

Approved:
Date: February 26, 2002

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Sandy Praeger at 9:30 a.m. on February 19, 2002 in Room 234 N of the Capitol.

All members were present except:

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Steve Rarrick, Consumer Division, Attorney General's Office

Others attending: See attached list.

Committee Discussion and Action on SB 459 - Kansas Discount Card Act Supplemental to Consumer Protection

Steve Rarrick, Consumer Division, Attorney General's Office, explained a balloon of **SB 459** to the Committee showing amendments that were agreed to by those entities that expressed concerns with the bill at the hearing on January 29, 2002. (Attachment 1) After discussion on the amendments, Senator Feleciano made a motion that the Committee adopt the balloon amendments to the bill, seconded by Senator Teichman. The motion carried.

Senator Feleciano made a motion the Committee recommend **SB 459 as amended** favorable for passage, seconded by Senator Teichman. The motion carried.

Approval of Minutes

Senator Salmans made a motion to approve the Committee minutes of January 29, February 5, 6, 7, 12 and 13, 2002, seconded by Senator Feleciano. The motion carried.

Announcements

The Chair announced that the Committee's agenda would be revised, and **SB 469** would be worked in Committee Wednesday, February 20th, and a hearing held Thursday, February 21st on **SB 420**.

Adjournment

The meeting was adjourned at 10:00 a.m. The next meeting is scheduled for February 20, 2002.

SENATE BILL No. 459

By Committee on Financial Institutions and Insurance

1-28

AN ACT concerning health related discount cards; amending K.S.A. 2001 Supp. 50-1,100, 50-1,101, 50-1,103 and 50-1,105 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 50-1,102.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2001 Supp. 50-1,100 is hereby amended to read as follows: 50-1,100. As used in this act:

(a) "Discount card" means a card or any other purchasing mechanism or device, which is not insurance, that purports to offer discounts or access to discounts in health-related purchases from health care providers.

(b) "Health care provider" means any person licensed to practice any branch of the healing arts by the state board of healing arts, any person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a medical care facility licensed by the department of health and environment, a podiatrist licensed by the state board of healing arts, an optometrist licensed by the board of examiners in optometry, a pharmacist licensed by the state board of pharmacy, a pharmacy registered with the state board of pharmacy, a dentist licensed by the Kansas dental board, a respiratory therapist, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection.

(c) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, limited liability company, government, government subdivision or agency or any other legal, governmental or commercial entity ~~["Network of health care providers" means two or more separate health care providers who are contractually~~

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~~obligated to honor discount card contracts entered into by the network of health care providers.~~

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Sec. 2. K.S.A. 2001 Supp. 50-1,101 is hereby amended to read as follows: 50-1,101. It shall be unlawful for any person to sell, market, promote, advertise or otherwise distribute any discount card where:

(a) The discount card does not expressly state in bold and prominent type that such discount is not insurance;

(b) any discount offered by such discount card is not specifically authorized by a separate contract with each health care provider listed in conjunction with the discount card, or

(c) the discount or range of discounts offered by such discount card or the access to any range of discounts offered by such discount card are misleading, deceptive or fraudulent, regardless of the literal wording used on such discount card

Any supplier who sells ~~markets, promotes, advertises or otherwise distributes~~ any discount card in Kansas shall:

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(a) State in bold and prominent type that such discount is not insurance on all advertisements and on all discount cards;

(b) have a separate contract with each health care provider ~~or not~~ ~~work of health care providers~~ listed in conjunction with the discount card;

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(c) not make misleading, deceptive or fraudulent representations regarding the discount or range of discounts offered by such discount card or the access to any range of discounts offered by such discount card; and

(d) prior to selling the discount card, ~~provide and disclose to all consumers in writing, the name, address and phone number of all health care providers that are contractually obligated to honor the card.~~

and on an annual basis thereafter in the state of Kansas

Sec. 3. K.S.A. 2001 Supp. 50-1,103 is hereby amended to read as follows: 50-1,103. Any person supplier who sells ~~markets, promotes, advertises or otherwise distributes~~ any discount card in Kansas shall designate a resident agent, who is a resident of Kansas, for service of process and such resident agent shall register with the secretary of state pursuant to K.S.A. 60-306 and amendments thereto.

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Sec. 4. K.S.A. 2001 Supp. 50-1,105 is hereby amended to read as follows: 50-1,105. (a) K.S.A. 2001 Supp. 50-1,100 through 50-1,105 shall be known as the Kansas discount card ~~deceptive practice act.~~

(b) This act shall be part of and supplemental to the Kansas consumer protection act.

(c) Any violation of this act shall constitute an unconscionable act and practice under the Kansas consumer protection act and amendments thereto and shall be subject to any and all of the remedies and enforcement provisions of the Kansas consumer protection act.

Sec. 5. K.S.A. 2001 Supp. 50-1,100, 50-1,101, 50-1,102, 50-1,103 and 50-1,105 are hereby repealed.

(d) Any person alleging a violation of this act may bring a private action to seek relief pursuant to K.S.A. 50-634, 50-636 and this act, and amendments thereto, and such person shall be considered a consumer pursuant to K.S.A. 50-624, and amendments thereto, for the purposes of such private action.

1 Sec. 6. This act shall take effect and be in force from and after its
2 publication in the statute book.
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