

## Summary of House Substitute for SB 11

May 1, 2007

The House Substitute for SB 11 is a bill that includes a number of provisions designed to improve access and affordability to health care in Kansas. The legislation establishes a premium assistance program, which uses state and federal subsidies, as well as available employer support, to help low income uninsured Kansans purchase private health insurance. SB 11 includes enabling legislation that directs the KHPA to develop broader health reform options with the assistance of Kansas stakeholders and independent economic impact analysis. This bill also creates an Inspector General to prevent fraud, waste, and abuse in the Kansas Medicaid program, as well as support for increased newborn screening.

House Substitute for SB 11 was unanimously passed by both the full House (120-0) and Senate (38-0) when the Legislature reconvened on 4-25-07 and now awaits the Governor's signature.

This document provides details about the provisions added and various small compromises reached by the Conference Committee.

### Elements of House Sub. For SB 11 as amended by House on April 2, 2007

- **Medicaid Reform Goals:** Included in Section 1 of H. Sub. For SB 11 as amended by the House on April 2, 2007.

The KHPA with consultation of the Joint Health Policy Oversight Committee should consider as part of health reform in Kansas various Medicaid reform options provided through the Deficit Reduction Act. Medicaid reforms should result in improved health outcomes for beneficiaries and encourage primary and preventive care which will result in cost savings for the State.

- **KHPA enabling legislation** – Included in Section 2 of H. Sub. For SB 11 as amended by the House on April 2, 2007; SB 309

Part of consensus package by the Health for All Kansans Steering Committee, allows for a study of various health reform options to be provided to the Legislature and Governor in November, 2007. This includes: analysis of a health care insurance connector, a model for a voluntary insurance connector, policies designed to increase portability, individual ownership of health care policies, utilize pre-tax dollars for health insurance, expand consumer responsibility for making health care decisions, reinsurance, and financing methods (such as federal funding, etc).

- **Health Insurance Studies** -- Included in Section 3 of H. Sub. For SB 11 as amended by the House on April 2, 2007

(A) Request for a COBRA plan study:

Study by the Insurance Commissioner to extend from 6 months to 18 months the state COBRA plan. Study to be delivered to the KHPA and the Joint Committee on Health Policy Oversight.

(B). Interim Study:

The LCC shall appoint during the interim a committee to examine tax policies including Health Earned Income Tax Credit for uninsured, deductibility of cobra policies, and other tax policies.

- **Establishes a Premium Assistance program** – Included in Sec. 4 of H. Sub. For SB 11 as amended by the House on April 2, 2007; SB 387

Part of consensus package by the Health for All Kansans Steering Committee. Provides phased in assistance to low income uninsured families to purchase health insurance through the private sector phased in over four years and subject to appropriations. “Premium assistance” at 50%, 75% and 100% of FPL would entail two different plans: (1) the state buying low income uninsured families into their employer’s health plan, if the employer plan meets minimum criteria, i.e. actuarial equivalent of the SEHBP (approximately 5-10% of families of very low income families), or (2) buying low income uninsured families into a plan that has been procured through an RFP process and meets our criteria as being equivalent to the state employee plan in level of benefits and emphasizes health and wellness. Children would enroll with their parents but also receive wraparound coverage up to full Medicaid benefits. At this level of income, no families would have an out-of-pocket premium.

- **Safety Net Clinic Capital Loan Guarantee Act** – Included in Sec. 5 through 11 of H. Sub. For SB 11 as amended by the House on April 2, 2007; SB 365; HB 2547

- **Third Party Liability legislation for compliance with Deficit Reduction Act mandate** – Included in Sec. 12 of H. Sub. For SB 11 as amended by the House on April 2, 2007; SB 323

Required by CMS for Kansas to be in compliance with federal law. Puts Kansas in compliance with the federal requirements set out in the Deficit Reduction Act of 2005 which requires states to enact laws that require third party payers to comply with federal law.

- **Encourage Section 125 Plans** – Included in Sec. 13 of H. Sub. For SB 11 as amended by the House on April 2, 2007; HB 2591

Establishes the Small Employer Cafeteria Plan Development Program to encourage and expand the use of cafeteria plans authorized by 26 U.S.C. 125.

