

BILL ANALYSIS

Senate Research Center
88R1980 KKR-D

S.B. 2173
By: Alvarado
Health & Human Services
4/1/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Prescriptions are currently the fifth most-abused substance after alcohol (65.5 percent usage) and tobacco products (26.7 percent usage). While Texas participates in Drug Enforcement Administration (DEA)-sponsored National Drug Take-Back Days biannually, there are few sites consistently available to collect unused prescription drugs, especially in rural areas.

S.B. 2173 creates the Controlled Substance Prescription Drug Safe Disposal Pilot Program to which pharmacies operating in Texas may apply for an on-site collection receptacle for consumer drug take-back. Take-back programs serve multiple purposes: they provide a convenient and responsible way to get medications out of homes, ensure that these medications are safely disposed of in accordance with DEA rules, and raise awareness about the dangers of diversion, misuse, and accidental overdose associated with leftover or unused prescription medications.

S.B. 2173 will ensure that DEA-registered pharmacies can receive funds for expanded prescription drug take-back efforts. This will make take-back programs more accessible, encourage the public to remove unused medications from their homes, and prevent medication misuse and opioid addiction from ever starting.

As proposed, S.B. 2173 amends current law relating to a pilot program for the safe disposal of controlled substance prescription drugs.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas State Board of Pharmacy in SECTION 1 (Sections 442A.002 and 442A.052, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 6, Health and Safety Code, by adding Chapter 442A, as follows:

CHAPTER 442A. CONTROLLED SUBSTANCE PRESCRIPTION DRUG SAFE DISPOSAL PILOT PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 442A.001. DEFINITIONS. Defines "board," "controlled substance," "pharmacy," "pilot program," and "prescription drug."

Sec. 442A.002. CONTROLLED SUBSTANCE PRESCRIPTION DRUG SAFE DISPOSAL PILOT PROGRAM. Requires the Texas State Board of Pharmacy (TSBP) by rule to develop and implement a controlled substance prescription drug safe disposal pilot program to increase the number of locations in this state in which unused controlled substance prescription drugs are collected from the public for safe disposal.

SUBCHAPTER B. PHARMACY PARTICIPATION

Sec. 442A.051. PHARMACY ELIGIBILITY. Authorizes a pharmacy operating in this state to apply to TSBP to participate in the pilot program if the pharmacy is registered with the United States Drug Enforcement Administration, is not the subject of state or federal opioid litigation, and meets the eligibility requirements established by TSBP rules.

Sec. 442A.052. APPLICATION AND SELECTION PROCESSES. (a) Requires TSBP to adopt rules prescribing the form and manner for a pharmacy to apply for participation in the pilot program and prescribing evaluation and selection criteria and processes.

(b) Requires TSBP to give priority to a pharmacy applicant that does not collect unused controlled substance prescription drugs at the time the applicant submits the application or is located in a rural or underserved area TSBP designates.

(c) Requires a pharmacy that operates multiple locations to submit an application for each location.

Sec. 442A.053. COLLECTION RECEPTACLE REQUIREMENTS. Requires a participating pharmacy that provides a collection receptacle for the safe disposal of controlled substance prescription drugs to ensure the receptacle meets the requirements of 21 C.F.R. Section 1317.75, is accessible during the pharmacy's regular hours of operation, allows anonymous returns of unused controlled substance prescription drugs, and provides disposal of unused controlled substance prescription drugs at no cost to the person returning the drugs.

Sec. 442A.054. MAIL-BACK REQUIREMENTS. Requires a participating pharmacy that provides a mail-back program for the safe disposal of controlled substance prescription drugs to ensure the program meets the requirements of 21 C.F.R. Section 1317.70 and to provide at the time the pharmacy dispenses a controlled substance prescription drug, at no cost to the person to whom the drug is prescribed, a mail-in pouch for the person to surrender any unused drugs by mail.

Sec. 442A.055. PHARMACY MANAGEMENT; RECORDS. Provides that a participating pharmacy is responsible for the daily management and recordkeeping of the pharmacy's controlled substance prescription drug safe disposal program in accordance with the pharmacy's United States Drug Enforcement Administration registration.

Sec. 442A.056. TEXAS PREMIER PHARMACY DESIGNATION. (a) Requires TSBP to designate each pharmacy participating in the pilot program as a Texas premier pharmacy provider committed to safe opioid disposal.

(b) Authorizes a participating pharmacy to use the designation for marketing purposes.

SUBCHAPTER C. BOARD DUTIES

Sec. 442A.101. PILOT PROGRAM INCENTIVES. (a) Requires TSBP to assist each pharmacy participating in the pilot program with establishing and operating a plan for the safe return of controlled substance prescription drugs under the pilot program, including by paying the costs of one collection receptacle for each pharmacy location; supplies necessary for a mail-back program, including envelopes and shipping costs; destruction of collected drugs through incineration; and other operational needs as TSBP determines appropriate.

(b) Authorizes TSBP to provide reimbursement costs directly to a participating pharmacy for the costs the pharmacy incurs in establishing and operating the plan under Subsection (a) or to contract with a vendor to provide directly to the participating pharmacy the supplies and services necessary to implement the plan and reimburse the vendor for providing the supplies and services.

(c) Authorizes TSBP, subject to money available for purposes of this chapter, to provide financial incentives to a pharmacy that is providing drug collection services to continue providing those services or expand those services to accommodate controlled substance prescriptions. Authorizes TSBP to provide incentives to a chain retail pharmacy for not more than 15 locations.

Sec. 442A.102. COMMUNITY OUTREACH. (a) Requires TSBP to develop and distribute educational outreach materials for the public about the availability of safe controlled substance prescription drug disposal in this state, to post the materials on TSBP's Internet website, and to provide the materials to other state agencies for those agencies to conduct the community outreach.

(b) Requires that the educational outreach materials be in English, Spanish, and, if applicable, another language spoken by a substantial portion of the residents in a specific area of this state.

Sec. 442A.103. REPORT. Requires TSBP, not later than December 1 of each even-numbered year, to submit to the governor, the lieutenant governor, and the legislature a report that summarizes the results of the pilot program, including the number and geographic distribution of collection receptacles, the amount of controlled substance prescription drugs disposed by pharmacies under the pilot program, the amount and recipient of money distributed under the pilot program, and a description of TSBP's educational efforts and outcomes, and that recommends whether the pilot program should continue, be expanded, or terminate or whether TSBP should permanently implement a controlled substance prescription drug safe disposal program.

SUBCHAPTER D. FUNDING

Sec. 442A.151. FUNDING. (a) Authorizes money contained in the opioid abatement account established under Section 403.505 (Opioid Abatement Account), Government Code, as added by Chapter 78 (S.B. 1827) Acts of the 87th Legislature, Regular Session, 2021, be appropriated to TSBP to fund the pilot program established under this chapter.

(b) Authorizes TSBP to collect gifts, grants, and donations to fund the program.

SUBCHAPTER E. EXPIRATION

Sec. 442A.201. EXPIRATION. Provides that this chapter expires September 1, 2029.

SECTION 2. Requires TSBP, as soon as practicable after the effective date of this Act, to implement the controlled substance prescription drug safe disposal pilot program developed under Chapter 442A, Health and Safety Code, as added by this Act.

SECTION 3. Effective date: September 1, 2023.