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ROLL NUMBER

DESCRIPTION

1376

2005 HOUSE HUMAN SERVICES

HB 1376

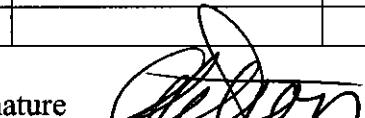
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1376

House Human Services Committee

Conference Committee

Hearing Date January 26, 2005

Tape Number	Side A	Side B	Meter #
Tape malfunctioned			
Committee Clerk Signature 			

Minutes:

Chairman Price opened hearing on HB 1376.

Jim Poolman, ND State Insurance Commissioner, Appearing in support. Testimony attached

Rep. Kaldor: I am concerned about enforcement, Internet ads as such.

J. Poolman: There are cease and desist orders, administration actions that are available, we work very closely with the Attorneys General office. There is dual authority and it is a joint effort.

Parrell Grossman, Director Consumer Protection and Antitrust Division, Office of the Attorney General. Appearing in support. Testimony attached.

Nancy Kopp: Appearing in support. List #3 Attached.

No other testimony, Chairman Price closed hearing.

Chairman Price reopened discussion on HB 1376.

Rep. Porter: Was there anything discussed on the plans concerning making them disclose?

Page 2
House Human Services Committee
Bill/Resolution Number HB 1376
Hearing Date January 26, 2005

Rep. Weisz: That is discussed on bottom of page 3.

Rep. Nelson: Motion Do Pass.

Rep. Weisz: Second

Chairman Price: Any further discussion?

Vote: 12-0-0

Rep. Weisz: Carrier.

Date: 1-26-05

Roll Call Vote #:)

2005 HOUSE STANDING COMMITTEE ROLL CALL
BILL/RESOLUTION NO. HB 1376

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Nelson Seconded By Rep Weisz

Representatives	Yes	No	Representatives	Yes	No
Chairman C.S.Price	\		Rep.L. Kaldor	\	
V Chrm.G.Kreidt	\		Rep.L. Potter	\	
Rep. V. Pietsch	\		Rep.S. Sandvig	\	
Rep.J.O. Nelson	\				
Rep.W.R. Devlin	\				
Rep.T. Porter	\				
Rep.G. Uglem	\				
Rep C. Damschen	\				
Rep.R. Weisz	\				

Total Yes 12 No 0

Absent 0

Floor Assignment Rep. Weisz

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 27, 2005 11:16 a.m.

Module No: HR-18-1189
Carrier: Weisz
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1376: Human Services Committee (Rep. Price, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1376 was placed on the
Eleventh order on the calendar.

2005 SENATE HUMAN SERVICES

HB 1376

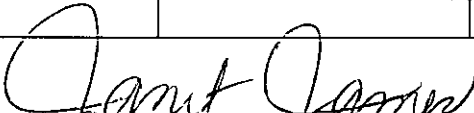
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1376

Senate Human Services Committee

Conference Committee

Hearing Date March 7, 2005

Tape Number	Side A	Side B	Meter #
1	X		41.7 - end
		X	0.0 - 7.5
Committee Clerk Signature 			

Minutes:

Senator Judy Lee, Chairman of the Senate Human Services Committee opened the hearing on HB 1376 relating to duties of providers and marketers of discount medical plans and cards.

All members of the committee were present.

Representative Clara Sue Price of District 40 cosponsor of HB 1376 introduced the bill stating it comes at the request of the insurance commissioner's office. There are advertisements telling of all the insurance coverage available for a very low premium. Many people do not understand health insurance policies and many do not realize what they are getting when they change companies. HB 1376 will help protect the citizens of North Dakota by having these insurance companies registered and on record so they can be regulated.

Jim Poolman, North Dakota Insurance Commissioner testified in support of HB 1376. (See written testimony). He further presented to the committee an example of a typical scenario of a citizen trying to save money by changing insurance companies only to discover is does not have

the coverage expected because of false marketed. Many of these companies are unethical and there needs to be guidelines in state law to pursue these companies that market that way. There are provisions in this bill will give the insurance commissioners office the opportunity to protect North Dakota consumers. There is also dual protection ability in bill for the attorney general's office to protect the consumer as well. The chairman has agreed to leave the hearing open to allow the attorney general's office and other interested organizations to testify in support of SB 1376. They will have potential amendments to the bill, although he has not had a opportunity to review those amendments.

Senator John Warner asked how the insurance department will be able to enforce law against internet or television advertising of these insurance policies.

Jim Poolman stated that there were examples of advertising within his written testimony and obviously the department will not be able to encompass every internet website, but through consumer communications with the department, they will be able issue a cease and desist of marketing by these companies. This bill will give more tools to the department to use against these unethical companies.

Senator Dick Dever asked if insurance companies are required to register with the department and if this will then apply to their discount plans.

Jim Poolman answered that every insurance company that does business in the state is required to be licensed through the department.

Senator Dever asked if there is a published registry of licensed insurance companies by the state.

Jim Poolman confirmed this to be true along with a list of complaints that might have been registered against a company.

Discussion was held regarding the misleading advertisements for a non insurance solution to health care and how this legislation is needed in order to pursue and prosecute these companies.

Jim Poolman suggested that maybe an emergency clause is needed on this bill.

Senator Lee asked if there might be a surge in advertising for these supplement insurance solutions due to the prescription drug cards and Medicare Part B.