- **Encourage Small Businesses to Purchase Health Insurance** – Included in Sec. 14 of H. Sub. For SB 11 as amended by the House on April 2, 2007; HB 2328

Provides grants and loans through a fund of \$500,000 to startup association plans (subject to all state health insurance mandates) targeted to specific groups, such as small business.

*Conference Committee compromise: Language to be amended to the effect that any grant / loan under the program administered by the Secretary of Commerce would require final approval by the Kansas Insurance Commissioner.*

- **Creation of Inspector General for the Kansas Medicaid Program** – Included in Sec. 15 of H. Sub. For SB 11 as amended by the House on April 2, 2007; SB 373

Creates an Inspector General within the KHPA to prevent waste, fraud, and abuse within the Medicaid program.

### **Elements added through Conference Committee Agreement on House Sub. For SB 11**

- **Cancer Registry & Umbilical Cord Donation Act** – SB 178, introduced at the request of KDHE; Umbilical Cord Donation Act was previously in HB 2266 and was amended into SB 178 by the House Committee of the Whole

Gives new authority to the Secretary of Health and Environment to authorize the use of confidential data in the Cancer Registry for the State of Kansas to conduct follow-up of cases for public health purposes. Also establishes the Umbilical Cord Donation Information Act, which among other things, would require health care providers who deliver services to pregnant women in their last trimester to advise those women on the options available to donate an umbilical cord following the delivery of their child.

*Conference Committee compromise: Change the language of “require health care providers...to advise” to language stating “direct health care providers...to advise pregnant women when practical.”*

KDHE would be required, by July 1, 2007, to prepare and distribute to health care providers, information including the following:

- The medical processes involved in the collection of umbilical cords; The medical risks to a mother and the newborn child of umbilical cord collection;
- The current and potential future medical uses and benefits of umbilical cord collection to the birth mother, the newborn child and the biological family;
- The current and potential future medical uses and benefits of umbilical cord collection to persons who are not biologically related to the birth mother or the newborn child;
- Any costs that may be incurred by a pregnant woman who chooses to make an umbilical cord donation;
- Options for ownership and future use of the donated material; and
- The availability in this state of umbilical cord donations.

*Conference Committee compromise: Change “prepare and distribute” to “make available on the KDHE website.”*

- **Establish a Dispute Resolution Process for State Fire Marshall for medical care facilities, adult care homes, assisted living facilities or special hospitals** – Sub. For HB 2133

Establishes a two-tiered informal dispute resolution process for deficiencies cited in a medical care facility, adult care home, assisted living facility, or special hospital by an officer of the State Fire Marshal during an inspection for compliance with federal law pursuant to oversight by the Centers for Medicaid and Medicare Services. The facility could make a request for an informal dispute resolution within ten calendar days after receipt of the statement of deficiencies. An informal dispute resolution meeting may be held in person upon request of the facility. The facility would be notified of the results of the first-tier on or before ten days of the disposition being rendered. The facility may challenge the decision of the first-tier informal dispute resolution and request completion of the second-tier. The second-tier informal dispute resolution would be conducted by a three-person panel appointed by the State Fire Marshal. The panel would consist of one employee of the State Fire Marshal’s Office and two members outside the State Fire Marshal’s Office. The second-tier would take place within 30 days of the request, and the facility would be notified of the results within ten days of the disposition being rendered. The decision of the panel shall be advisory to the State Fire Marshal.

- **Adult Care Home Administrator Licensing** – HB 2237

Allows the Board of Adult Care Home Administrators to grant a license to an individual already licensed as an adult care home administrator in another state if the following conditions are met:

- The licensure requirements of the other state are substantially equivalent to the Kansas requirements; or
  - The applicant has been continuously licensed as an adult care home administrator for the five years immediately preceding the application with the minimum professional experience established by the Board; and
  - The applicant has not had disciplinary actions of a serious nature brought by the licensing board or agency; and
  - The applicant pays a reciprocity application fee and a reciprocity license fee, neither of which may exceed \$200.
- **Physical Therapy Referral Requirement & Newborn Screening** –HB 2483, introduced by the House Committee on Health and Human Services at the request of the Kansas Physical Therapy Association; Newborn screening was originally in HB 2224 which was amended into HB 2483 by the Senate Committee of the Whole

Amends statutes that govern the practice of physical therapy and statutes that relate to the newborn screening program:

