

Health; pharmaceuticals; midwest pharmaceutical compact; enter into.

HEALTH: Pharmaceuticals; STATE: Interstate compacts and agreements; CONTROLLED SUBSTANCES: Other

A bill entering into the midwest pharmaceutical compact; and for related purposes.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. The midwest pharmaceutical compact is enacted into
2 law and entered into with all jurisdictions legally joining the
3 compact, in the form substantially as follows:

4 MIDWEST PHARMACEUTICAL COMPACT

5 ARTICLE I. PURPOSE

6 The purpose of the midwest pharmaceutical compact shall be
7 to provide an enlarged pool for the purchase of pharmaceutical
8 products and services for all medicaid recipients, publicly
9 insured or uninsured health care recipients, and any other per-
10 sons who the commission deems eligible who reside in the
11 compacting states that are party to this compact.

1 Pharmaceuticals purchased through the compact shall be
2 distributed to medicaid recipients, publicly insured and unin-
3 insured citizens, and any other persons deemed eligible who are
4 served by health care professionals, public hospitals and clin-
5 ics, nonprofit hospitals and clinics, organized emergency depart-
6 ments, or free clinics within each compacting state.

7 ARTICLE II. DEFINITIONS

8 As used in this compact, unless the context clearly requires
9 a different construction:

10 (a) "Commission" means the midwest pharmaceutical commission
11 established by this compact.

12 (b) "Compacting state" means any state or province that has
13 enacted the enabling legislation for this compact.

14 (c) "Compacting state's delegation" means the 5 resident
15 members of the commission from a compacting state.

16 (d) "Pharmaceutical" means any medicinal substance, prepara-
17 tion, device, or service recognized by the United States phar-
18 macopoeia and national formulary, or any revision thereof, any
19 substance and preparation dispensed pursuant to a prescription
20 issued by an authorized health care practitioner and intended for
21 external and internal use in the cure, diagnosis, mitigation,
22 treatment, or prevention of disease in humans, and any substance
23 and preparation other than food intended to affect the structure
24 or any function of the human body. Pharmaceutical includes any
25 drug delivery system, testing kit, or any other supplies dis-
26 pensed pursuant to a prescription.

1 (e) "State" means a state of the United States, the District
2 of Columbia, and any other territorial possessions of the United
3 States.

4 ARTICLE III. THE COMMISSION

5 (1) The compacting states hereby create the midwest pharma-
6 ceutical commission. The commission shall be a public body cor-
7 porate of each compacting state. The commission shall serve as
8 the negotiating and purchasing entity for pharmaceutical products
9 for the compacting states. The commission shall have all the
10 responsibilities, powers, and duties set forth herein, including
11 the power to sue and be sued, and such additional powers as may
12 be conferred upon it by subsequent action of the respective leg-
13 islatures of the compacting states in accordance with the terms
14 of this compact.

15 (2) The commission shall consist of 5 resident members of
16 each state as follows: the governor or minister or his or her
17 designee who shall serve during the tenure of office of the gov-
18 ernor or minister; 2 legislators, 1 from each chamber who shall
19 serve 2-year terms and be appointed by the appropriate appointing
20 authority in each chamber of the legislature; 1 member at large
21 from the health care profession who shall be appointed by the
22 governor or minister; and 1 member at large who shall be a lay-
23 person appointed by the governor or minister. One of the 2
24 at-large members initially appointed in each state shall serve a
25 2-year term. The other, and any regularly appointed successor to
26 either at-large member, shall serve a 4-year term unless
27 otherwise established by law in a compacting state. All

1 vacancies shall be filled in the same manner as the original
2 appointment and in accordance with the laws of the appointing
3 state. Any member appointed to fill the vacancy shall serve
4 until the end of the incomplete term.

5 (3) The commission shall select annually, from among its
6 members, a chairperson, a vice-chairperson, and a treasurer.

7 (4) The commission shall appoint an executive director who
8 shall serve at its pleasure and who shall act as secretary to the
9 commission. The treasurer, the executive director, and other
10 personnel that the commission may determine shall be bonded in
11 any amount required by the commission.

12 (5) The commission shall meet at least once each calendar
13 year. The chairperson may call additional meetings and, upon the
14 request of a majority of the compacting states, shall call addi-
15 tional meetings. Public notice shall be given of all meetings
16 and meetings shall be open to the public.

