



Texas State Board of Pharmacy

Annual Report FY2008

W. Benjamin Fry, R.Ph., FIACP, FACA
President (9/01/07-8/31/08)

Gay Dodson, R.Ph.
Executive Director/Secretary

333 Guadalupe Street, Suite 3-600
Austin, Texas 78701
512/305-8000
www.tsbp.state.tx.us

Board Mission

The statutory mission of the Texas State Board of Pharmacy is to promote, preserve, and protect the public health, safety, and welfare by fostering the provision of quality pharmaceutical care to the citizens of Texas, through the regulation of: the practice of pharmacy; the operation of pharmacies; and the distribution of prescription drugs in the public interest.

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Board Members

W. Benjamin Fry, R.Ph., FIACP, FACA
President (8/07/07-8/31/08)
San Benito
4/14/04-8/31/09

Kim A. Caldwell, R.Ph.
Vice President
McKinney
10/27/97 – 8/31/09

Jeanne D. Waggener, R.Ph.
Treasurer (8/08/07-8/31/08)
Waco
8/10/06 - 8/31/11

Buford T. Abeldt, Sr., R.Ph.
Lufkin
5/9/08-8/31/13

Rosemary Forester Combs
Public Member
El Paso
11/10/99 – 8/31/11

L. Suzan Kedron
Public Member
Dallas
5/9/08-8/31/13

Marcelo Laijas, Jr.
Public Member
Floresville
4/14/04 – 8/31/09

Alice G. Mendoza, R.Ph.
Kingsville
8/10/06 - 8/31/11

Dennis F. Wiesner, R.Ph.
Austin
5/9/08-8/31/13

Office of the Executive Director

Executive Director

Gay Dodson, R.Ph.

Executive Assistant

Kay Wilson, C.P.S.

Receptionist

Debra Dukes

Administrative Services & Licensing

Division Director

Cathy Stella, P.H.R.

Information Resources Manager

Steve Rapp

Chief Accountant

Jane Bennett

Network Specialist

Todd Hayek

Accountant II

Lisa Earl

Licensing Administrator

Carol Willess

Accountant III

Sandra Morton

Licensing Specialists

Lisa Ake
Estella Casarez
Rachel Glass
Diana Ruedas
Melinda Uballe
Misty Whitcomb

Staff Services Officer II

Robbi Dana

Purchaser

Darlene Guthrie

Professional Services

Division Director

Allison Benz, R.Ph., M.S.

Senior Administrative Assistant

Sherry Stevenson, C.P.S.

Legal

General Counsel

Kerstin Arnold, J.D.

Litigation Counsel

Julie Hildebrand, J.D.

Staff Attorney

Mitra Woody, J.D.

Caroline Hotchkiss, J.D.

Legal Assistants

Cheryl Sepulveda

Tabatha Lowden

Legal Assistant

Hearings Coordinator

Ann Driscoll

Technician Program Coordinator

Sharanya Rao

Enforcement

Division Director

Carol Fisher, R.Ph., M.P.A.

Assistant Dir. Of Enforcement

Paul Holder, Pharm.D., R.Ph.

Chief of Investigations

Robert Ebrom

Chief of Compliance

Ben Santana, R.Ph.

Program Specialist

Janelle Nastri

Enforcement Specialists

Patty Castillo

Becky Damon

Elaine Naivar

Brandy Plummer

Vacant

Enforcement Officers

George Redmond.

Linda Yazdanshenas

Enforcement Technicians

Debra Beall

Yvette Muniz

Noreen Trevino

Sr. Staff Investigator

Melissa Weeden

Investigative Case Manager

Amanda Huerta

Enf. Program Administrator

Robert Rivera, Ph.T.R.

Enf. Program Officer

Nelma Sanchez, Ph.T.R.

Investigators

Shawn Clark

Allen Corporon

Sarah Guevara, Ph.T.R.

Wayne Jones

Tara Rike

Vacant

Senior Compliance Officers

Mike Ethridge, R.Ph.

Iona Grant, R.Ph.

Compliance Specialist

Jessica Rodriguez, Ph.T.R.

STAFF

Compliance Inspectors

Sharon Dimmick, Ph.T.R.
Karen Guenther, Ph.T.R.
David Meryman. Ph.T.R.
Vacant

Administrative Assistants

Kelly Clark
Demetria Williams

Note: The organizational structure reflects the organization as of August 31, 2008.

Board-Appointed Task Forces and Committees

Task Force on Security in Class A (Community) Pharmacies

Ted Zieschang, R.Ph. (Chair)

Henry Ager, R.Ph.

Jay Bueche, R.Ph.

John Carson, R.Ph.

Jennifer Fix, M.B.A., R.Ph.

Leroy Knodel, Pharm.D.

Scott Lason, R.Ph.

Doug Moore

Joe Rascati, R.Ph.

H. Mike Schwencke, R.Ph.

Board Member Liaisons

W. Benjamin Fry, R.Ph., FIACP, FACA

Doyle E. High, R.Ph.

Task Force on Clinic Pharmacies (Class D)

Heidi Bragg, R.Ph. (Chair)

David Buck, M.D., M.P.H.

Alicia Gallegos

Retta Knox, R.N.

Roland Patry, R.Ph.

Martha Reagan, R.Ph.

David Wallace, R.Ph.

Shara Zatopek, R.Ph.

Board Member Liaison

Alice G. Mendoza, R.Ph.

Task Force on Internship Requirements

Jennifer Ridings Myhra, R.Ph. (Chair)

Betsy Carlisle, R.Ph.

Tammy Cohen, R.Ph.

Jeffrey Copeland, R.Ph.

Craig Cox, R.Ph.

Lourdes Cuellar, R.Ph.

Gary Frech, R.Ph.

Joel Garza, R.Ph.

Ray Hammond, R.Ph.

Scott Lason, R.Ph.

Charlene Offiong, R.Ph.

Kay J. Rider, R.Ph.

Kristie Vinklerek, R.Ph.

Charlotte Weller, R.Ph.

Board Member Liaison

Jeanne D. Waggener, R.Ph.

Task Force on Institutional Pharmacies (Class C)

Donna Burkett, R.Ph. (Chair)

Valerie Bandy, R.Ph.

Ann Bouras, R.Ph.

Linda Epley, R.Ph.

David Gentsch, R.Ph.

Eddie Goode, R.Ph.

Lee Hayes

Milton Jez, R.Ph.

Jim Maddock, R.Ph.

Tracy Ann Martinez, Ph.T.R.

Amy Othold, R.Ph.

Rusty Pendley, R.Ph.

Joyce Tipton, R.Ph.

Matthew Wall

LiAnne Webster, Ph.T.R.

Board Member Liaison

Alice G. Mendoza, R.Ph.

Texas State Board of Pharmacy (TSBP)/Texas Medical Board (TMB) Joint Committee on Narrow Therapeutic Index Drugs

W. Benjamin Fry, R.Ph., FIACP, FACA (Chair) (TSBP)

Jose Benavides, M.D. (TMB)

W. Michael Brimberry, R.Ph., M.B.A. (TSBP)

Melinda McMichael, M.D. (TMB)

Larry Price, D.O. (TMB)

Jeanne D. Waggener, R.Ph. (TSBP)

ANNUAL REPORT FY2008)

Board Mission

The statutory mission of the Texas State Board of Pharmacy is to promote, preserve, and protect the public health, safety, and welfare by fostering the provision of quality pharmaceutical care to the citizens of Texas, through the regulation of: the practice of pharmacy; the operation of pharmacies; and the distribution of prescription drugs in the public interest.

Board Philosophy

The Texas State Board of Pharmacy will assume a leadership role in regulating the practice of pharmacy and act in accordance with the highest standards of ethics, accountability, efficiency, effectiveness, and open communication. We affirm that regulation of the practice of pharmacy is a public and private trust. We approach our mission with a deep sense of purpose and responsibility. The public and regulated community alike can be assured of a balanced and sensible approach to regulation.

Board Strategic Goals (FY2005-2009)

- We will establish and implement reasonable standards for pharmacist and pharmacy technician education and practice, and for the operation of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas [Texas Pharmacy Act (Occupations Code, Sec. 551-566, 568-569)].
- We will assertively and swiftly enforce all laws relating to the practice of pharmacy to ensure that the public health and safety are protected from the following: incompetent pharmacists and pharmacy technicians; unprofessional conduct, fraud, and misrepresentation by licensees; and diversion of prescription drugs from pharmacies; and to promote positive patient outcomes through the following: reduction of medication errors by encouraging or requiring licensees to implement self-assessment programs and continuous quality improvement programs, including peer-review processes; and enforcement of rules relating to patient counseling and drug regimen review, including prevention of misuse and abuse of prescription drugs. [Texas Pharmacy Act (Occupations Code, Sec. 555-569), and Health and Safety Code, Chapter 483, Dangerous Drugs.]

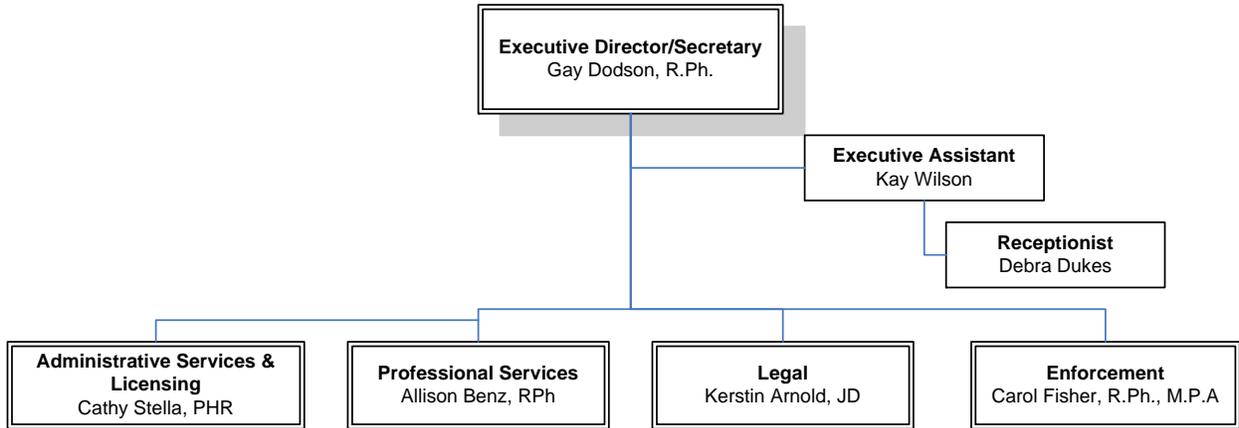
- We will establish and implement policies governing purchasing and public works contracting that foster meaningful and substantive inclusion of historically underutilized businesses (HUBs).

Board Structure

The Board's functional structure at the end of FY2008 was composed of the Office of the Executive Director and four Divisions:

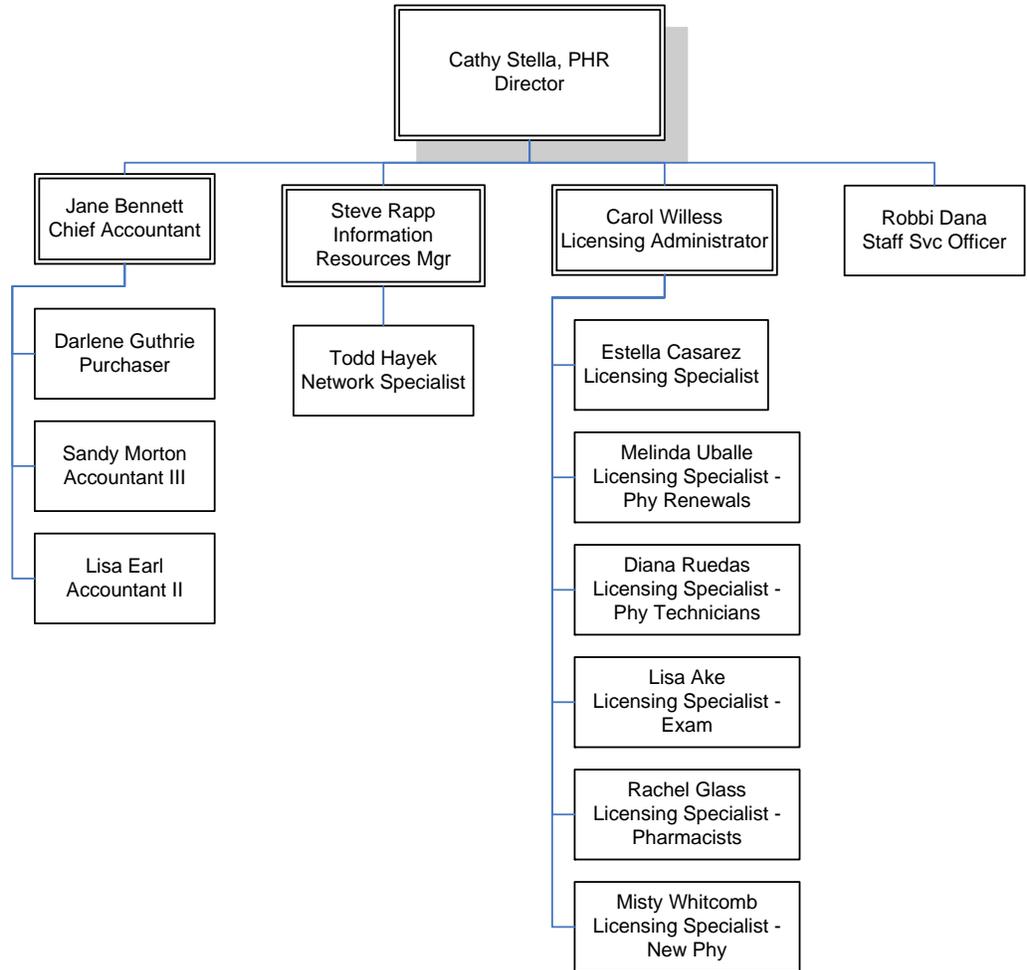
- Division of Administrative Services and Licensing;
- Division of Professional Services;
- Division of Enforcement; and
- Division of Legal Services.

Texas State Board of Pharmacy
Fiscal Year 2008



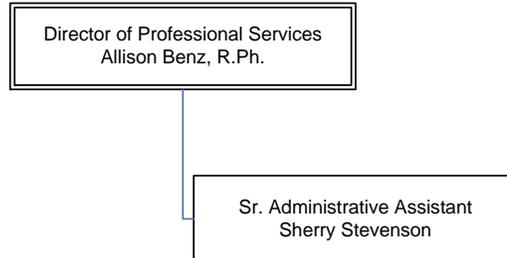
August 31, 2008

Texas State Board of Pharmacy
Administrative Services & Licensing Division
Fiscal Year 2008



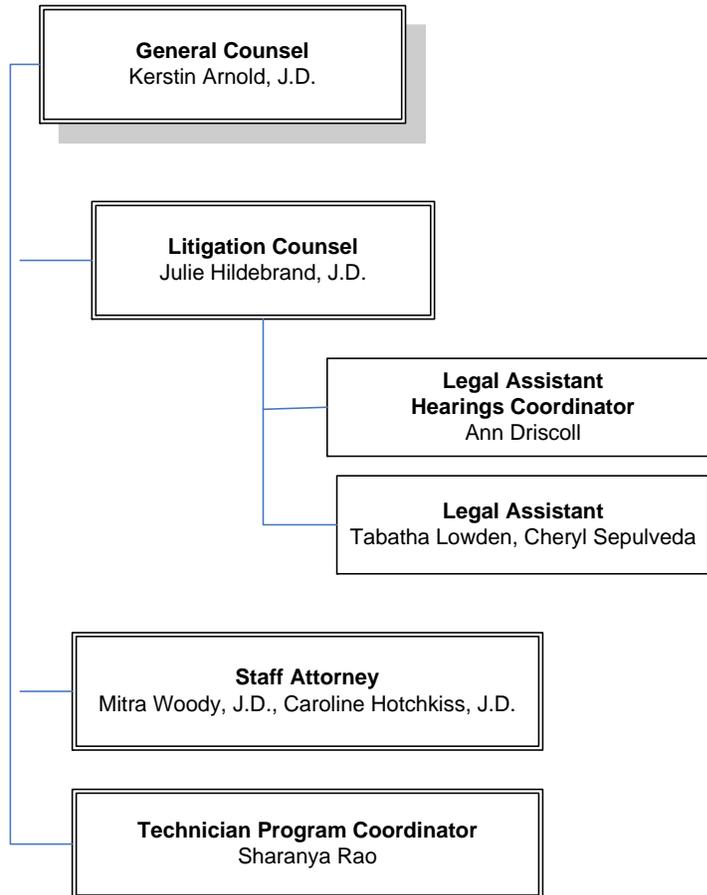
August 31, 2008

Texas State Board of Pharmacy
Professional Services Division
Fiscal Year 2008



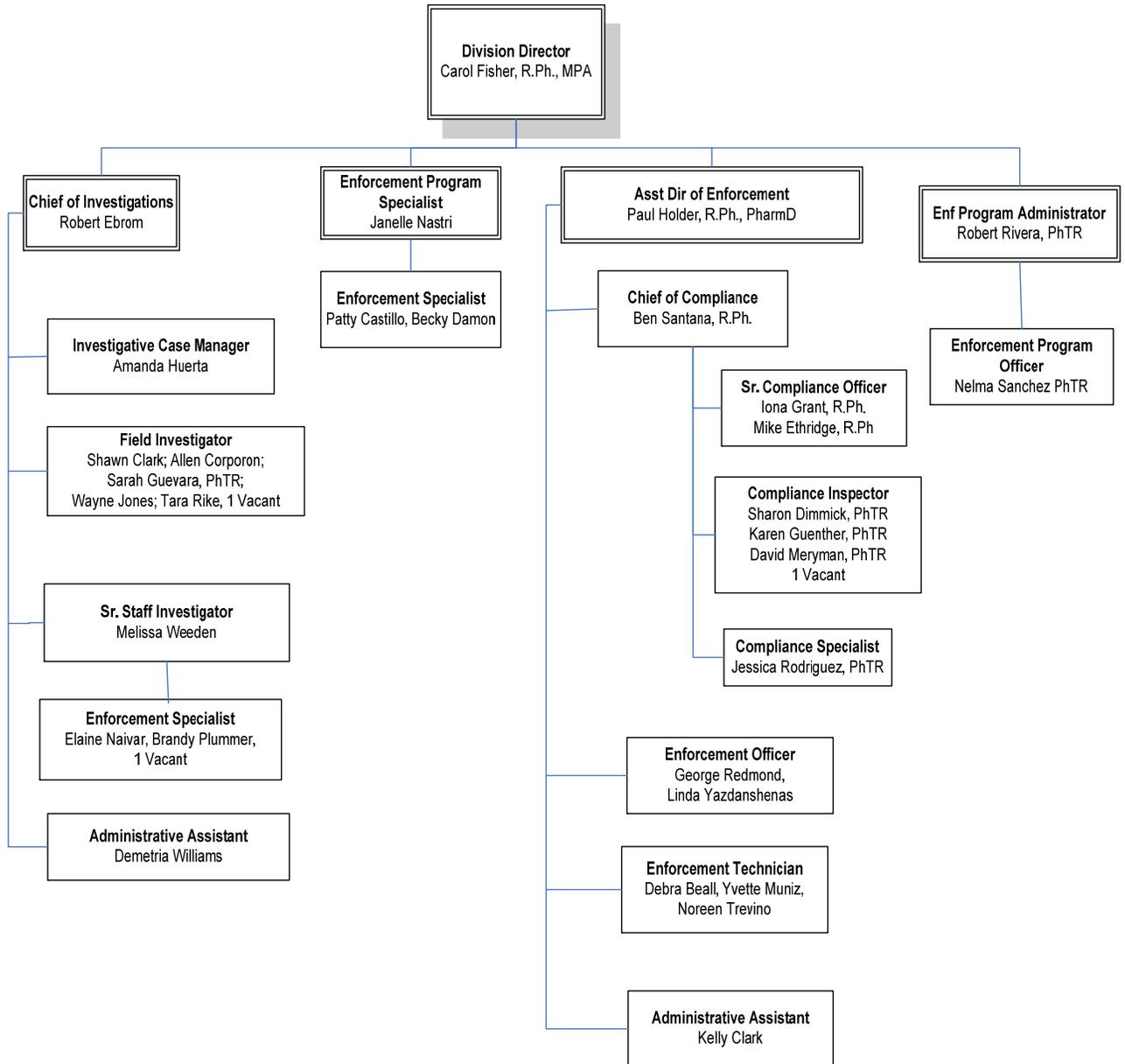
August 31, 2008

Texas State Board of Pharmacy
Legal Division
Fiscal Year 2008



August 31, 2008

Texas State Board of Pharmacy
Enforcement Division
Fiscal Year 2008



August 31, 2008

FY2008 FISCAL REPORT

The attached report represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2008 (September 1, 2007 - August 31, 2008). A more detailed accounting of the agency's unaudited financial report, which includes all fund types and account groups, a complete statement of revenues and expenditures, and changes in fund balance, can be found in the "*FY2008 Annual Financial Report.*"

It is important to note that as of August 31, 2008, the unexpended balance for FY2008 was approximately \$9,785 or .23% under budget. The primary source of this unexpended balance was in the testing of compounded products. This program began during the latter part of FY2008 and it is anticipated that the full amount of this program will be expended in FY2009.

