



Board of Supervisors

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February 17, 2012

HONORABLE BOARD OF SUPERVISORS
County of Alameda
1221 Oak Street, Suite 536
Oakland, California 94612-4305

SUBJECT: Approve Alameda County's Safe Medication Disposal Ordinance

Dear Members of the Board:

RECOMMENDATIONS:

It is requested that your Board:

1. Adopt the attached "Alameda County Safe Drug Disposal Ordinance," requiring producers of prescription and nonprescription drugs to develop product stewardship program(s) to collect and dispose of unwanted medications from residential consumers.
2. Adopt the attached "Alameda County Safe Medication Disposal Ordinance" by amending Title 6 of the Alameda County Health and Safety Code, by adding Chapter 6.53, Sections 6.53.010 through 6.53.130.

DISCUSSION/SUMMARY:

Unused and expired medications are an increasing concern for public health and safety in Alameda County and nationwide, particularly for our senior citizens and youth. Poisoning is the fastest rising cause of accidental death among older adults, particularly from overdoses of prescription drugs and over-the-counter medications. Unintentional poisoning for adults over 60 resulting in hospitalization has increased 43% in Alameda from 1998 to 2006. Accidental poisoning from ingestion of drugs among children often occurs in homes where medicine is easily accessible. The Partnership for a Drug-Free America released a report in February 2010, indicating that over 60% of teens are able to obtain prescription painkillers for free through family and friends.

The environment will be improved through this Ordinance. Pharmaceutical residues have been accumulating in groundwater and drinking water. Drugs enter the environment through multiple sources including flushing toilets or through leachate leaks in landfills. The cost of developing waste treatment for wastewater is extremely high. Thus, many drugs pass through wastewater treatment systems and contaminate receiving waters.

Currently no state or federal program exists to safely collect unwanted drugs and to properly dispose of them. Yet, safe and convenient medical disposal programs are one of the most effective solutions in preventing negative individual and environmental health impacts. This first-in-the-nation ordinance requires drug producers to dispose of unwanted household

medications. Manufactures and producers of drugs are required to finance and operate the collection of unwanted prescription and over-the-counter medications for proper disposal and pay for all costs associated with complying with this ordinance. The producers of covered medications are not allowed to charge any fees to the consumers under the provisions of this ordinance.

In this ordinance, the manufacturers and producers of the drugs must create a product stewardship program that provides collection services in all areas of the County that are reasonably convenient to the public and adequate to meet the needs of the population in the particular area being served. The product stewardship programs proposed by the producers of drugs will be reviewed, approved and enforced by the Department of Environmental Health.

Every product stewardship program must conduct outreach and promotion activities to residential generators, pharmacists, retailers of covered products, and health care practitioners as to the proper and safe method to dispose of unwanted drugs under the program. The product stewardship program must include prominently displayed signage, written materials for distribution to consumers at the time of purchase, and other promotional materials. In addition, the product stewardship program must publicize the location of collection sites within the County; it also must have a toll free telephone number and a website containing the collection locations and other program operations.

Under the ordinance, the Department of Environmental Health shall adopt rules and regulations to implement and enforce the program, and it will charge fees to the producers of covered medications to implement the program. The fees must be submitted to this Board for approval.

The attached ordinance has an enforcement component to be administered by the Department of Environmental Health. Enforcement provisions include warnings and administrative citations with a maximum civil penalty of \$1,000.00 per day per violation. Any violation is subject to a detailed due process including a hearing to be conducted by the Department of Environmental Health. The ordinance also may be enforced through injunctive relief in the courts. In addition, the worst offenders are subject to prosecution as a misdemeanor.

Controlled substances are excluded from this ordinance in the beginning and shall not be included until authorized by federal law.

The attached ordinance was developed over several months with input from multiple professionals and community members. It also was presented in detail to the unincorporated services committee.

FINANCING

The ordinance is designed to be cost neutral, because the producers of covered products must pay for their programs and the County's administrative costs. However, there will be some additional costs for the Department of Environmental Health associated with the initial establishment of its operations under the ordinance.

Respectfully submitted,

A handwritten signature in black ink that reads "Nate Miley". The signature is written in a cursive, slightly slanted style.

Nate Miley, President
Alameda County Board of Supervisors

cc: Susan Muranishi, County Administrator
Donna R. Ziegler, County Counsel
Alex Briscoe, Health Care Services Agency Director

ORDINANCE NO. _____

ORDINANCE AMENDING THE ALAMEDA COUNTY ORDINANCE CODE BY ADDING CHAPTER 6.53, SECTIONS 6.53.010 THROUGH 6.53.130 TO: REQUIRE ANY PERSON WHO PRODUCES A DRUG OFFERED FOR SALE IN ALAMEDA COUNTY TO PARTICIPATE IN AN APPROVED DRUG STEWARDSHIP PROGRAM FOR THE COLLECTION AND DISPOSAL OF UNWANTED DRUGS FROM RESIDENTIAL SOURCES; PROVIDE FOR IMPLEMENTATION, ENFORCEMENT, FEES, AND PENALTIES; AND PHASE-IN THE APPLICATION OF THIS CHAPTER TO CONTROLLED SUBSTANCES; AND MAKING ENVIRONMENTAL FINDINGS.

WHEREAS, the County of Alameda has a substantial interest in having a drug stewardship program; and

WHEREAS, the County of Alameda has chosen to exercise its political power to have a drug stewardship program; and

NOW THEREFORE, the Board of Supervisors of the County of Alameda ordains as follows:

Title 6 of the Alameda County Health and Safety Code is hereby amended by adding Chapter 6.53, Sections 6.53.010 through 6.53.130, to read as follows:

6.53.010 - Declaration of findings.

The Board of Supervisors does hereby declare as follows:

A. Drugs are a necessary medical technology that successfully allows us to live longer, healthier, and more productive lives.

B. According to the American Association of Poison Control Centers, 51% of all poisonings are attributed to pharmaceuticals. 41% of these are in children under 6 years old, and 70% of visits to the emergency department are due to pharmaceutical poisonings. Poisoning is the fastest rising cause of accidental death among older adults, particularly from overdoses of over-the-counter, prescription and illicit drugs. (American Public Health Association, The Nation's Health, August ed., 2007) In Alameda County, nonfatal hospitalized injuries from unintentional poisonings for adults 60 and older increased 43% from 1998 to 2006.

