

New York State Department of Health Bureau of Narcotic Enforcement

Law Enforcement Collection Guidelines for the Surrender and Safe Disposal of Prescription Controlled Substances

The Drug Enforcement Administration (DEA) has revised its regulations to expand the options available to collect controlled substances from ultimate users for purpose of disposal, including: take-back events, mail-back programs and collection receptacle locations.

New York State Public Health Law Section 3343-b authorizes the Department of Health to oversee a program for the safe disposal of unused, unwanted or expired prescription controlled substances by consumers. Disposal sites shall be operated by law enforcement agencies, pharmacies and other Federal Drug Enforcement Administration authorized collectors on a voluntary basis. Those law enforcement agencies opting to participate in the safe disposal of controlled substances by consumers shall comply with the New York State Medication Drop Box Program requirements.

10 NYCRR 80.51 regulates the surrender and disposal of controlled substances. The Department offers the following guidance to law enforcement agencies who seek to offer the public options to dispose of their controlled substance medications.

Prescription Controlled Substance Collection Options Available to Law Enforcement:

1. New York State Medication Drop Box Program / Collection Receptacles
2. Take-Back Event
3. Mail-Back Program

Collection Limitations:

- Only those controlled substances listed in Schedule II, III, IV, or V that are lawfully possessed by an ultimate user or other authorized non-registrant person may be collected. Schedule I controlled substances, controlled substances that are not lawfully possessed by the ultimate user, and other illicit or dangerous substances are not permitted.
- Mail-back package and collection receptacle disposal of hypodermic syringes and needles are prohibited.

Law Enforcement Collection Options and Requirements Explained:

Federal, State, tribal, or local law enforcement may collect controlled substances from ultimate users and persons lawfully entitled to dispose of an ultimate user decedent's property using the following collection methods:

1. **New York State Medication Drop Box Program.**

Department of Health-approved collection receptacle located inside the law enforcement agency's physical address.

- a. Submit a completed law enforcement agency site-specific New York State Medication Drop Box Program Statement of Agreement and program administration proposal to BNE for review and approval.
 - i. Disposal of unused, unwanted or expired prescription controlled substances in a law enforcement collection receptacle is limited to members of the public only (i.e., private households). Neither DEA registrants nor residential health care facilities may dispose of controlled substances in law enforcement collection receptacles.
 - ii. Collection receptacles shall be maintained in a manner to prevent diversion.
 - 1) A collection receptacle shall be securely fastened to a permanent structure.
 - 2) The availability to dispose of medications into a collection receptacle shall be limited to the hours of program operation only.
 - 3) A law enforcement agent (sworn personnel) shall be in visual contact with the collection receptacle during all times of program operation.
 - 4) A law enforcement agent (sworn personnel) shall participate in the securing, transporting, and destruction of surrendered medications.
 - iii. All items surrendered to law enforcement must be destroyed at a municipal solid waste combustion facility approved by the New York State Department of Environmental Conservation. (See <http://www.dec.ny.gov/chemical/67804.html>)

2. **Take-back event.**

Department of Health-approved take-back event in accordance with federal Drug Enforcement Administration (DEA) regulations:

- a. Submit a completed 'Application to Conduct a Pharmaceutical Collection Event' (DOH-4446) to BNE for review and approval.
 - i. The law enforcement agency shall appoint a law enforcement officer employed by the agency to oversee the collection.
 - ii. Law enforcement officers employed and authorized by the law enforcement agency or law enforcement component of a Federal agency conducting a take back event shall maintain control and custody of the collected substances from the time the substances are collected from the ultimate user or person authorized to dispose of the ultimate user decedent's property until secure transfer, storage, or destruction of the controlled substances has occurred.

3. **Mail-back program.**

DEA-approved mail-back program in accordance with federal Drug Enforcement Administration regulations:

- a. Only law enforcement officers employed by the law enforcement agency or law enforcement component of a Federal agency shall handle packages received through an authorized mail-back program.
- b. Contact the DEA for additional information and requirements regarding participation in a mail-back program.

Requirements:

- Law enforcement take-back events and collection receptacles shall be operated on a voluntary basis and in collaboration with the New York State Department of Health. While law enforcement agencies are not required to offer the public options to dispose of their controlled substance medications, those that choose to conduct take-back events, mail-back programs and/or maintain a collection receptacle, must adhere to federal and State laws and regulations pertaining to those activities.
- Law enforcement agency take-back events and mail-back programs shall be administered and collection receptacles shall be maintained in a manner that prevents the diversion of controlled substances.
- Law enforcement controlled substance take-back events and mail-back programs shall be administered and collection receptacles shall be maintained in a manner that permits individual members of the public to voluntarily surrender controlled substances listed on Schedule II, III, IV or V of Section 3306 of New York State Public Health Law without identifying themselves.
- Law enforcement agencies that choose to conduct take-back events or mail-back programs and/or maintain a collection receptacle, shall maintain any records of removal, storage, or destruction of the controlled substances collected in a manner that is consistent with that agency's recordkeeping requirements for illicit controlled substances evidence.

The Department of Health bases these guidelines on the following federal and State laws and regulations:

- Title 21 Code of Federal Regulations Sections 1300, 1317
- Public Health Law Article 33 Section 3343-b
- Title 10 NYCRR Part 80 Section 80.51

Please understand that the Bureau of Narcotic Enforcement does not answer hypothetical questions, issue advisory opinions or offer legal advice. Such requests should be directed to your attorney. While we can share with you our commonly-accepted interpretations of applicable laws and regulations, the applicability of statutes and regulations depend ultimately on the distinct facts of a particular case.