TEXAS STATE BOARD OF
PHARMACY EXPENDITURES - Fiscal
Year 2008

Code	Description	Budget	Expended as 08-31-08	Accrual Adjustments	Capital Bdgt Unexpended Balance	Remaining Budget	Percent Remaining
1008	(a) Professional Fees & Svcs (Other)	66,343.71	57,558.43	-1,000.00		9,785.28	14.75%
1010	(b) Professional Fees & Svcs (TPA)	121,813.00	121,813.00			0.00	0.00%
3002	Gas, Other Fuels & Lubricants	39,018.37	39,018.37			0.00	0.00%
3003	Vehicles - Maintenance	8,242.46	8,242.46			0.00	0.00%
3004	Consumable Supplies & Materials	34,197.46	34,197.46			0.00	0.00%
3005	Postage	44,902.94	44,902.94			0.00	0.00%
3006	Telephone	37,945.49	37,945.49			0.00	0.00%
3014	Subscriptions	8,589.50	8,589.50			0.00	0.00%
3015	Postage - Newsletter	2,259.76	2,259.76			0.00	0.00%
3018	Travel - Board Members (Service)	26,929.05	27,087.15	-158.10		0.00	0.00%
3019	Travel - Board Members (Conference)	15,728.63	15,784.73	-56.10		0.00	0.00%
3027	Travel - State Vehicle	974.68	974.68			0.00	0.00%
3028	Travel - Staff (Service)	99,280.08	99,754.89	-474.81		0.00	0.00%
3037	Travel - Conference - State Vehicle	270.68	270.68			0.00	0.00%
3038	Travel - Staff (Conference)	9,119.89	9,313.33	-193.44		0.00	0.00%
3039	Travel - Staff (Conf Out Of State)	2,667.81	2,667.81			0.00	0.00%
3516	Membership Fees & Dues	2,019.00	2,019.00			0.00	0.00%
3517	Admin Support Service & Other	960.00	960.00			0.00	0.00%
3518	Admin Support Service	75,474.10	75,474.10			0.00	0.00%
3521	Criminal Investigative Expense	598.70	598.70			0.00	0.00%
3534	Freight & Delivery Service	3,233.97	3,218.34	15.63		0.00	0.00%
3535	Maint & Repair - Furn & Equip	4,290.78	4,290.78			0.00	0.00%
3536	Rental of Furn & Equip	9,997.50	9,997.50			0.00	0.00%
3537	Rental of Space	2,752.20	2,752.20			0.00	0.00%
3538	Bonds & Insurance	8,250.00	7,321.00	929.00		0.00	0.00%
3539	Maint & Repair - Building	14,899.43	14,899.43			0.00	0.00%
3540	Reproduction & Printing	36,646.08	46,628.03	-9,981.95		0.00	0.00%
3541	Printing - Newsletter	2,900.75	0.00	2,900.75		0.00	0.00%
3545	Computer Expenses	135,450.73	135,450.73			0.00	0.00%
3550	Hearing Expenses	0.00	0.00			0.00	0.00%
3570	Registration Fees	8,079.95	8,079.95			0.00	0.00%
3571	Board Member Registration	5,560.00	5,560.00			0.00	0.00%
3581	F & E - Not Capitalized or Inventoried	49,573.67	49,921.22	-347.55		0.00	0.00%
3586	Cap Bdgt Project - F&E -Inventoried	48,225.13	46,971.88		-1,253.25	0.00	0.00%
3587	Computer Equipment - Capitalized	6,248.28	6,248.28			0.00	0.00%
3588	Books & Recorded Materials	2,233.39	1,885.84	347.55		0.00	0.00%
3590	Miscellaneous (HPC Transfer & Fees)	24,765.45	24,773.45	-8.00		0.00	0.00%
3595	Awards	1,727.29	1,727.29			0.00	0.00%
5001	Purchase of Vehicles	69,498.75	64,218.66		-5,280.09	0.00	0.00%
7001	Exempt Salaries	105,000.00	105,000.00			0.00	0.00%
7002	Classified Salaries - Full Time	2,635,251.21	2,635,251.21			0.00	0.00%
7048	Performance or Merit Bonus	122,310.00	110,000.00	12,310.00		0.00	0.00%
7017	Merit Raise	1,110.17	1,110.17			0.00	0.00%
7020	Hazardous Pay	6,100.00	6,100.00			0.00	0.00%
7021	Overtime Pay	21,191.08	21,191.08			0.00	0.00%
7022	Longevity	55,680.00	55,680.00			0.00	0.00%
7023	Lump Sum Termination Payment	6,238.43	6,238.43			0.00	0.00%
7025	Compensatory Per Diem	7,129.00	7,093.20	35.80		0.00	0.00%
7219	TexasOnLine Fee	206,771.00	206,771.00			0.00	0.00%
7947	State Office of Risk Mgmt Refund	5,670.99	5,670.99			0.00	0.00%
7984	Unemployment Compensation	2,646.00	2,646.00			0.00	0.00%
	TOTAL ADMIN, LIC & ENF	4,206,766.54	4,186,129.14	4,318.78	-6,533.34	9,785.28	0.23%

Office of the Executive Director

This FY2008 Annual Report reflects the objectives accomplished and activities conducted by the agency necessary to implement its *Strategic Plan*. The agency continued to enjoy an excellent reputation with a broad range of customers as a consumer protection advocate and also has the support of its activities by the regulated profession.

The numerous accomplishments achieved by TSBP staff are highlighted at the beginning of each division report. Although specific activities are highlighted under each Division Director's Objectives, TSBP experienced the following major accomplishments and constraints in FY2008.

FY2008 SIGNIFICANT ACCOMPLISHMENTS

1. The agency accomplished or partially accomplished 87 of its 88 objectives [82 accomplished (93.2.%), five partially accomplished (5.7%), and one not accomplished (1%)]. In addition, the agency also met or exceeded 11 (91.7%) of its 12 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board (LBB). Because the agency met or exceeded at least 80% of its key performance measurers, eligible agency employees received an enhanced compensation award for their direct contributions towards the agency's achievement.

2. The agency successfully implemented a project that enabled TSBP to replace paper notebooks containing background material for Board Meetings with electronic notebooks. Notebook documents are now published and shared electronically with Board members and staff for use on laptop computers at the meetings. Electronic documents are also available to the public on the TSBP website and viewable by the public during a board meeting or public hearing.

3. The Pharmacy Technician Registration Program continues to grow resulting in the agency licensing 82,942 individuals, which is an increase of 196% since FY2003 as indicated below.

Licensee Information FY2003 – FY2008							
	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	% Increase
Pharmacies	5,794	6,014	6,107	6,201	6,315	6,424	11%
Pharmacists	21,570	22,211	22,661	23,323	23,939	24,586	14%
Pharmacy Technicians	--	22,164	26,664	30,091	32,106	32,914	49% (since FY04)
Pharmacy Technician Trainees	--	--	--	--	10,399	18,093	74% (since FY07)
Pharmacist Interns	700 (Estimate)	752	804	822	886	925	32%
Totals	28,064	51,041	56,236	60,437	73,645	82,942	196%

OFFICE OF THE EXECUTIVE DIRECTOR

4. As reflected in the chart below, TSBP received and closed more complaints in FY2008 than in any prior fiscal year (see Enforcement Ongoing Objective #3 for further information regarding complaints that were closed by TSBP in FY2008).

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY03	1,935		1,887		98%	153 Days	
FY04	4,475	+131%	3,018	+60%	67%	118 Days	-23%
FY05	3,086	-31%	3,327	+10%	108%	196 Days	+66%
FY06	3,550	+15%	3,387	+2%	95%	207 Days	+6%
FY07	5,849	+65%	4,980	+47%	85%	185 Days	-11%
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%

5. Approximately 98% of the disciplinary cases against pharmacists and pharmacies and 99% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders or default Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and expenditures.
6. The following TSBP Board Members and staff were appointed to offices, received honors, or received recognition in FY2008.
- A. Board member Kim A. Caldwell, R.Ph., was appointed as a chair of the National Association of Boards of Pharmacy's Task Force on Continuous Quality Improvement.
 - B. Board member W. Benjamin Fry, R.Ph., FIACP, FACA, was appointed as a member of the National Association of Boards of Pharmacy's Task Force on Continuous Quality Improvement.

Mr. Fry received the Dean's Special Recognition Award from the University of Houston, College of Pharmacy.
 - C. Board member Marcelo Laijas, Jr. was appointed as an alternate member of the National Association of Boards of Pharmacy's Committee on Law Enforcement/Legislation.
 - D. Board member Alice Mendoza, R.Ph., was appointed as a member of the National Association of Boards of Pharmacy's Task Force on Continuous Quality Improvement.
 - E. Board member Jeanne D. Waggener, R.Ph., was appointed as a member of the National Association of Boards of Pharmacy's Committee on Constitution and Bylaws.
 - F. Executive Director/Secretary Gay Dodson, R.Ph., was appointed to serve as chair of the National Association of Boards of Pharmacy's Committee on Constitution and Bylaws.

FY2008 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The Pharmacy Technician Registration Program continues to grow, resulting in the following increases in workload for the agency.

Number of Licensees FY2003 – FY2008							
	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	% Increase
Pharmacies	5,794	6,014	6,107	6,201	6,315	6,424	11%
Pharmacists	21,570	22,211	22,661	23,323	23,939	24,586	14%
Pharmacy Technicians	--	22,164	26,664	30,091	32,106	32,914	49% (since FY04)
Pharmacy Technician Trainees	--	--	--	--	10,399	18,093	74% (since FY07)
Pharmacist Interns	700 (Estimate)	752	804	822	886	925	32%
Totals	28,064	51,041	56,236	60,437	73,645	82,942	196%

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY03	1,935		1,887		98%	153 Days	
FY04	4,475	+131%	3,018	+60%	67%	118 Days	-23%
FY05	3,086	-31%	3,327	+10%	108%	196 Days	+66%
FY06	3,550	+15%	3,387	+2%	95%	207 Days	+6%
FY07	5,849	+65%	4,980	+47%	85%	185 Days	-11%
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%

Numbers of Disciplinary Orders FY2003 – FY2007				
Year	Pharmacists	Pharmacies	Pharmacy Technicians	Total
FY 2003	142	71	-	213
FY2004	155	80	234	469
FY2005	119	53	380	552
FY2006	144	63	268	475
FY2007	213	87	348	648
FY 2008	171	82	310	563
% Increase (03 – 08)	20%	16%	33%% (5 yr.)	164%

FY2008 ANNUAL REPORT

GOAL

To provide policy advice to the Board, implement Board policies, and manage the organization in a manner that will accomplish the stated mission, goals, and objectives of the agency.

Objectives (New)

1. **To review and implement legislation passed by the 80th Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2008.**

Status: **ACCOMPLISHED**

Comment: A chart containing the action steps to implement provisions of bills passed during the 2007 Legislative Session was developed with timelines for action. An updated chart was presented to the Board at each meeting showing progress of the implementation. The following was accomplished regarding this objective:

A. HB 1 regarding appropriations – The bill provided funding for the agency including the following new items:

- (i) a salary increase for employees;
- (ii) five additional FTEs;
- (iii) funding for the testing of compounded products;
- (iv) funding for the electronic meeting process;
- (v) increase in funding for the PRN program; and
- (vi) an increase in the salary of the Executive Director.

A proposed budget for FY2008, including all the above items, was approved at the August 2007 meeting.

B. HB 948 regarding prescription labeling – The bill required the Board to adopt rules that “require the label on a dispensing container to be in plain language and printed in an easily readable font size for the consumer”; and “Specify that a pharmacist must provide information to a consumer when dispensing a prescription.” The information must be written in plain language; relevant to the prescription; and printed in an easily readable font size. Rules were adopted at the February 2008 meeting and published in the February 29, 2008, issue of the *Texas Register* and became effective on March 6, 2008.

C. HB 1676 regarding a Public Awareness Campaign on Buying Drugs on the Internet – The bill requires the office of the Attorney General (AG), in consultation with the Texas State Board of Pharmacy, pharmacy trade associations, and consumer advocates, to develop a public awareness campaign to “educate consumers concerning solicitations for the sale of prescription drugs that are made using email or the Internet.” The AG may accept gifts, grants, and donations to support the campaign.

OFFICE OF THE EXECUTIVE DIRECTOR

The AG's office contacted TSBP regarding contacts for the pharmacy trade associations and setting a meeting to discuss the bill and issued the first press release regarding online pharmacies in September 2007. TSBP will continue to work with the AG regarding this education campaign.

- D. SB 625 regarding the Substitution of Drugs – This bill amends several sections of the Texas Pharmacy Act to: (1) Create a joint committee composed of an equal number of members from TSBP and Texas Medical Board (TMB); and (2) Require the committee to make a recommendation to TSBP on whether to include a drug on the list of narrow therapeutic index (NTI) drugs as required by new Section 562.0142. The committee must make a recommendation to TSBP in sufficient time to allow the Board to adopt rules and issue findings not later than July 1, 2008.

The joint committee was appointed prior to the deadline of September 14, 2007. This committee held a public hearing on November 19, 2007, concerning the addition of transplant immunosuppressants to a list of NTI drugs. In addition, the joint committee met on January 14, 2008, to consider the addition of anti-seizure/anti-epileptic drugs to a list of NTI drugs. The joint committee recommendation to NOT add transplant immunosuppressant or anti-seizure/anti-epileptic drugs to a list of NTI drugs was presented at the February 5-6, 2008, meeting. The Board voted to propose rules to implement the committee recommendation, and the rules were published in the March 21, 2008, issue of the *Texas Register*. The rules were adopted at the May 2008 meeting and became effective on May 8, 2008.

- E. SB 997 regarding out-of-state controlled substance prescriptions – This bill amends Section 481.074(h) of the Texas Controlled Substances Act to allow pharmacists to dispense prescriptions for controlled substances under a written, oral, or telephonically communicated prescription from an out-of-state practitioner. Draft rules were approved at the October 30-31, 2006, meeting and published in the November 23, 2007, issue of the *Texas Register*. The proposed rules were adopted at the February 2008 meeting and became effective on March 6, 2008.

- F. SB 1274 regarding the flavoring of prescriptions – This bill gives the Board the authority to adopt rules governing the procedures for a pharmacist, as a part of compounding, to add flavoring to a commercial product at the request of the patient or patient's agent. Draft rules were approved at the October 30-31, 2007, meeting and published in the November 23, 2007, issue of the *Texas Register*. The proposed rules were adopted at the February 2008 meeting and became effective on March 6, 2008.

- G. SB 1658 regarding the emergency dispensing of 30 days supply of prescription drugs – This bill amends Section 562.054 of the Texas Pharmacy Act and Section 481.074 of the Texas Controlled Substances Act to allow, in the event of a natural or manmade disaster, pharmacists to dispense up to a 30-day supply of a prescription drug, other than Schedule II drugs. Draft rules were approved at the February meeting and published in the February 29, 2008, issue of the *Texas Register*. The proposed rules

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were adopted at the August 2008 meeting and became effective on September 7, 2008.

H. SB 1879 regarding amendments to the Texas Controlled Substances Act –

This bill made a number of amendments to the Texas Controlled Substances Act, the majority of which the only action required by the Board was the notification and education of pharmacists as to the new requirements. Notification of the changes was published in the Fall 2007 issue of the *Newsletter*. The bill also included three changes that required specific action by TSBP. These changes were as follows:

- (1) The bill deleted the requirement that a Schedule II prescription may not be filled after seven days and specified that the director of DPS in consultation with TSBP and TMB is required to adopt a rule establishing the period after the issue date that a prescription may be filled. DPS contacted TSBP on July 16, 2007, regarding the time period and TSBP agreed to set this time limit to 21 days. DPS published proposed rules in the November 30, 2007, issue of the Texas Register. On December 31, 2007, TSBP issued a letter supporting the DPS proposed rule regarding the dispensing of CII prescriptions for 21 days after issuance. The rules were adopted by DPS and became effective on March 12, 2008.
- (2) The bill created an advisory committee to advise DPS on implementation of the monitoring program for Schedule III-V prescriptions. One member of TSBP was included as a member of the Advisory Committee. On January 9, 2008, TSBP received a letter from DPS regarding appointment of a TSBP member to the Advisory Committee, and President Fry appointed Vice President Kim Caldwell to serve on this committee. The Advisory Committee held meetings on April 16, 2008, May 22, 2008, and August 15, 2008.
- (3) The bill established a Pain Treatment Review Committee, including a pharmacist member of TSBP who serves as a non-voting resource member. The committee was to study the provisions of the state laws that relate to the administration of prescription medications, controlled substances, and the needs of patients for effective pain control and management and examine how the certain statutes affect public health needs, the professional medical community, and persons affected by acute, chronic, or end-of-life pain. This committee was not established during FY2008.
- (4) The bill requires TSBP and four other agencies to submit a report to the Senate Committee on Health and Human Services and the House Public Health Committee that details the number and type of actions relating to the prosecution of violations of the Texas Controlled Substances Act. The initial report is due November 11, 2007, and an update is due on May 1 and November 1 of each year. The first report was delivered to Senator Nelson and Representative Delisi on November 1, 2007. A subsequent report was delivered on April 29, 2008.

- I. SB 1896 regarding the recycling of prescription drugs in prisons and jails - This bill amends the Texas Pharmacy Act to allow the return and re-dispensing of prescription drugs from penal institutions in the same manner nursing homes can return drugs. At the May 2007 meeting, the Board voted to propose the rules. The rules were published in the June 15, 2007, issue of the *Texas Register*. The Board adopted the rules at the August 7-8, 2007, meeting and the rules became effective on September 18, 2007.

2. **To assist and participate with the Board in updating and preparing the TSBP Strategic Plan for the FY2009-2013 period and submitting the plan to the Governor's Office of Budget, Planning, and Policy and Legislative Budget Board by the due date.**

Status: ACCOMPLISHED

Comment: The *Strategic Plan for the 2009-2013* period was the product of the following:

- A. The 2007-2011 Strategic Plan was reviewed by the Board Members and agency staff (Internal Assessment) and a significant amount of input was provided regarding issues and updates that needed to be addressed.
- B. Comments were solicited from key pharmacy professional organizations, consumer advocacy groups, governmental agencies, and academic institutions.
- C. After receipt of the comments, the agency researched the trends and resulting issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years. The Board Members worked with staff to develop or update Issue Statements. The Board approved the final draft of the FY2009-2013 Strategic Plan at the May 2008 Board Business Meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

3. **To direct the preparation of a proposed budget for the FY2010-2011 biennium for review and approval by the Board at the 2008 Board Budget Meeting.**

Status: ACCOMPLISHED

Comment: The Executive Committee reviewed staff's recommendations for the exceptional items in the *Legislative Appropriation Request* (LAR) for FY2010-2011 in April 2008. At the April meeting the Executive Committee made a few recommendations for changes in the request. The full Board met in May 2008 to review and approve the recommendations of the Executive Committee for the agency's FY2010-2011 LAR. The exceptional items approved by the Board are the agency replacement of the agency's database system; an increase to the Executive Director's salary; 14 new positions to maintain services; equity increases for key employees; funding for a merit salary program; increased funding for the testing of compounded products; and the Pharmacy Recovery Network.

