain. The owner began to grow unhappy that we split the medication in half prior to dispensing, and we continued to dispense only a month of the medication at one time, despite her requests for more. As is the standard procedure at Central Animal Hospital, prior to any medication refill, the DVM must give approval. When

we noticed that she was requesting refills before she was due to be finished with her prescription, we verified how she was administering the medication. It became clear she was not compliant with the prescription recommendations, as she reported to be giving her pet 2-3 times the prescribed dose. The oversight provided by our veterinarians allowed us to identify the potential problem. Our standard procedure was followed, which is to discontinue prescribing any medication that is not being administered as directed. In my opinion, veterinarians are not targets for those who may be seeking controlled substances. If a new client would enter our practice with a request for a controlled prescription drug, the need for the medication as well as compliance in its past administration would be immediately and continually assessed. In short, it is not easy for an owner to acquire a controlled substance from Central Animal Hospital.

Closing

Again, thank you for allowing me to testify today. I urge you to support AB3, as it is an enormous challenge for our profession. I would be happy to answer any questions you may have.



Wolf River Veterinary Clinic

216 W. Wolf River Avenue, New London WI 54961
Phone 920-982-2733 fax 920-982-3112

February 4, 2013

RE: Support for bill AB3

Dear Committee Members,

My name is Jim Ziegler. I am a veterinarian and own and operate a three doctor companion animal practice in New London, WI. I currently employ fifteen people. I have been practicing veterinary medicine in Wisconsin for over twenty five years.

My clinic, the Wolf River Veterinary Clinic, prides itself in our friendly, helpful atmosphere and our exceptional client service and care for their pets' needs. Our pharmacy service is an important part of this relationship.

When the PDMP went into effect, we chose to stop dispensing these medications through our clinic and decided to provide a written prescription for the client to have filled at a pharmacy. Due to the financial burdens of this law to my practice, this was a better option for me versus the cost of pursuing the mandatory reporting option.

In the five weeks since we have been doing this, we have encountered problems such as pharmacies dispensing medications with improper dosing directions, incorrect dosages, pharmacists attempting to substitute alternative medications, and having our dosages challenged based on extrapolation from human medicine.

I see our decision, which was a valid one, as having the unintended consequence of reduced customer service, reduced owner compliance, and a potential compromise of patient care. This is not what I want to happen to my relationship with my clientele.

To prevent the potential abuse of medications in our clinic, we have a very secure system for storing, handling and recording the use of controlled substances. We have never had a problem with theft or unaccounted for medications. We take the handling of controlled substances very seriously.

I feel that it is important to exempt veterinarians from the PDMP rules. The cost and effort in reporting this data is not justified, and it should not compromise the job we are used to doing.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "James Ziegler". The signature is written in a cursive style with a large initial "J" and "Z".

James Ziegler, DVM