By:  Guillen H.B. No. 5298

A BILL TO BE ENTITLED

AN ACT

relating to a pilot program under which lockable, tamper-evident containers are used by participating pharmacies when dispensing schedule II controlled substances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subtitle A, Title 6, Health and Safety Code, is amended by adding Chapter 442A to read as follows:

CHAPTER 442A. LOCKABLE CONTAINERS FOR SCHEDULE II CONTROLLED

SUBSTANCES PILOT PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 442A.01.  DEFINITIONS. In this chapter:

(1)  "Board" means the Texas State Board of Pharmacy.

(2)  "Controlled substance" has the meaning assigned by Section 481.002.

(3)  "Pharmacy" means a facility licensed under Chapter 560, Occupations Code.

(3)  "Special packaging" has the same meaning as in the "Poison Prevention Packaging Act of 1970," 15 U.S.C. 1471.

(4)  "Prescription drug" has the meaning assigned by Section 551.003, Occupations Code.

(5)  "Lockable container" means a container that meets all three of the following requirements: (a)Has special packaging; (b) has a locking mechanism that fits or affixes to the container medication is dispensed in; (c) can be locked in the following ways:

(a)  a container that uses a key or other object capable of locking and unlocking the container;

(b)  a container that requires a numeric or alphanumeric code.

(6)  "Tamper-evident container" means a container that meets both of the following requirements:

(a)  Has special packaging;

(b)  Displays a visual sign when there is unauthorized entry into the container or has a numerical display of the time that the container was last opened.

(7)  "Pilot program" means the tamper proof container for schedule II substances pilot program established under this chapter.

442A.02. PILOT PROGRAM PARAMETERS. (a)The Board shall operate a two-year pilot program under which schedule II controlled substances in solid oral dosage formulations are dispensed by participating pharmacies in lockable containers or tamper-evident containers. Under the pilot program, the Board shall reimburse participating pharmacies or provide grants for the expenses they incur in participating in the program, including a fee determined by the Board for dispensing all schedule II controlled substances in solid oral dosage formulations in those containers.

(b)  A pharmacist shall dispense a schedule II controlled substance in a solid oral dosage formulation in a lockable container or tamper-evident container unless the patient or an individual acting on behalf of the patient requests that the drug not be dispensed in such a container.

(c)  Not later than six months after the pilot project ends, the board shall prepare a report describing its findings regarding the impact of the program. The board shall submit the report to the Legislature.

(d)  The pilot program shall be operated for two years or until funds appropriated for the program are expended, whichever occurs first.

(e)  The board shall adopt rules prescribing:

(1)  the form and scope of the pilot project; and

(2)  the evaluation processes.

442A.03. PHARMACY ELIGIBILITY. (a) Any pharmacy is eligible may volunteer to participate in the pilot program by notifying the Board. Each participating pharmacy shall:

(1)  be registered with the United States Drug Enforcement Administration;

(2)  not be the subject of state or federal opioid litigation; and

(3)  meets the eligibility requirements established by board rules.

SUBCHAPTER B. FUNDING

Sec. 442A.101  FUNDING. (a) Money contained in the opioid abatement account established under Section 403.505, Government Code, as added by Chapter 781 (S.B. 1827), Acts of the 87th Legislature, Regular Session, 2021, may be appropriated to the board to fund the pilot program established under this chapter.

(b)  The board may collect gifts, grants, and donations to fund the program.

SUBCHAPTER C. EXPIRATION

Sec. 442A.201.  EXPIRATION. This chapter expires September 1, 2029.

SECTION 2.  As soon as practicable after the effective date of this Act, the Texas State Board of Pharmacy shall implement the controlled substance lockable cap pilot program developed under Chapter 442A, Health and Safety Code, as added by this Act.

SECTION 3.  This Act takes effect September 1, 2023.