

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:

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

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

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

7 (a) Has special packaging;

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

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

14 442A.02. PILOT PROGRAM PARAMETERS. (a)The Board shall
15 operate a two-year pilot program under which schedule II controlled
16 substances in solid oral dosage formulations are dispensed by
17 participating pharmacies in lockable containers or tamper-evident
18 containers. Under the pilot program, the Board shall reimburse
19 participating pharmacies or provide grants for the expenses they
20 incur in participating in the program, including a fee determined
21 by the Board for dispensing all schedule II controlled substances
22 in solid oral dosage formulations in those containers.

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

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

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

8 (e) The board shall adopt rules prescribing:

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

10 (2) the evaluation processes.

11 442A.03. PHARMACY ELIGIBILITY. (a) Any pharmacy is
12 eligible may volunteer to participate in the pilot program by
13 notifying the Board. Each participating pharmacy shall:

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

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

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

20 SUBCHAPTER B. FUNDING

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

26 (b) The board may collect gifts, grants, and donations to
27 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.