Tape #1. Side B, 0.0 -7.5

Jim Poolman concluded that this is one of the of most important consumer protection bill this session from the stand point of giving good information for good buying decisions by the consumer and then giving the department the authority to help protect them.

Nancy Koch representing the North Dakota Optometric Association testified in support of HB 1376 stating that in surveying the membership compiled a list of Vision Plans/Discount Programs accepted by their practices (see attachment #2).

Glenn A. Elliott, a private citizen testified in a neutral position on HB 1376 that offered suggestion for amendments to enhance it's effectiveness. See written testimony (Attachment #3).

Written testimony (see attachment #4) in support of HB 1376 from **Parnell Grossman**, Director of the Consumer Protection and Antitrust Division of the North Dakota Attorney General's Office, was distributed to the committee.

Senator Lee asked for opposing testimony of HB 1376 and hearing non closed the public hearing on HB 1376.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1376

Senate Human Services Committee

Conference Committee

Hearing Date March 15, 2005

Tape Number	Side A	Side B	Meter #
1		X	841-1560
Committee Clerk Signature <i>Jerry Howard</i>			

Minutes:

Chairman Lee opened the meeting to discuss HB 1376. All Senators were present.

Chairman Lee- Should we respond to the concern regarding e-mail addresses with this bill?

The Insurance Commissioner had asked for the emergency clause on this bill. Do you think the e-mail address being disclosed is an appropriate request, on lines 29-30?

Senator Brown- I don't see a compelling reason to add the e-mail addresses to the bill. It would be very hard to enforce.

Chairman Lee- E-mail is a very effective means of communication, but it can be very hard to enforce especially with junk mail.

The committee agreed to set aside the request regarding the e-mail provision for the bill.

Action taken:

Senator Brown moved a Do Pass recommendation to add the emergency clause to the bill.

Seconded by Senator Dever. The vote was 5-0-0.

Page 2

Senate Human Services Committee

Bill/Resolution Number HB 1376

Hearing Date March 15, 2005

Senator Brown moved a Do Pass as Amended recommendation for the bill. Seconded by

Senator Dever.

Senator Brown is the carrier of the bill.

Chairman Lee closed the meeting on HB 1376.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1376

Senate Human Services

Conference Committee

Hearing Date March 16, 2005

Tape Number	Side A	Side B	Meter #
1		x	2992-5530
2	x		3000-3200
Committee Clerk Signature <i>Cathy Kivan</i>			

Relating to the human service council of a human service center.

Chairman J. Lee opens hearing to reconsider HB 1376.

Joel Gilbertson - Attorney for Vogel Law Firm, on behalf of the Consumer Health Alliance -

See attachment 1. He said this bill relates to medical discount cards. He said these programs started a few years ago and offer access to discount rates on a variety of health care. In recent years there has some bad actors that have given the industry a bad name. Rather than have that define the industry a number of companies that offer legitimate discount programs joined together to form the Consumer Health Care Alliance. They have a web site and toll free line. They have a very strong code of conduct for their members. They support the passing of this bill and this will be the first time this state has regulated this industry. They have worked with regulations in both South Dakota and Montana. He is working with the Insurance

Page 2
Human Services
Bill/Resolution Number **HB 1376**
Hearing Date March 16, 2005

Commissioner's office, Attorney General's office and others. The amendments he is proposing are agreed on by all of them. He then read through the amendments, see attachment 1.

(meter #3880)

His department says there are sufficient safeguards in place that lets everyone know it is not insurance.

(meter #4990)

Gilbertson - Also here on behalf of AHIP, passed out letter, see attachment 1B.

Parrell Grossman - Director of the Consumer Protection and Antitrust Division of the Attorney General's Office - See written testimony, attachment 4.

(meter #5480)

Laurie Wolf - ND Insurance Dept. - Said they concur with the amendments and stand behind the changes.

(meter #5640, side B, tape 1)

End

Chairman Lee reopened discussion on HB 1376. All members were present.

Senator Warner moved to reconsider our actions by which we passed HB 1376. seconded by Senator Lyson.

Voice vote: 5 yeas, 0 nays, 0 absent

Senator Warner moved DO PASS to further amend HB 1376 adding amendments submitted by Joel Gilbertson of the Vogel lawfirm on behalf of the Consumer Health Alliance, seconded by Senator Dever.

VOTE: 5 yeas 0 nays 0 absent

Page 3

Human Services

Bill/Resolution Number **HB 1376**

Hearing Date March 16, 2005

Senator Dever moved DO PASS the amended bill, seconded by Senator Lyson.

VOTE: 5 yeas, 0 nays, 0 absent Carrier: Senator Brown

Date: 3-15-05
 Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1376

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass amended bill

Motion Made By Sen Brown Seconded By Sen Lyson

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-15-05
 Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1376

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Sen Brown Seconded By Sen Dever

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen Brown

If the vote is on an amendment, briefly indicate intent:

Date: 3-16-05
 Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1376**

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Reconsider actions by which comm. passed bill

Motion Made By Sen Warner Seconded By Sen Lyson

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman			Sen. John Warner		
Sen. Dick Dever - Vice Chairman					
Sen. Richard Brown					
Sen. Stanley Lyson					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

voice vote - passed

Date: 3-16-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1374

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Further amend with J. Gilbertson's amend

Motion Made By Sen Warner Seconded By Sen Dever

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-16-05
Roll Call Vote #: 3

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1376

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass amended bill

Motion Made By Sen Dever Seconded By Sen Lyson

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No 0

Absent _____

Floor Assignment Sen. Brown

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1376: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1376 was placed on the Sixth order on the calendar.