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The *Legislative Appropriation Request* was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy (GBO) by the due date of July 30, 2008. The LAR included the items approved by the Board in May and July 2008, as well as base-line funding at 100% and funding at 90% of the agency's current funding.

4. To direct the submission of the agency's FY2010-2011 *Legislative Appropriation Request* and corresponding performance measures by the due date.

Status: ACCOMPLISHED

Comment: The *Legislative Appropriation Request* was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy (GBO) by the due date of July 30, 2008. The LAR included the items approved by the Board in May and July 2008, as well as base-line funding at 100% and funding at 90% of the agency's current funding.

5. To coordinate and participate in the orientation of new Board Members within 90 days of appointment by the Governor.

Status: ACCOMPLISHED

Comment: On May 9, 2008, the Governor announced the appointment of three new Board Members (Buford T. Abeldt, Sr., R.Ph., community pharmacist from Lufkin, Texas; Dennis F. Wiesner, R.Ph., community pharmacist from Austin, Texas; and L. Suzan Kedron, public member from Dallas, Texas). The orientation for the new members was held on June 30 - July 1, 2008.

Objectives (Ongoing)

- To manage and monitor the agency's performance and operational efficiency throughout FY2008.**

Status: ACCOMPLISHED

Comment: The agency accomplished or partially accomplished all (100%) of its 88 objectives [83 accomplished (94.3%) and 5 partially accomplished (5.7%)]. In addition, the agency also met or exceeded 11 (91.7%) of its 12 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board (LBB) as indicated below.

Performance Measure	FY08 Projected Performance	FY08 Performance Attained	Projected Target Met?*
A. Goal: Maintain Standards - To establish and implement reasonable standards for pharmacist education and practice, and for the operations of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas.			
Outcome (Results/Impact)			
Percent of Licensees with No Recent Violations	95%	96.20%	Exceeded
Percent of Licensees Who Renew Online	84.58%	87.21%	Exceeded
A.1.1. Strategy: Licensing - To operate a timely, cost-effective application and renewal licensure system for pharmacies and pharmacists.			
Output (Volume)			
Number of New Licenses Issued to Individuals	1,091	1,058	Met
Number of Licenses Renewed (Individuals)	11,696	12,260	Exceeded
Efficiencies			
Average Licensing Cost Per Individual License Issued	\$11.89	\$10.43	Exceeded
Average Licensing Cost Per Facility License Issued	\$41.09	\$39.20	Exceeded
Explanatory			
Total Number of Business Facilities Licensed	6,292	6,424	Exceeded
B. Goal: Enforce Regulations - To assertively and swiftly enforce all laws relating to the practice of pharmacy to ensure that the public health and safety is protected from the following: incompetent pharmacists; unprofessional conduct; fraud; and misrepresentation by licensees; and diversion of prescription drugs from pharmacies; and to promote positive patient outcomes through the following: reduction of medication errors by encouraging or requiring licensees to implement self-assessment programs and continuous quality improvement programs, including peer review processes; and enforcement of rules relating to patient counseling and drug regimen review, including prevention of misuse and abuse of prescription drugs.			
Outcome (Results/Impact)			
Percent of Complaints Resulting in Disciplinary Action	15.00%	10.80%	Met

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B.1.1. Strategy: Enforcement - Emphasize preventative enforcement by conducting compliance inspections of pharmacies; providing technical assistance, licensee information, and educational programs; receiving, investigating, and resolving complaints; and monitoring compliance with disciplinary orders resulting from Board adjudication.

Output (Volume)			
Number of Jurisdictional Complaints Resolved	3,988	5,303	Exceeded
Efficiencies			
Average Time for Jurisdictional Complaint Resolution	180	197	Not Met
Explanatory			
Number of Jurisdictional Complaints Received	3,500	5,687	Exceeded
B.1.2. Strategy: Peer Assistance - Operate a peer assistance program.			
Output (Volume)			
Number of Licensed Individuals Participating in a Peer Assistance Program	160	162	Exceeded

* Within a 5% variance, TSBP's actual performance was either: equivalent to projected performance ("Met"); better than projected performance ("Exceeded"); or fell below projected performance ("Not Met").

- To coordinate the development of proposed goals and objectives and budget for FY2008 based on the *Strategic Plan* and projected budget, for submission to the Board two weeks prior to the 2008 Annual Policy Meeting.**

Status: ACCOMPLISHED

Comment: A proposed budget, including revenue projections, and Goals and Objectives for the agency were presented and approved at the August 2008 Board Business Meeting.

- To direct TSBP's "*lead agency approach*" to help assure coordination of TSBP activities with those of other state and federal agencies involved in the regulation of the practice of pharmacy throughout FY2008.**

Status: ACCOMPLISHED

Comment: The agency's Enforcement, Compliance, Investigations, and Legal staffs worked extensively with federal, state, and local regulatory agencies. (See Enforcement Division's Ongoing Objective #4, Legal Division's Ongoing Objective # 8, and Professional Services Division's Ongoing Objective #8 for details of these cooperative efforts.)

- To review all federal statutes, regulations, and policies that may impact the regulation of the practice of pharmacy and make timely recommendations to the Board for implementation of any required Board actions throughout FY2008.**

Status: ACCOMPLISHED

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Comment: The Executive Director and agency staff monitored the activities of the federal Food and Drug Administration regarding the illegal importation of prescription drugs, Internet pharmacies, counterfeit prescription drugs, and compounding pharmacies. Notices of these activities were forwarded to the Board Members throughout the year.

5. As the Executive Director of the Board, throughout FY2008, to:

- A. represent Board policies and programs to local, state, and national pharmacy, health-related, and consumer organizations;**
- B. act as the Board’s liaison to the pharmacy professional associations;**
- C. continue to take a proactive role in the operation of the Health Professions Council; and**
- D. continue to support and participate in the Texas Pharmacy Congress.**

Status: ACCOMPLISHED

Comment:

- A. The Executive Director gave 16 interviews with the press concerning a number of issues as follows:

Date	Media/Subject
9/28/2007	Telephone interview with David Schecter of WFAA TV in Dallas regarding the sale of pseudoephedrine.
10/2/2007	Follow-up telephone interview with David Schecter of WFAA TV in Dallas regarding the sale of pseudoephedrine.
10/17/2007	Telephone interview with Julie Griffin and Steve Simon of KTRK TV in Houston regarding DEA/TSBP joint investigation.
11/13/2007	Telephone interview with Kathryn Eban of Portfolio Magazine regarding contract pharmacies in hospitals.
11/16/2007	Telephone interview with Diane Dean of Channel 12 in Beaumont regarding on-line pharmacies.
12/5/2007	Media conference call from the American Society of Health-System Pharmacists’ Annual Meeting regarding pharmacy technicians.
12/6/2007	Telephone interview with KXAN TV in Austin regarding pharmacy technician stealing morphine from a hospital.
12/17/2007	Telephone interview with Brian Sasser of KPRC TV in Houston regarding pain clinics.
1/11/2008	Telephone interview with KHOU, Channel 11 in Houston regarding pain clinics.
1/14/2008	Telephone and email interview by Kevin McCoy of USA Today regarding the reporting of dispensing errors.
1/15/2008	Telephone interview with Ryan O’Donnell of News 4 in San Antonio regarding pharmacy lawsuits
2/25/2008	Telephone interview with the Midland Reporter-Times regarding internet pharmacies.
3/25/2008	Telephone interview with the Fort Bend Herald regarding the “pain cocktail.”

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Date	Media/Subject
5/7/2008	Telephone interview with Cindy Colt of the Waco Tribune Herald regarding destruction of drugs in nursing homes.
8/21/2008	Telephone interview with David Fitzpatrick regarding internet pharmacies.
8/25/2008	Telephone interview with Jason Whitley of WFAA TV in Dallas regarding dispensing error in hospitals.

B. The Executive Director gave 11 presentations to 1,090 persons, as indicated below.

Date	Name of Association/Location of Meeting	Attendance (Approximate)
10/19/2007	Texas Federation of Drug Stores Annual Meeting – San Antonio	30
12/13/2007	Capitol Area Pharmacy Association – Austin	40
2/23/2008	Houston Pharmacists regarding Pain Clinic Prescriptions – Houston	40
4/6/2008	Board Forum at the Texas Society of Health-System Pharmacists Meeting – Dallas	100
4/12/2008	American Association of Pharmacy Technicians Annual Meeting – San Antonio	60
4/26/2008	West Texas Pharmacy Association – San Angelo	100
6/2/2008	Taping for American Society of Health-System Pharmacists Continuing Education regarding Pharmacy Technicians – Chicago	Unknown
7/8/2008	SERTOMA Club – Round Rock	30
7/11/2008	Pharmacy Technician Educators' Council Annual Meeting – Austin	100
7/18/2008	Board Update and Forum Texas Pharmacy Association's Annual Meeting – Galveston	500
8/9/2008	University of Texas College of Pharmacy's Preceptor Conference – Salado	120
Total		1,120

C. The Executive Director attended 35 meetings or conferences representing the agency as indicated below.

Date	Meeting
10/24-26/2007	NABP/AACP District VI Annual Meeting – Kansas City, MO
11/9/2007	Meeting with the State Auditor's office regarding the audit of the TSBP Complaint Process – Austin
11/13/2007	Task Force on Internship – Austin
11/19/2007	Meeting of the Narrow Therapeutic Index Committee – Austin
11/20/2008	Meeting with the Epilepsy Foundation regarding Narrow Therapeutic Index Drugs – Austin

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Date	Meeting
11/20/2008	Meeting with Section of Compounding Pharmacists lobbyist regarding the TSBP suggestions for law changes – Austin
1/9/2008	Meeting with UT regarding improving the Survey of Organizational Excellence – Austin
1/14/2008	Meeting of the Narrow Therapeutic Index Committee – Austin
1/16/2008	Meeting with Section of Compounding Pharmacists' Lobbyists regarding Narrow Therapeutic Index Drugs – Austin
1/22/2008	Task Force on Class D Pharmacies – Austin
1/22/2008	Meeting with the State Auditor's office regarding the audit of the TSBP Complaint Process
1/25/2008	Capitol Area Pharmacy Association meeting – Austin
2/4/2008	Meeting with Tony Gilman and President Ben Fry regarding the February Board meeting – Austin
2/5/2008	Health Professions Council Administration Committee Meeting – Austin
2/15/2008	Meeting with the State Auditor's office regarding the audit of the TSBP Complaint Process
3/17/2008	Hobby Building Tenants meeting regarding Security – Austin
3/18/2008	Meeting with Texas Department of State Health Services regarding Sterile Compounding Rules – Austin
3/31/2008	Telemedicine Advisory Committee Meeting – Austin
4/10/2008	Task Force on Class C Pharmacy Meeting – Austin
4/14/2008	Meeting with Texas Department of State Health Services regarding the National Drug Stockpile – Austin
4/14/2008	Meeting with Barr Laboratories regarding Narrow Therapeutic Index Drugs – Austin
4/16/2008	Department of Public Safety's Advisory Committee Meeting regarding implementation of SB 1879 – Austin
4/28/2008	Meeting with Texas Pharmacy Association staff regarding Professional Recovery Network – Austin
5/5/2008	Conference Call with lobbyist regarding Narrow Therapeutic Index Drug rules – Austin
5/9/2008	Meeting with Houston Drug Enforcement Administration staff – Austin
5/13/2008	Meeting with the State Auditor's office regarding the audit of the TSBP Complaint Process – Austin
5/16-20/2008	National Association of Boards of Pharmacy Annual Meeting – Baltimore
5/22/2008	Department of Public Safety's Advisory Committee Meeting regarding implementation of SB 1879 – Austin
5/27/2008	Meeting with the Department of Aging and Disability regarding prescription drugs in Home Health Agencies – Austin
5/28/2008	Drug Enforcement Administration's Pain Clinic Symposium – Houston

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Date	Meeting
6/27/2008	Task Force on Class C Pharmacies – Austin
7/30/2008	Meeting with the Dental Board regarding Professional Recovery Network – Austin
8/15/2008	Department of Public Safety's Advisory Committee Meeting regarding implementation of SB 1879 – Austin
8/21/2008	Drug Enforcement Administration's Pain Clinic Symposium – Houston
8/27/2008	Telemedicine Advisory Committee Meeting – Austin

D. The Executive Director attended 25 meetings of professional associations and committees of the associations to serve as a liaison for the Board as follows.

Date	Name of Association/Location of Meeting
10/18-19/2008	Texas Federation of Drug Stores Annual Meeting – San Antonio
11/7/2007	Texas Pharmacy Practice Coalition – San Antonio
11/9/2007	Meeting with Texas Pharmacy Association leadership regarding the Professional Recovery Network – Austin
11/17-18/2007	Texas Pharmacy Congress Meeting – San Antonio
12/4/2007	Texas Pharmacy Association Public Affairs Committee Conference Call – Austin
12/13/2007	Meeting with the Professional Recovery Network – Austin
12/17/2007	Health Professions Council meeting – Austin
1/15/2008	Texas Pharmacy Association's Leadership Reception – Austin
1/23/2008	Meeting with the Professional Recovery Network – Austin
1/29/2008	Health Professions Council Meeting – Austin
3/6-7/2008	University of Texas College of Pharmacy Advisory Council Meeting – Austin
3/25/2008	Health Professions Council Executive Committee meeting – Austin
4/4/2008	National Association of Boards of Pharmacy Bylaws Committee conference call
4/4-6/2008	Texas Society of Health-System Pharmacists Annual Meeting – Dallas
4/25-26/2008	West Texas Pharmacy Association – San Angelo
5/1-2/2008	Texas Pharmacy Congress Meeting – Abilene
5/8/2008	Meeting with Texas Pharmacy Association regarding Professional Recovery Network – Austin
5/22/2008	Capitol Area Pharmacy Association Meeting – Austin
6/3/2008	Health Professions Council Meeting – Austin
6/4/2008	Conference Call with pharmacy associations regarding the Prescription Monitoring Program –

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Date	Name of Association/Location of Meeting
	Austin
6/26/2008	Capitol Area Pharmacy Association Meeting – Austin
6/30/2008	Health Professions Council Budget Committee Meeting – Austin
7/16-18/2008	Texas Pharmacy Association's Annual Meeting – Galveston
8/12/2008	Texas Pharmacy Practice Coalition – Austin
8/12-13/2008	Texas Pharmacy Congress Meeting – Austin

- 6. To recommend changes to the Texas Pharmacy Act and rules, which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Board for consideration for action throughout FY2008.**

Status: ACCOMPLISHED

Comment: The agenda for each meeting of the Board included discussion of possible suggestions for changes to the Pharmacy Act. Throughout FY2008 a total of 33 suggested changes to the Texas Pharmacy Act were approved by the Board for possible action by the 2009 Texas Legislature.

- 7. To maintain a staff development program by encouraging Executive Office staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2008.**

Status: ACCOMPLISHED

Comment: In FY2008, Division staff attended General Staff Meetings that were held in September 2007, December 2007, February 2008, May 2008, July 2008, and August 2008. In conjunction with quarterly General Staff Meetings, Division staff participated in all-staff training, as listed below:

- 11/27/2007 – Retention Schedule Basics; presentation by Laura Finger
- 2/27/2008 – First Class Customer Service; presentation by Alliance Work Partners
- 8/19/2008 – Strategic Time Management; presentation by Alliance Work Partners

In addition, Gay Dodson and Kay Wilson attended training on Adobe Acrobat Professional on February 13, 2008.

- 8. To conduct periodic reviews and annual evaluations of Division Directors and Executive Office staff and to monitor evaluations of employees in all Board Divisions throughout FY2008.**

Status: ACCOMPLISHED

Comment: Performance evaluations were conducted for the Executive Assistant and Receptionist and for the four division directors during FY2008.

- 9. To provide the Board information necessary to conduct performance evaluation of the Executive Director by August 31, 2008.**

Status: ACCOMPLISHED

Comment: A self and staff evaluation of the Executive Director were presented to the Board at its August 2008 meeting. The Board conducted the performance evaluation at this meeting.

- 10. To prepare a report on the accomplishments of the Office of the Executive Director and direct the preparation and submission of the agency's FY2007 Annual Report to be presented to the Board at the May 2008 meeting.**

Status: PARTIALLY ACCOMPLISHED

Comment: The final draft of the *TSBP Annual Report for FY2007* was not presented to and approved by the Board until its meeting in August 2008, approximately three months after the "targeted date" to present the Annual Report to the Board.

Administrative Services and Licensing Division

FY2008 SIGNIFICANT ACCOMPLISHMENTS

1. The Division accomplished or partially accomplished 96% of its objectives (27 accomplished or partially accomplished and one not accomplished).
2. The Division met or exceeded 100% of the performance measures required to be submitted to the Legislative Budget Board.
3. Success of the initial phase of the joint agency/HPC project to replace the TSBP database system and migrate to a Shared Regulatory Database System. Consensus between five other agencies, the Department of Information Resources, and the Health Professions Council was reached and a plan was introduced in each agency's Legislative Appropriations Request for FY2010-2011.
4. Successful implementation of a project that enabled TSBP to replace paper notebooks containing background material for Board Meetings with electronic notebooks. Notebook documents are now published and shared electronically with Board members and staff for use on laptop computers at the meetings. Electronic documents are also available to the public on the TSBP website and viewable by the public during a board meeting or public hearing.
5. The TSBP underwent a successful Risk Management Program review by the State Office of Risk Management.
6. Maintained a high level of system availability (nearly 100%) and security in a highly volatile environment. A total of 2,536 potential systems attacks blocked, and 1,896,045 spam & bad mail diverted. The implementation of 289 anti-virus updates and diligence in reviewing firewall alerts and logs, continue to keep the security of TSBP systems a major accomplishment.
7. Continued success with the licensee acceptance of the Texas Online application system. All fee-paying applications of the agency are available electronically on Texas Online. FY2008 adoption rates to Texas Online were as follows:

Pharmacist New	= 40%
Pharmacist Renew	= 83%
Pharmacy Technician New	= 90%
Pharmacy Technician Renew	= 92%
Pharmacy New	= 15%
Pharmacy Renew	= 50%
Examination & Reciprocity	= 82%
8. Eligible agency employees received an enhanced compensation award for their direct contributions towards the agency achievement of meeting 80% of its key performance measures in FY2007.

FY2008 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The Pharmacy Technician Registration and Enforcement Program continues to grow resulting in the following increases in workload caused by the Pharmacy Technician Registration Program that began in mid-FY2004, and the Pharmacy Technician Trainee Program that began in October 2006 (FY2007).

WORKLOAD INCREASES

	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	Percent Increase Since FY2003
Number of Licensed Pharmacists	21,570	22,111	22,661	23,323	23,939	24,586	14%
Number of Licensed Pharmacies	5,794	6,014	6,107	6,201	6,315	6,424	11%
Number of Registered Pharmacy Technicians	0	22,164	26,664	30,091	32,106	32,914	49% (since FY04)
Number of Registered Pharmacy Technician Trainees	0	0	0	0	10,399	18,093	74% (since FY07)
Number of Registered Interns	700 Estimate	752	804	822	886	925	32%
Total Licensees	28,064	51,041	56,236	60,437	73,645	82,942	196%

2. Workspace continued to be a premium commodity in FY2008, as five new positions (including three in-house) were added to the agency. Existing conference room and two offices were converted to cubicles to accommodate the new employees. As the agency continues to add employees and decrease usable office space, it is inevitable that employee morale will decline.

FY2008 ANNUAL REPORT

GOAL

To administer agency operations including personnel, finance, purchasing, risk management, and information technologies. To conduct a pharmacy and pharmacist licensure system, intern registration program, pharmacy technician registration system, and the ongoing renewal of licenses and registrations.