C. Prescriptions for controlled substances increased by 154% between 1993 and 2003. In the same period, there has been a 90% increase in hospital visits due to prescription drug abuse and a 207% increase in hospital visits for teenage prescription drug abuse. 15 million Americans currently abuse prescription drugs, second only to

marijuana. The Partnership for a Drug Free America released a report in February 2010 indicating that over 60% of teens are able to obtain prescription painkillers for free through friends or family.

D. Hydrocodone and oxycodone or "Oxys" are implicated in 28% of all drug related crime. Methylphenidate and dextromethorphan, commonly known as "meth," are involved in 19% of all drug related crime.

E. Properly disposing of leftover, expired and unwanted drugs would be a significant step forward in preventing unintentional poisoning deaths attributable to drugs and abuse related to access to pharmaceuticals and concentrations of medicines reaching our drinking water.

F. A study released in January 2010 by the Maine Department of Environmental Protection detected the presence of over 40 drug compounds including antibiotics, steroids, antidepressants and pain medications in municipal solid waste landfill leachate (the liquid collected from the bottom of landfills). Landfill leachate is eventually treated by the same sewer treatment plants which are unable to treat the drugs found in wastewater.

G. Pharmaceutical residues have been proven to be accumulating in ground water and drinking water. Drugs enter the environment through multiple sources primarily through excretion as waste, disposal directly in to the environment through flushing down toilets, or through leachate leaks in landfills. Municipal wastewater treatment plants were designed to treat biological agents in drinking water. Costs to develop waste treatment through wastewater treatment are extremely high; thus, drugs pass through wastewater treatment systems and contaminate receiving waters.

H. Studies reveal concentrations of a variety of common drugs continue to mount including the 2001 US Geological Survey Report, the report for the San Francisco Estuary Institute, and investigative research by the Associated Press. The following reports detected various common drugs in US and Bay Area water bodies:

1. Kolpin, Dana et al. (2002) Pharmaceuticals, hormones and other organic wastewater contaminants in U.S. Streams, 1999-2000: A National Reconnaissance, Environmental Science and Technology v. 36: 1202-1211.
2. Oros, Daniel and David, Nicole (2002). Identification and Evaluation of Unidentified Organic Contaminants in the San Francisco Estuary, San Francisco Estuary Regional Monitoring Program for Trace Substances, SFEI
3. Donn, J, Mendoza, M & Pritchard, J. (2008) AP Probe Finds Drugs in Drinking Water.

I. Extended Producer Responsibility, also called Product Stewardship, is a strategy that places a shared responsibility for end-of-life management of consumer products on the manufacturers of the products, while encouraging product design that minimizes negative impacts on human health and the environment at every stage of the product's lifecycle.

J. In 2009 and 2010, California passed three significant product stewardship bills for mercury thermostats, carpet, and paint. All three bills require producers to establish and fund product stewardship programs for their waste stream. To date, 120 resolutions have been passed by California local jurisdictions and organizations supporting product stewardship.

K. California Senate Bill 966, enacted as Chapter 542 of the Statutes of 2007, required CalRecycle to survey existing drug collection programs, evaluate them for several factors including cost effectiveness, and make recommendations for implementation of statewide programs. Recommendations have been returned to the state legislature for further action.

L. There is no permanent drug collection program in Alameda County, but there is considerable demand for it. In 2009, Bay Area residents disposed of over 60,000 lbs of unwanted pharmaceuticals at 128 sites. Alameda County citizens returned just roughly 4000 lbs, compared to Santa Clara County which disposed of almost 19,000 lbs and San Mateo which disposed of close to 18,000 pounds.

M. United States Senate Bill 3397, the "Secure and Responsible Drug Disposal Act of 2010," which was signed into law on October 12, 2010, authorizes the Attorney General to increase the methods—currently restricted to law enforcement—by which controlled substances may be collected, including collection at pharmacies. The goal of the bill is to increase opportunities for drug collection in order to reduce the instances of diversion and release of harmful substances into the environment.

N. The Pharmaceutical Act of 2011 was introduced in the United States House of Representatives in August of 2011 by Congresswomen Louise Slaughter of New York. The bill would mandate a pharmaceutical take-back program based on product stewardship principles, with a minimum of one take back location in every city and town having a population greater than 10,000 persons.

O. A number of states introduced drug product stewardship bills recently including Maine, Maryland, Minnesota, Rhode Island, Florida, Oregon, and Washington.

P. Most Canadian provinces and many other countries have active, well-established drug product stewardship programs in place: British Columbia has had a manufacturer-funded drug collection program in place since 1996; Ontario began a program in July 2010, and Manitoba began its program in April 2011. France, Spain and Portugal, among others, have national, well-established, manufacturer-funded drug collection programs.

Q. There is no voluntary or mandatory statewide drug stewardship program for unwanted drugs in California, and drug manufacturers and producers have not offered any support for a collection program to date.

Section 6.53.020 - Title

This Chapter may be cited as the "Alameda County Safe Drug Disposal Ordinance."

Section 6.53.030 - Definitions.

For the purposes of this Chapter, the following terms have the meanings given.

1. "Cosmetics" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to, the human body, or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles.
2. "Covered product" means all prescription drugs and all nonprescription drugs, including both brand name and generic drugs that do not also meet the definition of "cosmetics".
3. "Department" means the County's Department of Environmental Health.
4. "Drug wholesaler" means a business that sells or distributes drugs for resale to an entity other than a consumer.
5. "Drugs" means: (1) articles recognized in the official United States pharmacopoeia, the official national formulary, the official homeopathic pharmacopoeia of the United States, or any supplement of the formulary or those pharmacopoeias; (2) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; (3) substances, other than food, intended to affect the structure or any function of the body of humans or other animals; or (4) substances intended for use as a component of any substances specified in this subdivision, but not including medical devices or their component parts or accessories.
6. "Entity" means a person other than an individual.
7. "Generic drug" means a drug that is chemically identical or bioequivalent to a brand name drug in dosage form, safety,

strength, route of administration, quality, performance characteristics, and intended use, though inactive ingredients may vary.

