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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

MIDWEST PHARMACEUTICAL COMPACT

ARTICLE I. PURPOSE

The purpose of the midwest pharmaceutical compact shall be to provide an enlarged pool for the purchase of pharmaceutical products and services for all medicaid recipients, publicly insured or uninsured health care recipients, and any other persons who the
commission deems eligible who reside in the compacting states that are party to this compact. Pharmaceuticals purchased through the compact shall be distributed as determined by the commission to medicaid recipients, publicly insured and uninsured citizens, and any other persons deemed eligible who are served by health care professionals, public hospitals and clinics, nonprofit hospitals and clinics, organized emergency departments, or free clinics within each compacting state.

ARTICLE II. DEFINITIONS

As used in this compact:

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

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

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

(d) "Health care professional" means an individual licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, and engaged in the practice of his or her health profession in a proprietorship, partnership, professional corporation, or other business entity. Health care professional does not include a sanitarian or a veterinarian.

(e) "Pharmaceutical" means any medicinal substance, preparation, device, or service recognized by the United States pharmacopoeia and national formulary, or any revision thereof, any substance and preparation dispensed pursuant to a prescription issued by an authorized health care professional and intended for
external and internal use in the cure, diagnosis, mitigation, treatment, or prevention of disease in humans, and any substance and preparation other than food intended to affect the structure or any function of the human body. Pharmaceutical includes any drug delivery system, testing kit, or any other supplies dispensed pursuant to a prescription.

(f) "State" means any state of the United States, the District of Columbia, and any other territory of the United States.

ARTICLE III. THE COMMISSION

(1) The compacting states hereby create the midwest pharmaceutical commission. The commission shall be a public body corporate of each compacting state. The commission shall serve as the negotiating and purchasing entity for pharmaceutical products for the compacting states. The commission shall have all the responsibilities, powers, and duties as provided under this compact, including the power to sue and be sued, and any additional powers that may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(2) The commission shall consist of 5 resident members of each compacting state as follows:

(a) The governor or minister or his or her designee who shall serve during the tenure of office of the governor or minister.

(b) One legislator from each chamber who shall serve 2-year terms and be appointed by the appropriate appointing authority in each chamber of the legislature.

(c) One member at large from the health care field who shall
be appointed by the governor or minister.

(d) One member at large who shall be a layperson appointed by
the governor or minister.

(3) One of the 2 at-large members initially appointed in each
state shall serve a 2-year term. The other, and any regularly
appointed successor to either at-large member, shall serve a 4-year
term unless otherwise established by law in a compacting state. All
vacancies shall be filled in the same manner as the original
appointment and in accordance with the laws of the appointing
state. Any member appointed to fill the vacancy shall serve until
the end of the incomplete term.

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

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

(6) The commission shall meet at least once each calendar
year. The chairperson may call additional meetings and, upon the
request of a majority of the commission members of the compacting
states, shall call additional meetings. Public notice shall be
given of all meetings and meetings shall be open to the public.

(7) Each compacting state represented at any meeting of the
commission is entitled to 1 vote. Each compacting state's
delegation shall appoint 1 member of the delegation as its voting
member with the authority to vote on behalf of that compacting
state and represent the position of that compacting state in all matters before the commission. A majority of the voting members from the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the commission. Within each compacting state, a proxy may be assigned to another member of that compacting 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 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.

(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 state, province, the United States, Canada, or any subdivision or agency thereof, any interstate agency, or any institution, foundation, person, firm, or corporation and may receive, utilize, and dispose of the same.

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

(8) The commission may establish committees and hire staff as necessary to carry out its functions.

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

ARTICLE V. ACTIVITIES OF THE COMMISSION

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

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

(3) The commission may enter into agreements with any of the compacting states to provide pharmaceutical supplies and services to any of the other compacting states, provided that the price is less than that negotiated by the commission.

(4) The commission shall, after negotiations with interested parties and the compacting states, determine the costs of providing pharmaceuticals for use in its agreements. The compacting states shall contribute appropriated funds not otherwise provided, as determined by the commission, for carrying out the agreements. The commission may also serve as the administrative and fiscal agent in carrying out agreements for pharmaceutical services.

ARTICLE VI. FINANCE

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

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

(3) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. The receipts and disbursements of the commission shall also be subject to audit by the official
legislative auditor general or similar entity of any compacting state. However, all receipts and disbursements of funds handled by the commission shall be audited annually by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(4) The accounts of the commission shall be open at any reasonable time for inspection by duly authorized representatives of the compacting states and persons authorized by the commission.

ARTICLE VII. ELIGIBLE PARTIES AND ENTRY INTO COMPACT

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

(2) As to any eligible state or province, this compact shall become effective when its legislature enacts the same into law. However, the compact is not effective unless enacted into law by 3 states prior to December 31, 2005.

(3) Amendments to the compact are effective upon their enactment by the legislature of each compacting state.

ARTICLE VIII. WITHDRAWAL, DEFAULT, AND TERMINATION

(1) Any compacting state may withdraw from this compact by repealing the compact. A withdrawing state or province is liable for any obligations that it may have incurred on account of its party status up to the effective date of withdrawal, except that if the withdrawing state has specifically undertaken or committed itself to any performance of an obligation extending beyond the
effective date of withdrawal, it shall remain liable to the extent
of the obligation.

(2) If any compacting state shall default in the performance
of its obligations, assumed or imposed, in accordance with the
provisions of this compact, all rights, privileges, and benefits
conferred by this compact or agreements under this compact are
suspended from the effective date of the default as fixed by the
commission. The commission shall stipulate the conditions and
maximum time for compliance under which the defaulting state or
province may resume its regular status. Unless the default is
remedied under the stipulations and within the time period set
forth by the commission, this compact may be terminated with
respect to the defaulting state or province by affirmative vote of
a majority of the other members to the compact. Any defaulting
state may be reinstated by performing all acts and obligations as
stipulated by the commission.

ARTICLE IX. SEVERABILITY AND CONSTRUCTION

The provisions of the compact entered into under this act are
severable and if any phrase, clause, sentence, or provision of the
compact is declared to be contrary to the constitution of any
compacting state or province or of the United States or Canada or
the applicability thereof to any government, agency, person, or
circumstance is held invalid, the validity of the remainder of this
compact and the applicability of the compact to any government,
agency, person, or circumstance is not affected. If the compact
entered into under this act is held contrary to the constitution of
any compacting state or province, the compact shall remain in full
force and effect as to the remaining compacting states and in full force and effect as to the compacting state affected as to all severable matters. The provisions of this compact shall be liberally construed to effectuate the purposes of this act.