Page 1, line 2, after "cards" insert "; and to declare an emergency"

Page 2, line 12, remove ""enrollment",

Page 2, line 13, after "terms" insert "in a manner"

Page 2, line 15, remove "Have restrictions on free access to plan providers, including waiting periods and"

Page 2, remove line 16

Page 2, line 17, remove "4." and after "services" insert ", unless the organization is an authorized third-party administrator"

Page 2, line 20, remove "the first page of"

Page 2, after line 31, insert:

- "2. Any advertisements, marketing materials, or brochures relating to a discount medical plan which are transmitted to the public through the internet or television must state that the plan is not an insurance policy and that the plan provides discounts at certain health care providers for medical services."

Page 3, line 1, replace "2." with "3."

Page 3, line 21, replace "monthly" with "quarterly"

Page 4, line 9, replace "and must be responsible and financially liable for any" with a period

Page 4, remove lines 10 and 11

Page 4, line 13, replace "A" with "If a" and replace "may not solicit, market, or sell" with "solicits, markets, or sells"

Page 4, line 14, after "product" insert ", the marketer or organization shall disclose clearly and conspicuously that the plan is not insurance"

Page 4, line 17, replace "purchase" with "the member receiving written notice of cancellation rights"

Page 4, line 18, after "member" insert ", except for a nominal fee associated with the enrollment cost up to a maximum of fifty dollars"

Page 4, line 22, after "The" insert "discount" and remove "discount"

Page 4, line 23, after "ten" insert "business"

Page 4, line 24, replace ", printed in not less" with "and must include instructions for the member to cancel the plan. The instructions must be made available to the commissioner upon request."

Page 4, remove lines 25 through 31

Page 5, after line 12, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2005 TESTIMONY

HB 1376

3

HOUSE BILL NO. 1376

Presented by: Jim Poolman
Commissioner
North Dakota Insurance Department

Before: House Human Services Committee
Representative Clara Sue Price, Chair

Date: January 26, 2005

TESTIMONY

Madam Chair and Members of the Committee:

I am pleased to appear before you today in support of House Bill No. 1376, relating to the regulation of discount medical plans and discount medical cards. Discount medical plans and cards offer discounts for medical services from health care providers who have agreed to participate in the discount program.

In the past few months, we have experienced an increase in calls relating to these types of plans from consumers all across North Dakota. The biggest question and concern that our callers relate is their confusion over whether or not they are actually purchasing insurance.

These types of plans are not health insurance; they only provide discounts to health care consumers who receive medical care from participating medical providers. The discounted medical expenses are then paid out of the consumer's own pocket.

In many cases, these callers have called the Department because they have seen some of the myriad of advertising and promotions that have appeared in our local media. These plans have been marketed through television ads, faxes, e-mail, websites, and

newspapers. I have attached samples of the advertisements that have appeared in North Dakota.

While the theory behind a discount medical plan is acceptable and we do not seek to prohibit legitimate plans from being sold, misleading North Dakota consumers is not acceptable. Our primary concern with these advertisements is their potential for causing confusion among consumers and giving them a false sense that they have actually purchased health insurance.

Our concerns lie primarily with some unscrupulous marketers who are using advertising materials that use terms and phrases commonly associated with health insurance. In addition, upon calling the toll-free number, consumers may also experience an aggressive, high-pressure sales technique. It is the objective of House Bill No. 1376 to address the following concerns:

1. Although many plan advertisements include disclaimers that the plans are not insurance, the same ads commonly use terms to promote or describe the plan that most people associate exclusively with health insurance. Consumers may reasonably be led to believe the discount plan is a viable and safe alternative to health insurance.
2. Confusing a discount medical plan for health insurance can have very serious implications for consumers who might drop their existing health insurance coverage to purchase the discount plan. If they become ill during a time that they do not have insurance, they may become unable to qualify for and obtain health insurance coverage in the future, due to pre-existing conditions.
3. Discount plans do not provide protection against catastrophic medical bills. A 10% or 20% discount is of little consolation to an individual who

has incurred medical bills in the tens and hundreds of thousands of dollars.

4. Many advertisements fail to list the names and addresses of the discount medical plan organization and the marketer. It is unclear to the consumer who, exactly, they are dealing with in these transactions.
5. In some areas where plans are marketed, there may be few, if any, participating providers, thus making the plan virtually worthless to the plan member, or at a minimum, not at all worth the fees that are being charged to participate in the plan.
6. Participating providers also may be unaware that they are listed as participating providers in a medical discount plan. This can occur when a provider signs a discount agreement with a provider network that in turn makes that network available to other discount medical plan organizations.
7. In other states, we have heard of consumers having significant difficulty canceling their memberships and obtaining refunds, once they realized that the specific plan was of little or no value to them.

Within the last few years, numerous states have enacted legislation to protect consumers from some of the abuses associated with discount medical plans and their marketers including: Kentucky, Montana, South Dakota, Colorado, Kansas, Florida and Vermont. We believe House Bill No. 1376 encapsulates the best features of the legislation enacted in these other states.