8. "Mail-back program" means a system whereby residential generators of unwanted products obtain prepaid and preaddressed mailing envelopes in which to place unwanted products for shipment to an entity that will dispose of them safely and legally.
9. "Nonprescription drug" means any drug that may be lawfully sold without a prescription.
10. "Person" means an individual, firm, sole proprietorship, corporation, limited liability corporation, general partnership, limited partnership, limited liability partnership, association, cooperative, or other legal entity, however organized.
11. "Plan" means a product stewardship plan required under this Chapter that describes the manner in which a product stewardship program will be provided.
12. "Prescription drug" means any drug that by federal or state law may be dispensed lawfully only on prescription
13. "Producer" means a person or entity that: (1) has a physical presence in the United States and causes a covered drug to be manufactured or has legal ownership of the brand, brand name, or co-brand under which a covered drug is sold; or (2) imports a covered drug branded or manufactured by a person or entity that has no physical presence in the United States. "Producer" does not include: (1) a retailer that puts its store label on a covered drug unless the retailer imports the covered drug directly from a person that has no physical presence in the United States, or (2) a pharmacist who compounds a prescribed individual drug product for a patient.
14. "Product stewardship program" means a program financed and operated by producers to collect, transport, and recycle unwanted products.
15. "Residential generators" means single and multiple family residences and locations where household drugs are unused, unwanted, disposed of, or abandoned, such as hospice services, nursing homes, boarding care homes, schools, foster care, day care, and other locations where people, pets, or both reside on a temporary or permanent basis. "Residential generators" do not

include airport security, drug seizures by law enforcement, pharmacy waste, business waste, or any other source identified by the Department as a nonresidential source.

16. "Stewardship organization" means an organization designated by a group of producers to act as an agent on behalf of each producer to operate a product stewardship program.
17. "Unwanted product" means any covered product no longer wanted by its owner or that has been abandoned, discarded, or is intended to be discarded by its owner.

Section 6.53.040. - Product stewardship program.

A. Requirement for sale. On and after July 1, 2012, all producers of covered products sold in the County of Alameda shall participate in a product stewardship program to collect and dispose of unwanted products from residential generators. This Chapter shall apply to all of Alameda County including unincorporated and incorporated areas, except for those incorporated areas (cities) where the governing body of that incorporated area (city) has authorized its own local health officer or environmental health director to administer and enforce the provisions of California Health and Safety Code section 117800. This Chapter shall be administered and implemented by the Alameda County Department of Environmental Health. Each producer must:

1. Operate, individually or jointly with other producers, a product stewardship program approved by the Department; or
2. Enter into an agreement with a stewardship organization to operate, on the producer's behalf, a product stewardship program approved by the Department.

B. Product stewardship program costs.

1. A producer, group of producers, or stewardship organization must pay all administrative and operational costs associated with their product stewardship program, including the cost of collecting, transporting, and disposing of unwanted products collected from residential generators and the recycling or disposal, or both, of packaging collected with the unwanted product.
2. A producer, group of producers, or stewardship organization must pay for all costs associated with obtaining compliance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.), if required, for a specific product stewardship program and product stewardship plan.

3. No person or producer may charge a fee to cover the costs of a product stewardship program at the time of sale of the covered product or when unwanted products are collected from residential generators or delivered for disposal.

6.53.050 - Product stewardship plan.

A. Plan content. Each product stewardship program shall have a product stewardship plan that must contain the following:

1. Certification that the product stewardship program will accept all unwanted products regardless of who produced them, unless excused from this requirement by the Department as part of the approval of the plan;
2. Contact information for the individual and the entity submitting the plan and for all producers participating in the product stewardship program;
3. A description of the methods by which unwanted products from residential generators will be collected in the County and an explanation of how the collection system will be convenient and adequate to serve the needs of County residents;
4. Provide collection services for covered products in all areas of the County that are reasonably convenient to the public and adequate to meet the needs of the population in the area being served.
5. If applicable, include the location of each collection site and locations where envelopes for a mail-back program are available;
6. A list containing the name, location, permit status, and record of any penalties, violations, or regulatory orders received in the previous five years by each transporter and each medical waste disposal facility proposed to participate in the product stewardship program;
7. A description of how the unwanted products will be safely and securely tracked and handled from collection through final disposal and the policies and procedures to be followed to ensure security;
8. A description of the public education effort and outreach activities required under this Chapter and how their effectiveness will be evaluated;

9. A description of how the scope and extent of the stewardship program are consistent with the scope and extent of the sales of covered products within the County by the producer or group of producers; and,
 10. A starting date when collection of unwanted products will begin.
- B. Department review and approval; updates.
1. No producer, group of producers, or stewardship organization may begin collecting unwanted products until it has received written approval of its product stewardship plan from the Department.
 2. Product stewardship plans must be submitted to the Department for approval. The initial plans must be submitted by January 1, 2013.
 3. Within 90 days after receipt of a plan, the Department shall conduct a noticed public hearing and determine whether the plan complies with the requirements of this Chapter and of any regulations adopted pursuant to this Chapter. As part of its approval, the Department may set reasonable performance goals for the program. If the Department approves a plan, it shall notify the applicant of its approval in writing. If the Department rejects a plan, it shall notify the applicant in writing of its reasons for rejecting the plan. An applicant whose plan has been rejected by the Department must submit a revised plan to the Department within 60 days after receiving notice of the rejection.
 4. At least every three years, a producer, group of producers or stewardship organization operating a product stewardship program must update its product stewardship plan and submit the updated plan to the Department for review and approval.
 5. A producer who begins to offer covered products for sale in the County of Alameda after June 1, 2013, must submit a product stewardship plan to the Department or provide evidence of having joined an existing approved plan at least 90 days prior to the producer's initial offer of sale of covered products.
 6. Any proposed changes to a product stewardship plan must be approved by the Department in writing.

6.53.060 - Disposal of unwanted products.

- A. Compliance with applicable law. Each product stewardship program must comply with all local, state, and federal laws and regulations applicable to its operations,

including laws and regulations governing the disposal of medical waste and controlled substances.