Objectives (New)

1. **To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2008:**
 - A **Reviewing and implementing legislation passed by the 80th Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2008;**
 - B. **Updating and preparing the *TSBP Strategic Plan for FY2009-2013* and submitting the plan to the Governor’s Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date;**
 - C. **Preparing a proposed budget for the FY2010-2011 biennium for review and approval by the Board at the 2008 Board Budget meeting;**
 - D. **Preparing the *TSBP Legislative Appropriation Request for FY2010-2011* and corresponding performance measures by the due date; and**
 - E. **Conducting the orientation of new Board Members within 90 days of appointment by the Governor.**

Status: ACCOMPLISHED

Comment:

- A. Legislation - A summary of legislative action affecting the agency’s FY2008/2009 budget included the following additional appropriations:
 - (1) 2% across-the-board pay raise for all classified employees in FY2008 and again in 2009.
 - (2) \$27,500 annual pay increase to the Executive Director.
 - (3) New program to test compounded products.
 - (4) Board electronic meeting project.
 - (5) Five new enforcement FTE’s to assist in the new Pharmacy Technician Trainee Program and ongoing registration of Pharmacy Technicians.

ADMINISTRATIVE SERVICES & LICENSING

- (6) Increased funding to the Pharmacy Recovery Network.
- (7) Contingency rider to implement the provisions of Senate Bill 29 relating to the creation of a minimum data set for the collection of information on health professionals by the statewide health coordinating council.
- (8) Contingency rider regarding the controlled substances forfeiture program.

Items #1-7 were implemented by an increase to the initial licensure and renewal fees of pharmacy and pharmacist licenses, as well as pharmacy technician fees. Items #3, #4, and #5 required the implementation of separate project plans and the cooperation of all divisions to successfully complete. These projects are mentioned throughout this annual report and are highlighted in the *Accomplishments Section*.

- B. Strategic Plan - The *Strategic Plan for the 2009-2013* period was the product of the following:
- (1) Overall review of the *2007-2011 Strategic Plan* by the Board Members and agency staff (Internal Assessment) with a significant amount of input provided as to changes, issues, and updates that need to be addressed; and
 - (2) Comments solicited from key pharmacy professional organizations, consumer advocacy groups, governmental agencies, and academic institutions.

The agency researched the trends and resulting issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years. The Board Members worked with staff to develop Issue Statements and approved the final *Strategic Plan* at the May 2008 Board Business Meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

- C. Proposed Budget for FY2010-2011 - The Executive Committee reviewed staff's recommendations for the exceptional items contained in the *Legislative Appropriation Request (LAR)* for FY2010-2011 in April 2008. The full Board met in May 2008 to review and approve the agency's LAR for FY2010-2011. The Board Members were apprised of the exceptional items requested in the LAR, the most significant being the agency database replacement and migration. Other exceptional items included an increase to the Executive Director's salary, new positions to maintain services, equity increases for key employees, funding for a merit salary program, the testing of compounded products, and the Pharmacy Recovery Network.

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- D. Legislative Appropriations Request FY2010-2011 – The Executive Committee approved staff's estimated cost for the replacement of the agency database and migration on July 17, 2008. The *Legislative Appropriation Request* was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy (GBO) by the due date of July 30, 2008. The LAR included the items approved by the Board in May and July 2008, as well as a funding level at 90% of the agency's current funding.
- E. Orientation of New Board Members - On May 9, 2008, the Governor announced the appointment of three new Board Members (Buford T. Abeldt, Sr., R.Ph. community pharmacist from Lufkin, Texas; Dennis F. Wiesner, R.Ph., community pharmacist from Austin, Texas; and L. Suzan Kedron, public member from Dallas, Texas). The orientation for the new members was held on June 30 - July 1, 2008.

Objectives (Ongoing) – Administrative Services

1. **To prepare a proposed budget for FY2009 for submission to the Board two weeks prior to the 2008 Annual Policy Meeting.**

Status: ACCOMPLISHED

Comment: A proposed budget was presented and approved at the August 2008 Board Business Meeting.

2. **To prepare and submit all required accounting and fiscal reports/reconciliations in compliance with all applicable state statutes throughout FY2008.**

Status: ACCOMPLISHED

Comment: The agency submitted the Annual Financial Report (AFR) and the Annual Report of Non-Financial Data, to the Office of the Comptroller for the year ending August 31, 2008, by the due dates. The AFR was reviewed by the Comptroller's Office as part of the statewide annual financial report and found to be in compliance. The FY2008 Operating Budget was submitted to the Governor's Office of Budget, Planning and Policy, and the Legislative Budget Board by the due date.

All financial reports and reconciliations for the fiscal year were completed and reported on a monthly basis to the Executive Director/Secretary.

3. **To review and recommend to the Executive Director additional sources of spendable revenue and to assess fees charged for Board services throughout FY2008.**

Status: ACCOMPLISHED

Comment: A quarterly operating budget was presented to the Board at each of the regularly scheduled business meetings and recorded as such in the official minutes of the Board meeting. Effective October 2007, an increase to the initial licensure and

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renewal of pharmacy and pharmacist licenses, as well as pharmacy technician fees, was implemented. These increases were made in light of the passage of the agency's appropriation bill, which included the following:

- (1) an increase to the executive director's salary;
- (2) an across-the-board salary increase for classified employees;
- (3) testing of compounded products;
- (4) board electronic meeting project;
- (5) increased funding for the pharmacist recovery network;
- (6) five new enforcement positions to assist in the implementation of the new Pharmacy Technician Trainee Registration Project; and
- (7) provisions of Senate Bill 29 (minimum data set requirements).

Based on a review of the agency's revenue projections for FY2008-2009, the Comptroller of Public Accounts released contingent appropriations of \$181,814 to fund the provisions of Senate Bill 29 and the increased salaries appropriated for classified employees.

4. To assess the material needs of the agency and supervise the purchasing and supply activities in accordance with all Building and Procurement Commission rules and procedures throughout FY2008.

Status: ACCOMPLISHED

Comment: No audits of the agency's purchasing activities by oversight government entities were conducted in this fiscal year. The Chief Accountant continued to review all specifications, product tabulations, and purchase requisitions for compliance with agency policies and procedures and TBPC rules. This oversight ensured that the appropriate procurement method was identified, the agency received the best value for the product or service purchased, and that funds were always available.

5. To increase the efficiency and productivity of Board office operations by managing and coordinating space needs and on-site maintenance of the Board's office facilities throughout FY2008.

Status: ACCOMPLISHED

Comment: As a result of the passage of the General Appropriations Act, 80th Regular Session, which added five new positions (three were in-house) in FY2008, an Office Space Project was implemented to convert existing conference room and office space to an open space environment. This project included such tasks as developing floor plans, storing and/or disposing of existing furniture, buildout of new cubicle office space, ordering and installing new furniture and telecommunications equipment, and moving staff. The entire project began in September 2007 and was completed by January 2008.

6. **To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2008.**

Status: ACCOMPLISHED

Comment:

- A. The TSBP submitted recommendations to the State Auditor's Office regarding requests for new classifications to the Position Classification Plan.
- B. All newly hired and current employees received Equal Employment Opportunity/Sexual Harassment Training as required by state law.
- C. Division directors continued to review and revise employee position descriptions, with a resulting 11 reclassifications submitted and approved.
- D. The agency reviewed its Employee Handbook of Personnel Policies and Procedures and distributed revised policies to all employees. No employee complaints were filed, and there were no employment discrimination or other charges initiated with the Texas Commission on Human Rights.
- E. The agency received 590 applications for employment during this fiscal year, which resulted in nine new hires and nine promotions. (Note: providing EEO information by applicants is strictly voluntary. Sixty-nine applicants did not provide the information).
- F. The agency had seven employees that terminated employment with the agency, resulting in a turnover rate of 8.5%. This compares to the overall turnover rate of the state of 17.3%.

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G. The following table reflects the agency's EEO profile for employees hired, promoted, or terminated during FY2008, as well as an applicant profile report.

Texas State Board of Pharmacy
EEO Data as of August 31, 2008

<u>Agency EEO Data</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	5	0	0	0	0	0	0	0	5	5
Professional	5	10	0	1	2	2	0	1	7	14	21
Para-Prof	5	11	1	0	0	4	0	0	6	15	21
Admin Support	0	6	0	2	0	5	0	0	0	13	13
TOTALS	10	32	1	3	2	11	0	1	13	47	60

<u>New Hires</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	0	1	0	0	0	0	0	0	0	1	1
Para-Prof	1	4	1	0	0	2	0	0	2	6	8
Admin Support	0	0	0	0	0	0	0	0	0	0	0
TOTALS	1	5	1	0	0	2	0	0	2	7	9

<u>Promotions</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	1	0	0	0	1	1	0	0	2	1	3
Para-Prof	0	2	1	0	1	2	0	0	2	4	6
Admin Support	0	0	0	0	0	0	0	0	0	0	0
TOTALS	1	2	1	0	2	3	0	0	4	5	9

<u>Terminations</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	1	0	0	0	0	0	0	1	1	1	2
Para-Prof	2	0	0	0	0	2	0	0	2	2	4
Admin Support	0	0	0	0	0	1	0	0	0	1	1
TOTALS	3	0	0	0	0	3	0	1	3	4	7

<u>Applications</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		Not Provided	GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F		
Administrators	0	0	0	0	0	0	0	0	0	0	0	0
Professional	22	24	1	7	4	11	2	0	29	42	8	79
Para-Prof	73	127	27	52	26	61	13	13	139	253	47	439
Admin Support	2	25	1	15	4	9	0	2	7	51	14	72
TOTALS	97	176	29	74	34	81	15	15	175	346	69	590

7. To manage the information resource needs (data processing, telecommunication, and Web site) of the agency throughout FY2008.

Status: ACCOMPLISHED

Comment:

- A. The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) and migrate to a Shared Regulatory Database System, began in February. By year-end, there was a consensus between TSBP and five other agencies, the Department of Information Resources, and the Health Professions Council, to develop a plan to migrate all six agencies to a shared system that could meet the unique requirements of each agency, while at the same time allow the sharing of expenses. Bid specifications were submitted, cost analyses were prepared, and product demonstrations were scrutinized. Ultimately, the plan was introduced in each agency's Legislative Appropriations Request with the intent to choose a vendor and refine the cost of the product and project in the next fiscal year.
- B. Successful implementation of a project that enabled TSBP to replace paper notebooks containing background material for Board Meetings with electronic notebooks. Notebook documents are now published and shared electronically with Board Members and staff for use on laptop computers at the meetings. Electronic documents are also available to the public on the TSBP website and viewable by the public during a board meeting or public hearing.
- C. Maintained a high level of system availability (nearly 100%) and security in a highly volatile environment. A total of 2,536 potential systems attacks were blocked, and 1,896,045 spam and bad mail diverted. The implementation of 289 anti-virus updates and diligence in reviewing firewall alerts and logs continue to keep the security of TSBP systems a major accomplishment.
- D. Highly successful report from the Department of Information Resources regarding their attempted penetration of the agency's firewall. Minor vulnerabilities were identified and were remediated.
- E. Equipment replacement needs met with 21 desktops, one laptop, various portable printers, laser jet printers, scanner, firewall, and servers.
- F. An imaging project continued for pharmacists and pharmacy technicians and a new project to image closed technician complaint files was initiated.
- G. Development, implementation, and training completed for all staff on email retention procedures.

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H. Reporting and tracking of IT expenditures and budgets; submission of IT LAR for FY2010-2011; Planned Procurement Schedules approved by LBB/DIR; Texas Transformation documents for Strategic Plan; Business Continuity Plan submitted to the State Office of Risk Management.

8. **To serve as the Agency Records Retention Manager to the Texas State Library, in maintaining a Records Retention Program for the economical and efficient management of agency records throughout FY2008.**

Status: ACCOMPLISHED

Comment: Agency staff destroyed 483 cubic feet of records in accordance with the TSBP records retention schedule, and 46 cubic feet of records were sent to the State Library for storage.

The agency continues to save valuable square footage by imaging licensing files. The pharmacist imaging project continued with 35,409 images scanned into the imaging system. The project to image all pharmacy technician files continued, with 40,020 images scanned into the imaging system. Finally, a new project to image closed technician complaint files was initiated.

9. **To serve as the Agency Risk Manager by annually assessing areas of agency risk exposures and recommending procedures to control these exposures throughout FY2008.**

Status: ACCOMPLISHED

Comment: A Risk Management Program Review was conducted by the State Office of Risk Management. Many noteworthy observations were made including the overall agency safety culture, excellent communications within the agency, clearly communicated policies and procedures, and a comprehensive and well written Employee Handbook. One outstanding recommendation was made to develop a fully functioning Business Continuity Plan.

The Texas Internal Audit Act requires all agencies to conduct a formal risk assessment and submit an annual Risk Assessment Report to the Office of the State Auditor (SAO). The agency conducted an assessment of the major programs of the agency (i.e., fiscal, technology, licensing, public information, rule making, peer assistance, enforcement) and submitted the Risk Assessment Report by the due date to the SAO.

Areas of risk exposure to the agency were reviewed and training implemented where required (i.e., defensive driving compliance for operators of board vehicles; Equal Employment Opportunity/Sexual Harassment training for all employees; Supervisory Training for new Team Leaders).

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- 10. To provide verbal and written information to Board staff and customers throughout FY2008 including, by the assigned due dates, the preparation of:**
- A. LBB Performance and Funds Management Report and other special reports as requested by LBB, legislative committees, legislators, and others, in conjunction with other Divisions as necessary;**
 - B. responses to surveys and questionnaires; and**
 - C. a report of the types and numbers of surveys/questionnaires/reports completed by all Divisions during FY2008.**

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

A. Statutorily Required Reports

Report Title	Recipient(s)	Division Reporting
FTE State Employees	State Auditor	Administration
Governmental Employees Quarterly Report	Texas Workforce Commission	Administration
Employer's Quarterly Federal Tax Return	Internal Revenue Service	Administration
Retirement Contributions Reconciliation Report	Employees Retirement System	Administration
Annual Financial Report	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor	Administration
Non-Financial Annual Report	Governor's Office; Legislative Budget Board; State Auditor	Administration
Recycled Materials Expenditures	Texas Building & Procurement Commission	Administration
Historically Underutilized Business Progress Reports	Governor's Office; Lt. Governor; Speaker of House; Texas Building & Procurement Commission	Administration
Encumbrance Reports	State Comptroller; State Auditor; Legislative Budget Board	Administration
State Use Report	Texas Building & Procurement Commission	Administration
EEO Information Report	Texas Workforce Commission	Administration
Minority Hiring Practices	Texas Workforce Commission	Administration
SORM 200	Office of Risk Management	Administration
Performance and Funds Mgmt. Reports	Legislative Budget Board	All

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Report Title	Recipient(s)	Division Reporting
Contract Workforce Report	State Auditor; Legislative Budget Board; Governor	Administration
Open Records Online Monthly Report	Legislative Budget Board	All
Resource Efficiency Plan and Updates	Comptroller	Administration
Set Aside Report	Texas Industries for the Blind	Administration
Fleet Management Report	Texas Building & Procurement Commission	Administration
FY08 Risk Assessment	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor, Sunset Advisory Commission	Administration
Veterans Workforce Summary Report	Comptroller	Administration
Space Utilization Survey	Texas Building & Procurement Commission	Administration
SORM Report	SORM	Administration
Agency Fee/Revenue Survey	Legislative Budget Board	Administration
Energy Plan	Office of the Governor	Administration
Revenue Projections and Fee Increases	State Comptroller	Administration
Strategic Plan	Office of the Governor	All
Legislative Appropriations Request	Legislative Leadership	All

B. Other Surveys and Questionnaires:

Report Title	Recipient(s)	Division Reporting
Long Term Care Pharmacy Practice Survey	National Association of Boards of Pharmacy	Executive
Exempt Position Salary Survey	Office of State Auditor	Executive and Human Resources
Survey regarding Advertising Policies	House of Representatives	Executive
Audit on Complaint Processing & Enforcement	Office of State Auditor	Enforcement, Executive, Administration
Criminal History Background Check Process Reporting Form	Office of State Auditor	Enforcement, Licensing
Business Process Review	Office of the Governor	All
Online License Renewal Report	Legislative Budget Board	Licensing

C. Types and numbers of surveys/questionnaires/reports completed by all Divisions:

See Licensing Services Ongoing Objective #18, Professional Services Ongoing Objective #10, Legal Services Ongoing Objective #8, and Enforcement Ongoing Objective #6. In addition, the agency reported approximately 19,850 requests for information, both written and electronic, to the Office of the Attorney General.

11. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2008.

Status: ACCOMPLISHED

Comment: Division staff participated in the following activities:

- A. Active participant in the success of the initial phase of the joint agency/HPC project to replace the TSBP database system and migrate to a Shared Regulatory Database System (see Comment A under Objective #7).
- B. Participation in a pilot program of shared human resources duties with regard to job postings.
- C. Health Professions Council Annual Report - Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
- D. Continued participation in several HPC centralized services, such as the Courier Service, Shared Employee Training, Shared Information Resource Technology staff, and use of the imaging system.
- E. Participation in meetings with the Texas Facilities Commission regarding the lack of space in the William P. Hobby Building for HPC agencies.
- F. Participation in HPC workgroup regarding LBB Performance Measures.

12. To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2008.

Status: ACCOMPLISHED

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Comment: All Division staff had the opportunity to participate in the agency's Employee Assistance Program (EAP) sponsored workshops such as *Advanced Nutrition and Healthy Approaches to Exercise; First Class Customer Service; Time Management & Managing Stress*. In addition, individual Division staff participated in the following activities:

Cathy Stella	Chair, Division Staff Meetings
	Member, Legacy Systems Workgroup (to replace the agency's aged VAX system)
	Participant in Department of Health & Human Services Emergency System for Advanced Registration of Volunteer Health Professionals
	Participant in meetings relating to additions/modifications to licensing applications & FBI Fingerprint System.
	Participant in Budget Meetings with Management; Executive Committee and Board
	DIR Financial Briefing on IBM projected costs
	Participant in DIR/Bearing Point Meetings regarding Minimum Data Set Requirements & SB29 funding
	Member of Occupational Licensing Committee
	Participant in Office of the State Auditor Audit of Complaint Procedures
	Participant in Governor's Office Business Process Review
	New Board Member Orientation
	Orientation for new employees
	E-Mail and Records Retention Training
	Internship Committee Meetings (P-1)
	Training on Board Electronic Notebook
	EEO Online Training
Jane Bennett	Periodic Accounting Staff Meetings
	AFR Training
	USAS User Meeting
	ERS Benefitwise
	E-Mail and Records Retention Training
	Participant in Budget Meetings with Management; Executive Committee and Board
	EEO Online Training
Robbi Dana	Periodic Accounting Staff Meetings
	Summer Enrollment Insurance
	EEO Compliance Training
	E-Pay User Group
	Agency E-Mail Records Retention Team
	Records Management Training
	Web Based Training on WORD Mail Merge

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Darlene Guthrie	Periodic Accounting Staff Meetings
	Credit Card Conference (JP Morgan)
	E-Mail and Records Management Training
	Neubus Data Base Training
	How to Prepare for an Audit
	DIR Updates
	EEO Training
	Environmentally Effective Purchasing
	Purchasing Customer Service
	Vendor Performance Reporting Training
	State Use Coordinator Program; State HUB Program
Sandy Morton	Periodic Accounting Staff Meetings
	EEO Training
	ERS Benefitwise Training
	E-Mail and Records Management Training
Lisa Earl	Periodic Accounting Staff Meetings
	Expenditure Processing & Documentation
	SPA Core Training
	E-Mail and Records Retention Training
	EEO Online Training
Steve Rapp	Member, Legacy Systems Workgroup (to replace the agency's aged VAX system)
	Coordination of demos of vendors
	Agency E-Mail Records Retention Team
	Participant in Office of the State Auditor Audit of Complaint Procedures
	Participant in Governor's Office Business Process Review, in particular IT services to HPC agencies.
	Compliance Automation Systems Team
	Records Retention Training
	Electronic Board Notebook Implementation Team
	Periodic IT Status Meetings
	EEO Online Training

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Todd Hayek	Adobe Acrobat
	Records Retention Training
	Agency E-Mail Records Retention Team
	Electronic Board Notebook Implementation Team
	Accessibility Forum
	Security 101 for your PC
	Adobe Acrobat
	Periodic IT Status Meetings
	EEO Online Training
Lisa Ake	Periodic Licensing Staff Meetings
	State Agency Council Flexible Workplace Options
	E-Mail and Records Management Training
	EEO Training
	Giving the Best Customer Service Training
	Professional Recovery Network
	Informal Conference Observer
	Presentations to Texas Tech, University of Texas, Texas Southern University, University of Houston regarding examination process
Estella Casarez	Periodic Licensing Staff Meetings
	EEO Training
	DPS – NCIC/TCIC Training
	Texas Recycles Day
	E-Mail and Records Retention Training
	Board Meeting Attendance
	Participation in Wellness Committee
	Communication in the Workplace
	Stress Management
	Wellness Workshop
Rachel Glass	Periodic Licensing Staff Meetings
	Texas Recycle Day – Greening Your Home
	Records Retention Training
	Agency E-Mail Records Retention Team
	EEO Online Training
Diana Martinez-Ruedas	Periodic Licensing Staff Meetings
	E-Mail and Records Retention Training
	PCS2 System Training
	Texas Recycle Day – Greening Your Home
	EEO Online Training
	How to Excel as an Administrative Professional Workshop
	1 st Rate Customer Service

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Melinda Uballe		Periodic Licensing Staff Meetings
		E-Mail and Records Retention Training
		Presentations to Texas Southern University, University of Houston, Incarnate Word, Texas A&M Kingsville, regarding intern process
		EEO Online Training
Misty Whitcomb		Periodic Licensing Staff Meetings
		E-Mail and Records Retention Training
		EEO Online Training
Carol Willess		Periodic Licensing Staff Meetings
		Education via presentations to interns and graduating pharmacists of Texas Tech, University of Houston, Texas Southern University, University of Texas, Incarnate Word and Texas A & M Kingsville Colleges of Pharmacy, regarding the internship and examination process & procedures. These presentations also addressed the new FBI fingerprint program.
		Agency E-Mail Records Retention Team
		Presentation of a technician educational exhibit at the annual TSHP and TPA conventions
		Records Retention Training
		Agency E-Mail Records Retention Team
		TSABAA Mid-Year Conference that included training in public information, risk assessment, performance measures, and other leadership training
		Orientation to licensing process for agency interns and new employees
		EEO Online Training

- 13. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2008.**

Status: ACCOMPLISHED

Comment: The Division achieved a 100% completion rate of evaluations scheduled for this fiscal year.