The legislation before you addresses some of these abuses and protects consumers by:

1. Providing clear definitions of who and what services are subject to these regulations.

2. Prohibiting discount medical plan organizations and those persons marketing them from using terms in their advertising that could reasonably mislead a person into believing that the discount medical plan provides health insurance coverage.
3. Requiring that advertising materials and telemarketers disclose to prospective members:
 - (a) That the plan is not an insurance policy;
 - (b) That the plan only provides discounts at participating medical providers;
 - (c) That plan members are responsible for paying the medical providers for the services they receive;
 - (d) The name, address and telephone number of the discount medical plan organization and the marketer; and
 - (e) The prospective member's cancellation and refund rights.
4. Requiring written provider contracts that outline the discount obligations of the provider and requiring the discount medical plan organization to maintain an up-to-date list of contracted providers along with a copy of each active provider agreement.
5. Requiring the discount medical plan organization to maintain an up-to-date list of providers and the discounts provided by those providers on a website. The website's address is to be included on advertising materials.

6. Requiring discount medical plan organizations to have written agreements with persons marketing their plans, requiring organizations to approve in writing the advertising materials used by marketers, and by requiring that the organization is responsible and financially liable for any acts of its marketers that do not comply with the provisions of this chapter.
7. Prohibiting discount medical plan organizations and marketers from marketing or selling a discount medical plan in conjunction with any insurance product. We believe bundling of products in this matter serves to confuse and mislead the consumer into further believing they are purchasing a health insurance. It also creates a problem of the consumer not knowing how much they are paying for the insurance product or the discount plan, respectively.
8. Requiring discount medical plan organizations and marketers to inform plan members of their cancellation rights and that plan members are entitled to a full refund if they cancel within 30 days of purchasing and a pro rata refund after that time.
9. Provides that both the Insurance Commissioner and the Attorney General's office may enforce these laws and that the Attorney General in enforcing the chapter has the powers, and may seek the remedies, provided in Chapter 51-15 which deals with consumer fraud and unlawful practices. It also provides that a violation of this new chapter constitutes a violation of Chapter 51-15.

Neither the Insurance Department nor the Attorney General's office is aware of how many North Dakotans have already purchased these products. However, our offices have received numerous inquiries from prospective purchasers regarding the validity of these plans.

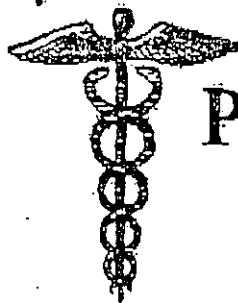
It is not our objective to prohibit legitimate discount plans from being sold in North Dakota; we only desire to make sure that consumers are adequately informed and protected in the event they do purchase these products. We respectfully request a "do pass" recommendation from this committee.

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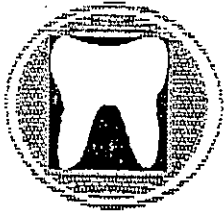
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**Testimony in Favor of H.B 1376 As Amended
Joel Gilbertson
On Behalf of the Consumer Health Alliance
Senate Human Services Committee**

Chairman Lee and members of the Senate Human Services Committee, I am Joel Gilbertson with the Bismarck office of the Vogel Law Firm. I appear on behalf of the Consumer Health Alliance in support of House Bill 1376 with the proffered amendments.

The Consumer Health Alliance, or CHA, is the national trade association of discount health care programs. Discount health care programs began operating 10-15 years ago, primarily to offer access at discounted rates to those ancillary health care services not typically covered by insurance plans. These services often included dental, pharmacy, vision, chiropractic and hearing aids, and now include many other services as well.

In recent years, the skyrocketing cost of health care has made traditional health insurance increasingly unaffordable. This instability in the market created an opportunity for some bad actors to exploit unwitting consumers through health care schemes that promised a lot and delivered little or nothing.

Leading discount programs became concerned that these bad actors were going to define the industry in the minds of consumers and regulators. In order to ensure that this did not happen, and to protect consumers' access to legitimate discount programs, these companies joined together to form the Consumer Health Alliance (CHA).

CHA has developed a web site (www.consumerhealthalliance.org) which includes a consumer guide for choosing a discount program. It also operates a toll-free line (800-550-1242) that has responded to inquiries from consumers, providers and state attorney general offices, among others, seeking CHA's assistance.

In addition, CHA has developed and enforces a very strong Code of Conduct for its members.

Another important part of CHA's purpose is to work with the regulatory authorities in the various states that are reviewing, studying and perhaps enacting laws regulating these discount programs. CHA seeks to work with the regulators in those various states to draft and enact regulatory legislation that is fair, protects the citizens of those states, and, as far as is reasonably possible, is relatively uniform among the states. Already in 2005, CHA counsel have worked with regulators in fashioning legislation in South Dakota and Montana.

In North Dakota, I have been pleased to work with Insurance Commissioner Jim Poolman, Director of Investigations Laurie Wolf, Craig Burns, attorney with the Department and Perrell Grossman, Assistant Attorney General and Director of the Consumer Protection and Antitrust Division. We have gone through the bill with various suggested amendments and discussed them and, in some cases, debated

them. The amendments I will distribute are only those that have been agreed upon by all of the parties. We spent an inordinate amount of time going through these and I would like to publicly thank Jim, Laurie and Perrell for spending the necessary amount of time and for their professionalism in dealing with these issues. We essentially are drafting the first regulatory scheme for this industry in North Dakota.

We recognize that you have many bills to review, testimony to listen to and documents to review. I was hopeful that we could save you some time by agreeing on at least most of these amendments. I am pleased to say that it went even better than that and the amendments I am disseminating all meet agreement with all of the parties involved. You will be the final decisionmaker on these amendments, of course, but I did want to make it clear you are seeing only those agreed by all. I expect a representative of those offices will confirm that after I am done.