B. Disposal at medical waste facility. Each product stewardship program must dispose of all unwanted products from residential generators at a medical waste facility. The medical waste facility must be in possession of all required regulatory permits and licenses.

C. Product stewardship programs may petition the Department for approval to use final disposal technologies, where lawful, that provide superior environmental and human health protection than provided by current medical waste disposal technologies for covered products if and when those technologies are proven and available. The proposed technology must provide equivalent protection in each, and superior protection in one or more, of the following areas:

1. Monitoring of any emissions or waste;
2. Worker health and safety;
3. Air, water, or land emissions contributing to persistent, bioaccumulative, and toxic pollution; and,
4. Overall impact on the environment and human health.

D. Packaging separation. Each product stewardship program is encouraged to separate unwanted products from their original containers, when appropriate, prior to collection or disposal.

6.53.070 - Product stewardship program promotion and outreach.

A. A product stewardship program must promote the product stewardship program to residential generators, pharmacists, retailers of covered products, and health care practitioners as to the proper and safe method to dispose of unwanted drugs.

B. A product stewardship program shall include, but is not limited to, developing, and updating as necessary, educational and other outreach materials aimed at retailers of covered products. These materials may include, but are not limited to, one or more of the following:

1. Signage that is prominently displayed and easily visible to the consumer.
2. Written materials and templates of materials for reproduction by retailers to be provided to the consumer at the time of purchase or delivery, or both.

3. Advertising or other promotional materials, or both.

C. A product stewardship program must prepare education and outreach materials that publicize the location and operation of collection locations in the County and disseminate the materials to health care facilities, pharmacies, and other interested parties. The program also must establish a website publicizing collection locations and program operations and a toll-free telephone number that residential generators can call to find nearby collection locations and understand how the program works.

6.53.080 - Report.

A. On or before July 1, 2013, and in each subsequent year, every producer, group of producers, or stewardship organization operating a product stewardship program must prepare and submit to the Department an annual report describing the program's activities during the previous reporting period. The report must include the following:

1. A list of producers participating in the product stewardship program;
2. The amount, by weight, of unwanted products collected from residential generators collected at each drop-off site and in the entire County and the total amount by weight collected by a mail-back program, if applicable;
3. A description of the collection system, including the location of each collection site and locations where envelopes for a mail-back program are provided, if applicable;
4. The name and location of disposal facilities at which unwanted products were disposed of and the weight of unwanted products collected from residential generators disposed of at each facility;
5. Whether policies and procedures for collecting, transporting, and disposing of unwanted products, as established in the plan, were followed during the reporting period and a description of any noncompliance;
6. Whether any safety or security problems occurred during collection, transportation, or disposal of unwanted products during the reporting period and, if so, what changes have or will be made to policies, procedures, or tracking mechanisms to alleviate the problem and to improve safety and security;

7. A description of public education and outreach activities implemented during the reporting period, including the methodology used to evaluate the outreach and program activities;
8. How the product stewardship program complied with any other elements in the product stewardship plan approved by the Department, including its degree of success in meeting any performance goals set by the Department as part of its approval of the program; and
9. Any other information that the Department may reasonably require.

B. For the purposes of this section, "reporting period" means the period beginning January 1 and ending December 31 of the same calendar year.

6.53.090. - Drug wholesaler responsibilities.

A. The Department shall provide on its website a list of all producers participating in product stewardship programs approved by the Department and a list of all producers the Department has identified as noncompliant with this Chapter or any regulations adopted pursuant to this Chapter.

B. Beginning 45 days after the effective date of the legislation adopting this Chapter, any drug wholesaler offering covered products for sale in the County must provide a list of the producer or producers of those products to the Department. Drug wholesalers must submit an updated list to the Department by January 15 of each year, beginning January 15, 2014.

6.53.100. - Regulations and fees.

A. The Director of the Department of Environmental Health may, after a noticed public hearing, adopt such rules and regulations as necessary to implement, administer, and enforce this ordinance.

B. As soon as practicable, the Department shall submit to the Board of Supervisors a proposed schedule of fees to be charged to the producers to cover the County's costs of administering and enforcing this ordinance, including but not limited to enforcement of education and outreach programs.

6.53.110. - Enforcement.

A. The Department of Environmental Health shall administer the penalty provisions of this Chapter.

B. The Department of Environmental Health may issue an administrative citation to a producer for violation of this Chapter or any regulation adopted pursuant to

this Chapter. The Department shall first send a written warning to the producer as well as a copy of this Chapter and any regulations adopted pursuant to this Chapter. The producer shall have 30 days after receipt of the warning to come into compliance and correct any violations.

C. If the producer fails to come into compliance and correct any violations, the Department may impose administrative fines for violations of this Chapter or of any regulations adopted pursuant to this Chapter. Each day shall constitute a separate violation for these purposes.

D. Any person in violation of this Chapter or any regulation adopted pursuant to this Chapter shall be liable to the County of Alameda for a civil penalty in an amount not to exceed one thousand dollars (\$1,000) per day per violation. Each day in which the violation continues shall constitute a separate and distinct violation.

E. In determining the appropriate penalties, the Department of Environmental Health shall consider the extent of harm caused by the violation, the nature and persistence of the violation, the frequency of past violations, any action taken to mitigate the violation, and the financial burden to the violator.

F. Any producer receiving an administrative citation under this Chapter or any regulation adopted pursuant to this Chapter may appeal it within 21 calendar days from the date the administrative citation was issued. The administrative citation is deemed issued on the day it is sent by first class mail or personal service. The administrative citation shall state the date of issuance. If the deadline falls on a weekend or County holiday, then the deadline shall be extended until the next regular business day.

The request to appeal must:

1. Be in writing;
2. Be accompanied by a deposit of the total fine and any fees noted on the administrative citation;
3. Specify the basis for the appeal in detail;
4. Be postmarked within 21 days from the date the administrative citation was issued; and
5. Be sent to the address as set forth on the administrative citation.

G. The written request to appeal will be reviewed and, if found to be complete, a date, time and place shall be set for a hearing before a hearing officer appointed by the Director of the Department of Environmental Health. Written notice of the time and place for the hearing will be served by first class mail or personal service at

least 21 days prior to the date of the hearing to the producer appealing the citation. Service by first class mail, postage prepaid shall be effective on the date of mailing.