17 (6) Each compacting state represented at any meeting of the
18 commission is entitled to 1 vote. Each compacting state's dele-
19 gation shall appoint 1 member of the delegation as its voting
20 member with the authority to vote on behalf of that compacting
21 state and represent the position of that compacting state in all
22 matters before the commission. A majority of the voting members
23 from the compacting states shall constitute a quorum for the
24 transaction of business, unless a larger quorum is required by
25 the bylaws of the commission. Within each compacting state, a
26 proxy may be assigned to another member of that compacting
27 state's delegation.

ARTICLE IV. POWERS AND DUTIES OF THE COMMISSION

(1) The commission shall adopt a seal and suitable bylaws governing its management and operations.

(2) Irrespective of the civil service, personnel, or other merit system laws of any of the compacting states, the commission in its bylaws shall provide for the personnel policies and programs of the compact.

(3) The commission shall submit a budget to the governor and legislature of each compacting state at such time and for such period as may be required by each compacting state. The budget shall contain specific recommendations of the amount or amounts to be appropriated by each of the compacting states, for its estimated expenditures for the general operations of the commission.

(4) The commission shall report annually to the governor and legislature of each compacting state concerning the activities of the commission during the preceding year. The reports shall include any recommendations that may have been adopted by the commission.

(5) The commission may borrow, accept, or contract for the services of personnel from any state, province, the United States, Canada or any subdivision or agency thereof, any interstate agency, or any institution, foundation, person, firm, or corporation.

(6) The commission may accept for any of its purposes and functions under the compact any donations, grants, or both, of money, equipment, supplies, materials, and services from any

1 state, province, the United States, Canada, or any subdivision or
2 agency thereof, any interstate agency, or any institution, foun-
3 dation, person, firm, or corporation and may receive, utilize,
4 and dispose of the same.

5 (7) The commission may establish and maintain offices that
6 are located within 1 or more of the compacting states.

7 (8) The commission may establish committees and hire staff
8 as it deems necessary for the carrying out of its functions.

9 (9) The commission may provide for actual and necessary
10 expenses for attendance of its members at official meetings of
11 the commission or its designated committees.

12 ARTICLE V. ACTIVITIES OF THE COMMISSION

13 (1) The commission shall determine the pharmaceutical needs
14 of each compacting state. The commission shall negotiate pharma-
15 ceutical prices from each pharmaceutical company that seeks to
16 provide pharmaceuticals for the formularies for all states and
17 provinces in the compact. The prices negotiated shall be at
18 least as low to all compact states as the lowest price to the
19 individual state or province entering the compact.

20 (2) The commission shall be empowered to establish an open
21 formulary for all of the compacting states or to designate which,
22 if any, pharmaceuticals shall be preauthorized for use within the
23 compact. The commission shall not exclude from its formulary any
24 product of any pharmaceutical company that has entered into
25 agreement with the commission.

26 (3) The commission may enter into agreements with any of the
27 compacting states to provide pharmaceutical supplies and services

1 to any of the other compacting states, provided that the price is
2 less than that negotiated by the commission.

3 (4) The commission shall, after negotiations with interested
4 parties and the compacting states, determine the costs of provid-
5 ing pharmaceuticals for use in its agreements. The compacting
6 states shall contribute appropriated funds not otherwise pro-
7 vided, as determined by the commission, for carrying out the
8 agreements. The commission may also serve as the administrative
9 and fiscal agent in carrying out agreements for pharmaceutical
10 services.

11 ARTICLE VI. FINANCE

12 (1) Each compacting state shall be individually responsible
13 for the purchase of the pharmaceuticals necessary to meet the
14 demand of its state.

15 (2) The monies necessary to finance the general operation of
16 the commission not otherwise provided for in carrying forth its
17 duties, responsibilities, and powers as stated herein shall be
18 appropriated to the commission by the compacting states, when
19 authorized by the respective legislatures, by equal apportionment
20 among the compacting states.

21 (3) The commission shall keep accurate accounts of all
22 receipts and disbursements. The receipts and disbursements of
23 the commission shall be subject to the audit and accounting pro-
24 cedures established under its bylaws. The receipts and disburse-
25 ments of the commission shall also be subject to audit by the
26 official legislative auditor general or similar entity of any
27 compacting state. However, all receipts and disbursements of

1 funds handled by the commission shall be audited annually by a
2 certified or licensed public accountant and the report of the
3 audit shall be included in and become part of the annual report
4 of the commission.