I will now disseminate the proposed amendments to H.B. 1376 and review them with the committee. After that is complete, I will be pleased to respond to questions.

Joel Gilbertson

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1376
Submitted by Joel Gilbertson, Vogel Law Firm
On Behalf of the Consumer Health Alliance

Page 2, line 12, remove “enrollment”

Page 2, line 13, after “terms” insert “, in a manner”

Page 2, remove lines 15 and 16

Page 2, line 17, after “services” insert “, unless the organization is an authorized third party administrator”

Page 2, line 20, after “on” remove “the first page of”

Page 2, after line 31 insert:

- “2. Any advertisements, marketing materials or brochures relating to a discount medical plan that are transmitted to the public through the Internet or television shall state that the plan is not an insurance policy and that the plan provides discounts at certain health care providers for medical services.”

Page 3, line 21, replace “monthly” with “quarterly”

Page 4, line 9, after “plan” remove “and must be responsible and financially liable for any”

Page 4, remove lines 10 and 11

Page 4, line 13, before “A” insert “If”

Page 4, line 13, remove “may not”

Page 4, line 13, replace “solicit” with “solicits”, replace “market” with “markets”, and replace “sell” with “sells”

Page 4, line 14, after “product” insert “, it must clearly and conspicuously disclose that the plan is not insurance”

Page 4, line 17, remove “purchase” and insert “receiving written notice of cancellation rights”

Page 4, line 18, after “member” insert “, except for nominal fees associated with enrollment costs”

up to a maximum of fifty dollars”

Page 4, line 22, after “The” insert “discount” and after “medical” remove “discount”

Page 4, line 23, after “ten” insert “business”

Page 4, line 24, remove “printed in not less” and insert “and must include instructions for the member to cancel the plan, which instructions must be made available to the commissioner upon request”

Page 4, remove lines 25 through 31

Renumber accordingly

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Washington, DC 20004

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February 25, 2005

The Honorable Judy Lee
North Dakota Senate
600 East Boulevard
Bismark, ND 58505

Dear Senator Lee:

Thank you for the opportunity to comment on section 26.1-53-07 of House Bill 1376. America's Health Insurance Plans (AHIP) is the national trade association representing nearly 1,300 member companies providing health insurance coverage to more than 200 million Americans. H.B. 1376 applies to the marketing and provision of discount medical cards and plans and was referred to the Senate Human Services Committee for review on February 4, 2005. We support your efforts to provide regulation and guidance in the sale of these discount products, but are concerned about the negative impact on consumers on the prohibition of marketing a discount plan in conjunction with an insurance product (Section 26.1-53-07).

Section 26.1-53-07 of House Bill 1376 states that "a marketer or discount medical plan organization may not solicit, market, or sell a discount medical plan together with any insurance product". We ask that this section be deleted from this bill because prohibiting a discount medical plan organization from selling a discount medical plan with an insurance product would cause confusion for health care consumers and also decrease their access to quality and affordable health care.

Some of AHIP's membership sell discount medical plans and cards to consumers as a non-insurance supplement to health insurance coverage. These medical plans and cards offer a discount on services not covered by traditional health insurance policies or on services that would otherwise entail higher out of pocket costs. It is important to note that discount programs offered by licensed health insurance companies or their affiliates make it clear that the product is NOT insurance. Customers are aware of what they are buying, from whom, and get value for their money. When these products are sold together, an insurer is in a good position to clearly describe the entire benefit approach and how the discount plan compliments the health insurance policy. In fact, consumers could find it more confusing to be offered an insurance coverage at one point in time and then later offered a discount program that complemented the insurance coverage. Further, Section 26.1-53-07 of the bill requires conspicuous disclosures that the discount plan is not an insurance policy so the consumer can readily distinguish between the discount plans and the insurance coverage. A consumer would find it easier to understand how the pieces of the entire benefit package fit together if they are described at the same time. These

Page 2



cards and medical plans also provide consumers increased access, affordability as well as the quality that they seek in the health insurance market.

Thank you for considering our concerns with Section 26.1-53-07 of House Bill 1376. Should you have any questions, please feel free to contact me at 202-778-8500 or rmiller@ahip.org.

Sincerely,

A handwritten signature in black ink that reads "Randi Miller". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Randi Miller
Legislative/Regulatory Specialist

CC: Members, Senate Human Resources Committee
Joel Gilbertson, AHIP Counsel

#2

HOUSE HUMAN SERVICES COMMITTEE
CLARA SUE PRICE, CHAIRMAN
JANUARY 26, 2005

TESTIMONY BY
PARRELL D. GROSSMAN
DIRECTOR, CONSUMER PROTECTION AND ANTITRUST DIVISION
OFFICE OF ATTORNEY GENERAL
IN SUPPORT OF
HOUSE BILL NO. 1376

Madam Chairman and members of the House Human Services Committee. I am Parrell Grossman, Director of the Consumer Protection and Antitrust Division of the Attorney General's Office. The Attorney General and the Consumer Protection Division support House Bill No. 1376.

The Attorney General and his Consumer Protection Division work closely with the Insurance Commissioner and his consumer protection staff in enforcement and consumer protection issues. This legislation and the area of medical discount plans is one example of the many areas in which we work jointly and cooperatively. The Attorney General appreciates that the Insurance Commissioner is advocating this important legislation and has assisted in the preparation of this legislation.

Consumers mistake these medical discount plans for insurance and contact the Insurance Commissioner for assistance when they experience problems, or have questions or concerns. These consumers also contact the Attorney General's Consumer Protection Division with these same problems, questions, or concerns.

