

1 HB247
2 116125-3
3 By Representative Johnson
4 RFD: Health
5 First Read: 14-JAN-10

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2 ENROLLED, An Act,

3 To amend Section 20-2-212 and Sections 20-2-214 and
4 20-2-217, as last amended by Act 2009-489 of the 2009 Regular
5 Session (Acts 2009, p. 891), Code of Alabama 1975, relating to
6 controlled substances regulation, the Controlled Substances
7 Prescription Database Advisory Committee and the controlled
8 substance registration certificate; to authorize proxy
9 designees to be appointed by committee members; to authorize
10 out-of-state prescription drug monitoring programs to access
11 Alabama's Prescription Drug Monitoring database under rules
12 prescribed by the State Board of Health; and to permit the
13 State Board of Health to utilize all funds collected from fees
14 pursuant to Section 20-2-217 to be used for the administration
15 of the controlled substances prescription database.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Section 20-2-212 and Sections 20-2-214
18 and 20-2-217, as last amended by Act 2009-489 of the 2009
19 Regular Session (Acts 2009, p. 891), Code of Alabama 1975, are
20 amended to read as follows:

21 "§20-2-212.

22 "The department is hereby authorized to establish,
23 create, and maintain a controlled substances prescription
24 database program. In order to carry out its responsibilities

1 under this article, the department is hereby granted the
2 following powers and authority:

3 "(1) To adopt regulations, in accordance with the
4 Alabama Administrative Procedure Act, governing the
5 establishment and operation of a controlled substances
6 prescription database program.

7 "(2) To receive and to expend for the purposes
8 stated in this article funds in the form of grants, donations,
9 federal matching funds, interagency transfers, and
10 appropriated funds designated for the development,
11 implementation, operation, and maintenance of the controlled
12 substances prescription database. The funds received pursuant
13 to this subdivision shall be deposited in a new fund that is
14 hereby established as a separate special revolving trust fund
15 in the State Treasury to be known as the Alabama State
16 Controlled Substance Database Trust Fund. No monies shall be
17 withdrawn or expended from the fund for any purpose unless the
18 monies have been appropriated by the Legislature and allocated
19 pursuant to this article. Any monies appropriated shall be
20 budgeted and allocated pursuant to the Budget Management Act
21 in accordance with Article 4 (commencing with Section 41-4-80)
22 of Chapter 4 of Title 41, and only in the amounts provided by
23 the Legislature in the general appropriations act or other
24 appropriations act.

1 "(3) To enter into one or more contracts with the
2 State Board of Pharmacy for the performance of designated
3 operational functions for the controlled substances
4 prescription database, including, but not limited to, the
5 receipt, collection, input, and transmission of controlled
6 substances prescription data and such other operational
7 functions as the department may elect.

8 "(4) To create a controlled substances prescription
9 database advisory committee. The mission of the advisory
10 committee is to consult with and advise the State Health
11 Officer on matters related to the establishment, maintenance,
12 and operation of the database, access to the database
13 information, how access is to be regulated, and security of
14 information contained in the database. The committee shall
15 consist of one representative designated by each of the
16 following organizations:

- 17 "a. The Medical Association of the State of Alabama.
- 18 "b. The Alabama Dental Association.
- 19 "c. The Alabama Pharmacy Association.
- 20 "d. The Alabama Veterinary Medicine Association.
- 21 "e. The State Health Officer, or his or her
22 designee.
- 23 "f. The Alabama Hospital Association.
- 24 "g. The Executive Director of the Alabama State
25 Board of Pharmacy.

1 "h. The Executive Director of the Board of Medical
2 Examiners.

3 "i. The Alabama Optometric Association.

4 "j. One representative from each of the certifying
5 boards established under the Alabama Uniform Controlled
6 Substances Act.

7 "k. The Alabama Independent Drug Store Association.

8 "l. The Alabama Podiatry Association.

9 ~~"(5) Members of the Controlled Substances
10 Prescription Database Advisory Committee may attend, vote, and
11 otherwise participate in committee meetings through electronic
12 conferencing. Members attending meetings through electronic
13 conferencing shall be counted toward a quorum.~~

14 ~~"(6) (5) If a member of the Controlled Substances
15 Prescription Database Advisory Committee is unable to attend a
16 meeting, the organization which appointed that member may
17 designate one of its employees or agents as a proxy. A proxy
18 may attend the meeting in person or through electronic
19 conferencing and participate in all deliberations of the may
20 participate in all deliberation of the committee and vote on
21 all questions considered by the advisory committee.
22 Designations of a proxy must be in writing, must specify by
23 name the individual who will serve as proxy, and must specify
24 the date of the meeting at which the proxy is authorized to~~

1 serve. There must be a separate written proxy designation for
2 each meeting at which a proxy will serve.

