

By: Alvarado, et al.  
(Dean)

S.B. No. 2173

A BILL TO BE ENTITLED

AN ACT

relating to a pilot program for the safe disposal of prescription drugs, including controlled substance prescription drugs.

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. PRESCRIPTION DRUG SAFE DISPOSAL PILOT PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 442A.001. 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.

(4) "Pilot program" means the prescription drug safe disposal pilot program established under this chapter.

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

(6) "Ultimate user" has the meaning assigned by 21 U.S.C. Section 802.

Sec. 442A.002. PRESCRIPTION DRUG SAFE DISPOSAL PILOT PROGRAM. The board by rule shall develop and implement a prescription drug safe disposal pilot program to increase the number of locations in this state where unused, unwanted, or

1 expired prescription drugs are collected from the public for safe  
2 disposal.

3 SUBCHAPTER B. PHARMACY PARTICIPATION

4 Sec. 442A.051. PHARMACY ELIGIBILITY. A pharmacy operating  
5 in this state may apply to the board to participate in the pilot  
6 program if the pharmacy:

7 (1) is registered as an authorized drug collection  
8 site with the United States Drug Enforcement Administration;

9 (2) is not the subject of state or federal opioid  
10 litigation; and

11 (3) meets the eligibility requirements established by  
12 21 C.F.R. Section 1317.40 and board rules.

13 Sec. 442A.052. APPLICATION AND SELECTION PROCESSES. (a)  
14 The board shall adopt rules prescribing:

15 (1) the form and manner for a pharmacy to apply for  
16 participation in the pilot program; and

17 (2) evaluation and selection criteria and processes.

18 (b) The board shall give priority to a pharmacy applicant  
19 that:

20 (1) does not collect unused ultimate user prescription  
21 drugs under 21 C.F.R. Part 1317 at the time the applicant submits  
22 the application; or

23 (2) is located in a rural or underserved area the board  
24 designates.

25 (c) A pharmacy that operates multiple locations must submit  
26 an application for each location.

27 Sec. 442A.053. COLLECTION RECEPTACLE REQUIREMENTS. (a) A

1 participating pharmacy that provides a collection receptacle for  
2 the safe disposal of prescription drugs shall ensure the  
3 receptacle:

4 (1) meets the requirements of 21 C.F.R. Section  
5 1317.75;

6 (2) is accessible during the pharmacy's regular hours  
7 of operation;

8 (3) allows for the anonymous deposit of unused  
9 controlled substance prescription drugs listed in Schedules II,  
10 III, IV, and V; and

11 (4) provides disposal of unused prescription drugs at  
12 no cost to the ultimate user.

13 (b) Controlled substance prescription drugs and  
14 noncontrolled substance prescription drugs may be collected  
15 together and comingled.

16 Sec. 442A.054. MAIL-BACK PROGRAM REQUIREMENTS. (a) A  
17 participating pharmacy that provides a collection receptacle for  
18 the safe disposal of prescription drugs may, under limited  
19 circumstances as the pharmacy determines necessary, provide at the  
20 time the pharmacy dispenses a controlled substance prescription  
21 drug to the ultimate user a vendor's mail-back envelope, at no cost  
22 to the ultimate user. The mail-back envelope must:

23 (1) be pre-addressed and return postage paid; and

24 (2) meet the requirements of 21 C.F.R. Section  
25 1317.70.

26 (b) A participating pharmacy may provide not more than 250  
27 mail-back envelopes during the duration of the pilot program to

1 encourage use of the pharmacy's collection receptacle.

2 Sec. 442A.055. PHARMACY MANAGEMENT; RECORDS. A  
3 participating pharmacy is responsible for the daily management and  
4 recordkeeping of the pharmacy's prescription drug safe disposal  
5 program in accordance with the pharmacy's United States Drug  
6 Enforcement Administration registration and board rules.

7 Sec. 442A.056. TEXAS PREMIER PHARMACY DESIGNATION. (a)  
8 The board shall designate each pharmacy participating in the pilot  
9 program as a Texas premier pharmacy provider committed to safe  
10 prescription drug disposal.