We receive calls on a frequent basis. In some instances consumers believe the medical discount plans were misrepresented. However, in most instances the consumers have not yet purchased the plan, but are inquiring about these plans. We explain that these plans are not insurance plans, and will only provide a discount if any medical providers in the consumer's geographical area, or the state for that matter, accept the plans. In our research, we often determine that the medical discount plans, or their marketers, list medical facilities in North Dakota that do not accept the plans. The represented ranges of discounts are broad. For instance the plan might represent discounts between ten percent and fifty percent. Arguably the discount might vary according to the type of medical provider. It might be different for dentists, medical doctors, chiropractors, or optometrists. Therefore, it is difficult for consumers to know what discounts they are actually eligible for or will receive. Often, the consumers' cancellation rights have expired before the consumer even attempts to use the services, or identifies the providers or lack of providers.

The Attorney General is not suggesting that there are not legitimate medical discount plans. The Attorney General, however, is requesting specific laws regulating the medical discount plans, the medical discount plan organizations, and the marketers of medical discount plans.

This legislation will provide significant and reasonable protections for consumers in the areas of prohibited activities, required disclosures, and cancellation rights.

The legislation enhances the Insurance Commissioner and Attorney General's enforcement authority and provides appropriate penalties for violations.

For these reasons, the Attorney General respectfully requests this committee to give House Bill 1376 a "do pass" recommendation.

Thank you for your time and consideration. I will try and answer any questions.



Vision Plans/Discount Programs

Information Provided by NDOA Member Optometrists

Attachment 2

AAA
AARP
Acclaim
*Aetna
AFLCA
Alliance Benefit Plan
Allegiance
Americare
American Legion
*Ameritas
Apple
Assurant Health
Avesis
BBS Healthcare Plan
Benefit Planners
BLOCK
Blue Cross Vision
Blue Shield of Illinois
Blue Shield of Montana
Blue Shield of Massachusetts
Blue Shield of ND 5
Blue Cross Blue Shield of Washington
Carpenters Health and Trust Fund
Carpenters Trust of Washington
CEBA Claims
Central States
Champus
Chesterfield Resources
Choice Plus
Cigna Healthcare
Clarity
Coast to Coast
Cole Vision
Davis Vision
Duluth Building Trades
EBMS
Employee Benefit Trust
Eye Care Plan of America
Eye Care International
EyeMed
First American Vision
First Health
GEHA
Government Employees Association
Good Neighbor Club
Great West Life
Group Administrators
Health Connections
Integrated Health Plan
J.F. Moiloy
Labor Agriculture Trust of Montana
Local 49rs
Maui Jim
Mail Handlers
Medica Vision Care
Medicaid
Medicare
MetLife
Mountain Vision Plan
MUST (Montana Unified School Trust
*Mutual of Omaha
National Marketing Administration
National Vision Administration
*ND Vision Services
NRECA
NTCA
One Health Plan
Opticare
Outlook Vision Services
Plan Plus
Preferred Vision Care
Preferred One
Presentation Medical Center
Principle Financial
*Principle Life Insurance
Protective Vision Plan
RBMS
Rock Mountain Vision
SGA Health Care Plan
Specs Vision Plan
Spectera
Spectrum
Starbridge
Superior Vision Plan
Tricare
TPA
TRPN
*United Healthcare
US Benefits
Veterans Administration
Vision Benefits of America
Vision Care Advantage
Vision Care Plan
Vision Care Services
Vision I
Vista Vision Eye Care Plan
Vision Care Services
VSI
*Vision Service Plan
Wilson McShane
Zenith Administrators

* Registered with the Insurance Department

HOUSE BILL NO. 1376

Presented by: **Jim Poolman**
 Commissioner
 North Dakota Insurance Department

Before: **Senate Human Services Committee**
 Senator Judy Lee, Chair

Date: **March 7, 2005**

TESTIMONY

Madam Chair and Members of the Committee:

I am pleased to appear before you today in support of House Bill No. 1376, relating to the regulation of discount medical plans and discount medical cards. Discount medical plans and cards offer discounts for medical services from health care providers who have agreed to participate in the discount program.

In the past few months, we have experienced an increase in calls relating to these types of plans from consumers all across North Dakota. The biggest question and concern that our callers relate is their confusion over whether or not they are actually purchasing insurance.

These types of plans are not health insurance; they only provide discounts to health care consumers who receive medical care from participating medical providers. The discounted medical expenses are then paid out of the consumer's own pocket.

In many cases, these callers have called the Department because they have seen some of the myriad of advertising and promotions that have appeared in our local media. These plans have been marketed through television ads, faxes, e-mail, websites, and

newspapers. I have attached samples of the advertisements that have appeared in North Dakota.

While the theory behind a discount medical plan is acceptable and we do not seek to prohibit legitimate plans from being sold, misleading North Dakota consumers is not acceptable. Our primary concern with these advertisements is their potential for causing confusion among consumers and giving them a false sense that they have actually purchased health insurance.