5 (4) The accounts of the commission shall be open at any rea-
6 sonable time for inspection by duly authorized representatives of
7 the compacting states and persons authorized by the commission.

8 ARTICLE VII. ELIGIBLE PARTIES AND ENTRY INTO COMPACT

9 (1) The states of Illinois, Indiana, Kansas, Minnesota,
10 Michigan, Missouri, Nebraska, North Dakota, Ohio, and Wisconsin
11 and the Province of Ontario, Canada, shall be eligible to become
12 party to this compact. Additional states will be eligible if
13 approved by a majority of the compacting states.

14 (2) As to any eligible state or province, this compact shall
15 become effective when its legislature shall have enacted the same
16 into law. However, the compact shall not become effective unless
17 enacted into law by 3 states prior to December 31, 2004.

18 (3) Amendments to the compact shall become effective upon
19 their enactment by the legislature of each compacting state.

20 ARTICLE VIII. WITHDRAWAL, DEFAULT, AND TERMINATION

21 (1) Any compacting state may withdraw from this compact by
22 repealing the compact statutes. A withdrawing state or province
23 shall be liable for any obligations that it may have incurred on
24 account of its party status up to the effective date of withdraw-
25 al, except that if the withdrawing state or province has specifi-
26 cally undertaken or committed itself to any performance of an

1 obligation extending beyond the effective date of withdrawal, it
2 shall remain liable to the extent of the obligation.

3 (2) If any compacting state shall default in the performance
4 of its obligations, assumed or imposed, in accordance with the
5 provisions of this compact, all rights, privileges, and benefits
6 conferred by this compact or agreements hereunder shall be sus-
7 pended from the effective date of the default as fixed by the
8 commission. The commission shall stipulate the conditions and
9 maximum time for compliance under which the defaulting state or
10 province may resume its regular status. Unless the default shall
11 be remedied under the stipulations and within the time period set
12 forth by the commission, this compact may be terminated with
13 respect to the defaulting state or province by affirmative vote
14 of a majority of the other members to the compact. Any default-
15 ing state may be reinstated by performing all acts and obliga-
16 tions as stipulated by the commission.

17 ARTICLE IX. SEVERABILITY AND CONSTRUCTION

18 The provisions of the compact entered into under this act
19 shall be severable and if any phrase, clause, sentence, or provi-
20 sion of the compact is declared to be contrary to the constitu-
21 tion of any compacting state or province or of the United States
22 or Canada or the applicability thereof to any government, agency,
23 person, or circumstance is held invalid, the validity of the
24 remainder of this compact and the applicability of the compact to
25 any government, agency, person, or circumstance shall not be
26 affected thereby. If this compact entered into under this act
27 shall be held contrary to the constitution of any compacting

1 state or province, the compact shall remain in full force and
2 effect as to the remaining compacting states and in full force
3 and effect as to the compacting state affected as to all sever-
4 able matters. The provisions of this compact shall be liberally
5 construed to effectuate the purposes of this act.

6 Sec. 2. (1) The commission members of the midwest pharma-
7 ceutical compact created in section 1 shall include all of the
8 following for each compacting state:

9 (a) The governor or minister or his or her designee.

10 (b) One member of the senate or upper chamber appointed by
11 the majority leader.

12 (c) One member of the house of representatives/assembly or
13 lower chamber appointed by the speaker or leader of the chamber.

14 (d) Two at-large members, appointed by the governor or
15 minister. One shall be from the health profession and the other
16 may be a layperson.

17 (2) In addition to the members listed in subsection (1), the
18 governor may appoint a director, secretary, or minister of the
19 department or agency that is responsible for the state's publicly
20 administered health care program to serve as a nonvoting member
21 of the compacting state's delegation. This individual is not a
22 member of the midwest pharmaceutical compact or its commission
23 and does not have a vote in decisions made by the commission.

24 (3) A vacancy in a position in the compacting state's dele-
25 gation shall be filled for the remainder of the unexpired term in
26 the same manner as that specific position was filled under
27 subsection (1).