



2021-027

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March 23, 2021

Honorable Lina Evans
Shelby County Coroner
Post Office Box 1321
Columbiana, Alabama 35115

Coroners – Prescriptions –
Prescription Drug Monitoring
Program – Public Health,
Department of – Shelby County

A coroner who is actively
discharging the duties of a sheriff
may apply to access the Prescription
Drug Monitoring Program (“PDMP”)
under its limited exception for law
enforcement authorities.

Dear Ms. Evans:

This opinion of the Attorney General is issued in response to your
request.

QUESTION

Are coroners generally authorized to apply
for access to the PDMP under its law
enforcement exception?

FACTS AND ANALYSIS

The Legislature authorized the creation of the PDMP for the
following purpose:

to monitor the prescribing and dispensing of controlled substances [to] materially assist state regulators and practitioners authorized to prescribe and dispense controlled substances in the prevention of diversion, abuse, and misuse of controlled substances prescription medication through the provision of education and information, early intervention, and prevention of diversion, and investigation and enforcement of existing laws governing the use of controlled substances.

ALA. CODE § 20-2-210 (2015). Section 20-2-214(a)(7) of the Code of Alabama provides certain law enforcement authorities with limited access to the PDMP. ALA. CODE § 20-2-214(a)(7) (Supp. 2020).

Section 20-2-214(a)(7) states that the following law enforcement authorities may be permitted access to the PDMP: “[s]tate and local law enforcement authorities *as authorized under Section 20-2-91*, and federal law enforcement authorities authorized to access prescription information upon application to the department accompanied by a declaration that probable cause exists for the use of the requested information.” *Id.* (emphasis added). Section 20-2-91 states as follows:

(a) *Prescriptions, orders, and records* required by this chapter and stocks of controlled substances enumerated in Schedules I, II, III, IV, and V *shall be open for inspection only to federal, state, county, and municipal officers, the investigators of the Board of Dental Examiners, and the agents and officers of the Alabama State Law Enforcement Agency whose duty it is to enforce the laws of this state or of the United States relating to controlled substances.*

ALA. CODE § 20-2-91(a) (2015) (emphasis added). Section 20-2-214(a)(7) read together with Section 20-2-91 limits law enforcement access to the PDMP to those authorities engaged in enforcing laws related to controlled substances. Your requests states that coroners have similar powers to that of a sheriff and should, therefore, be granted access to the PDMP.

The duties of a coroner are scattered throughout the Code, but do not include enforcing laws related to controlled substances. ALA. CODE §§ 11-5-1, 11-5-2 through 11-5-13; 15-4-1 through 15-4-10; 22-19-80 through 22-19-82; 26-16-99 and 32-10-9 (2010). Your request notes two examples of a coroner having sheriff-like powers: the authority to issue subpoenas and arrest warrants. A coroner does have subpoena power and the authority to issue an arrest warrant, but a coroner's subpoena and arrest powers are limited to conducting inquests. ALA. CODE §§ 15-4-3; 15-4-9(a) (Supp. 2020); Opinions to Honorable Carlos L. Raben, Director, Department of Forensic Sciences, dated August 14, 1981, A.G. No. 81-00522 ("A coroner cannot exercise subpoena power when he is not holding an inquest."); Honorable William O. Bragg, Etowah County Coroner, dated January 5, 1993, A.G. No. 93-00080 ("Once a coroner has examined the body and determined the probable cause of death, he has no constitutional duty to continue to investigate the criminal acts which caused the death."). A coroner's subpoena and arrest powers, therefore, are not like that of a sheriff in that they are limited to inquests, do not involve the enforcement of laws related to controlled substances, and do not qualify as an exception for law enforcement access to the PDMP.

A coroner is, however, required to discharge the duties of a sheriff under the following circumstances: "(1) When the office of sheriff is vacant and until his successor is qualified; (2) When the sheriff is incompetent to act; (3) When the sheriff is imprisoned; (4) In cases to which the sheriff is a party; and (5) In such cases as he is directed by the judge of probate." ALA. CODE § 11-5-5 (Supp. 2020). The duties of a sheriff include ferreting out crime. ALA. CODE § 36-22-3(a)(4) (Supp. 2020). Ferreting out crime includes enforcing the criminal laws of this state related to controlled substances. Thus, a coroner actively discharging the duties of a sheriff pursuant to section 11-5-5 may request access to the PDMP. Once the office of sheriff is no longer impaired, a coroner may not retain access to the PDMP.

CONCLUSION

A coroner who is actively discharging the duties of a sheriff may apply to access the Prescription Drug Monitoring Program under its limited exception for law enforcement authorities.

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I hope this opinion answers your question. If this Office can be of further assistance, please contact Wes Shaw of my staff.

Sincerely,

STEVE MARSHALL
Attorney General
By:

A handwritten signature in black ink, appearing to read 'Ben Baxley', is written over the printed name.

BEN BAXLEY
Chief, Opinions Division

SM/RWS/as
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