Our concerns lie primarily with some unscrupulous marketers who are using advertising materials that use terms and phrases commonly associated with health insurance. In addition, upon calling the toll-free number, consumers may also experience an aggressive, high-pressure sales technique. It is the objective of House Bill No. 1376 to address the following concerns:

1. Although many plan advertisements include disclaimers that the plans are not insurance, the same ads commonly use terms to promote or describe the plan that most people associate exclusively with health insurance. Consumers may reasonably be led to believe the discount plan is a viable and safe alternative to health insurance.
2. Confusing a discount medical plan for health insurance can have very serious implications for consumers who might drop their existing health insurance coverage to purchase the discount plan. If they become ill during a time that they do not have insurance, they may become unable to qualify for and obtain health insurance coverage in the future, due to pre-existing conditions.
3. Discount plans do not provide protection against catastrophic medical bills. A 10% or 20% discount is of little consolation to an individual who

has incurred medical bills in the tens and hundreds of thousands of dollars.

4. Many advertisements fail to list the names and addresses of the discount medical plan organization and the marketer. It is unclear to the consumer who, exactly, they are dealing with in these transactions.
5. In some areas where plans are marketed, there may be few, if any, participating providers, thus making the plan virtually worthless to the plan member, or at a minimum, not at all worth the fees that are being charged to participate in the plan.
6. Participating providers also may be unaware that they are listed as participating providers in a medical discount plan. This can occur when a provider signs a discount agreement with a provider network that in turn makes that network available to other discount medical plan organizations.
7. In other states, we have heard of consumers having significant difficulty canceling their memberships and obtaining refunds, once they realized that the specific plan was of little or no value to them.

Within the last few years, numerous states have enacted legislation to protect consumers from some of the abuses associated with discount medical plans and their marketers including: Kentucky, Montana, South Dakota, Colorado, Kansas, Florida and Vermont. We believe House Bill No. 1376 encapsulates the best features of the legislation enacted in these other states.

The legislation before you addresses some of these abuses and protects consumers by:

1. Providing clear definitions of who and what services are subject to these regulations.

2. Prohibiting discount medical plan organizations and those persons marketing them from using terms in their advertising that could reasonably mislead a person into believing that the discount medical plan provides health insurance coverage.
3. Requiring that advertising materials and telemarketers disclose to prospective members:
 - (a) That the plan is not an insurance policy;
 - (b) That the plan only provides discounts at participating medical providers;
 - (c) That plan members are responsible for paying the medical providers for the services they receive;
 - (d) The name, address and telephone number of the discount medical plan organization and the marketer; and
 - (e) The prospective member's cancellation and refund rights.
4. Requiring written provider contracts that outline the discount obligations of the provider and requiring the discount medical plan organization to maintain an up-to-date list of contracted providers along with a copy of each active provider agreement.
5. Requiring the discount medical plan organization to maintain an up-to-date list of providers and the discounts provided by those providers on a website. The website's address is to be included on advertising materials.

6. Requiring discount medical plan organizations to have written agreements with persons marketing their plans, requiring organizations to approve in writing the advertising materials used by marketers, and by requiring that the organization is responsible and financially liable for any acts of its marketers that do not comply with the provisions of this chapter.
7. Prohibiting discount medical plan organizations and marketers from marketing or selling a discount medical plan in conjunction with any insurance product. We believe bundling of products in this matter serves to confuse and mislead the consumer into further believing they are purchasing a health insurance. It also creates a problem of the consumer not knowing how much they are paying for the insurance product or the discount plan, respectively.
8. Requiring discount medical plan organizations and marketers to inform plan members of their cancellation rights and that plan members are entitled to a full refund if they cancel within 30 days of purchasing and a pro rata refund after that time.
9. Provides that both the Insurance Commissioner and the Attorney General's office may enforce these laws and that the Attorney General in enforcing the chapter has the powers, and may seek the remedies, provided in Chapter 51-15 which deals with consumer fraud and unlawful practices. It also provides that a violation of this new chapter constitutes a violation of Chapter 51-15.

Neither the Insurance Department nor the Attorney General's office is aware of how many North Dakotans have already purchased these products. However, our offices have received numerous inquiries from prospective purchasers regarding the validity of these plans.

It is not our objective to prohibit legitimate discount plans from being sold in North Dakota; we only desire to make sure that consumers are adequately informed and protected in the event they do purchase these products. We respectfully request a "do pass" recommendation from this committee.



Vision Plans/Discount Programs

Information Provided by NDOA Member Optometrists

Attachment 2

AAA
AARP
Acclaim
*Aetna
AFLCA
Alliance Benefit Plan
Allegiance
Americare
American Legion
*Ameritas
Apple
Assurant Health
Avesis
BBS Healthcare Plan
Benefit Planners
BLOCK
Blue Cross Vision
Blue Shield of Illinois
Blue Shield of Montana
Blue Shield of Massachusetts
Blue Shield of ND 5
Blue Cross Blue Shield of Washington
Carpenters Health and Trust Fund
Carpenters Trust of Washington
CEBA Claims
Central States
Champus
Chesterfield Resources
Choice Plus
Cigna Healthcare
Clarity
Coast to Coast
Cole Vision
Davis Vision
Duluth Building Trades
EBMS
Employee Benefit Trust
Eye Care Plan of America
Eye Care International
EyeMed
First American Vision
First Health
GEHA
Government Employees Association
Good Neighbor Club
Great West Life
Group Administrators
Health Connections
Integrated Health Plan
J.F. Moiloy
Labor Agriculture Trust of Montana
Local 49rs
Maui Jim
Mail Handlers
Medica Vision Care
Medicaid
Medicare
MetLife
Mountain Vision Plan
MUST (Montana Unified School Trust
*Mutual of Omaha
National Marketing Administration
National Vision Administration
*ND Vision Services
NRECA
NTCA
One Health Plan
Opticare
Outlook Vision Services
Plan Plus
Preferred Vision Care
Preferred One
Presentation Medical Center
Principle Financial
*Principle Life Insurance
Protective Vision Plan
RBMS
Rock Mountain Vision
SGA Health Care Plan
Specs Vision Plan
Spectera
Spectrum
Starbridge
Superior Vision Plan
Tricare
TPA
TRPN
*United Healthcare
US Benefits
Veterans Administration
Vision Benefits of America
Vision Care Advantage
Vision Care Plan
Vision Care Services
Vision I
Vista Vision Eye Care Plan
Vision Care Services
VSI
*Vision Service Plan
Wilson McShane
Zenith Administrators