H. The failure of any producer to receive notice of the hearing shall not affect the validity of any proceedings under this Chapter. Failure of any producer to file an appeal in accordance with the provisions of this section shall constitute waiver of that producer's rights to administrative determination of the merits of the administrative citation and the amount of the fine and any fees.

I. A hearing officer shall be designated by the Director of the Department of Environmental Health for hearings under this Chapter. The producer requesting the appeal may request the Director of the Department of Environmental Health to recuse a hearing officer for reasons of actual prejudice against the party's cause. The hearing officer shall conduct an orderly, fair hearing and accept evidence as follows:

1. A valid administrative citation shall be prima facie evidence of the violation;
2. All testimony shall be by declaration under penalty of perjury;
3. The producer responsible for the violation or any other interested person may present testimony or evidence concerning the violation.
4. The hearing officer may reduce, waive or conditionally reduce the fines and any fees stated in the administrative citation. The hearing officer may impose deadlines or a schedule for payment of the fine and any fees due in excess of the deposit.
5. The hearing officer shall make findings based on the record of the hearing and make a written decision based on the findings. The decision shall be served by first class mail on all parties. The decision of the hearing officer affirming or dismissing the administrative citation is final.

J. The Department of Environmental Health may establish appropriate administrative rules for implementing this Chapter, conducting hearings, and rendering decisions pursuant to this section.

K. Upon the failure of any producer to comply with any requirement of this Chapter and any rule or regulation adopted pursuant to this Chapter, the Alameda County Counsel's Office may petition any court having jurisdiction for injunctive relief, payment of civil penalties and any other appropriate remedy, including restraining such person from continuing any prohibited activity and compelling compliance with lawful requirements.

L. Any person who knowingly and willfully violates the requirements of this Chapter or any rule or regulation adopted pursuant to this Chapter is guilty of a misdemeanor and upon conviction thereof is punishable by a fine of not less than fifty dollars (\$50) and not more than five hundred (\$500) for each day per violation, or by imprisonment in the County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment.

6.53.120. - Implementation.

A. Notwithstanding any other provision of this Chapter, "covered product," as defined in this Chapter, shall not include any controlled substance until January 1, 2013, or until 90 days after the effective date of regulations adopted by the Attorney General of the United States for the delivery of controlled substances by ultimate users for disposal under Title 21 of the United States Code, Section 822(g) ("Secure and Responsible Drug Disposal Act of 2010"), whichever comes later. "Controlled substance" for purposes of this Section shall mean any substance listed under California Health and Safety Code Sections 11053 through 11058 or Title 21 of the United States Code, Sections 812 and 813 or any successor legislation.

B. The Department of the Environmental Health shall submit recommendations to the Board of Supervisors no later than October 1, 2013, regarding whether to continue to include controlled substances under this Chapter and, if so, how best to address the legal requirements for disposal of such substances.

6.53.130 - Additional provisions.

A. Disclaimer. In adopting and implementing this Chapter, the County of Alameda is assuming an undertaking only to promote the general welfare. The County is not assuming or imposing on its officers and employees an obligation by which they could be liable in money damages to any person or entity who claims that a breach proximately caused injury.

B. Conflict with State or Federal Law. This Chapter shall be construed so as not to conflict with applicable federal or state laws, rules or regulations. Nothing in this Chapter shall authorize any County agency or department to impose any duties or obligations in conflict with limitations on municipal authority established by state or federal law at the time such agency or department action is taken. The County shall suspend enforcement of this ordinance to the extent that said enforcement would conflict with any preemptive state or federal legislation subsequently adopted.

C. Severability. If any of the provisions of this Chapter or the application thereof to any person or circumstance is held invalid, the remainder of those provisions, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

D. Environmental Findings. The County has determined that the actions contemplated in this ordinance are in compliance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.).

Adopted by the Board of Supervisors of the County of Alameda, State of California, on _____, 2012, by the following called vote:

AYES:

NOES:

EXCUSED:

NATE MILEY, President
Board of Supervisors
County of Alameda, State of California

ATTESTED TO:

CRYSTAL K. HISHIDA-GRAFF, Clerk
Board of Supervisors, County of Alameda

By: _____

APPROVED AS TO FORM:

DONNA R. ZIEGLER
County Counsel

By: 

ROBERT D. REITER
Deputy County Counsel



CITY OF EMERYVILLE

INCORPORATED 1896

1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4300 FAX: (510) 450-7831

February 21, 2012

Alameda County Board of Supervisors
1221 Oak Street
Suite 536
Oakland, CA 94612

Dear Alameda County Board of Supervisors:

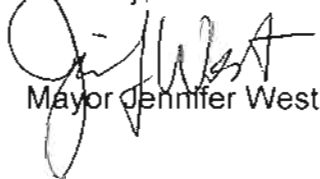
The City of Emeryville supports the Alameda County Safe Disposal Ordinance under consideration by the Alameda County Board of Supervisors and strongly encourages adoption of the ordinance.

Mounting evidence of dramatic increases in accidental poisonings, diversion for abuse, and the harmful environmental impacts demonstrate the need for safe and secure options for disposal which are as convenient as are opportunities to purchase pharmaceuticals.

Safe disposal of pharmaceuticals is a shared societal burden, the costs of which should not fall on local government which does not profit from the sale of pharmaceuticals. Like other products such as automobile batteries, pain and carpets whose manufacturers have take responsibility for end of life and residual product management, the City of Emeryville believes that pharmaceutical manufacturers should be responsible for designing and funding programs for the disposal of their unused products.

Therefore, the City of Emeryville supports Alameda County's Safe Disposal Ordinance and strongly encourages the Board of Supervisor's adoption of the ordinance.