- **Physical Therapy:** Enable physical therapists to initiate treatment without approval of a person licensed to practice medicine and surgery or other specified provider under certain circumstances. The existing requirement for a referral from a licensed physician, podiatrist, physician assistant, chiropractor, dentist, optometrist, or advanced registered nurse practitioner in all other circumstances would not be changed by the bill.
- **Physical Therapy:** Create a new statute that would authorize physical therapists to evaluate and treat a patient for a maximum of 30 consecutive days without a referral on certain conditions. It would authorize physical therapists to provide therapy services that do not constitute treatment for a specific condition, disease or injury without a referral to certain individuals outlined in statute.
- **Newborn Screening:** Amends the law regarding the newborn screening program. KDHE would be directed to adopt rules and regulations no later than July 1, 2008, to require newborn screening tests for the disorders recommended in the 2005 report by the American College of Medical Genetics entitled “Newborn Screening: Toward a Uniform Screening Panel and System.” The Secretary of Health and Environment would be required to appoint an advisory committee regarding the implementation of the expanded screening program. The number of disorders screened for would increase from four to twenty-nine. The Secretary also would be directed to periodically review the newborn screening program, including program efficacy, cost effectiveness, and whether program adjustments need to be made. The bill would allow a designee of the agency to conduct the initial laboratory screening tests and would eliminate language requiring the Department of Health and

Environment and the Kansas Health Policy Authority to combine resources for the purchase of treatment products.

- **Durable Medical Equipment Distribution & Vaccination by Pharmacists** –S. Sub. For HB 2531, introduced by the House Committee on Appropriations at the request of the Board of Pharmacy; Senate Committee of the Whole amended the bill to incorporate provisions of HB 2097, as passed by the House

Amend the Pharmacy Act to create new requirements for wholesale drug registrants and to separate registration requirements for wholesale drug distributors from requirements for durable medical equipment distributors. The bill also would amend the Pharmacy Act in regard to pharmacists' authorization to administer vaccines to persons 18 years of age or older. Finally, the bill would authorize certain pharmacy students and interns to administer vaccines.

- **Wholesale distributors:** Defined to include persons who engage in the wholesale distribution of prescription drugs or devices in or into Kansas. Persons engaged in the sale of durable medical equipment to consumers or patients specifically would be excluded from the definition of wholesale distributor. As under current law, it would be illegal for any person to distribute drugs at wholesale unless the person is registered with the Board of Pharmacy.
- **Wholesale distribution:** Defined to be distribution of prescription drugs or devices by wholesale distributors to persons other than consumers or patients, including transfer of prescription drugs from one pharmacy to another if the number of units of transferred drugs during a twelve-month period is five percent or less of the total number of units dispensed by the pharmacy during the immediately preceding twelve-month period. The Board of Pharmacy would be authorized to waive registration requirements for wholesale distributors accredited by an agency approved by the Board. The Board also would be authorized to register wholesale distributors licensed by another state if the requirements of that state are substantially equivalent to Kansas' requirements or the applicant is inspected and accredited by a third party recognized and approved by the Board. Persons licensed or approved by the federal Food and Drug Administration (FDA) to manufacture drugs or devices who also are engaged in wholesale drug distribution would only need to satisfy minimum federal licensing requirements in order to be registered in Kansas. The bill would require that the Board of Pharmacy, or a third party recognized by the Board, to inspect wholesale drug distribution facilities prior to and periodically after registration. Post registration inspections would have to be conducted at least once every three years.

- **Durable medical equipment** distributors also would have to register with the Board. The new provision would make it illegal for a person to sell, lease or offer for sale or lease any durable medical equipment without being registered with the Board, except if such sale is not made in the regular course of the person's business or if the sale is made by a federally tax exempt charitable organization.
- **Administration of vaccines.** Pharmacy students and interns working under the direct supervision and control of a pharmacist would be able to administer vaccines to persons 18 years of age or older only if they meet the same training requirements applicable to pharmacists. Currently, prior to administering vaccines, pharmacists are required to complete approved training in vaccination storage, protocols, injection technique, emergency procedures and record keeping. The bill would add a new training provision that would require pharmacists, pharmacy students, and interns to complete a cardiopulmonary resuscitation (CPR) course and maintain a current CPR certificate before they could administer a vaccine. A pharmacist supervising an administering pharmacy student or intern would have to meet the existing statutory requirements for reporting the administration of an immunization.