- 14. To update the Agency Personnel Handbook and the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2008.**

Status: ACCOMPLISHED

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Comment: This objective was accomplished by revising the following manuals and distributing to appropriate staff as follows:

- A. The Personnel Manual and Employee Handbook
- B. Board Member Policies & Procedures
- C. Vehicle Guidelines Manual
- D. Various Accounting Policies (Purchasing, Cash, Vouchers)
- E. Licensing Policies & Procedures
- F. The Risk Management Program and Safety & Health Program Manuals

15. To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2008.

Status: ACCOMPLISHED

Comment: See comments in Ongoing Objectives #7, #8, #11, #14, and #16.

16. To recommend changes to the Texas Pharmacy Act and rules that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2008.

Status: ACCOMPLISHED

Comment: Rules and procedures regarding licensing and registration of pharmacists, pharmacies, interns and pharmacy technicians, are reviewed on a regular basis, and recommendations are made as necessary. In particular, division staff contributed to the development of new rules relating to the following:

- A. §§291.120-291.133 regarding Services Provided by Pharmacies
- B. §297.7 regarding Pharmacy Technician Exemption from Certification Exam Requirements
- C. Chapter 283 regarding Internship
- D. Chapter 305 regarding Pharmacy Technician Training Programs
- E. §295.8 regarding Continuing Education for Pharmacists
- F. §297.3 regarding Registration Requirements for Pharmacy Technicians
- G. §§283.7-283.8 regarding Examination/Reciprocity Requirements for Criminal History Background Checks

17. To prepare a report on the accomplishment of Division objectives for incorporation into the agency's *FY2007 Annual Report* and submit to the Executive Director by the due date.

Status: PARTIALLY ACCOMPLISHED

Comment: The Division's first draft of the *FY2007 TSBP Annual Report* was submitted to the Executive Director by the due date. The final draft of the *TSBP Annual Report* was presented to and approved by the Board at its meeting held in August 2008.

Objectives (Ongoing) – Licensing

18. To coordinate the collection of licensing data for *Key Performance Targets* required under the 2008-2009 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2008.

STATUS: ACCOMPLISHED

Comment: The following chart reflects all year-end data for Licensing Measures required to be reported on an annual basis to the Legislative Budget Board. The statistical data was submitted to the Legislative Budget Board and Governor's Office of Budget, Planning, and Policy by the prescribed due dates, in conjunction with the enforcement performance measures. Within a 5% variance, the division met or exceeded 100% of these measures.

PERFORMANCE MEASURES	TARGET FY2008	ACCOMPLISHED FY2008	Key or Non Key (K-NK)	Expectations
Percent of Licensees with No Recent Violations	95%	96.20%	K	Exceeded
Percent of Licenses Who Renew Online	84.58%	87.21%	K	Exceeded
Percent of New Individual Licenses Issued Online	70%	80.70%	NK	Exceeded
Individuals Examined (examinations administered)	1,766	1,991	NK	Exceeded
Number of New Licenses issued to Individuals (Pharmacists)	1,091	1,058	K	Met
Number of Licenses Renewed (Individuals – Pharmacists)	11,696	12,260	K	Exceeded
Number of New Registrations Issued to Individuals (Technician and Trainee)	7,000	15,756	NK	Exceeded
Number of Registrations Renewed (Technicians)	10,500	11,701	NK	Exceeded

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Average Cost Per Exam Administered	\$66.12	\$65.18	NK	Exceeded
Average Licensing Cost per Individual License Issued	\$11.89	\$10.43	K	Exceeded
Average Licensing Cost per Facility License Issued	\$41.09	\$39.20	K	Exceeded
Average Cost per Individual Technician Registered	\$6.83	\$4.67	NK	Exceeded
Percent of New Licenses Issued within 10 days	98%	100%	NK	Exceeded
Percent of Individual Licenses Issued within 7 days	98%	100%	NK	Exceeded
Total Number of Pharmacists Licensed	24,161	24,586	NK	Exceeded
Total Number of Facilities Licensed	6,292	6,424	K	Exceeded
Total Number of Individuals (Technicians & Trainees) Registered	34,000	51,007	NK	Exceeded
Pass Rate	80%	88.70%	NK	Exceeded

In addition to the above statistics, the division (Licensing) staff had the following workload statistics (numbers are approximate):

WORKLOAD	STATISTIC
Changes of Address/Employment/Name	9,153
Telephone Calls Received	24,880
E-Mail Inquiries Answered	9,854
Missing Item, delinquent, reminder, general correspondence letters sent	8,699
Customer Service Surveys sent	22,272

19. To register all qualified pharmacist-interns within an average of 20 working days of the receipt of all required documents.

Status: ACCOMPLISHED

Comment: All 886 new intern registrations were issued within the established timeframe.

A total of 2,900 pharmacist preceptors were certified within one to four days of receipt of required documents. At fiscal year-end, a total of 4,815 pharmacists were active preceptors.

20. To determine the eligibility of all pharmacist applicants applying to take the NAPLEX and Texas Pharmacy Jurisprudence Examination for initial licensing or licensing by reciprocity throughout FY2008.

Status: ACCOMPLISHED

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Comment: Staff continued to present the NAPLEX and MPJE Orientation to upcoming graduates of Texas Southern University, University of Houston, Texas Tech University, and University of Texas colleges of pharmacy. In addition, intern presentations were offered to students of the above colleges as well as Texas A&M Health Science Center Irma Lerma Rangel College of Pharmacy and the University of the Incarnate Word Feik School of Pharmacy.

Applicants continue to have a high response rate to the TexasOnline application system, which resulted in an 82% response rate of all candidates applying by examination or reciprocity. The following statistics relate to all applicants who were determined eligible and received a score for the NAPLEX and MPJE in FY2008.

JURISPRUDENCE (MPJE)	Total Exams Administered
Candidates Passing	1100 (89.72%)
Candidates Failing	126 (10.28%)
TOTAL EXAMS JURISPRUDENCE	1226 (100%)

NAPLEX	Total Exams Administered
Candidates Passing	666 (87.06%)
Candidates Failing	99 (12.94%)
TOTAL EXAMS NAPLEX	765 (100%)

The total number of new licenses issued to individuals is as follows:

NEW PHARMACISTS LICENSED – FY2008	
Graduates of Texas Colleges of Pharmacy	438 (41.40%)
Graduates of Out-of-State Colleges of Pharmacy	532 (50.28%)
Credentialed by the Foreign Pharmacist Equivalency Committee	88 (8.32)%
Total	1058 (100%)

Regarding reciprocity (license transfer) in and out of Texas, 333 candidates were licensed by reciprocity in FY2008, and the agency responded to requests from NABP for verification of licensure status of Texas licensees desiring to transfer to other states. The National Association of Boards of Pharmacy reports that in calendar year 2008, Texas saw the most requests for licensure transfer into the state with 611, and 339 requests to transfer to other states.

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21. To provide staff support to the *Examination Retake Committee* and any other advisory committee related to licensing issues as required in FY2008.

Status: ACCOMPLISHED

Comment: Division Director continued to inform applicants who failed the Board licensing examination(s) three times of the committee recommendations to complete college coursework prior to retaking the examination(s).

22. To issue a pharmacist license by examination, score transfer, or reciprocity within an average of ten working days after the date the agency receives the examination results throughout FY2008.

Status: ACCOMPLISHED

Comment: The agency issued 1,058 new pharmacist licenses with an average turnaround time of four business days from the download of the examination results. Examination results were downloaded approximately once every five business days. Barring any other requirements that might be due for initial licensure, candidates received notice of their new licenses within an average of seven business days of their examination date.

23. To issue renewal certificates to all pharmacist candidates within an average of four working days of receipt of the required fee and all required documents throughout FY2008.

Status: ACCOMPLISHED

Comment: The agency renewed 12,260 pharmacist licenses on a biennial basis during FY2008. Approximately 83% of eligible pharmacists renewed their licenses online. The average processing time to issue a renewal license from receipt of a completed application was two business days. The total population of licensed pharmacists for this fiscal year is as follows:

PHARMACISTS LICENSED FY2008	
Active Status	23,240
Inactive Status*	1,346**
TOTALS	24,586

* Not practicing pharmacy in Texas and not reporting continuing education credits.

**Of the above number, 394 pharmacists have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as "exempt."

- 24. To audit the pharmacists' compliance with continuing education and to initiate complaints on pharmacists who are not in compliance with the rules regarding pharmacists' mandatory continuing education for renewal, in cooperation with the Enforcement team, throughout FY2008.**

Status: NOT ACCOMPLISHED

Comment: The random audit of pharmacist continuing education was discontinued for this fiscal year due to the increased workload resulting from the new program to register technicians-in-training. A total of 61 continuing education audits were completed and either closed or referred to Enforcement.

- 25. To issue initial certificates to all pharmacy technician trainee candidates within an average of four working days of receipt of the required documents throughout FY2008.**

Status: ACCOMPLISHED

Comment: The agency issued 11,380 new pharmacy technician trainee registrations during FY2008, bringing the total population of active technician trainees for this fiscal year to 18,093. The average processing time to issue a new or renewal registration from receipt of a completed application was two business days.

- 26. To issue initial and/or renewal certificates to all pharmacy technician candidates within an average of four working days of receipt of the required fee and all required documents throughout FY2008.**

Status: ACCOMPLISHED

Comment: The agency issued 4,376 new pharmacy technician registrations, and renewed 11,701 registrations on a biennial basis during FY2008, bringing the total population of active registered technicians for this fiscal year to 32,914. Approximately 91% of eligible applicants and pharmacy technicians applied for or renewed their registrations online. The average processing time to issue a new or renewal registration from receipt of a completed application was two business days.

- 27. To issue an initial and/or renewal certificate to all pharmacy license applicants on receipt of the required fees and all required documents according to the following guidelines throughout FY2008:**

- A. initial certificates to pharmacy license applicants within an average of 21 working days; and**
- B. renewal certificates to pharmacy license applicants within four working days.**

Status: ACCOMPLISHED

ADMINISTRATIVE SERVICES & LICENSING

Comment: The following chart represents the total number of pharmacy licenses (business or facilities) issued by the agency, and includes five classes of pharmacy licenses.

The average processing time to issue a license from receipt of a completed application was two working days for a pharmacy renewal and two working days for a new pharmacy license. Approximately 45% of pharmacies applied or renewed their registrations online. The total number of active pharmacy licenses at the end of the fiscal year was as follows:

PHARMACIES ACTIVE FY2008	
Class A (Community)	4439
Class B (Nuclear)	35
Class C (Institutional)	1049
Class D (Clinic)	439
Class E (Non Resident)	462
TOTALS	6,424

A total of 5,058 change documents were processed as follows:

PHARMACY APPLICATIONS PROCESSED	
Pharmacy Renewals	3105
Remote (satellite) Licenses Issued	223
New Licenses Issued [new opens (355) and changes of ownership (99)]	454
Change of Location/Name	275
Closings	209
Change of Managing Officers	693
TOTAL	5,058

Professional Services Division

FY2008 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of the Division's 17 Objectives for FY2008.
2. The Texas version of the Multi-State Pharmacy Jurisprudence Examination (MPJE) continues to be an effective licensing tool to determine competency with respect to pharmacy law.
3. Division Director gave five presentations during FY2008 to over 360 pharmacists, pharmacy students, and pharmacy technicians.
4. Division Director worked closely with Network Specialist Todd Hayek to keep the TSBP web page updated.
5. Division staff, consisting of two individuals, prepared and mailed or emailed 1,807 pieces of information (an average of 150 per month) during FY2008.
6. Division staff provided professional staff support for three different task forces that met four times during FY2008.

PROFESSIONAL SERVICES DIVISION

FY2008 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. TSBP experienced a 22% increase in the number of requests for records and a 39% increase in the number of licensees who were the subject of inquiries.

FY2008 ANNUAL REPORT

GOAL

To facilitate agency operations by providing information services for the agency, including the *Newsletter*, responses to requests for public information, and public speaking engagements to agency customers; serving as liaison to the *Texas Register*, and by providing professional services, including rule development, internship reviews, law exam development, and task force support.

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2008:

- A. **Reviewing and implementing legislation passed by the 80th Legislature that affects agency operations and/or the practice of pharmacy throughout FY2008.**
- B. **Updating and preparing the TSBP Strategic Plan for FY2009-2013 and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date.**
- C. **Preparing a proposed budget for the FY2010-2011 biennium for review and approval by the Board at the 2008 Board Budget Meeting.**
- D. **Preparing the agency's Legislative Appropriation Request for the FY2010-2011 biennium and corresponding performance measures by the due date.**
- E. **Conducting the orientation of new Board Members within 90 days of appointment by the Governor.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Legislation – Actions taken by the 80th Legislature that had an impact on the Professional Services Division:
 - (1) H.B. 3430 requires that, as a part of the rulemaking process, state agencies must prepare an Economic Impact Statement that assesses the potential impact of a proposed rule on small businesses and a Regulatory Flexibility Analysis that considers alternative methods of achieving the purpose of the rule if the proposed rule will have an adverse economic effect on small businesses.

PROFESSIONAL SERVICES DIVISION

- (2) Division Director drafted rules for the Board's consideration and approval to implement the following bills:
- H.B. 948 regarding the label on a dispensing container and consumer written information requirements;
 - S.B. 997 amended the Texas Controlled Substances Act to allow pharmacists to dispense prescriptions for controlled substances under a written, oral, or telephonically communicated prescription from an out-of-state practitioner;
 - S.B. 1274 amended the Texas Pharmacy Act authorizing the Board to adopt rules governing the procedures for a pharmacist, as a part of compounding, to add flavoring to a prescription at the request of the patient or patient's agent;
 - S.B. 1658 amended the Texas Pharmacy Act and the Texas Controlled Substances Act to allow pharmacists, in the event of a disaster, to dispense up to a 30-day supply of a prescription drug, other than a schedule II drug under certain conditions; and
 - S.B. 1896 amended the Texas Pharmacy Act to allow the return and redispensing of prescription drugs from penal institutions in the same manner nursing homes can return drugs.
- (3) Division Director educated Board customers, though telephone and email inquires and presentations, on the changes made by the 80th Legislature as listed above.
- B. Strategic Plan – At its November 2007 meeting, the Board reviewed comments concerning strategic planning by TSBP from persons who had submitted comments. Division Director, in consultation with Board Member W. Michael Brimberry, prepared the first draft of Policy Issue #2 relating to Increased “Use of Technology in the Practice of Pharmacy.” The Board approved the draft of Policy Issue #2 at its February 2008 meeting. Division staff assisted in the review and preparation of the final draft of the TSBP Strategic Plan, which was approved by the Board at its meeting, held in May 2008. The TSBP Strategic Plan was published and delivered to the Governor's office and other applicable agencies by the due date.
- C. Proposed Budget for FY2010-2011 - Division Director assisted the Executive Director and Director of Administrative Services and Licensing in the preparation of the proposed budget for FY2010-2011.
- D. Legislative Appropriations Request FY2010-2011 – Division Director assisted the Executive Director and Director of Administrative Services and Licensing in the preparation of the FY2010-2011 Legislative Appropriations Request (LAR) and reviewed the final draft of the document, which was subsequently submitted to the Governor and the LBB by the due date.

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- E. Orientation of New Board Members – On June 30 – July 1, 2008, Division Director, along with the Executive Director and other agency staff, participated in the orientation of new Board Members Buford T. Abeldt, Sr., R.Ph., from Lufkin; Dennis F. Wiesner, R.Ph., from Austin; and L. Suzan Kedron, from Dallas. The new Board Member orientation was accomplished 52 days after May 9, 2008, the date that the Governor appointed the three new members.

Objectives (Ongoing)

1. **To assist the Board, throughout FY2008, in its review of the Texas colleges of pharmacy degree and internship programs to determine if the programs are adequate to prepare a student for pharmacy practice.**

Status: ACCOMPLISHED

Comment: In October 2007, the Division Director requested records from the Texas Tech School of Pharmacy and the University of Texas College of Pharmacy. The Division Director conducted on-site reviews of the internship records at the Texas Southern University College of Pharmacy and Health Sciences (October 17, 2007) and the University of Houston College of Pharmacy (October 18, 2007). Records from all four colleges/schools were reviewed by the Division Director. The results of the review of the internship records were presented to the Board at its February 2008 meeting.

A "Questionnaire on Texas Colleges of Pharmacy Internship Programs" was sent to the Texas Tech Health Science Center School of Pharmacy, University of Texas College of Pharmacy, Texas Southern University College of Pharmacy and Health Sciences, University of Houston College of Pharmacy, Texas A & M Health Science Center Irma Rangel College of Pharmacy, and University of the Incarnate Word Feik School of Pharmacy. Responses were received and reviewed by the Division Director and subsequently presented to the Board during the February 2008 board meeting, resulting in approval of the internship programs for the 2008-2009 academic year.

2. **To work with the National Association of Boards of Pharmacy (NABP) in the ongoing development of the Multi-State Pharmacy Jurisprudence Examination (MPJE); coordinate with the Enforcement Division to review MPJE item pools on an agreed timetable with NABP to determine appropriate questions for Texas; and to provide new questions for the MPJE as appropriate or requested by NABP.**

Status: ACCOMPLISHED

Comment: The Division accomplished this goal with the cooperation of agency personnel who assisted in the reviews of the MPJE item pool. The Division Director and agency personnel participated in the following activities in support of the MPJE program:

PROFESSIONAL SERVICES DIVISION

Date	Activity	Personnel
1/10-12/2008	MPJE Texas Item Pool Review and National Item Pool Review, Fort Lauderdale, FL	Allison Benz Kerstin Arnold
June 2008	MPJE Texas Item Writing, Austin, TX	Allison Benz

3. **To publish an Internet version of the *Newsletter* during FY2008, in order to promote voluntary compliance with the law by providing information to educate pharmacists about their responsibilities under current law and rules, and to provide information consistent with the responsibilities of the Board.**

Status: ACCOMPLISHED

Comment: Three issues of the *TSBP Newsletter* were published during FY2008. Each issue of the *Newsletter* featured a "Complaint Corner" article, Compliance Reminders, and Disciplinary Actions. The *Summer 2008* issue was printed and mailed to licensed pharmacies.

