

VIN News Service questions emailed to Henry Schein and Vets First Choice, 11/29/18

Recently, VIN News Service has heard from Avimark customers who are concerned about the license agreement that they received with their tech support renewal notices. They say they are uncomfortable with the "subscription services" section, which appears to allow Henry Schein wide latitude for sharing their practice data. Several veterinarians have reported to us that they have elected to not renew technical support or are considering it; others are seeking an alternative PIMS.

I think it's important to hear from Schein/VFC about the agreement and the company's plans for and attitude about practice data. I really hope I can get on the phone with someone to discuss my questions, which I have provided below.

1) Have you heard from Avimark customers who are concerned about the agreement? If so, what are they telling you and what is your response?

2) When did HSVS add the following passage to its license agreement? (The sections of concern are highlighted.)

SUBSCRIPTION SERVICES:

HSVS may access electronic records regarding the Customer's clients and their pets ("Individual Information") from Customer's locally installed Software and the database maintained in connection with such Software. All Individual Information will be encrypted or otherwise protected when transferred from Customer's locally installed Software to HSVS. HSVS shall implement safeguards and data security protocols designed to prevent the unauthorized disclosure of Individual Information. Customer agrees that HSVS is permitted to access and use the data maintained on Customer's locally installed Software and any database maintained in connection with the Software (the "Customer Data"). Customer acknowledges the value to veterinary science and the veterinary industry of statistical information on diseases and treatments and of the benefit of assisting HSVS or third parties who provide useful information to the veterinary industry, veterinarians and pet owners. Customer understands that HSVS may access, analyze and/or aggregate Customer Data with data and other statistics that it gathers from sales, customer support, website traffic or its other customers (including Individual Information), and may provide such Customer Data and other information to third parties on a non-personally identifiable (aggregated) basis. Individual Information that personally identifies clients or their pets, including financially identifiable information which would allow individual clinics or natural persons to be identified, will not be exchanged or sold. Information (including Individual Information) may be exchanged among HSVS, its subsidiaries, affiliates and service providers as needed for business purposes, such as account administration, customer service, transaction processing, consumer reporting, processing and delivery of account statements, research and analysis, and delivery of products and services. HSVS may also share information with joint marketing partners to present certain offers to you, but these parties will only be able to access and use your personal information for this limited purpose. Notwithstanding the foregoing, HSVS may disclose Individual Information (i) to fulfill legal or regulatory requirements; (ii) if we believe, in good faith, that such disclosure is required or necessary to protect our or others' rights or to prevent harm; (iii) in accordance with the Customer's instructions; or (iv) as reasonably necessary to provide the services Customer has requested.

- 3) Is there any way to use AVImark and renew service without agreeing to the highlighted portions of the agreement above?
- 4) Why was the policy revised in this way? Can you provide some examples of how identifiable data might be shared with others?
- 5) Two attorneys and a dozen veterinarians read these clauses to mean that Schein can share identifiable client information (i.e., the records of pet owners and their pets) with a wide variety of internal and even external companies as it deems necessary to provide its services. Is that how Schein intends it?
- 6) How is Schein using identifiable client data at this time?
- 7) What happens to hospital data in Schein/VFC possession after a veterinarian cancels service?
- 8) Does Schein/VFC consider data pulled from the PIMS to belong to the veterinarian or Schein/VFC?
- 9) Veterinarians have expressed concerns that their client data might be used to direct-market to clients. Could this happen under this agreement? Is it your intention to use client data in this way? If not, what safeguards are in place to be sure veterinarians' information is not used in this way?
- 10) Veterinarians who are in buying groups that purchase from non-Schein distributors worry that Schein/VFC can look at their Avimark inventory information to deduce what they are paying for products and therefore learn about confidential pricing. Could this happen under this agreement? Is it your intention to use the data in this way? If not, what safeguards are in place to be sure veterinarians' information is not used in this way?
- 11) Is there any concern at Schein extracting and sharing individual data from hospital PIMS puts veterinarians in violation of practice acts in states that require pet owner veterinary medical records be kept confidential?

In follow-up email to Henry Schein on January 11, 2019, one additional question was added to the list:

- 12) While researching the AVImark story, we've been told about at least 7 instances of VFC emailing practice lists without the knowledge or authorization of the practice owner. Are you aware of these complaints? With the merger due to complete this quarter, are these a concern?