11 (b) A participating pharmacy may use the designation for  
12 marketing purposes.

13 SUBCHAPTER C. BOARD DUTIES

14 Sec. 442A.101. PILOT PROGRAM INCENTIVES. (a) The board  
15 shall assist each pharmacy participating in the pilot program,  
16 including by paying the costs of:

17 (1) maintaining one collection receptacle at each  
18 participating pharmacy location and destroying through  
19 incineration of the receptacle's full inner liner the prescription  
20 drugs deposited in the receptacle;

21 (2) ordering and distributing pre-addressed, return  
22 postage paid mail-back envelopes from a third-party mail-back  
23 program and destroying through incineration the returned mail-back  
24 envelopes containing the collected prescription drugs; and

25 (3) other operational needs the board determines  
26 appropriate.

27 (b) The board:

1           (1) shall directly reimburse a participating pharmacy  
2 for costs the pharmacy incurs under Subsection (a); and

3           (2) may not reimburse a participating pharmacy for the  
4 cost of using a third-party incineration facility unless the  
5 facility is appropriately registered with the United States Drug  
6 Enforcement Administration.

7           (c) Subject to money available for purposes of this chapter,  
8 the board may provide financial incentives to a pharmacy to  
9 continue providing prescription drug collection services or expand  
10 those services to accommodate controlled substance prescriptions.  
11 The board may provide financial incentives to a chain retail  
12 pharmacy for not more than 15 locations.

13           Sec. 442A.102. COMMUNITY OUTREACH. (a) The board shall:

14           (1) develop and distribute educational outreach  
15 materials for the public about the availability of safe  
16 prescription drug disposal in this state;

17           (2) post the materials on the board's Internet  
18 website; and

19           (3) provide the materials to other state agencies for  
20 those agencies to conduct the community outreach.

21           (b) The educational outreach materials must be in English,  
22 Spanish, and for specific areas of this state as the board  
23 determines appropriate, another language spoken by a substantial  
24 portion of the area's residents.

25           Sec. 442A.103. REPORT. Not later than December 1 of each  
26 even-numbered year, the board shall submit to the governor and the  
27 legislature a report that:

1           (1) summarizes the results of the pilot program,  
2 including:

3                   (A) the number and geographic distribution of  
4 collection receptacles at participating pharmacies;

5                   (B) the estimated amount of prescription drugs  
6 collected by participating pharmacies under the program, measured  
7 by:

8                           (i) the number of inner liners fully filled  
9 with collected prescription drugs and sent for incineration by the  
10 pharmacies;

11                           (ii) the number of mail-back envelopes  
12 distributed by the pharmacies; and

13                           (iii) the weight, measured in pounds, of:

14                                   (a) inner liners described by  
15 Subparagraph (i); and

16                                   (b) returned mail-back envelopes  
17 filled with collected prescription drugs;

18                           (C) the amount of money distributed under the  
19 pilot program and the identity of each participating pharmacy to  
20 which money is distributed; and

21                           (D) a description of the board's educational  
22 efforts and outcomes; and

23           (2) recommends whether the pilot program should  
24 continue, be expanded, or terminate or whether the board should  
25 permanently implement a prescription drug safe disposal program.

26                           SUBCHAPTER D. FUNDING

27           Sec. 442A.151. FUNDING. (a) Money contained in the opioid

1 abatement account established under Section 403.505, Government  
2 Code, as added by Chapter 781 (S.B. 1827), Acts of the 87th  
3 Legislature, Regular Session, 2021, may be appropriated to the  
4 board to fund the pilot program established under this chapter.

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

7 SUBCHAPTER E. EXPIRATION

8 Sec. 442A.201. EXPIRATION. This chapter expires on the  
9 second anniversary of the date that all money appropriated for the  
10 pilot program has been expended.

11 SECTION 2. As soon as practicable after the effective date  
12 of this Act, the Texas State Board of Pharmacy shall implement the  
13 prescription drug safe disposal pilot program developed under  
14 Chapter 442A, Health and Safety Code, as added by this Act.

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