

1 HB393
2 166775-1
3 By Representative Beech
4 RFD: Public Safety and Homeland Security
5 First Read: 02-APR-15

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8 SYNOPSIS: Under existing law, federal, state, county,
9 and municipal officers, the investigators of the
10 Board of Dental Examiners, and the agents and
11 officers of the Department of Public Safety may
12 inspect prescriptions, orders, and records relating
13 to controlled substances, including the Controlled
14 Substances Prescription Database, and stocks of
15 Schedule I, II, III, IV, and V controlled
16 substances.

17 The Alabama Law Enforcement Agency (ALEA) is
18 the successor agency to the Department of Public
19 Safety. This bill would remove references to agents
20 and officers of the Department of Public Safety and
21 would add Intelligence Analysts of ALEA as
22 authorized persons to inspect the prescriptions,
23 orders, records, and stocks of scheduled controlled
24 substances.

25 This bill would also permit the release of
26 prescription data from the Controlled Substances

1 Prescription Database for bona fide educational and
2 research activities.

3 Amendment 621 of the Constitution of Alabama
4 of 1901, now appearing as Section 111.05 of the
5 Official Recompilation of the Constitution of
6 Alabama of 1901, as amended, prohibits a general
7 law whose purpose or effect would be to require a
8 new or increased expenditure of local funds from
9 becoming effective with regard to a local
10 governmental entity without enactment by a 2/3 vote
11 unless: it comes within one of a number of
12 specified exceptions; it is approved by the
13 affected entity; or the Legislature appropriates
14 funds, or provides a local source of revenue, to
15 the entity for the purpose.

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17 A BILL

18 TO BE ENTITLED

19 AN ACT

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21 Relating to controlled substances; to amend Section
22 20-2-91, Code of Alabama 1975, to add Intelligence Analysts of
23 the Alabama Law Enforcement Agency as persons authorized to
24 inspect prescriptions, orders, and records relating to certain
25 controlled substances and stocks of the controlled substances;
26 to amend Section 20-2-214, Code of Alabama 1975, to permit the
27 release of prescription data from the database for bona fide

1 educational and research activities; and to amend Section
2 20-2-15, Code of Alabama 1975, to make conforming changes.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 20-2-91, 20-2-214, and 20-2-215,
5 Code of Alabama 1975, are amended to read as follows:

6 "§20-2-91.

7 "(a) Prescriptions, orders, ~~and~~ records required by
8 this chapter and stocks of controlled substances enumerated in
9 Schedules I, II, III, IV, ~~and~~ V shall be open for inspection
10 only to federal, state, county, ~~and~~ municipal officers and
11 agents, the investigators of the ~~board of dental examiners~~
12 Board of Dental Examiners, and ~~the agents and officers of the~~
13 ~~department of public safety~~ Intelligence Analysts of the
14 Alabama Law Enforcement Agency (ALEA), whose duty it is to
15 ~~enforce~~ assist in the investigation of violations of the laws
16 of this state or of the United States relating to controlled
17 substances.

18 "(b) No officer, agent, investigator, or
19 Intelligence Analyst of ALEA having knowledge by virtue of his
20 or her office of any ~~such~~ prescription, order, ~~or~~ record shall
21 divulge such knowledge, except in connection with a
22 prosecution or proceeding in court or before a licensing
23 board or officer, to which prosecution or proceeding the
24 person to whom ~~such~~ the prescriptions, orders, ~~or~~ records
25 relate is a party.

26 "§20-2-214.

1 "a) The following persons or entities shall be
2 permitted access to the information in the controlled
3 substances database, subject to the limitations indicated
4 below:

5 "(1) Authorized representatives of the certifying
6 boards, provided, however, that access shall be limited to
7 information concerning the licensees of the certifying board,
8 however, authorized representatives from the Board of Medical
9 Examiners may access the database to inquire about certified
10 registered nurse practitioners (~~CRNPs~~), or certified nurse
11 midwives (~~CNMs~~) that hold a Qualified Alabama Controlled
12 Substances Registration Certificate (~~QACSC~~).