* Registered with the Insurance Department

Testimony Neutral to House Bill 1376

by Glenn A. Elliott, a private citizen and resident of Mandan, North Dakota, appearing on his own behalf on Monday, 7 March 2005

Before the Human Services Committee of the North Dakota Senate

To the Chair and Senators of the Committee:

I am offering this testimony neutral to House Bill 1376. I am testifying from a neutral position because I support the concept of the bill and believe it is workable as written, but I believe certain changes would enhance its effectiveness.

1. The proposed Subsection 26.1-53-08(4), on Lines 3-5 of Page 5, states that notice of cancellation is given upon hand delivery, deposit in the postal mail, or sending of e-mail to the plan organization or marketer. However, the proposed Paragraph 26.1-53-03(1)(d) on Lines 29-30 of Page 2 does not require that the e-mail address be disclosed.

2. The proposed Section 26.1-53-03 is oriented toward physical printed materials. However, it is very likely that plans and marketers will advertise on a Web site in addition to or instead of print. This Web site may also be separate from that for the provider name listing required by the proposed Section 26.1-53-05.

3. As such, I recommend these amendments to House Bill 1376:

a. That the proposed Paragraph 26.1-53-03(1)(d) on Lines 29-30 of Page 2 be changed to read as follows:

"d. The name, address, and telephone number, and e-mail address if any, of the discount medical plan organization and the marketer. If the plan organization or marketer maintains an Internet web site, and the web site has a form page for the purpose of contacting the plan or marketer, the web site address may be provided instead of the e-mail address. However, the contact form page must be easily accessible and must clearly and conspicuously state an e-mail address to which the information requested can be sent in case of problems with the form."

b. That the following Subsection 3 be added to the proposed Section 26.1-53-03 (between Lines 3 and 4 on Page 3):

"3. The discount medical plan organization or marketer in solicitations conducted through an Internet web site shall state the disclosures required under subsection 1 on either the home page of the web site, or on another page accessed through a 'link' on the home page, as long as the link is conspicuous and clearly indicates that certain conditions apply to North Dakota residents."

SENATE HUMAN SERVICES COMMITTEE
JUDY LEE, CHAIRMAN
MARCH 7, 2005

TESTIMONY BY
PARRELL D. GROSSMAN
DIRECTOR, CONSUMER PROTECTION AND ANTITRUST DIVISION
OFFICE OF ATTORNEY GENERAL
IN SUPPORT OF
HOUSE BILL NO. 1376

Madam Chairman and members of the Senate Human Services Committee. I am Parrell Grossman, Director of the Consumer Protection and Antitrust Division of the Attorney General's Office. The Attorney General and the Consumer Protection Division support House Bill No. 1376.

The Attorney General and his Consumer Protection Division work closely with the Insurance Commissioner and his consumer protection staff in enforcement and consumer protection issues. This legislation and the area of medical discount plans is one example of the many areas in which we work jointly and cooperatively. The Attorney General appreciates that the Insurance Commissioner is advocating this important legislation and has assisted in the preparation of this legislation.

Consumers mistake these medical discount plans for insurance and contact the Insurance Commissioner for assistance when they experience problems, or have questions or concerns. These consumers also contact the Attorney General's Consumer Protection Division with these same problems, questions, or concerns.

We receive calls on a frequent basis. In some instances consumers believe the medical discount plans were misrepresented. However, in most instances the consumers have not yet purchased the plan, but are inquiring about these plans. We explain that these plans are not insurance plans, and will only provide a discount if any medical providers in the consumer's geographical area, or the state for that matter, accept the plans. In our research, we often determine that the medical discount plans, or their marketers, list medical facilities in North Dakota that do not accept the plans. The represented ranges of discounts are broad. For instance the plan might represent discounts between ten percent and fifty percent. Arguably the discount might vary according to the type of medical provider. It might be different for dentists, medical doctors, chiropractors, or optometrists. Therefore, it is difficult for consumers to know what discounts they are actually eligible for or will receive. Often, the consumers' cancellation rights have expired before the consumer even attempts to use the services, or identifies the providers or lack of providers.

The Attorney General is not suggesting that there are not legitimate medical discount plans. The Attorney General, however, is requesting specific laws regulating the medical discount plans, the medical discount plan organizations, and the marketers of medical discount plans.

This legislation will provide significant and reasonable protections for consumers in the areas of prohibited activities, required disclosures, and cancellation rights.

The legislation enhances the Insurance Commissioner and Attorney General's enforcement authority and provides appropriate penalties for violations.

For these reasons, the Attorney General respectfully requests this committee to give House Bill 1376 a "do pass" recommendation.

Thank you for your time and consideration.

Proposed Amendments to 1376

Page 1, line 2, after "cards" insert ", and to declare an emergency"

Page 5, after line 12, insert:

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.