The Newsletter Planning Committee, consisting of members from each of the agency's divisions, met during FY2008 to provide input on the articles included in the *Newsletter*. Throughout FY2008, an email subscription to the Newsletter was available on the TSBP website. Individuals were able to subscribe to the Newsletter by providing an email address. Subscribers were notified by email when a Newsletter was available on the website.

4. **To develop rules for consideration by the Board relating to professional issues and assist other divisions with the development of rules pertaining to Board operations.**

Status: ACCOMPLISHED

Comment: Division staff accomplished the objective through the following activities:

DRAFTING OF RULES

The Division Director spent a considerable amount of time drafting rules, assisting others in the drafting of rules, and preparing the rules for review by the Board. Changes required by the Board were made quickly to allow final review by the Board in a timely manner, usually during the same Board meeting. The Division Director drafted 31 rules and assisted others in drafting of 16 additional rules as follows:

RULES
Drafted:
§291.33 regarding Reuse of Prescription Vials
§291.74 regarding Use of Formularies
§291.33 regarding Prescription Labeling
§291.34 regarding Out-of-State Controlled Substance Prescriptions

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RULES
§291.131 regarding Flavoring of Medications
§291.32 regarding Responsibility of Errors
§291.33, 291.34 regarding Patient Counseling
§291.34 regarding Emergency Dispensing of a 30 Day Supply of Drugs in the Event of a Disaster
§§283.1, 283.2, 283.4, 283.5, 283.6 regarding Internship Requirements
§291.31-291.33 regarding Security in Class A Pharmacies
§§309.1, 309.3 regarding Narrow Therapeutic Index Drugs
§§291.15, 291.33, 291.133 regarding Storage of Drugs
§§291.72, 291.73 regarding Electronic Supervision of Pharmacy Technicians
§291.74 regarding Formularies
§§309.1, 309.3 regarding Generic Substitution
§§291.91-291.94 regarding Class D (Clinic) Pharmacies
Assisted the Licensing Division in drafting:
§297.7 regarding Pharmacy Technician Exemption from Certification Examination Requirements
§305.2 regarding Pharmacy Technician Training Programs
§295.8 regarding Continuing Education Requirements
§297.3 regarding Registration Requirements of Pharmacy Technicians
§§283.7, 283.8 regarding Examination and Reciprocity Requirements for Criminal Background Checks
Assisted the Enforcement Division in drafting:
§291.104 regarding Prescription Labeling by Class E Pharmacies
Assisted the Legal Division in drafting:
§281.9 regarding Grounds for Discipline of a Pharmacy Technician or Pharmacy Technician Trainee
§281.64 regarding Sanctions for Applicants with Criminal Offenses
§281.63 regarding Consideration of Criminal Offenses
§281.64 regarding Sanctions for Applicants with Criminal Offenses
§§281.62, 281.63, 281.64, 281.65 regarding Disciplinary Guidelines
§281.66 regarding Applications for Reissuance or Removal of Restrictions of a License

5. **To coordinate the updating of the Texas State Pharmacy Law reference manual and provision of the updates to the publisher of the manual and to NABP for inclusion in NABPLAW during FY2008.**

Status: ACCOMPLISHED

Comment: Law Reference

Although the Texas State Pharmacy Law Reference manual was not published by TSBP, the Division Director worked closely with the publisher, Lexis Nexis, to ensure that the manual met TSBP requirements.

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Law Reference Updates

Updates to the law reference in the form of Rule Memos were provided to Board Members and staff on:

- September 19, 2007
- November 30, 2007
- March 21, 2008
- June 20, 2008

NABPLAW Updates

Updates to NABPLAW were submitted as requested to the National Association of Boards of Pharmacy (NABP) on the following dates during FY2008:

- September 19, 2007
- January 31, 2008

NABP Survey of Pharmacy Law Updates

The NABP publication, Survey of Pharmacy Law, is updated annually. During FY2008, the update was completed by the Division Director and returned to NABP by the due date.

6. **To act as agency liaison to the Texas Register, coordinate and monitor all submissions to the Texas Register, to review and monitor the Texas Register for activities of other agencies that would impact TSBP or pharmacy practice, and to provide periodic notice of publications to Board Members, staff, and other interested parties.**

Status: ACCOMPLISHED

Comment: Division staff accomplished the objective through the following activities:

RULE SUBMISSIONS TO THE *TEXAS REGISTER*

During FY2008, 58 submissions to the *Texas Register* were made that proposed, adopted, reviewed, repealed, or withdrew Texas Pharmacy rules. This represents a 6% decrease in the number of submissions as compared to FY2007 (there were 62 submissions during FY2007). Division staff met all deadlines for submissions to the *Texas Register*, monitored the submissions for action, and notified Board Members, TSBP staff, and other interested parties of the status of rules as follows:

PROFESSIONAL SERVICES DIVISION

Rules	Type of Action	Published in TxReg as Proposed	Memo to Staff and Others	Published in TxReg as Adopted	Memo to Staff and Others
Chapter 291 (§§291.101 – 291.105) Rule Review	Published	FY2007	FY2007	9/14/07	9/19/07
Chapter 295 (§§295.1-295.9, 295.11-295.13, 295.15) Rule Review	Published	FY2007	FY2007	9/14/07	9/19/07
§§291.2, 291.3, 291.4, 291.7, 291.12, 291.13, 291.15, 291.16, 291.20, 291.21, 291.25, 291.26, 291.27	Repeal	FY2007	FY2007	9/14/07	9/19/07
§§291.2, 291.3, 291.24, 291.27	New	FY2007	FY2007	9/14/07	9/19/07
§§291.6, 291.8, 291.10, 291.18, 291.19, 291.22, 291.23	Amendments	FY2007	FY2007	9/14/07	9/19/07
§§291.37, 291.38	Repeal	FY2007	FY2007	9/14/07	9/19/07
§§291.31, 291.32, 291.33, 291.34	Amendments	FY2007	FY2007	9/14/07	9/19/07
§§291.72, 291.73, 291.74, 291.75, 291.76	Amendments	FY2007	FY2007	9/14/07	9/19/07
§291.92	Amendments	FY2007	FY2007	9/14/07	9/19/07
§§291.104, 291.105	Amendments	FY2007	FY2007	9/14/07	9/19/07
§§291.120, 291.121, 291.123, 291.125, 291.127, 291.129, 291.131, 291.133	New	FY2007	FY2007	9/14/07	9/19/07
§295.9	Amendments	FY2007	FY2007	9/14/07	9/19/07
§297.3	Amendments	FY2007	FY2007	9/14/07	9/19/07
§§291.25, 291.26	Repeal	FY2007	FY2007	9/14/07	9/19/07
§295.8	Amendments	9/14/07	9/19/07	11/16/07	11/30/07
§291.33, 291.34	Amendments	11/23/07	11/30/07	2/29/08	3/25/08
§291.74	Amendments	11/23/07	11/30/07	2/29/08	3/25/08
§291.131	Amendments	11/23/07	11/30/07	2/29/08	3/25/08
§§281.9, 281.64	Amendments	11/30/07	11/30/07	2/29/08	3/25/08
Chapter 283	Published	11/23/07	11/30/07	2/29/08	3/25/08

PROFESSIONAL SERVICES DIVISION

Rules	Type of Action	Published in TxReg as Proposed	Memo to Staff and Others	Published in TxReg as Adopted	Memo to Staff and Others
(§§283.1 – 283.11) Rule Review					
Chapter 291 (§§291.31 – 291.35, 291.37- 291.38) Rule Review	Published	11/23/07	11/30/07	2/29/08	3/25/08
§§281.63, 281.64	Amendments	3/21/08	3/25/08	5/30/08	6/20/08
§§291.32-34	Amendments	3/21/08	3/25/08	8/28/08	FY2009
§291.104	Amendments	3/21/08	3/25/08	5/30/08	6/20/08
§297.7	Amendments	3/21/08	3/25/08	5/30/08	6/20/08
§§283.1, 283.2, 283.4, 283.5, 283.6	Amendments	3/21/08	3/25/08	5/30/08	6/20/08
§§309.1, 309.3	Amendments	3/21/08	3/25/08	5/30/08	6/20/08
§§281.62, 281.63, 281.64, 281.65	Amendments	6/20/08	6/20/08	8/29/08	FY2009
§291.15	New	6/20/08	6/20/08	8/29/08	FY2009
§§291.133	Amendments	6/20/08	6/20/08	8/29/08	FY2009
§§291.72-291.74	Amendments	6/20/08	6/20/08	8/29/08	FY2009
§§291.91-291.94	Amendments	6/20/08	6/20/08	8/29/08	FY2009
§305.2	Amendments	6/20/08	6/20/08	8/29/08	FY2009
§§309.1, 309.3	Amendments	6/20/08	6/20/08	8/29/08	FY2009
Chapter 291 (§§291.71-291.76) Rule Review	Published	6/20/08	6/20/08	8/29/08	FY2009
Chapter 303 (§§303.1-303.3)	Published	6/20/08	6/20/08	8/29/08	FY2009

OPEN MEETING SUBMISSIONS TO THE TEXAS REGISTER

Twenty notices of open meetings scheduled during FY2008 were submitted by the Division to the *Texas Register* for publication. In addition, two miscellaneous notices were submitted to the *Texas Register*. The submissions were as follows:

Type of Submission	Date Published
Open Meeting 9/13/07 – Task Force Meeting (Internship)	FY2007
Miscellaneous – Election of Officers	9/11/07
Open Meeting 10/22/07 – Task Force Meeting (Security)	10/5/07
Open Meeting 10/30-10/31/07 – Board Business Meeting	10/17/07
Miscellaneous - Appointment of Individuals to the Texas State Board of Pharmacy/Texas Medical Board Joint Committee on Narrow Therapeutic Index Drugs	10/17/07
Open Meeting 11/13/07 – Task Force Meeting (Internship)	10/24/07
Open Meeting 11/19/07 – Joint Committee Meeting (Narrow Therapeutic Index Drugs)	11/6/07

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Type of Submission	Date Published
Open Meeting 1/14/08 – Joint Committee Meeting (Narrow Therapeutic Index Drugs)	12/19/07
Open Meeting 1/22/08 – Task Force Meeting (Class D Pharmacies)	1/9/08
Open Meeting 2/5/08 – Public Hearing	1/23/08
Open Meeting 2/5-2/6/08 – Board Business Meeting	1/23/08
Open Meeting 3/3/08 – Disciplinary Panel Hearing	2/25/08
Open Meeting 4/2/08 – Executive Committee Meeting	3/18/08
Open Meeting 4/10/08 – Task Force Meeting (Class C Pharmacies)	3/12/08
Open Meeting 5/6/08 – Public Hearing	4/21/08
Open Meeting 5/6-5/7/08 – Board Business Meeting	4/21/08
Open Meeting 6/27/08 – Task Force Meeting (Class C Pharmacies)	6/17/08
Open Meeting 7/17/08 – Executive Committee Meeting	7/8/08
Open Meeting 7/18/08 – Board Forum	7/8/08
Open Meeting 7/18/08 – Round Table Meeting	7/8/08
Open Meeting 8/5/08 – Public Hearing	7/24/08
Open Meeting 8/5-8/6/08 – Board Business Meeting	7/24/08

Division Director reviewed every issue of the *Texas Register* for items that might have an impact on the Board or profession. The following rules were identified as impacting the agency or pharmacy practice and circulated to appropriate staff as indicated:

Date	Rules from Other Agencies	Action
12/13/2007	Department of Public Safety	Reported to Board Members and Staff
3/25/2008	Department of Public Safety	Reported to Board Members and Staff
6/23/2008	Department of Information Resources	Reported to Director of Administrative Services and Information Technology Manager

- To provide professional staff support to Board-appointed task forces and complete other special projects as assigned throughout FY2008.**

Status: ACCOMPLISHED

PROFESSIONAL SERVICES DIVISION

Comment: The Division's staff provided professional staff support including communicating with task force members regarding meetings and setting up for the meetings. There were four task force meetings supported by the Division staff during FY2008 as follows:

- September 13, 2007 Internship Requirements
- October 22, 2007 Security in Class A (Community) Pharmacies
- November 13, 2007 Internship Requirements
- January 22, 2008 Class D (Clinic) Pharmacies

8. To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2008.

Status: ACCOMPLISHED

Comment: Division staff accomplished the objective through the following activities:

- A. Division Director assisted the Texas Department of Public Safety (DPS) in the review and approval of plans from 13 Texas pharmacies to dispense prescriptions for Schedule II controlled substances issued by out-of-state practitioners. With input from the Division Director, DPS developed a questionnaire for pharmacies to use when submitting plans to dispense out-of-state Schedule II prescriptions.
- B. Senior Administrative Assistant Sherry Stevenson maintained close contact with *Texas Register* staff as needed to prepare and publish rules in the *Texas Register*.
- C. The Division Director maintained contact with numerous state and federal agencies and other state boards of pharmacy.

9. To respond to open records requests throughout FY2008, in accordance with the procedures set forth in the Texas Public Information Act.

Status: ACCOMPLISHED

Comment: As indicated in the chart below, TSBP experienced a 22% increase in the number of requests for records in FY2008, as compared to FY2007. Inquiries in FY2008 asked for more information (greater number of licensees per request) as compared to FY2007 (39% increase in the number of licensees who were the subjects of inquiries).

PROFESSIONAL SERVICES DIVISION

OPEN RECORDS REQUESTS - FY2004 through FY2008

Fiscal Year	Verbal Requests		Written Requests		Total # of Requests		Monthly Average		% Change from Prior Fiscal Year	
	# of Requests	# of Licensees	# of Requests	# of Licensees	# of Requests	# of Licensees	# of Requests	# of Licensees	# of Requests	# of Licensees
FY2004	116	116	412	599	528	715	44	60	-6%	-57%
FY2005	114	114	606	1,010	720	1,124	60	94	+36%	+57%
FY2006	154	154	730	1,230	884	1,384	74	115	+23%	+22%
FY2007	94	94	856	1,780	950	1,874	79	156	+7%	+35%
FY2008	205	205	948	2,398	1,153	2,603	96	217	+22%	+39%

- 10. To provide information to Board staff and customers, including responses to surveys and questionnaires, oral and written communication, and public speaking engagements, as needed and required throughout FY2008.**

Status: ACCOMPLISHED

Comment: Division staff accomplished this objective through the following activities:

- A. During FY2008, the Division sent out 1,807 pieces of written information (an average of 150 per month) including emails, packets of information, and information regarding rules and open meetings.
- B. The Division Director gave five presentations to approximately 364 individuals as indicated in the following chart:

Date	Group	Attendance (Approx.)
9/15/2007	West Texas Pharmacy Association, Lubbock, Texas	100
10/4/2007	University of Texas, College of Pharmacy 1 st semester students	130
2/21/2008	Target District Pharmacists	15
3/31/2008	University of Incarnate Word School of Pharmacy P2 Students	74
8/14/2008	Lubbock Area Society of Health-System Pharmacists	45
TOTAL		364

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- C. The Division Director provided training and information to new employees and pharmacist-interns regarding the operation of the Professional Services Division.

Other Activities

- The Division Director routinely answered questions concerning the laws and rules, including their applicability to specific situations, for Enforcement and Licensing staff.
- The Division Director monitored the website for currentness of the information presented. Changes and/or updates were forwarded to Network Specialist Todd Hayek.
- The Division Director served as co-chair on the agency's Wellness Committee in conjunction with the General Counsel. Division Director assisted with October fitness walks, healthy snacks, Summer Wellness Bingo contest, and wellness blog.

11. **To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2008.**

Status: ACCOMPLISHED

Comment: In FY2008, Division staff attended general staff meetings and in-house training sessions. General Staff Meetings were held in September 2007, December 2007, February 2008, May 2008, and August 2008. In conjunction with quarterly General Staff Meetings, Division staff participated in all-staff training, as listed below:

- 11/27/07 – Retention Schedule Basics; presentation by Laura Finger
- 2/27/08 – First Class Customer Service; presentation by Alliance Work Partners
- 8/19/08 – Strategic Time Management; presentation by Alliance Work Partners

In addition, Division staff attended Public Information Coordinators seminars and *Texas Register* liaison training.

12. **To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2008.**

Status: ACCOMPLISHED

Comment: Senior Administrative Assistant Sherry Stevenson was evaluated on July 14, 2008, as required by agency policy.

- 13. To destroy records in accordance with the agency's record retention plan throughout FY2008; to update the Division's Policy and Procedure Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2008.**

Status: ACCOMPLISHED

Comment: During FY2008, the Division accomplished this goal as follows:

A. Records Management

Records in the possession of the Division scheduled for destruction during FY2008 under the approved Record Retention Schedule were identified and destroyed.

B. Policies and Procedures

The policies and procedures for handling Open Records Requests and for submitting information to the *Texas Register* were reviewed in FY2008.

- 14. To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2008.**

Status: ACCOMPLISHED

Comment: Division Director made numerous recommendations to keep the TSBP website current and easier to use. Recommendations included adding a PDF link for proposed rules that allowed the public to easily view specific proposed rule language; and adding information regarding the destruction of dispensed drugs on the consumer information page.

- 15. To recommend changes to the Texas Pharmacy Act and rules that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2008.**

Status: ACCOMPLISHED

Comment: The Division Director recommended that the definition of Class E pharmacies be amended to include pharmacies that do not dispense medications to Texas residents but provide other services such as patient counseling, drug utilization review, etc. In addition, the Division Director, along with assistance from other Division Directors, drafted language to implement bills passed by the 80th Legislature.

PROFESSIONAL SERVICES DIVISION

16. To prepare and submit a report on the accomplishment of Division objectives for incorporation in the agency's FY2007 Annual Report to be presented to the Board at its May 2008 Board Meeting.

Status: PARTIALLY ACCOMPLISHED

Comment: The Division's first draft of the FY2007 *Annual Report* was submitted to the Executive Director by the due date. The final draft of the *TSBP Annual Report* was presented to and approved by the Board at its meeting held in August 2008.

Enforcement Division

FY2008 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished 100% of its 16 Objectives for FY2008 (15 Objectives were accomplished and one Objective was partially accomplished).
2. As reflected in the chart below, TSBP received and closed more complaints in FY2008 than in any prior fiscal year (see Ongoing Objective #3 for further information regarding complaints that were closed by TSBP in FY2008).

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY04	4,475		3,018		67%	118 Days	
FY05	3,086	-31%	3,327	+10%	108%	196 Days	+66%
FY06	3,550	+15%	3,387	+2%	95%	207 Days	+6%
FY07	5,849	+65%	4,980	+47%	85%	185 Days	-11%
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%

3. Field Compliance staff conducted 2,048 pharmacy inspections, thereby exceeding the inspection goal for FY2008 (see Ongoing Objective #2 for further details regarding compliance inspections). This number of inspections included 101 pre-inspections of new pharmacies, a process to ensure that TSBP is issuing licenses to valid facilities.
4. Division staff spent significant time and effort responding/handling approximately 14,326 telephone calls received via the Compliance Queue Phone Line (see Ongoing Objective #6 for further details). In addition, Division staff made 21 presentations to approximately 3,252 individuals during FY2008 (see Ongoing Objective #6 for further details).
5. Division Director and Assistant Division Director served as preceptors to nine students from four colleges of pharmacy (see Ongoing Objective #7 for further details).
6. Division staff implemented a new program to sample/test compounded preparations. Although all tested sterile preparations (100%) were sterile and free of endotoxins, some of the preparations demonstrated unacceptable results with regard to potency (see Ongoing Objective #2 for further details).
7. Division began the process of imaging certain enforcement records. This process will alleviate the need for additional file space for paper records, as well as provide for quicker retrieval of these records.

ENFORCEMENT DIVISION

8. The 80th Texas Legislature provided funding for four new enforcement staff. These positions were filled during FY2008: Enforcement Program Administrator; Enforcement Program Officer; Senior Staff Investigator (supervising in-house investigator) and Field Investigator (a second field investigator headquartered in Houston, Texas). These positions were sorely needed to help reduce the agency's complaint backlog. As a result of the additional in-house positions, the agency was forced to convert its former conference room area into cubicle office space. Assistant Director Paul Holder, R.Ph., Pharm.D., assisted with planning and coordinating construction of the additional office cubes; the final layout, design and construction resulted in an acceptable work space.