13 "(2) A licensed practitioner approved by the
14 department who has authority to prescribe, dispense, or
15 administer controlled substances. The licensed practitioner's
16 access shall be limited to information concerning himself or
17 herself, registrants who possess a Qualified Alabama
18 Controlled Substances Registration Certificate over whom the
19 practitioner exercises physician supervision or with whom they
20 have a joint practice agreement, a certified registered nurse
21 practitioner and a certified nurse midwife with a Qualified
22 Alabama Controlled Substances Registration Certificate over
23 whom the practitioner exercises professional oversight and
24 direction pursuant to an approved collaborative practice
25 agreement, a current patient of the practitioner, and
26 individuals seeking treatment from the practitioner.
27 Practitioners shall have no requirement or obligation, under

1 this article, 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. However, the applicable licensing
5 boards, in their discretion, may impose such a requirement or
6 obligation by regulations.

7 "(3) A licensed physician approved by the department
8 who has authority to prescribe, dispense, or administer
9 controlled substances may designate up to two employees who
10 may access the database on the physician's behalf.

11 "(4) A licensed certified registered nurse
12 practitioner or a licensed certified nurse midwife approved by
13 the department who is authorized to prescribe, administer, or
14 dispense pursuant to a Qualified Alabama Controlled Substances
15 Registration Certificate; provided, however, that such access
16 shall be limited to information concerning a current or
17 prospective patient of the certified registered nurse
18 practitioner or certified nurse midwife.

19 "(5) A licensed assistant to physician approved by
20 the department who is authorized to prescribe, administer, or
21 dispense pursuant to a Qualified Alabama Controlled Substances
22 Registration Certificate; provided, however, that such access
23 shall be limited to information concerning a current patient
24 of the assistant to the physician or an individual seeking
25 treatment from the assistant to physician.

26 "(6) A licensed pharmacist approved by the
27 department, provided, however, that such access is limited to

1 information related to the patient or prescribing practitioner
2 designated on a controlled substance prescription that a
3 pharmacist has been asked to fill. Pharmacists shall have no
4 requirement or obligation to access or check the information
5 in the controlled substances database prior to dispensing or
6 administering medications or as part of their professional
7 practices.

8 "(7) State and local law enforcement authorities as
9 authorized under Section 20-2-91, and federal law enforcement
10 authorities authorized to access prescription information upon
11 application to the department accompanied by a declaration
12 that probable cause exists for the use of the requested
13 information.

14 "(8) Employees of the department and consultants
15 engaged by the department for operational and review purposes.

16 "(9) The prescription drug monitoring program of any
17 of the other states or territories of the United States, if
18 recognized by the Alliance for Prescription Drug Monitoring
19 Programs under procedures developed, certified, or approved by
20 the United States Department of Justice or the Integrated
21 Justice Information Systems Institute or successor entity
22 subject to or consistent with limitations for access
23 prescribed by this chapter for the Alabama Prescription Drug
24 Monitoring Program.

25 "(10) Authorized representatives of the Alabama
26 Medicaid Agency; provided, however, that access shall be

1 limited to inquiries concerning possible misuse or abuse of
2 controlled substances by Medicaid recipients.

3 "(b)(1) Except as provided in subdivision (2), the
4 department may release information in the controlled
5 substances database for bona fide statistical, research, or
6 educational purposes.

7 "(2) Data elements in the database that directly and
8 readily identify a specific patient, practitioner, or
9 dispenser may not be released.

10 "\$20-2-215.

11 "(a) The controlled substances database and all
12 information contained therein and any records maintained by
13 the department or by any entity contracting with the
14 department which is submitted to, maintained, or stored as a
15 part of the controlled substances prescription database, and
16 any reproduction or copy of that information is hereby
17 declared privileged and confidential, is not a public record,
18 is not subject to subpoena or discovery in civil proceedings
19 and may only be used for any of the following:

20 "(1) Bona fide statistical, research, or educational
21 purposes.

22 "(2) investigatory Investigatory or evidentiary
23 purposes related to violations of state or federal law.

24 "(3) and regulatory Regulatory activities of
25 licensing or regulatory boards of practitioners authorized to
26 prescribe or dispense controlled substances.

1 "(b) Nothing in this section shall apply to records
2 created or maintained in the regular course of business of a
3 pharmacy, medical, dental, optometric, or veterinary
4 practitioner, or other entity covered by this article and all
5 information, documents, or records otherwise available from
6 original sources are not to be construed as immune from
7 discovery or use in any civil proceedings merely because such
8 information contained in those records was reported to the
9 controlled substances prescription database in accordance with
10 the provisions of this article."

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