

1 SB151  
2 116125-4  
3 By Senator Dixon  
4 RFD: Governmental Affairs  
5 First Read: 12-JAN-10

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 20-2-212 and Sections 20-2-214  
26 and 20-2-217, as last amended by Act 2009-489 of the 2009

1 Regular Session (Acts 2009, p. 891), Code of Alabama 1975, are  
2 amended to read as follows:

3           "§20-2-212.

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

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

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

1 of Chapter 4 of Title 41, and only in the amounts provided by  
2 the Legislature in the general appropriations act or other  
3 appropriations act.

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

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

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

21 "b. The Alabama Dental Association.

22 "c. The Alabama Pharmacy Association.

23 "d. The Alabama Veterinary Medicine Association.

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

26 "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) If a member of the Controlled Substances  
12 Prescription Database Advisory Committee is unable to attend a  
13 meeting, the organization which appointed that member may  
14 designate one of its employees or agents as a proxy. A proxy  
15 may participate in all deliberations of the committee and vote  
16 on all questions considered by the advisory committee.  
17 Designations of a proxy must be in writing, must specify by  
18 name the individual who will serve as proxy, and must specify  
19 the date of the meeting at which the proxy is authorized to  
20 serve. There must be a separate written proxy designation for  
21 each meeting at which a proxy will serve.

22 "(6) The membership of the committee shall be  
23 inclusive and reflect the racial, gender, geographic,  
24 urban/rural and economic diversity of the state. The committee  
25 shall annually report to the Legislature by the second  
26 legislative day of each regular session the extent to which

1 the committee has complied with the diversity provisions  
2 provided for in this act."

3 "\$20-2-214.

4 "The following persons or entities shall be  
5 permitted access to the information in the controlled  
6 substances database, subject to the limitations indicated  
7 below:

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

11 "(2) A licensed practitioner approved by the  
12 department who has authority to prescribe, dispense, or  
13 administer controlled substances, provided, however, that such  
14 access shall be limited to information concerning an assistant  
15 to physician with a Qualified Alabama Controlled Substances  
16 Registration Certificate over whom the practitioner exercises  
17 physician supervision and a current or prospective patient of  
18 the practitioner. Practitioners shall have no requirement or  
19 obligation to access or check the information in the  
20 controlled substances database prior to prescribing,  
21 dispensing, or administering medications or as part of their  
22 professional practice.

23 "(3) A licensed assistant to physician approved by  
24 the department who is authorized to prescribe, administer, or  
25 dispense pursuant to a Qualified Alabama Controlled Substances  
26 Registration Certificate; provided, however, that such access

1 shall be limited to information concerning a current or  
2 prospective patient of the assistant to physician.

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

12 "(5) State and local law enforcement authorities as  
13 authorized under Section 20-2-91, and federal law enforcement  
14 authorities authorized to access prescription information upon  
15 application to the department accompanied by an affidavit  
16 stating probable cause for the use of the requested  
17 information.

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

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

1           "§20-2-217.

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

20           ~~"At the end of the first fiscal year after the  
21 controlled substances database becomes operational, and at the  
22 end of each succeeding fiscal year thereafter, the State  
23 Health Officer shall determine the actual operating costs for  
24 the database, to include an allocation of costs for the  
25 services of employees of the department. If at the end of the  
26 fiscal year the State Health Officer determines that the funds  
27 received by the department for operation of the database~~



1 ~~exceed the operational costs incurred by at least twenty-five~~  
2 ~~thousand dollars (\$25,000), then the department shall refund a~~  
3 ~~portion of such excess to the certifying boards which made~~  
4 ~~payments to the department under this section in an amount~~  
5 ~~proportional to the boards' payment, provided, however, that~~  
6 ~~no payment of less than five thousand dollars (\$5,000) to a~~  
7 ~~certifying board shall be made."~~

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

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Senate

Read for the first time and referred to the Senate committee on Governmental Affairs .....	12-JAN-10
Read for the second time and placed on the calen- dar 1 amendment .....	02-FEB-10
Read for the third time and passed as amended ...	11-FEB-10

Yeas 31  
Nays 0

McDowell Lee  
Secretary