

Vet Prescription Diets in name only: On marketing, distribution and retailing of Rx foods for pets

Is your pet on a prescription diet? Let me rephrase that: Is your pet on a “*Prescription Diet*”?

If so, is your veterinarian the only place you can go to pick up your Rx-labeled pet food? If it’s sold at the big-box pet store down the street, do you have to arrive at said pet store with a written prescription in hand before you can pick up a bag or case of pet food? Did you ever wonder why veterinarians and pet stores are so persnickety about this?

Food is food, right? How can the FDA require a prescription, with all that entails (namely, a valid veterinarian-client-patient relationship and your vet’s approval), just for foods?

In case you’re like so many other pet owners who question this, here’s the answer:

Though it’s not well known to pet owners (or to some veterinarians, either) the FDA does not consider a “Prescription Diet” a prescription product. That’s because it doesn’t meet either of the two criteria for prescription requirements. Consider:

1) Animal foods do not meet the definition of a new animal drug (indeed, they are not drugs).

2) The container labels for Prescription Diets (notice the caps) do not include the federal legend required by the FDA for prescription drugs (i.e., they have not been approved by the FDA as safe and effective for their labeled indication)

The concept of a “prescription only” diet has merely been a marketing success for pet food companies who label their products as such and somehow manage to have engendered a belief that a product labeled as a “Prescription Diet”...requires a prescription.

But this is NOT TRUE! There is no legal basis for requiring a prescription for a product that is NOT regulated by the FDA as a drug. Shall I repeat that or was it sufficiently clear?

Nonetheless, it IS true that any private retail establishment has the right to require a veterinarian’s say-so before you can buy ANYTHING from them. Sure, PetSmart is not about to require a written script for leashes and kitty litter, but if it wants to do business with pet food behemoths like Hills and Iams, then they’re darn well not going to tick them off by failing to follow manufacturer requirements for sale of Prescription Diets.

So why does Hills, et. al. care? Wouldn’t they make more money if they allowed these diets to be distributed and sold more freely?

The answer is NO. The big pet food manufacturers know that their prescription lines are high profit centers for them. They build credibility for their other products when veterinarians recommend their prescription lines. And they know that veterinary recommendations only flow freely when veterinarians can control Prescription Diet sales and reap the benefits of being the exclusive sellers of these high-ticket items.

In fact, some veterinarians kicked up a stink when PetSmart and other big-box retailers started offering some of these diets. Despite the hurdle of a written Rx attached (making it tougher for clients to buy these foods on a convenience basis), many veterinarians switched to brands that didn’t sell to big retailers, effectively punishing the manufacturers for distributing to non-vets.

But this revolution was not televised, nor was it long-lived. When other food manufacturers saw the profit margins involved in selling to the big chains, they followed suit, knowing veterinarians couldn’t effectively complain when all of the major brands were doing the same thing.

OK, but what does all this mean for YOU? Unfortunately, the prescription designation means you'll still have to pay more for your Rx-labeled foods. It means you'll have fewer places to buy them. And it means you'll still have to bring a doctor's note when you want to buy them elsewhere.

So you know, your veterinarian can also legally deny you a written OK to buy foods elsewhere. That's because even in states where vets are required to offer a written prescription for drugs, diets are not drugs and there's no legal demand on their consent. Gotta love those loopholes. (Not that any ethical vet would use them since we're talking about a product that doesn't suffer from gray market counterfeiting.)

It also means that Prescription Diets don't have to conform to the regulatory measures that govern prescription drugs. For example, should the manufacturer choose to change its formulation (i.e., when one ingredient starts to get more expensive) the company isn't required by law to inform anyone so they'll have sufficient time to stock up on their needed food or find alternatives.

This is but one of the problems some pet owners have encountered. Here's a story: Louie the Chinese crested has intestinal lymphangiectasia. After much trial and error it was determined that he can only eat Royal Canin Digestive Low Fat Canned Diet with fish as the main ingredient. No longer available. It's changed to pork. No notice. Louie's family and friends are scurrying to collect all cans of this food from anywhere they can. *How can they do this to us?*

Because pet food companies who market their foods as Prescription Diets enjoy all the benefits of prescription labeling with none of the extra oversight and regulation. *So much for free market fairness.*