

1-1 By: Alvarado S.B. No. 2173  
1-2 (In the Senate - Filed March 9, 2023; March 22, 2023, read  
1-3 first time and referred to Committee on Health & Human Services;  
1-4 April 20, 2023, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 20, 2023,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Kolkhorst</u>	X		
1-10	<u>Perry</u>	X		
1-11	<u>Blanco</u>	X		
1-12	<u>Hall</u>	X		
1-13	<u>Hancock</u>	X		
1-14	<u>Hughes</u>	X		
1-15	<u>LaMantia</u>	X		
1-16	<u>Miles</u>	X		
1-17	<u>Sparks</u>	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 2173 By: Perry

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to a pilot program for the safe disposal of prescription  
1-22 drugs, including controlled substance prescription drugs.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle A, Title 6, Health and Safety Code, is  
1-25 amended by adding Chapter 442A to read as follows:

1-26 CHAPTER 442A. PRESCRIPTION DRUG SAFE DISPOSAL PILOT PROGRAM

1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 442A.001. DEFINITIONS. In this chapter:

1-29 (1) "Board" means the Texas State Board of Pharmacy.

1-30 (2) "Controlled substance" has the meaning assigned by

1-31 Section 481.002.

1-32 (3) "Pharmacy" means a facility licensed under Chapter  
1-33 560, Occupations Code.

1-34 (4) "Pilot program" means the prescription drug safe  
1-35 disposal pilot program established under this chapter.

1-36 (5) "Prescription drug" has the meaning assigned by  
1-37 Section 551.003, Occupations Code.

1-38 (6) "Ultimate user" has the meaning assigned by 21  
1-39 U.S.C. Section 802.

1-40 Sec. 442A.002. PRESCRIPTION DRUG SAFE DISPOSAL PILOT  
1-41 PROGRAM. The board by rule shall develop and implement a  
1-42 prescription drug safe disposal pilot program to increase the  
1-43 number of locations in this state where unused, unwanted, or  
1-44 expired prescription drugs are collected from the public for safe  
1-45 disposal.

1-46 SUBCHAPTER B. PHARMACY PARTICIPATION

1-47 Sec. 442A.051. PHARMACY ELIGIBILITY. A pharmacy operating  
1-48 in this state may apply to the board to participate in the pilot  
1-49 program if the pharmacy:

1-50 (1) is registered as an authorized drug collection  
1-51 site with the United States Drug Enforcement Administration;

1-52 (2) is not the subject of state or federal opioid  
1-53 litigation; and

1-54 (3) meets the eligibility requirements established by  
1-55 21 C.F.R. Section 1317.40 and board rules.

1-56 Sec. 442A.052. APPLICATION AND SELECTION PROCESSES. (a)  
1-57 The board shall adopt rules prescribing:

1-58 (1) the form and manner for a pharmacy to apply for  
1-59 participation in the pilot program; and

1-60 (2) evaluation and selection criteria and processes.

2-1 (b) The board shall give priority to a pharmacy applicant  
2-2 that:

2-3 (1) does not collect unused ultimate user prescription  
2-4 drugs under 21 C.F.R. Part 1317 at the time the applicant submits  
2-5 the application; or

2-6 (2) is located in a rural or underserved area the board  
2-7 designates.

2-8 (c) A pharmacy that operates multiple locations must submit  
2-9 an application for each location.

2-10 Sec. 442A.053. COLLECTION RECEPTACLE REQUIREMENTS. (a) A  
2-11 participating pharmacy that provides a collection receptacle for  
2-12 the safe disposal of prescription drugs shall ensure the  
2-13 receptacle:

2-14 (1) meets the requirements of 21 C.F.R. Section  
2-15 1317.75;

2-16 (2) is accessible during the pharmacy's regular hours  
2-17 of operation;

2-18 (3) allows for the anonymous deposit of unused  
2-19 controlled substance prescription drugs listed in Schedules II,  
2-20 III, IV, and V; and

2-21 (4) provides disposal of unused prescription drugs at  
2-22 no cost to the ultimate user.

2-23 (b) Controlled substance prescription drugs and  
2-24 noncontrolled substance prescription drugs may be collected  
2-25 together and comingled.

2-26 Sec. 442A.054. MAIL-BACK PROGRAM REQUIREMENTS. (a) A  
2-27 participating pharmacy that provides a collection receptacle for  
2-28 the safe disposal of prescription drugs may, under limited  
2-29 circumstances as the pharmacy determines necessary, provide at the  
2-30 time the pharmacy dispenses a controlled substance prescription  
2-31 drug to the ultimate user a vendor's mail-back envelope, at no cost  
2-32 to the ultimate user. The mail-back envelope must:

2-33 (1) be pre-addressed and return postage paid; and

2-34 (2) meet the requirements of 21 C.F.R. Section  
2-35 1317.70.

2-36 (b) A participating pharmacy may provide not more than 250  
2-37 mail-back envelopes during the duration of the pilot program to  
2-38 encourage use of the pharmacy's collection receptacle.