Sincerely,



Mayor Jennifer West

cc: Kamika Dunlap, Kamika.dunlap@acgov.org



February 10, 2012

County of Alameda CA Board of Supervisors
Nathan A. Miley
Supervisor District 4
Oakland Office
1221 Oak Street, Suite 536
Oakland CA 94612

Subject: Support of the Alameda County Medication Disposal Ordinance

Dear Supervisor Miley:

Union Sanitary District enthusiastically supports the Alameda County Medication Disposal Ordinance. USD's primary focus is to collect, treat and dispose of wastewater from residents in Fremont, Newark and Union City. USD also developed and coordinates a pharmaceutical collection program for Tri-City residents that is entirely funded by USD. This program has grown in the volume of medications received each year, since its inception in 2009. Last year USD responsibly collected and properly disposed of 2,400 pounds of unused pharmaceuticals.

We support the concept of requiring pharmaceutical companies to design and fund a program for the disposal of these unused medications. Keeping these medications out of the wastestream and receiving waters is the main objective for these programs, and is in line with USD's mission to protect human health and the environment.

We support the product stewardship concept in this ordinance, which aligns with other product stewardship programs recently passed by the California Legislature for carpet and paints. USD believes that Pharmaceutical companies should share in the responsibility of collection and disposal of medications they produce. The burden of cost should not fall on local agencies or the ratepayers.

Union Sanitary District thanks you for your leadership on this very important issue and strongly supports the Alameda County Medication Disposal Ordinance.

Sincerely,

A handwritten signature in blue ink that reads 'Richard B. Currie'.

Richard Currie
General Manager

Directors
Manny Fernandez

Tom Handley

Pat Kite

Anjali Lathi

Jennifer Toy

Officers
Richard B. Currie
General Manager
District Engineer

David M. O'Hara
Attorney



February 21, 2012

The Alameda County Board of Supervisors
1221 Oak Street, Suite 536
Oakland, CA 94612

RE: Alameda County Safe Disposal Ordinance

Dear Alameda County Board of Supervisors:

On behalf of thousands of supporters in Alameda County and 25,000 members throughout the Bay Area, we strongly urge your support for the Alameda County Safe Disposal Ordinance.

Mounting evidence of dramatic increases in accidental poisonings, diversion for abuse and harmful environmental effects demonstrate the need for safe and secure options for disposal which are as convenient as are opportunities to purchase pharmaceuticals. Medications improperly disposed of in the trash are a stormwater runoff and groundwater contamination concern. Sewage treatment plants are unable to filter pharmaceuticals out of our waste water, which means that medications flushed down the toilet end up in the Bay.

Safe disposal of pharmaceuticals is a shared societal burden, the costs of which should not fall on local government which does not profit from the sale of pharmaceuticals. Like other products such as auto batteries, paint and carpets whose manufacturers have taken responsibility for end of life and residual product management, we believe pharmaceutical manufacturers should be responsible for designing and funding programs for the disposal of their unused products.

Sincerely,

David Lewis
Executive Director



Central Contra Costa Sanitary District

Protecting public health and the environment

5019 Imhoff Place, Martinez, CA 94553-4392

FAX: (925) 372-7635

JAMES M. KELLY
General Manager

KENTON L. ALM
Counsel for the District
(510) 808-2000

ELAINE R. BOEHME
Secretary of the District

January 18, 2012

Supervisor Miley in partnership with the
Senior Alcohol and Other Drug (AOD)
Prevention Workgroup
1221 Oak Street, #536
Oakland, CA 94612

Dear Supervisor Miley and AOD Prevention Workgroup:

Support of the Alameda County Safe Drug Disposal Ordinance

Central Contra Costa Sanitary District (CCCSD) supports the Alameda County Safe Drug Disposal ordinance. CCCSD provides wastewater treatment and collects household hazardous waste from residents in central Contra Costa County. CCCSD also operates a pharmaceutical collection program that continues to increase in waste volume and expense of which all of our ratepayers must bear the cost.

We support the concept of requiring pharmaceutical companies to design and fund a program for the disposal of their unused products. Local governments, such as ours, do not profit from the sale of pharmaceuticals. Therefore, we should not bear the cost of their collection and proper disposal nor should our ratepayers.

CCCSD supports the extended producer responsibility (EPR) concept in this ordinance which aligns with other EPR programs which recently passed the California legislature for carpet and paint. CCCSD believes that pharmaceutical companies should share in the responsibility for proper management of the pharmaceuticals they produce.

Central Contra Costa Sanitary District thanks you for your leadership on this important issue and strongly supports the Alameda County Safe Drug Disposal ordinance.

Sincerely,

David Wyatt
Supervisor, HHW Program

DW/mvp

cc: Kamika Dunlap, kamika.dunlap@acgov.org



February 10, 2012

Nate Miley, Alameda County Supervisor, District 4
Eden Area District Office
20993 Redwood Road
Castro Valley, CA 94546

Subject: Letter of Support for Countywide Safe Drug Disposal Ordinance

Ralph Johnson
President

Timothy McGowan
President Pro Tem

Daniel M. Akagi
Secretary

Dave A. Sadoff
Secretary Pro Tem

Harry Francis
Board Member

Roland P. Williams, Jr.
General Manager

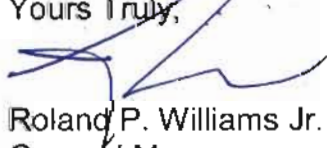
On behalf of the Castro Valley Sanitary District (CVSan) Board and staff, I would like to express our support for the Draft Countywide Safe Drug Disposal Ordinance.

The safe management and disposal of pharmaceutical (medicine) waste is important to CVSan and our community. As Castro Valley Community Action Network (CVCAN) has found: "Improper disposal (of pharmaceuticals) can lead to pharm abuse, accidental poisonings and groundwater/bay pollution."

We believe the Draft Ordinance, which proposes a product stewardship program wherein all producers of covered products sold in Alameda County shall collect and dispose of unwanted products from residential generators, is the right direction for Alameda County.

Again, we thank you for your efforts to provide safe management and disposal of pharmaceutical (medicine) waste in Castro Valley and Alameda County and support the Countywide Safe Drug Disposal Ordinance.

