

SESSION OF 2002

**CONFERENCE COMMITTEE REPORT
SENATE BILL NO. 459**

As Agreed to May 15, 2002

Brief *

SB 459 amends the Kansas Discount Card Act. As passed by the House, the bill:

- Makes the act part of and supplemental to the Kansas Consumer Protection Act and subject to enforcement by the Attorney General;
- Defines and makes the act applicable to a network of health care providers that has specifically authorized the network to enter into a discount card program and that is contractually obligated to honor the contract;
- Specifies that suppliers that market, promote, advertise, or otherwise distribute a discount card shall not make misleading, deceptive, or fraudulent representations regarding the discount or range of discounts offered;
- Requires suppliers that sell discount cards in Kansas to:
 - disclose, in all advertisements and on all cards, in bold and prominent type that the discount is not insurance;
 - have a separate contract with each health care provider or network of providers listed in conjunction with the card;
 - make no misleading, deceptive, or fraudulent representations regarding the discount offered by the card; and
 - prior to selling the discount card, and on an annual basis thereafter, provide and disclose to all consumers in writing, the name, address, and phone number of all health care providers

*Conference committee summary reports are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree.

that are contractually obligated to honor the card (the required disclosures may be made on the supplier's Internet web page when the transactions are concluded via the Internet);

- Provides that any violation of the act shall constitute an unconscionable act and practice under the Kansas Consumer Protection Act, and also provides the same remedies for violations of the Discount Card Act as are available for any violation of the Kansas Consumer Protection Act (damages, injunctive relief, civil penalties, and investigative fees);
- Permits any person (non-consumer) alleging a violation of the act to bring a private action to seek relief pursuant to the private remedies and civil penalties provided in the Kansas Consumer Protection Act.

The Conference Committee agrees to the bill as passed by the House and further agrees to amend the bill. The Conference Committee amendments:

- allow for two different methods suppliers may use to provide notice to consumers regarding entities that honor the discount card:
 - give the prospective customer before purchase or at the time of the written confirmation required of transactions completed with a telemarketer, a written list of the closest 25 health care providers in the new or prospective customer's service area that are contractually bound to honor the card (the written list may be provided electronically if requested in that format by the prospective customer); or
 - provide the customer the written list within seven calendar days of the date of the transaction and give the customer a 30-day right to cancel the transaction.
- define "date of transaction" as the date payment is processed by the supplier or the date the consumer is able to use the card, whichever occurs earlier;
- define "service area" as a 60-mile radius of the consumer's zip code;

- require suppliers, on an ongoing basis, to make available to customers on a toll-free telephone number, the Internet, or in writing upon request, the name, address, and telephone number of all health care providers in customers' service areas contractually bound to honor the card; and
- provide that suppliers purchase and maintain a surety bond in the amount of \$50,000 or maintain a surety account in that amount at a federally-insured financial institution (a copy of the bond or a statement identifying the depository must be filed with the Secretary of State who is authorized to charge a filing fee of \$250 to cover the cost of filing and administration).

Further, the Conference Committee agrees that the requirements and remedies of the Act are in addition to and not in substitution for any other requirements and remedies provided by law.

Finally, the Conference Committee agrees to add the provisions of HB 2905 to this conference committee report and to SB 459 to create the Kansas Commission on Health. The purpose of the Commission is to examine and make recommendations on all aspects of health in Kansas. The Commission will make a determination of what should be the appropriate levels and delivery of services throughout the spectrum of healthcare providers with an emphasis on prevention, health promotion, and reduction of health disparities in the Kansas population. The Commission's charge also includes a focus on both mental and physical health, a review of the underserved areas of Kansas, and the delivery of all healthcare, including telemedicine.

Commission Membership. The Commission is composed of 19 members. Of these, four will be appointed by the Governor. The bill requires an emphasis and consideration be given of the member's ethnicity, gender, and geographic area. The legislative appointments would include the following: one member appointed by the Speaker of the House; one member appointed by the House Minority Leader; one member appointed by the Senate President; and one member appointed by the Senator Minority Leader.

The Governor's appointments include the following: one member representing a large self-insured employer; one member representing an employer who is insured with a privately purchased group health insurance policy; one mental health care provider; one health care provider who is not licensed to practice medicine and surgery or a licensed dentist; one member who is licensed to practice medicine and

surgery; one member who is a licensed dentist; one member representing the health care commission; one member representing small business; one member representing a local health department; one member representing organized labor; one member who is a consumer of health care; one member representing a major insurance company; one member representing public health academia; one member representing K-12 education; and one member of the AARP.

The chair and vice-chair will be elected by the Commission and a quorum of the Commission would be nine.

Funding. Funding for the operations of the Commission will come from moneys received from grants and contributions made from foundations, nonprofit organizations, and other entities or persons who have common goals of the Commission.

Meetings. The Commission meets on call of the chair and meets in Topeka unless otherwise authorized. The Commission also may hold interactive electronic meetings to expand involvement throughout the state.

Staffing. Executive Secretary will act as staff to the Commission and its subcommittees and serve as a liaison with state agencies and the Office of the Governor. Additional staff support will be provided by Legislative Administrative Services, the office of the Revisor of Statutes, and the Kansas Legislative Research Department.

Reporting. An annual report including activities and recommendations made by the Commission will be prepared for the information of the Governor and Legislature on the first Tuesday of each year. This report will be made available electronically and in paper format upon request.

Sunset. Under the bill, the Commission sunsets on June 30, 2007.