2-39 Sec. 442A.055. PHARMACY MANAGEMENT; RECORDS. A  
2-40 participating pharmacy is responsible for the daily management and  
2-41 recordkeeping of the pharmacy's prescription drug safe disposal  
2-42 program in accordance with the pharmacy's United States Drug  
2-43 Enforcement Administration registration and board rules.

2-44 Sec. 442A.056. TEXAS PREMIER PHARMACY DESIGNATION. (a)  
2-45 The board shall designate each pharmacy participating in the pilot  
2-46 program as a Texas premier pharmacy provider committed to safe  
2-47 prescription drug disposal.

2-48 (b) A participating pharmacy may use the designation for  
2-49 marketing purposes.

2-50 SUBCHAPTER C. BOARD DUTIES

2-51 Sec. 442A.101. PILOT PROGRAM INCENTIVES. (a) The board  
2-52 shall assist each pharmacy participating in the pilot program,  
2-53 including by paying the costs of:

2-54 (1) maintaining one collection receptacle at each  
2-55 participating pharmacy location and destroying through  
2-56 incineration of the receptacle's full inner liner the prescription  
2-57 drugs deposited in the receptacle;

2-58 (2) ordering and distributing pre-addressed, return  
2-59 postage paid mail-back envelopes from a third-party mail-back  
2-60 program and destroying through incineration the returned mail-back  
2-61 envelopes containing the collected prescription drugs; and

2-62 (3) other operational needs the board determines  
2-63 appropriate.

2-64 (b) The board:

2-65 (1) shall directly reimburse a participating pharmacy  
2-66 for costs the pharmacy incurs under Subsection (a); and

2-67 (2) may not reimburse a participating pharmacy for the  
2-68 cost of using a third-party incineration facility unless the  
2-69 facility is appropriately registered with the United States Drug

3-1 Enforcement Administration.  
3-2 (c) Subject to money available for purposes of this chapter,  
3-3 the board may provide financial incentives to a pharmacy to  
3-4 continue providing prescription drug collection services or expand  
3-5 those services to accommodate controlled substance prescriptions.  
3-6 The board may provide financial incentives to a chain retail  
3-7 pharmacy for not more than 15 locations.

3-8 Sec. 442A.102. COMMUNITY OUTREACH. (a) The board shall:  
3-9 (1) develop and distribute educational outreach  
3-10 materials for the public about the availability of safe  
3-11 prescription drug disposal in this state;  
3-12 (2) post the materials on the board's Internet  
3-13 website; and  
3-14 (3) provide the materials to other state agencies for  
3-15 those agencies to conduct the community outreach.

3-16 (b) The educational outreach materials must be in English,  
3-17 Spanish, and for specific areas of this state as the board  
3-18 determines appropriate, another language spoken by a substantial  
3-19 portion of the area's residents.

3-20 Sec. 442A.103. REPORT. Not later than December 1 of each  
3-21 even-numbered year, the board shall submit to the governor and the  
3-22 legislature a report that:

3-23 (1) summarizes the results of the pilot program,  
3-24 including:

3-25 (A) the number and geographic distribution of  
3-26 collection receptacles at participating pharmacies;

3-27 (B) the estimated amount of prescription drugs  
3-28 collected by participating pharmacies under the program, measured  
3-29 by:

3-30 (i) the number of inner liners fully filled  
3-31 with collected prescription drugs and sent for incineration by the  
3-32 pharmacies;

3-33 (ii) the number of mail-back envelopes  
3-34 distributed by the pharmacies; and

3-35 (iii) the weight, measured in pounds, of:  
3-36 (a) inner liners described by

3-37 Subparagraph (i); and  
3-38 (b) returned mail-back envelopes  
3-39 filled with collected prescription drugs;

3-40 (C) the amount of money distributed under the  
3-41 pilot program and the identity of each participating pharmacy to  
3-42 which money is distributed; and

3-43 (D) a description of the board's educational  
3-44 efforts and outcomes; and

3-45 (2) recommends whether the pilot program should  
3-46 continue, be expanded, or terminate or whether the board should  
3-47 permanently implement a prescription drug safe disposal program.

3-48 SUBCHAPTER D. FUNDING

3-49 Sec. 442A.151. FUNDING. (a) Money contained in the opioid  
3-50 abatement account established under Section 403.505, Government  
3-51 Code, as added by Chapter 781 (S.B. 1827), Acts of the 87th  
3-52 Legislature, Regular Session, 2021, may be appropriated to the  
3-53 board to fund the pilot program established under this chapter.

3-54 (b) The board may collect gifts, grants, and donations to  
3-55 fund the program.

3-56 SUBCHAPTER E. EXPIRATION

3-57 Sec. 442A.201. EXPIRATION. This chapter expires September  
3-58 1, 2029.

3-59 SECTION 2. As soon as practicable after the effective date  
3-60 of this Act, the Texas State Board of Pharmacy shall implement the  
3-61 prescription drug safe disposal pilot program developed under  
3-62 Chapter 442A, Health and Safety Code, as added by this Act.

3-63 SECTION 3. This Act takes effect September 1, 2023.

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