Yours Truly,


Roland P. Williams Jr.
General Manager

cc: Board, N. Lue, J. Figueiredo, Pharmaceuticals File



Municipal Services Agency

*Department of Waste
Management & Recycling
Paul Philleo, Director*



*Bradley J. Hudson, County Executive
Robert B. Leonard, Chief Deputy
County Executive*

February 16, 2012

The Alameda County Board of Supervisors
1221 Oak Street
Suite 536
Oakland, California 94612

Honorable Chairperson, Alameda County Board of Supervisors,

The Sacramento County Waste Management and Recycling Department supports the Alameda County Safe Disposal Ordinance for consideration by your board, and strongly encourages adoption of the ordinance.

The Sacramento County Board of Supervisors adopted Resolution 2008-0593 supporting Extended Producer Responsibility policies and legislation to shift universal waste management costs, for products such as pharmaceuticals, from local government and local waste management service ratepayers to the producers of the product.

Mounting evidence of dramatic increases in accidental poisonings, diversion for abuse, and the harmful environmental effects demonstrate the need for safe and secure options for disposal which are as convenient as are opportunities to purchase pharmaceuticals.

Safe disposal of pharmaceuticals is a shared societal burden, the costs of which should not fall on local government which does not profit from the sale of pharmaceuticals. Like other products such as auto batteries, paint and carpets whose manufacturers have taken responsibility for end of life and residual product management, we believe pharmaceutical manufacturers should be responsible for designing and funding programs for the disposal of their unused products.

Therefore, this Department supports Alameda County's Safe Disposal Ordinance and strongly encourages the Board's adoption of the ordinance.

Sincerely,

Paul Philleo
Director

Wednesday, February 15, 2012

The Alameda County Board of Supervisors
1221 Oak Street
Suite 536
Oakland, California 94612
Fax: (510) 465-7628
Staff Contact: kamika.dunlap@acgov.org

RE: Alameda County Safe Disposal Ordinance

Dear Alameda County Board of Supervisors:

The Teleosis Institute supports the Alameda County Safe Disposal Ordinance for consideration by your board, and strongly encourages adoption of the ordinance.

Mounting evidence of dramatic increases in accidental poisonings, diversion for abuse and harmful environmental effects demonstrate the need for safe and secure options for disposal which are as convenient as are opportunities to purchase pharmaceuticals.

Safe disposal of pharmaceuticals is a shared societal burden, the costs of which should not fall on local government which does not profit from the sale of pharmaceuticals. Like other products such as auto batteries, paint and carpets whose manufacturers have taken responsibility for end of life and residual product management, we believe pharmaceutical manufacturers should be responsible for designing and funding programs for the disposal of their unused products.

Sincerely:

Evin Guy

Evin Guy
Teleosis Institute
863 Arlington Ave.
Berkeley, CA 94707
Phone: 510.558.7285
www.teleosis.org

February 6, 2012

Supervisor Nate Miley in partnership with the
Senior Alcohol and Other Drug (AOD) Prevention Workgroup
1221 Oak Street, #536
Oakland, CA 94612

Dear Supervisor Miley:

Re: Support for the proposed Alameda County Safe Drug Disposal Ordinance

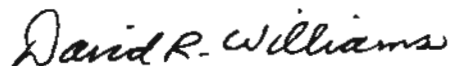
The East Bay Municipal Utility District (the District) supports the Alameda County Safe Drug Disposal Ordinance and the implementation of a sustainable collection and disposal program for unwanted medication funded by pharmaceutical companies.

Currently the District provides wastewater treatment for approximately 650,000 customers in Alameda and Contra Costa Counties. The District has implemented a limited pharmaceutical collection program which increases in waste volume year after year. Following District sponsored collection events and due to our proper disposal outreach campaign we receive many calls from residents and businesses requesting medicine disposal alternatives. The District sponsored take-back locations are limited due to the challenges associated with establishing sites with third parties and costs of a broader program.

The District supports the idea of product stewardship, specifically extended producer responsibility, and the concept of requiring the pharmaceutical companies to design, implement and fund programs for the disposal of their unused products. The District believes that the pharmaceutical companies should be properly managing the products they produce.

The East Bay Municipal Utility District appreciates your attention to this critical issue and supports approval and implementation of the Alameda County Safe Drug Disposal Ordinance.

Sincerely,



David R. Williams
Director of Wastewater

DRW:CRJ

cc: Kamika Dunlap, kamika.dunlap@acgov.org
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January 31, 2012

Supervisor Miley in partnership with the
Senior Alcohol and Other Drug (AOD)
Prevention Workgroup
1221 Oak Street, #536
Oakland, CA 94612

RE: Support of the Alameda County Safe Drug Disposal Ordinance

Dear Supervisor Miley and AOD Prevention Workgroup:

The City of Livermore Water Resources Division provides wastewater collection and treatment for approximately 83,604 residents, businesses and industries; and delivers drinking water to nearly 29,000 customers, recycled water for irrigation to more than 60 customers, and recycled water for fire protection to 22 commercial and industrial buildings. In addition, the Water Resource Division operates the annual Livermore Drug Take-Back Event at the Livermore Police Department.

In 2008, the Livermore Drug Take-Back Event was developed to educate Tri-Valley (Livermore, Pleasanton and Dublin) residents about the threat of potential misuse or abuse of unwanted drugs at home among children, teens and older adults, and the environmental impacts of pouring or flushing unwanted drugs down the sink and toilet on the San Francisco Bay and irrigation water. From 2008 to 2011, the number of annual event participants increased from 201 participants to 428 participants, the quantity of pharmaceutical waste collected increased from 305 pounds to 1,073 pounds, and the cost of pharmaceutical waste disposal increased from \$941.00 to \$1,650.00. Surveyed participants thanked Water Resources Division for the opportunity to safely and properly dispose of their unwanted drugs, and voiced the need for more events and/or a permanent drop-box. Unfortunately, the Livermore Drug Take-Back Event cannot be duplicated or sustained over the long-term due to increasing waste volumes and rising pharmaceutical waste disposal costs on rate payers.

We support the Safe Drug Disposal Ordinance's product stewardship strategy that requires pharmaceutical companies to design and fund a program for the disposal of their unused products with a minimum of one take back location in every city. We and our rate payers do not profit from the sale of pharmaceuticals; therefore, we should not bear the cost and responsibility of their collection and proper disposal. We also support the Ordinance's recommendations for implementation, reporting, regulations and fees, and enforcement.