FY2008 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. TSBP experienced only a slight 2% decrease in the number of complaints received during FY2008, as compared to FY2007, when the number of complaints received by TSBP was an all-time record . TSBP continued to open a large number of complaints due to criminal background checks on applicants for Registration as a Pharmacy Technician or Pharmacy Technician Trainee. Although the Enforcement Division received additional FTEs in FY2008, the Division was unable to decrease the backlog of pending complaints, due to the following contributing factors:
 - A. the Division experienced significant turnover in FY2008 [see (4) below].
 - B. Division staff spent enormous time and effort during the audit of the Complaint Process that was conducted by the State Auditor from November 2007 through June 2008.
2. TSBP did not meet, within a 5% variance, the Key performance measure relating to “Average Time for Jurisdictional Complaint Resolution.” The projected target for complaint resolution was 180 days, and the performance attained was 197 days (a 9% variance). TSBP was unable to meet the projected target for complaint resolution primarily due to the fact that the agency closed a large number of old complaints in FY2008, which had a negative impact on the agency’s complaint resolution time. Despite this disappointment, TSBP met or exceeded the remaining five Key enforcement-related performance measures and all seven Non-Key enforcement-related performance measures. Accordingly, TSBP met or exceeded 92% of the FY2008 projections for 13 enforcement-related performance measures (see Ongoing Objective #1 for further details).
3. Division staff continued to spend significant time and efforts monitoring compliance with the terms of disciplinary orders that were entered by TSBP in FY2008. Almost all of the disciplinary orders entered in FY2008 required some type of monitoring by Division staff (i.e., 488 Orders, or 87% of the 563 disciplinary Orders that TSBP entered during FY2008, required some type of monitoring; see Ongoing Objective #5 for further details).
4. During FY2008, the Division experienced 21 staffing changes. These changes were due to the filling of four new positions funded by the 80th Texas Legislature, the loss of five employees (four resignations and one due to a transfer to the Legal Division) and an additional eight positions being created due to internal promotions within the Division (i.e., existing employees filling the new positions or positions vacated by persons who resigned). (See Ongoing Objective #11 for further details.)
5. Comparing FY2007 to FY2008, TSBP experienced a 181% increase in the number of persons who allegedly pilfered controlled substances and a 242% increase in the number of dosage units of controlled substances reported stolen due to employee pilferage. (See Ongoing Objective #3 for further details.)

ENFORCEMENT DIVISION

6. Because TSBP's contract with the vendor that managed the agency's random drug screening program expired August 31, 2008, TSBP was required to go out for bid for this service. Division staff assisted with developing the bid specifications and reviewing the bid responses, but sufficient time was not allowed for the process. Not all relevant factors for selection criteria were considered/included in the bid specifications. The bid was awarded to a new vendor only days prior to the end of the contract, which presented multiple problems during the transition period from the prior vendor to the new vendor.

FY2008 ANNUAL REPORT

GOAL

To promote voluntary compliance with pharmacy laws and rules. To monitor compliance with pharmacy laws and rules. To enforce pharmacy laws and rules through inspections and investigations of pharmacists and pharmacies. To monitor the complaint process and transfer complaints involving substantive allegations to the TSBP Legal Division for review and potential prosecution. To monitor compliance with Disciplinary Orders. To provide enforcement information and information regarding pharmacy laws and rules to agency customers.

Objectives (New)

1. **To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2008:**
 - A. **Reviewing and implementing legislation passed by the 80th Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2008;**
 - B. **Updating and preparing the *TSBP Strategic Plan for FY2009-2013* and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date;**
 - C. **Preparing a proposed budget for the FY2010-2011 biennium for review and approval by the Board at the 2008 Board Budget meeting;**
 - D. **Preparing the *TSBP Legislative Appropriation Request for FY2010-2011* and corresponding performance measures by the due date; and**
 - E. **Conducting the orientation of new Board Members within 90 days of appointment by the Governor.**

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. Legislation –
 1. New Enforcement FTEs – the 80th Texas Legislature funded four new positions. (See Ongoing Objective #11 for further details regarding these positions.)
 2. With the assistance of the TSBP General Counsel, Division staff implemented the sampling program. (See Ongoing Objective #2 for additional details.)

ENFORCEMENT DIVISION

- B. Strategic Plan – Assistant Director of Enforcement Paul Holder, R.Ph., Pharm.D., worked with Board Member Jeanne Waggonner, R.Ph., to update Policy Issue #3 of the TSBP Strategic Plan, relating to Pharmacy Personnel and Working Conditions. The updated issue statements were presented to the Board at its February 2008 meeting. The Division Director worked with the Director of Administrative Services on items contained in the Plan (e.g., workload issues). After being approved by the Board at its May 2008 meeting, the Final Strategic Plan was published and delivered to the Governor's office and other applicable agencies by the due date.
- C. Proposed Budget for FY2010-2011 – Division Management Staff discussed personnel needs for the next biennium and prepared a written justification for additional FTEs and reclassification of field positions. Division Director worked with the Executive Director and other Division Directors to prepare a proposed budget request for the TSBP Executive Committee's review and consideration at a meeting in April 2008. In addition to the request for more FTEs and funding for equity increases (reclassifications), the proposed budget also contained a request for additional funding for sampling compounded preparations. The Board approved the proposed budget at its May 2008 meeting. The budget request included cost of a new computer system. Division staff participated in several demonstrations of possible vendors and discussions related to migration to a new system.
- D. Legislative Appropriations Request FY2010-2011 (LAR) – Division Director prepared targets for enforcement-related performance measures to correspond with the agency's budget request. Upon the Governor's request, the Division Director and Assistant Director worked with the Executive Director and other Division Directors to prepare a budget with a funding level at 90% of the agency's current funding. The final LAR was submitted to the Legislative Budget Board and Governor's Office by the due date of July 30, 2008.
- E. Orientation of New Board Members – On June 30-July 1, 2008, Division staff, along with the Executive Director and other agency staff, participated in the orientation of three new Board Members (Buford T. Abeldt, Sr., R.Ph.; Dennis F. Wiesner, R.Ph; and L. Suzan Kedron).

Objectives (Ongoing)

- To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2008 – FY2009 Appropriations Act to the Executive Director by specified due dates throughout FY2008; to assist in the preparation of applicable reports to the Legislative Budget Board and Governor’s Office of Budget, Planning, and Policy regarding performance measures.**

Status: ACCOMPLISHED

Comment: Throughout FY2008, Division staff collected data relating to enforcement and peer assistance performance measures. The statistical data was certified and submitted to the Legislative Budget Board (LBB) and Governor’s Office of Budget, Planning & Policy (GBO) by the prescribed due dates, in conjunction with the licensing performance measures. See chart below:

Enforcement Performance Measure	FY08 Projected Performance	FY08 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
Outputs:				
Inspections	1,500	2,050	NK	Exceeded
Jurisdictional Complaints Resolved	3,988	5,303	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	160	162	K	Exceeded
Number of Students Participating in a Peer Assistance Program	1	3	NK	Exceeded
Efficiency:				
Average Cost per Jurisdictional Complaint Resolved	\$330.53	\$285.71	NK	Exceeded
Average Time for Jurisdictional Complaint Resolution	180	197	K	Not Met
Outcomes:				
Percent of Complaints Resulting in Disciplinary Action	15.00%	10.80%	K	Met
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders	95.00%	96.20%	K	Exceeded
Recidivism Rate of Those Receiving Disciplinary Action	6.00%	4.40%	NK	Met
Percent of Jurisdictional Complaints Resolved within Six Months	50.00%	62.00%	NK	Exceeded
Recidivism Rate for Participants in Peer Assistance Program	30.00%	21.05%	NK	Exceeded
One-Year Completion Rate for Participants in Peer Assistance Program	75.00%	85.00%	NK	Exceeded
Explanatory:				
Jurisdictional Complaints Received	3,500	5,687	K	Exceeded

* Within a 5% variance, TSBP’s actual performance was either: equivalent to projected performance (“Met”); better than projected performance (“Exceeded”); or fell below projected performance (“Not Met”).

ENFORCEMENT DIVISION

Statistics regarding three enforcement-related performance measures (Number of Jurisdictional Complaints Resolved, Average Complaint Resolution Time, and Number of Individuals Participating in a Peer Assistance Program) were reported to the LBB and GBO on a quarterly basis throughout FY2008. The other ten measures were reported to the LBB and GBO at year-end (annual basis).

As indicated in the chart above, TSBP met or exceeded, within a 5% variance, five of six key measures and all seven non-key measures. Accordingly, TSBP met or exceeded 92% of the FY2008 projections for 13 enforcement-related performance measures. Only one enforcement-related performance measure was not met (Average Time for Jurisdictional Complaint Resolution). TSBP was unable to meet the projected target for complaint resolution due to staff turnover and the complaint backlog (a large number of old complaints were closed in FY2008, which had a negative impact on the agency's complaint resolution time).

2. **To monitor pharmacy inspections and pharmacists' practice by conducting 2,000 inspections, inspection-visits, and/or visits, including follow-up inspections to "Warning Notices" throughout FY2008. To inspect pharmacies and monitor pharmacists' practice throughout FY2008, according to the following priorities:**
 - A. **pharmacists and pharmacies who are the subject of a complaint received by TSBP or a disciplinary order entered by TSBP;**
 - B. **new pharmacies or pharmacies with a recent change of ownership;**
 - C. **pharmacies that have received a "Warning Notice" (follow-up inspections);**
 - D. **requests for inspection by licensee;**
 - E. **pharmacies with a preceptor working in the pharmacy; and**
 - F. **routine inspections.**

Status: **ACCOMPLISHED**

Comment: TSBP Compliance Field Staff conducted 2,048 inspections during FY2008. The term "inspections" includes inspections, pre-inspections, partial-inspections, and inspection-visits. These terms are described below:

- A. Inspections are full inspections of licensed facilities in which Compliance field staff check the facilities for compliance with each of the items on the inspection report form.
- B. Pre-Inspections are partial inspections that occur prior to TSBP issuing the pharmacy license. The Compliance field staff determines if the pharmacy has the necessary items to open and operate a pharmacy in compliance with the laws and rules governing the practice of pharmacy. A pharmacy license is not issued to the facility unless the facility can pass the pre-inspection process.

ENFORCEMENT DIVISION

- C. Partial-Inspections are inspections of licensed facilities in which Compliance field staff check the facility for compliance with a portion of the items on the inspection report form. In addition, partial inspections include follow-up inspections of pharmacies that received a "Warning Notice" to determine if the pharmacies have corrected the discrepancies listed on the "Warning Notice." Follow-up inspections are conducted within six months after the pharmacy has notified the Board in writing that the discrepancies have been corrected.
- D. Inspection-Visits are inspections in which Compliance field staff generally do not complete an inspection report form. Inspection-visits include inspections of non-licensed facilities that are operating a pharmacy (e.g., medical supply house), visits made to pharmacies that have closed (and did not notify the Board), and visits to "new" pharmacies that have not opened for business. The last two situations are discovered by Compliance field staff after arriving at the addresses listed in Board records.

Statistics regarding these inspections are set forth below:

Total Inspections by Type	FY2006	FY2007	FY2008	% of FY08	3-Year Average	% of 3-Yr. Average
Inspections	1,878	1,761	1,603	78%	1,747	83%
Pre-Inspections	78	110	101	5%	96	5%
Partial-Inspections	150	158	142	7%	150	7%
Inspection-Visits	55	51	104	5%	70	3%
Attempted Inspections	*	*	91	4%	*	*
Other	4	1	7	0%	4	0%
Audit	0	2	0	0%	1	0%
Total	2,165	2,083	2,048	100%	2,099	100%

* New Inspection code created in FY2007.

Number of Inspections/Visits by Class	FY2006	FY2007	FY2008	% of FY08	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	1,711	1,696	1,563	76%	1,657	79%
Class B Pharmacies	4	7	4	<1%	5	0%
Class C Pharmacies	291	238	298	15%	276	13%
Class D Pharmacies	159	142	183	9%	161	8%
Total	2,165	2,083	2,048	100%	2,099	100%

Number of Warning Notices Issued by Class*	FY2006	FY2007	FY2008	% of FY08**	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	426	323	300	80%	350	81%
Class B Pharmacies	0	1	0	0%	0	0%
Class C Pharmacies	71	64	44	12%	60	14%
Class D Pharmacies	18	13	30	8%	20	5%
Total	515	401	374	100%	430	100%

* A pharmacy may be issued a "Warning Notice" for non-compliance with more than one condition.

** This figure is the number and percentage of pharmacies receiving a "Warning Notice" during an inspection/visit and is based on the number of inspections/partial-inspections/visits conducted for the particular class of pharmacy.

ENFORCEMENT DIVISION

Conditions Receiving "Warning Notices" FY2008						
Percentages are based on the total number of "Warning Notices" issued to Pharmacies in FY2008. Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.						
Type of Violation	FY2006	FY2007	FY2008	3-Year Average	% FY2008	% 3-Year Average
Equipment	103	80	55	79	7%	9%
Balance Failed Inspection	63	56	42	54		
Equipment Inspection Due (Not Balance)	36	15	12	21		
Insufficient Equipment	4	9	1	5		
Pharmacy Technicians	181	125	133	146	17%	17%
No/Incomplete Training	135	79	100	105		
No/Improper Supervision	25	24	17	22		
Improper Registration	18	16	15	16		
Supportive Personnel Name Tags	3	6	1	3		
Inadequate Library	57	16	26	33	3%	4%
Counseling Area	5	1	0	2	0%	0%
Licenses	162	116	92	123	12%	14%
Licenses Not Posted	144	102	82	109		
Delinquent Licenses	18	14	10	14		
Prescriptions	27	19	27	24	4%	3%
Lack Proper Information	16	5	8	10		
Prescription Label Incorrect	8	7	10	8		
Triplicate Non-Compliance	3	7	9	6		
Drug Stock/Environment	89	110	77	92	10%	11%
Improper Environment	36	58	0	31		
Out-of-Date Drug Stock	28	34	59	40		
Security	6	3	1	3		
Unsanitary	10	4	5	6		
Improper Drug Storage	3	4	4	4		
Area for Non-Sterile Compounding	2	5	3	3		
Violation of Limited Formulary	3	1	2	2		
Prohibited Drugs (Class D)	1	1	3	2		
Inventory	104	75	64	81		
No Annual Inventory	41	40	39	40		
No Change of Ownership Inventory	31	2	3	12		
No Change of PIC Inventory	11	13	6	10		
Incomplete Inventory	20	19	16	18		
No Perpetual inventory (Class C)	0	0	0	0		
Improper Drug Destruction	1	1	0	1		
Improper Prepackaging Procedures	20	16	25	20	3%	2%

ENFORCEMENT DIVISION

Conditions Receiving "Warning Notices" FY2008 *Continued*

Type of Violation	FY2006	FY2007	FY2008	3 Year Average	% FY2008	% 3-Year Average
Computer Systems	43	19	34	32	4%	4%
Computer Records Incomplete	42	17	31	30		
Computer Records Non-Compliance	1	2	3	2		
Records	36	44	45	42	6%	5%
Records Not Available	10	12	16	13		
DEA Order Forms Incomplete	0	0	0	0		
Absence of R.Ph. Record	4	3	2	3		
Rx Not Separated	5	5	5	5		
Rx Records not Numerical Order	2	4	3	3		
Improper Transfer of RX copies	1	1	0	1		
Invoices Not Separated/Retrievable	2	6	3	4		
Records for Non-Sterile Compounds	10	11	9	10		
No Written Information on Prescription	1	2	6	3		
Improper Refill Documentation	1	0	1	1		
OBRA Violations	11	31	54	32		
Written Information Not Provided	0	0	0	0		
No Patient Counseling	10	31	52	31		
PMR Absent or Incomplete	1	0	2	2		
Sterile Pharmaceutical Violations	116	93	30	80	4%	9%
No/Incomplete QA/QC	12	5	2	6		
No/Incomplete P&P Manual	19	9	8	12		
No/Inadequate Preparation Area	77	69	14	53		
IV Preparation	6	7	1	5		
No DUR	1	2	1	1		
Absence of R.Ph. Pick-Up-Records	0	1	4	2		
Cytotoxic/Bio Procedures	1	0	0	0		
No/Incomplete Non-Sterile Cpd Records	0	0	9	3	1%	0%
Improper Distribution	3	5	9	6	1%	1%
No PIC	10	5	7	7	1%	1%
Dispensing	11	41	36	29	5%	3%
Improper Dispensing	1	4	6	4		
Aiding and Abetting	3	10	5	6		
Illegal Dispensing	4	4	2	3		
Substitution Non-Compliance	1	1	3	2		
Out-of-State Rxs for Controlled Substances	0	1	0	0		
Improper Emergency Room Dispensing	0	0	1	0		
Improper Automated Dispensing Procedures	0	19	17	12		
Improper Provision	2	2	2	2		
Improper Advertising	0	6	19	8		

ENFORCEMENT DIVISION

Conditions Receiving "Warning Notices" FY2008 *Continued*

Type of Violation	FY2006	FY2007	FY2008	3 Year Average	% FY2008	% 3-Year Average
Notification Violation	18	12	18	16	2%	2%
Theft & Loss of C/S Not Reported	8	5	4	6	1%	1%
Gray Market diversion	0	1	1	1	0%	0%
Improper Closing/Change of Ownership	3	1	2	2	0%	0%
Improper Inpatient Procedures (Class C)	1	1	1	1	0%	0%

The total number of inspections, partial-inspections, and inspection-visits by priority are indicated below for the past three fiscal years:

Purpose of Inspection (In Order of Priority)	FY2006	FY2007	FY2008	% of FY08	3-Yr. Avg.	% of 3-Yr. Avg.
Complaint	73	118	114	6%	102	5%
Follow-up to Disciplinary Order	7	10	6	0%	8	0%
Pre-Inspection New	78	110	101	5%	96	5%
New Pharmacies	146	110	111	5%	122	6%
Change of Ownership	80	47	20	1%	49	2%
Preceptor	177	176	229	11%	194	9%
Follow-up to "Warning Notice"	95	79	31	2%	68	3%
Routine Inspections	1,493	1,390	1,326	65%	1,403	67%
Attempted Inspection	0	21	91	4%	37	2%
Other	16	22	19	1%	19	1%
Total	2,165	2,083	2,048	100%	2,099	100%

SUMMARY OF PROGRAM TO SAMPLE AND TEST COMPOUNDED PREPARATIONS

In 2005, the 79th Texas Legislature granted approval to TSBP to begin sampling and testing compounded medications prepared in Texas pharmacies. However, the program was not funded at that time. In 2007, the 80th Texas Legislature appropriated \$50,000 per year (\$100,000 for the biennium) for the sampling program.

General Counsel, with the assistance of Division staff, developed the bid specifications for this service. The contract was awarded in early FY2008. The vendor conducted a training class for TSBP staff. Division staff, with the assistance of General Counsel, developed a sample collection form and chain of custody form, both of which are completed and submitted with each sample that is sent to the vendor to be tested.

Assistant Director of Enforcement Paul Holder, R.Ph., Pharm.D., accompanied Compliance Field staff to one or more pharmacies in the summer of FY2008 and provided guidance on the sampling process. If the surrendered sample is a sterile preparation, it is tested for potency, sterility, and the presence of endotoxins. If the surrendered sample is a non-sterile preparation, it is tested for potency only.