3 (7) The membership of the committee shall be
4 inclusive and reflect the racial, gender, geographic,
5 urban/rural and economic diversity of the State. The committee
6 shall annually report to the Legislature by the second
7 legislative day of each regular session the extent to which
8 the committee has complied with the diversity provisions
9 provided for in this act.

10 "§20-2-214.

11 "The following persons or entities shall be
12 permitted access to the information in the controlled
13 substances database, subject to the limitations indicated
14 below:

15 "(1) Authorized representatives of the certifying
16 boards, provided, however, that access shall be limited to
17 inquiries concerning the licensees of the certifying board.

18 "(2) A licensed practitioner approved by the
19 department who has authority to prescribe, dispense, or
20 administer controlled substances, provided, however, that such
21 access shall be limited to information concerning an assistant
22 to physician with a Qualified Alabama Controlled Substances
23 Registration Certificate over whom the practitioner exercises
24 physician supervision and a current or prospective patient of
25 the practitioner. Practitioners shall have no requirement or

1 obligation to access or check the information in the
2 controlled substances database prior to prescribing,
3 dispensing, or administering medications or as part of their
4 professional practice.

5 "(3) A licensed assistant to physician approved by
6 the department who is authorized to prescribe, administer, or
7 dispense pursuant to a Qualified Alabama Controlled Substances
8 Registration Certificate; provided, however, that such access
9 shall be limited to information concerning a current or
10 prospective patient of the assistant to physician.

11 "(4) A licensed pharmacist approved by the
12 department, provided, however, that such access is limited to
13 information related to the patient or prescribing practitioner
14 designated on a controlled substance prescription that a
15 pharmacist has been asked to fill. Pharmacists shall have no
16 requirement or obligation to access or check the information
17 in the controlled substances database prior to dispensing or
18 administering medications or as part of their professional
19 practices.

20 "(5) State and local law enforcement authorities as
21 authorized under Section 20-2-91, and federal law enforcement
22 authorities authorized to access prescription information upon
23 application to the department accompanied by an affidavit
24 stating probable cause for the use of the requested
25 information.

1 "(6) Employees of the department and consultants
2 engaged by the department for operational and review purposes.

3 "(7) The prescription drug monitoring program of any
4 of the other states or territories of the United States, if
5 recognized by the Alliance for Prescription Drug Monitoring
6 Programs under procedures developed by the United States
7 Department of Justice or the Integrated Justice Information
8 Systems Institute or successor entity subject to or consistent
9 with limitations for access prescribed by this chapter for the
10 Alabama Prescription Drug Monitoring Program.

11 "§20-2-217.

12 "There is hereby assessed a surcharge in the amount
13 of ten dollars (\$10) per year on the controlled substance
14 registration certificate of each licensed medical, dental,
15 podiatric, optometric, and veterinary medicine practitioner
16 authorized to prescribe or dispense controlled substances and
17 on the Qualified Alabama Controlled Substances Registration
18 Certificate of each licensed assistant to physician. This
19 surcharge shall be effective for every practitioner
20 certificate ~~or~~ and every Qualified Alabama Controlled
21 Substances Registration Certificate issued or renewed on or
22 after August 1, 2004, shall be in addition to any other fees
23 collected by the certifying boards, and shall be collected by
24 each of the certifying boards and remitted to the department
25 at such times and in such manner as designated in the

1 regulations of the department. The proceeds of the surcharge
2 assessed herein shall be used exclusively for the development,
3 implementation, operation, and maintenance of the controlled
4 substances prescription database.

5 ~~"At the end of the first fiscal year after the~~
6 ~~controlled substances database becomes operational, and at the~~
7 ~~end of each succeeding fiscal year thereafter, the State~~
8 ~~Health Officer shall determine the actual operating costs for~~
9 ~~the database, to include an allocation of costs for the~~
10 ~~services of employees of the department. If at the end of the~~
11 ~~fiscal year the State Health Officer determines that the funds~~
12 ~~received by the department for operation of the database~~
13 ~~exceed the operational costs incurred by at least twenty-five~~
14 ~~thousand dollars (\$25,000), then the department shall refund a~~
15 ~~portion of such excess to the certifying boards which made~~
16 ~~payments to the department under this section in an amount~~
17 ~~proportional to the boards' payment, provided, however, that~~
18 ~~no payment of less than five thousand dollars (\$5,000) to a~~
19 ~~certifying board shall be made."~~

20 Section 2. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 26-JAN-10, as amended.

Greg Pappas
Clerk

Senate

08-APR-10

Passed