The City of Livermore Water Resources Division thanks you for your leadership on this issue and strongly supports the Alameda County Safe Drug Disposal Ordinance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darren Greenwood', with a stylized, flowing script.

Darren Greenwood
Assistant Public Works Director
Water Resources Division, Public Works Department
Phone (925) 960-8120
Fax (925) 960-8105

Cc: Kamika Dunlap, Kamika.dunlap@acgov.org

February 10, 2012

Dear Supervisor Miley,

The **ADULT DAY SERVICES NETWORK OF ALAMEDA COUNTY** would like to express our support for the proposed County-wide Safe Drug Disposal Ordinance. This ordinance will hold producers responsible for creating a program to dispose of unwanted and expired drugs and thereby reduce the incidents of illnesses and deaths caused by accidental poisonings among older adults.

Establishing a program that will make drug disposal easy and accessible will encourage older adults to remove unneeded over-the-counter medications and prescription drugs from their homes. Removing these drugs will help eliminate occurrences of taking the wrong medication, mixing medications, and taking expired medications.

The safe and proper disposal of unnecessary medications will decrease access and availability of drugs to younger members of the family and insure that excess drugs don't end up in our landfills and ground water.

We absolutely support the Safe Drug Disposal Ordinance and encourage the Board of Supervisors to support this ordinance which will protect Alameda County residents and our environment.

Sincerely,



Cait McWhir
SIPP Member,
Program & Outreach Coordinator

5 BOS
CAO
CBS
P. 1/1

**CREEKSIDE MIDDLE SCHOOL**

"A California Distinguished School"

19722 CENTER STREET • CASTRO VALLEY, CALIFORNIA 94546
CASTRO VALLEY UNIFIED SCHOOL DISTRICT
(510) 247-0665

Mary Ann DeGrazia, Principal
Susan Goldman, Assistant Principal

CO-ADMINISTRATOR
OFFICE
COUNTY OF ALAMEDA
2012 FEB 15 PM 1:06
RECEIVED

February 15, 2012

Attn: Clerk of the Board
Alameda County Board of Supervisors
1221 Oak Street, Suite 536
Oakland, CA 94612

Dear Honorable Supervisors:

On behalf of Creekside Middle School, I would like to express our support for the proposed County-wide Safe Drug Disposal Ordinance. This ordinance will hold producers responsible for creating a program to dispose of unwanted and expired drugs and thereby reduce the incidents of illnesses and deaths caused by accidental poisonings among older adults and youth.

Establishing a program that will make drug disposal easy and accessible will encourage citizens to remove unneeded over-the-counter medications and prescription drugs from their homes. Removing these drugs will help eliminate occurrences of taking the wrong medication, mixing medications, and taking expired medications.

The safe and proper disposal of unnecessary medications will decrease access and availability of drugs to younger members of the family and insure that excess drugs don't end up in our landfills and ground water.

We support the Safe Drug Disposal Ordinance and encourage the Board of Supervisors to support this ordinance which will protect Alameda County residents, youth, and our environment.

Sincerely,

Mary Ann DeGrazia
Principal



CV CAN
4400 Alma Avenue
Castro Valley, CA 94546
510.537.3335 x1936
www.cvcn.net

A coalition committed to reducing substance use among youth in Castro Valley

RECEIVED

2012 FEB 15 PM 1:06

CO-ADMINISTRATOR
OFFICE
COUNTY OF ALAMEDA

February 10, 2012

Attn: Clerk of the Board
Alameda County Board of Supervisors
1221 Oak Street, Suite 536
Oakland, CA 94612

Dear Honorable Supervisors,

Castro Valley Community Action Network (CV CAN) would like to express our support for the proposed County-wide Safe Drug Disposal Ordinance. This ordinance will hold producers responsible for creating a program to dispose of unwanted and expired drugs and thereby reduce the incidents of illnesses and deaths caused by accidental poisonings among older adults and youth.

Establishing a program that will make drug disposal easy and accessible will encourage citizens to remove unneeded over-the-counter medications and prescription drugs from their homes. Removing these drugs will help eliminate occurrences of taking the wrong medication, mixing medications, and taking expired medications.

The safe and proper disposal of unnecessary medications will decrease access and availability of drugs to younger members of the family and insure that excess drugs don't end up in our landfills and ground water.

We support the Safe Drug Disposal Ordinance and encourage the Board of Supervisors to support this ordinance which will protect Alameda County residents, youth and our environment.

Sincerely,

Traci Cross
Executive Director of CV CAN



Wednesday, February 22, 2012

Alameda County Board of Supervisors
1221 Oak Street
Suite 536
Oakland, California 94612

Dear Board Members:

Health Care Services Agency supports the Alameda County Safe Disposal Draft Ordinance that will be considered by your Board for adoption.

Evidence shows that accidental poisonings and the diversion of drugs from medicinal to abusive use are increasing. Studies also show that improper disposal of unwanted pharmaceuticals is resulting in unintended yet harmful consequences to the environment. The need for safe and secure mechanisms to dispose of pharmaceuticals which encourages widespread use through convenient access is desirable.

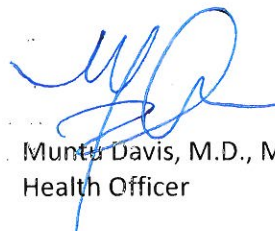
The safe disposal of pharmaceuticals should be considered a societal need for which the cost to provide should not fall to local government. After all, local government does not produce or profit from the sale of medications, it is the pharmaceutical companies that do. The manufacturers of many other products such as auto batteries paint and carpets have taken responsibility for end of life and residual product management. Health Care Services Agency considers it the pharmaceutical manufacturer's role to be a positive member of the community by shouldering this responsibility by designing and funding the disposal program as described in the draft ordinance.

In considering the adoption of the proposed ordinance, it is recommended the Board also be prepared to accept a mid-year budget adjustment from the Agency for Environmental Health. As part of this consideration it is recommended that General Fund allocation be considered to allow the program adequate time and resources to develop the infrastructure necessary to implement an effective program.

Sincerely,



Alex Briscoe,
Agency Director



Muntia Davis, M.D., MD, MPH
Health Officer

Ariu Levi
Director, Environmental Health Services