

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

ENGROSSED

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 substance registration certificate; to authorize proxy designees to be appointed by committee members; to authorize out-of-state prescription drug monitoring programs to access Alabama's Prescription Drug Monitoring database under rules prescribed by the State Board of Health; and to permit the State Board of Health to utilize all funds collected from fees pursuant to Section 20-2-217 to be used for the administration of the controlled substances prescription database.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. 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, are amended to read as follows:

"§20-2-212.

1 "The department is hereby authorized to establish,
2 create, and maintain a controlled substances prescription
3 database program. In order to carry out its responsibilities
4 under this article, the department is hereby granted the
5 following powers and authority:

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

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20 withdrawn or expended from the fund for any purpose unless the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

1 the Legislature in the general appropriations act or other
2 appropriations act.

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

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

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

20 "b. The Alabama Dental Association.

21 "c. The Alabama Pharmacy Association.

22 "d. The Alabama Veterinary Medicine Association.

23 "e. The State Health Officer, or his or her
24 designee.

25 "f. The Alabama Hospital Association.

1 "g. The Executive Director of the Alabama State
2 Board of Pharmacy.

3 "h. The Executive Director of the Board of Medical
4 Examiners.

5 "i. The Alabama Optometric Association.

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

9 "k. The Alabama Independent Drug Store Association.

10 "l. The Alabama Podiatry Association.

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

16 ~~"(6)~~ (5) If a member of the Controlled Substances
17 Prescription Database Advisory Committee is unable to attend a
18 meeting, the organization which appointed that member may
19 designate one of its employees or agents as a proxy. A proxy
20 may attend the meeting in person or through electronic
21 conferencing and participate in all deliberations of the may
22 participate in all deliberation of the committee and vote on
23 all questions considered by the advisory committee.
24 Designations of a proxy must be in writing, must specify by
25 name the individual who will serve as proxy, and must specify
26 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
26 obligation to access or check the information in the

1 controlled substances database prior to prescribing,
2 dispensing, or administering medications or as part of their
3 professional practice.

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

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

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

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

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

9 "§20-2-217.

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Health 14-JAN-10

Read for the second time and placed
on the calendar 19-JAN-10

Read for the third time and passed
as amended 26-JAN-10

Yeas 97, Nays 0, Abstains 0

Greg Pappas
Clerk