

THE MICHIGAN BIOLOGIC PRODUCTS INSTITUTE TRANSFER ACT (EXCERPT)
Act 522 of 1996

333.26335 State administrative board; powers and duties.

Sec. 5.

(1) Upon recommendation of the commission, the state administrative board may approve and authorize the chair or his or her designee to execute 1 or more agreements, instruments of conveyance, and bills of sale in the name of the state for the conveyance of all or a portion of the assets to 1 or more transferees, and for the assumption of all, a portion of, or none of the liabilities of the institute by 1 or more transferees, subject to all of the following conditions:

(a) Before the effective date of the conveyance, the state administrative board shall determine that the consideration to be received under the conveyance is fair and adequate so that the credit of the state does not need to be granted to a public or private person, association, or corporation.

(b) The terms of the conveyance must require the transferee to provide the state for use in Michigan with preferential access to biologic products, including, but not limited to, the first option to access vaccines and biologic products, from among those products and product components made by the institute on the effective date of the agreement and licensed by the federal food and drug administration or subsequently made by the transferee, as determined by the state, and for the period and subject to conditions and prices contained in the agreement.

(c) Before the effective date of the conveyance, the state administrative board shall determine that the conveyance includes a commitment by the proposed transferee to continue the employment of institute employees who elect to continue employment with the transferee, for not less than 1 year after the effective date of the agreement. This subdivision does not affect the transferee's ability to terminate an employee's employment for cause.

(2) If more than 1 transferee is recommended by the commission to the state administrative board under subsection (1), the determinations and requirements prescribed by subsection (1)(b) and (c) apply to that transferee to which those assets directly involved in the manufacture of vaccines and blood derivative products are proposed to be transferred.

(3) The state administrative board may, in its sole discretion, evaluate the terms of any recommendation made by the commission under subsection (1) and approve or reject any recommendations of the commission made under this act without assigning reasons for the evaluation, approval, or rejection.

(4) In addition to the conditions upon the execution of a conveyance specified in subsection (1), the state administrative board shall receive, before the effective date of the conveyance, an independent opinion that the consideration for the assets or liabilities, or both, of the institute is fair and adequate.

(5) The state administrative board may rely upon the opinions or reports of legal counsel, independent appraisers, accountants, financial advisors, and other experts when performing its duties and exercising its powers under this act.

(6) The auditor general shall review the entire process used by the commission under this act to convey the assets and liabilities of the institute and shall report the results of its review to the legislature before the state administrative board approves the recommendations made by the commission under subsection (1).

(7) The governing boards of the house and senate fiscal agencies shall each appoint a person to monitor the progress and review the results of the independent opinion required under subsection (4).

History: 1996, Act 522, Imd. Eff. Jan. 13, 1997 ;-- Am. 1998, Act 8, Imd. Eff. Feb. 17, 1998