

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

SYNOPSIS: This bill would allow members of the
Controlled Substances Prescription Database
Advisory Committee to meet by electronic means and
designate proxy attendees for such meetings; to
authorize out-of-state prescription monitoring
programs to access Alabama's Prescription Drug
Monitoring database; and to allow the State Board
of Health to use all funds collected pursuant to
the controlled substance registration certificate
to be used to operate the database.

A BILL
TO BE ENTITLED
AN ACT

To amend Section 20-2-212 and Sections 20-2-214 and
20-2-217, as last amended by Act 2009-489 of the 2009 Regular
Session (Acts 2009, p. 891), Code of Alabama 1975, relating to
controlled substances regulation, the Controlled Substances
Prescription Database Advisory Committee and the controlled

1 substance registration certificate; to allow participation in
2 meetings of the committee by electronic means and authorize
3 proxy designees to be appointed by committee members; to
4 authorize out-of-state prescription drug monitoring programs
5 to access Alabama's Prescription Drug Monitoring database
6 under rules prescribed by the State Board of Health; and to
7 permit the State Board of Health to utilize all funds
8 collected from fees pursuant to Section 20-2-217 to be used
9 for the administration of the controlled substances
10 prescription database.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

16 "§20-2-212.

17 "The department is hereby authorized to establish,
18 create, and maintain a controlled substances prescription
19 database program. In order to carry out its responsibilities
20 under this article, the department is hereby granted the
21 following powers and authority:

22 "(1) To adopt regulations, in accordance with the
23 Alabama Administrative Procedure Act, governing the
24 establishment and operation of a controlled substances
25 prescription database program.

26 "(2) To receive and to expend for the purposes
27 stated in this article funds in the form of grants, donations,

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

17 "(3) To enter into one or more contracts with the
18 State Board of Pharmacy for the performance of designated
19 operational functions for the controlled substances
20 prescription database, including, but not limited to, the
21 receipt, collection, input, and transmission of controlled
22 substances prescription data and such other operational
23 functions as the department may elect.

24 "(4) To create a controlled substances prescription
25 database advisory committee. The mission of the advisory
26 committee is to consult with and advise the State Health
27 Officer on matters related to the establishment, maintenance,

1 and operation of the database, access to the database
2 information, how access is to be regulated, and security of
3 information contained in the database. The committee shall
4 consist of one representative designated by each of the
5 following organizations:

6 "a. The Medical Association of the State of Alabama.

7 "b. The Alabama Dental Association.

8 "c. The Alabama Pharmacy Association.

9 "d. The Alabama Veterinary Medicine Association.

10 "e. The State Health Officer, or his or her
11 designee.

12 "f. The Alabama Hospital Association.

13 "g. The Executive Director of the Alabama State
14 Board of Pharmacy.

15 "h. The Executive Director of the Board of Medical
16 Examiners.

17 "i. The Alabama Optometric Association.

18 "j. One representative from each of the certifying
19 boards established under the Alabama Uniform Controlled
20 Substances Act.

21 "k. The Alabama Independent Drug Store Association.

22 "l. The Alabama Podiatry Association.

23 "(5) Members of the Controlled Substances
24 Prescription Database Advisory Committee may attend, vote, and
25 otherwise participate in committee meetings through electronic
26 conferencing. Members attending meetings through electronic
27 conferencing shall be counted toward a quorum.

1 "(6) If a member of the Controlled Substances
2 Prescription Database Advisory Committee is unable to attend a
3 meeting, the organization which appointed that member may
4 designate one of its employees or agents as a proxy. A proxy
5 may attend the meeting in person or through electronic
6 conferencing and participate in all deliberations of the
7 committee and vote on all questions considered by the advisory
8 committee. Designations of a proxy must be in writing, must
9 specify by name the individual who will serve as proxy, and
10 must specify the date of the meeting at which the proxy is
11 authorized to serve. There must be a separate written proxy
12 designation for each meeting at which a proxy will serve.

13 "\$20-2-214.

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

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

21 "(2) A licensed practitioner approved by the
22 department who has authority to prescribe, dispense, or
23 administer controlled substances, provided, however, that such
24 access shall be limited to information concerning an assistant
25 to physician with a Qualified Alabama Controlled Substances
26 Registration Certificate over whom the practitioner exercises
27 physician supervision and a current or prospective patient of

1 the practitioner. Practitioners shall have no requirement or
2 obligation to access or check the information in the
3 controlled substances database prior to prescribing,
4 dispensing, or administering medications or as part of their
5 professional practice.

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

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

21 "(5) State and local law enforcement authorities as
22 authorized under Section 20-2-91, and federal law enforcement
23 authorities authorized to access prescription information upon
24 application to the department accompanied by an affidavit
25 stating probable cause for the use of the requested
26 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
26 regulations of the department. The proceeds of the surcharge
27 assessed herein shall be used exclusively for the development,

1 implementation, operation, and maintenance of the controlled
2 substances prescription database.

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

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