ENFORCEMENT DIVISION

At the close of FY2008, TSBP submitted for testing 56 compounded preparations from 32 different pharmacies. Testing of all sterile preparations collected in FY2008 (100%) revealed that the collected samples were sterile and free of endotoxins. Testing of 25 of the 56 compounded preparations (45%) demonstrated unacceptable results with regard to potency of the samples. The potency results are described below:

- A. Non-Sterile Preparations –
 - (1) Of the 56 samples that were collected, 17 (30%) were non-sterile compounded preparations. Potency problems were determined in seven of the 17 preparations (41% failed potency test).
 - (2) Four of the failures were collected from a single pharmacy.
 - B. Sterile Preparations –
 - (1) Of the 56 samples that were collected, 39 (70%) were sterile compounded preparations. Potency problems were determined in 18 of the 39 preparations (46% failed potency test).
 - (2) Sixteen of the failures were collected from one batch of compounded preparation from one hospital pharmacy where the compounded preparation was alleged to have caused the deaths of three neonates. If the large number of compounded sterile preparations collected from the one hospital pharmacy is removed from the calculations, only two samples of sterile preparations (5%) were found to have unacceptable potency results.
- 3. To coordinate and monitor throughout FY2008, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants. To investigate complaints throughout FY2008, according to the following priorities:**
- A. **Continuing threats to the public welfare requiring a temporary suspension;**
 - B. **Complaints filed against licensees/registrants who have a chemical, mental or physical impairment;**
 - C. **Complaints involving the diversion of prescription drugs, through the following illegal means:**
 - **theft of drugs;**
 - **delivering prescription drugs without a prescription;**

ENFORCEMENT DIVISION

- dispensing prescription drugs pursuant to an invalid prescription, such as forged or fraudulent prescriptions, prescriptions dispensed following an Internet consultation, and unauthorized refills; and
 - failing to keep and maintain accurate records of purchases and disposals of prescription drugs (i.e., audit shortages).
- D. Complaints against licensees/registrants who have been convicted of a felony involving offenses that involved drug laws or occurred while engaged in pharmacy practice;
- E. Complaints against licensees/registrants who are registered sex offenders;
- F. Complaints against licensees/registrants who have been convicted of a felony involving offenses not occurring while engaged in pharmacy practice;
- G. Complaints involving applicants for licensure or registration (not including applications for reinstatement);
- H. Complaints involving dispensing errors and malpractice reports;
- I. Complaints involving violations of rules relating to patient counseling or drug regimen review;
- J. Complaints involving healthcare fraud or fraud, deceit, and misrepresentation in the practice of pharmacy, including aiding and abetting a non-licensed individual in the practice of pharmacy;
- K. Complaints against licensees/registrants who have been convicted of a misdemeanor that involved drug laws or occurred while engaged in pharmacy practice;
- L. Applications involving reinstatement of revoked licensees and registrations;
- M. Complaints involving other violations of the laws and rules relating to the practice of pharmacy (e.g., CE audit shortages; falsification of renewal applications; possession of samples or misbranded/adulterated drugs; working with an expired license or registration; and falsification of response to warning notices);
- N. Complaints against licensees/registrants who have been convicted of a misdemeanor involving offenses not occurring while engaged in pharmacy practice; and
- O. Complaints against licensees/registrants who have been subject to a disciplinary action by another state board of pharmacy.

Status: **ACCOMPLISHED**

ENFORCEMENT DIVISION

Comment: As reflected in the chart below, TSBP closed more complaints in FY2008 than in any prior fiscal year. In addition, TSBP experienced only a slight decrease in the number of complaints received in FY2008 as compared to FY2007 (when the number of complaints received was an all-time record high). TSBP experienced only a slight increase in the number of days to resolve a complaint from 185 days in FY2007 to 196 days in FY2008, as reflected in the chart below.

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY04	4,475		3,018		67%	118 Days	
FY05	3,086	-31%	3,327	+10%	108%	196 Days	+66%
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FY07	5,849	+65%	4,980	+47%	85%	185 Days	-11%
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%

The following chart indicates the number of dispensing error complaints closed during the past five years:

**DATA ON DISPENSING ERROR COMPLAINTS
CLOSED FY2004– FY2008**

Type of Dispensing Error	FY2004*	FY2005	FY2006	FY2007	FY2008	5-Year Avg.
Wrong Drug/Strength or Wrong Directions for Use	122	126	114	152	86	120
Mislabeling	7	11	13	15	13	12
Dispensed Wrong Quantity	30	70	58	58	41	51
Dispensed Outdated Drug	5	3	3	10	4	5
Packaging/Delivery Error	8	14	23	32	25	20
Error + No Counseling	9	7	7	10	2	7
Total # Dispensing Error Complaints	181	231	218	277	171	216
Total # Complaints Closed	3,081	3,327	3,387	4,980	5,360	4,027
% Dispensing Error Complaints	6%	7%	6%	6%	3%	5%

* The majority of complaints closed in FY2004 involved the implementation of the new technician registration program and thereby this data is skewed when compared to prior fiscal years.

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The agency's history with regard to complaint data and field investigations during the past five years is reflected in the chart below:

Number of Complaints Handled Through Field Investigations FY2004– FY2008					
Fiscal Year	Compliance Officers	%	Investigators	%	Total
FY2004	37	17%	180	83%	217
FY2005	107	46%	126	54%	233
FY2006	128	41%	182	59%	310
FY2007	105	26%	299	74%	404
FY2008	147	29%	356	71%	503
5-Year Avg.	105	32%	229	69%	333

Additional complaint statistics on closed complaints for the past three fiscal years are outlined below:

DATA ON COMPLAINTS CLOSED FY2006 – FY2008

Form of Complaints	FY2006	FY2007	FY2008	% of FY2008	3-Yr. Avg.	% of 3-Yr. Avg.
Telephone	62	66	69	1%	66	1%
Letter	250	219	181	3%	217	5%
TSBP Complaint Form	198	235	152	3%	195	4%
HPC 800 #	74	72	37	<1%	61	1%
Fax	63	90	93	2%	82	2%
Visit	8	7	4	<1%	6	<1%
Agency Report	385	379	539	10%	434	9%
Inspection	55	52	56	1%	54	1%
Interoffice Referral	65	49	18	<1%	44	<1%
Licensure Application	1,308	2,693	3,004	56%	2,335	51%
Data Bank	4	5	5	<1%	5	<1%
Theft/Loss Report	343	440	583	11%	455	10%
Investigation	141	254	229	4%	208	5%
Intra-Agency Referral	18	15	10	<1%	14	<1%
Malpractice Report	6	17	2	<1%	8	<1%
Press Clip	3	6	6	<1%	5	<1%
Email *	34	54	44	<1%	44	<1%
Internet *	370	325	326	6%	340	7%
Other	0	2	2	<1%	1	<1%
TOTAL	3,387	4,980	5,360	100%	4,576	100%

* TSBP accepts complaints via email, as well as through the agency's website (Internet). TSBP makes a distinction between email complaints (where the complainant sends an electronic message/complaint to a TSBP employee) and Internet complaints (where the complainant completes the on-line TSBP complaint form). TSBP began accepting on-line complaints in the Spring of 2001.

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DATA ON COMPLAINTS CLOSED FY2006 – FY2008

Source of Complaints	FY2006	FY2007	FY2008	% of FY2008	3-Yr. Avg.	% of 3-Yr. Avg.
Consumer	736	690	567	11%	664	15%
Government Agency	425	422	571	11%	473	10%
Pharmacist	60	76	51	<1%	62	1%
Pharmacist (Self)	87	95	81	2%	88	2%
Applicant (R.Ph. Self)	108	159	154	3%	140	3%
Technician	12	12	7	<1%	10	<1%
Technician (Self)	35	90	110	2%	78	2%
Applicant (Tech Self)	805	628	303	6%	579	13%
Technician Trainee	*	0	1	<1%	0	0%
Tech Trainee (Self)	*	0	2	<1%	1	<1%
Applicant (Tech Trainee Self)	*	1,236	1,796	34%	1,011	22%
TSBP	537	845	859	16%	747	16%
Doctor	60	73	66	1%	66	1%
Other Health Professional	14	16	14	<1%	15	<1%
NABP	4	6	5	<1%	5	<1%
PIC, Pharmacy Manager, or Supervisor	344	438	595	11%	459	10%
Loss Prevention Officer (Corporate)	6	6	9	<1%	7	<1%
Manufacturing Rep.	5	4	0	0%	3	<1%
Professional Recovery Network (PRN)	13	16	11	<1%	13	<1%
Insurance Company	5	13	4	<1%	7	<1%
Attorney	3	10	2	<1%	5	<1%
Employee/Ex-Employee	29	17	15	<1%	20	<1%
Media	6	25	9	<1%	13	<1%
Drug Screening Co.	71	92	119	2%	94	2%
Other	22	11	9	<1%	14	<1%
TOTAL	3,387	4,980	5,360	100%	4,576	100%

* TSBP began registering Technician Trainees in FY2007.

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DATA ON CLOSED FY2006 – FY2008 COMPLAINTS

Subjects of Complaints *	FY2006	FY2007	FY2008	3-Yr. Average
Licensees (RPh/Pharmacy)	1,642 (48%)	1,742 (35%)	1,604 (30%)	1,663 (36%)
Pharmacist	707	755	565	676
In-State Pharmacy	889	960	991	947
Out-of-State Pharmacy	46	27	48	40
Registrants (Intern/Tech)	1,160 (34%)	645 (13%)	830 (15%)	878 (19%)
Intern	**	5	5	3
Technician	1,160	639	669	823
Technician Trainee	***	1	156	52
Applicants (Lic & Reg)	514 (15%)	2,530 (51%)	2,850 (53%)	1,965 (43%)
Pharmacist	63	94	72	76
Pharmacy	35	38	36	36
Intern	53	79	97	76
Technician	363	790	399	517
Technician Trainee	***	1,529	2,246	1,258
Non-Licensees	71 (2%)	63 (1%)	76 (1%)	70 (2%)
Doctor	12	13	25	17
Manufacturer	1	2	1	1
Wholesaler	3	0	0	1
Non-Licensed Facility or Person	43	33	31	36
Insurance Company/PBM	2	8	10	7
Out-of-State Facility	5	3	5	4
Other	5	4	4	4
TOTAL	3,387	4,980	5,360	4,576

* A complaint may have one or two subjects (i.e., an individual and a facility); however, for data reporting purposes, TSBP selects a single code as the subject of the complaint; for complaints with dual subjects, the complaint is generally coded as being filed against the individual rather than the facility. EXAMPLES:

- (a) a complaint may be filed on both a pharmacist and a pharmacy (e.g., dispensing error committed by a pharmacist at a particular pharmacy); in this event, the complaint is coded as being filed against the pharmacist; and
- (b) a complaint may be filed on both a technician and a pharmacy (e.g., theft of controlled substances by a technician at a pharmacy); in this event, the complaint is coded as being filed against the technician.

** New subject code created in FY2007.

*** TSBP began registering Tech Trainees in FY2007.

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NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2006 – FY2008

Alleged Violation	FY2006	FY2007	FY2008	3-Yr. Avg.	% of 3-Yr. Avg.
Diversion	24	23	13	20	<1%
Controlled Substances (C/S)	14	18	8	13	<1%
Dangerous Drugs (D/D)	3	2	1	2	<1%
Both (C/S & D/D)	7	3	4	5	<1%
Unauthorized Dispensing	29	22	29	27	<1%
Controlled Substances	4	5	5	5	<1%
Dangerous Drugs	15	6	14	12	<1%
Both (C/S & D/D)	10	11	10	10	<1%
Illegal Delivery	0	2	0	1	<1%
Controlled Substances	0	0	0	0	0%
Dangerous Drugs	0	0	0	0	0%
Both (C/S & D/D)	0	2	0	1	<1%
Illegal Possession	1	2	4	2	<1%
Controlled Substances	1	1	0	1	<1%
Dangerous Drugs	0	0	4	1	<1%
Both (C/S & D/D)	0	1	0	0	0%
Convictions/Criminal Offenses	1,189	2,454	2,583	2,075	45%
Felony	28	51	87	55	1%
Misdemeanor	197	457	366	340	7%
DWI/PI	292	515	471	426	9%
Deferred Adjudication	264	438	495	399	9%
Offense on Application	408	993	1,164	855	19%
Dispensing Error	218	277	171	222	5%
Wrong Drug/Strength	114	152	86	117	3%
Mislabeling	13	15	13	14	<1%
Wrong Quantity	58	58	41	52	1%
Outdated Drug	3	10	4	6	<1%
Packaging/Delivery	23	32	25	27	<1%
Dispensing Error and No or Improper Patient Counseling	7	10	2	6	<1%
No or Improper Patient Counseling	9	17	15	14	<1%
No or Improper Drug Regimen Review	10	16	11	12	<1%
Theft/Loss of C/S and/or D/D	361	457	597	472	10%
Aiding & Abetting	33	46	45	41	<1%
Action by Other Board	52	53	44	50	1%
Non-Compliance with Substitution Rules	68	60	47	58	1%
Non-Compliance with Disciplinary Order	158	230	234	207	5%
Non-Compliance with PRN Contract	*	4	1	2	<1%
Interference with Doctor/Patient Relationship	67	35	31	44	<1%
Confidentiality	11	33	6	31	<1%
Failed to Keep Records	0	6	0	2	<1%
Negligence	0	0	0	0	0%
Unsafe Practice	5	2	6	4	<1%
Compounding	*	3	3	2	<1%
Unprofessional Conduct	10	8	2	7	<1%
Gross Immorality	4	2	6	4	<1%
Fraud	338	502	632	491	11%
Fraud, Deceit & Misrepresentation	4	5	4	4	<1%
Falsified Response to Warning Notice	0	3	2	2	<1%
Falsified Application	318	478	612	469	10%
Filled/Passed Forged Prescription	7	12	12	10	<1%
Insurance Fraud	9	4	0	4	<1%
Medicare Fraud	0	0	2	1	<1%

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Alleged Violation	FY2006	FY2007	FY2008	3-Yr. Avg.	% of 3-Yr. Avg.
Impairment	22	24	35	27	<1%
Probable Cause	5	12	10	9	<1%
Drug & Alcohol	4	1	7	4	<1%
Drug	10	7	9	9	<1%
Alcohol	2	3	4	3	<1%
Physical	0	0	0	0	0%
Mental	1	1	5	2	<1%
Changed Prescription	31	31	13	25	<1%
Non-Therapeutic Dispensing	18	17	22	19	<1%
Non-Therapeutic Prescribing (Doctor)	0	0	9	3	<1%
Excessive Purchases of Controlled Substances	0	1	4	2	<1%
Anabolic Steroids	0	0	0	0	0%
Grey Market Diversion	5	1	1	2	<1%
Samples	1	2	0	1	<1%
Technician Violation	12	9	8	10	<1%
Improper Security	0	1	1	1	<1%
Problem with OTC Drug	2	1	2	2	<1%
Closed Pharmacy Improperly	3	4	2	3	<1%
Operating Pharmacy without License	4	6	11	7	<1%
Working Conditions	7	6	4	6	<1%
Delinquent License	20	19	14	18	<1%
Kickbacks	0	1	3	1	<1%
No PIC	4	2	1	2	<1%
Recordkeeping Error	104	65	50	73	2%
Notification Violation	0	0	0	0	0%
No Annual Inventory / No PIC Inventory	0	0	0	0	0%
C-II Rx	3	3	4	3	<1%
Improper Rx's Issued by Doctors	3	3	0	2	<1%
Advertising	20	17	5	14	<1%
Overcharging	2	3	3	3	<1%
Billing Dispute	76	66	67	70	2%
Customer Service	63	68	88	73	2%
Hot Check	14	14	3	10	<1%
Accountability Audit Discrepancies (shortages/overages)	0	10	16	9	<1%
CE Audit	20	18	7	15	<1%
Default on Student Loans	1	0	0	0	0%
Other Allegations	344	303	464	370	8%
Texas Pharmacy Act	60	71	44	58	1%
Texas Dangerous Drug Act	2	0	2	1	<1%
Texas Controlled Substances Act	29	41	68	46	1%
Food Drug & Cosmetic Act	15	6	6	9	<1%
TSBP Rule	77	70	71	73	2%
Other Laws/Rules	161	115	273	183	4%
Request Disciplinary Action	**	**	15	5	<1%
Reinstatement	8	8	7	8	<1%
Modification	13	23	21	19	<1%
TOTAL	3,387	4,980	5,360	4,576	100%

* New violation codes created in FY2007.

** New violation code created in FY2008.

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ACTION TAKEN BY TSBP TO CLOSE COMPLAINTS FY2006 – FY2008

	FY2006	FY2007	FY2008	3-Yr. Avg.	% of 3-Yr. Avg.
Investigations Not Resulting in Disciplinary Action:	2,527	3,902	4,079	3,503	77%
Investigate + Dismissal (Warning) Letter	816	1,461	1,407	1,228	27%
Investigate + Complaint Closed with Verbal Warning	268	282	315	288	6%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	936	1,505	1,544	1,328	29%
Investigate + Lost Jurisdiction (registration expired)	*	43	118	54	1%
Inspections	13	41	76	43	<1%
Inspection + Warning Notice or Dismissal Letter	12	16	8	12	<1%
Application Withdrawn	15	31	85	44	<1%
Other **	467	523	526	505	11%
Investigations Resulting in Disciplinary Action:	619	853	910	794	17%
Agreed Board Order	448	572	487	502	11%
Board Order	49	96	77	74	2%
Preliminary Notice Letter + Dismissal (Warning) Ltr.	1	1	0	1	<1%
PNL + Application Withdrawn (with or without Informal Conference)	101	159	331	197	4%
PNL + Informal Conference + Dismissal Letter	4	10	7	7	<1%
PNL + Informal Conference + Case Dismissed	7	9	8	8	<1%
PNL + Case Dismissed	9	6	0	5	<1%
Referrals To:	61	25	63	50	1%
Medical Board	0	4	12	5	<1%
PRN Program	5	0	0	2	<1%
Supervisor	9	1	1	4	<1%
Other Agency	47	20	50	39	<1%
No Action Because:	180	200	308	229	5%
No Violation	15	4	5	8	<1%
No Jurisdiction	49	48	52	50	1%
Insufficient Information	17	13	5	12	<1%
Other ***	99	135	246	160	3%
TOTAL	3,387	4,980	5,360	4,576	100%

* New action code created in FY2007.

** Represents miscellaneous actions, such as: complainant has withdrawn complaint, multiple actions [e.g., investigation and refer to PRN, complainant will not cooperate with investigation, alleged violation has already been addressed by a previous (recent) compliance inspection or the resolution is not described by the above categories].

*** Violation not substantive (e.g., report of theft/loss of small quantity of controlled substance).

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During FY2008, TSBP experienced a dramatic increase in the number of dosage units of controlled substances reported stolen due to employee pilferage. From the number of theft/loss reports closed during FY2008, Division staff determined the following: 889,772 dosage units of controlled substances were reported pilfered in FY2008, as compared to FY2007 when 260,081 dosage units were reported pilfered (242% increase). In addition, there was a dramatic increase in the number of reported individuals who pilfered controlled substances. TSBP staff determined that 334 individuals allegedly pilfered controlled substances in FY2008, as compared to 199 individuals in FY2007 (181% increase). See charts below.

**Reports Submitted to the Texas State Board of Pharmacy
Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies
Due to Employee Pilferage
FY2008 (9/1/2007 – 8/31/2008)**

CLASSIFICATION OF EMPLOYEE	Class "A"	Class "C"	Hospital Floor Stock	Total	%	DU	%
Registered Pharmacist	16	1	0	17	5%	40,964	5%
Pharmacist Intern	0	0	0	0	0%	0	0%
Registered Pharmacy Technician	83	0	0	83	25%	307,798	35%
Pharmacy Technician-in-Training	0	0	0	0	0%	0	0%
Physician	0	0	0	0	0%	0	0%
Registered Nurse	0	0	37	37	11%	5,007	<1%
Certified Registered Nurse Anesthetist	0	0	0	0	0%	0	0%
Licensed Vocational Nurse	0	0	9	9	3%	894	<1%
Delivery – In or Out of Pharmacy	47	4	0	51	15%	29,751	3%
Pharmacy Cashier – Pharmacy Clerk	4	0	0	4	1%	11,302	1%
Pharmacy Staff – Unidentified	46	3	0	49	15%	409,287	46%
Hospital Staff – Unidentified	0	0	26	26	8%	2,901	<1%
Hospital Staff – Pharmacy Staff	0	0	6	6	2%	22,385	3%
Miscellaneous*	42	10	0	52	16%	59,483	7%
TOTALS	238	18	78	334	100%	889,772	100%

* Examples: Non-pharmacy employees; contract workers (e.g., repairmen, cleaning crew).

** A total of 332 DEA Reports involving 334 individuals

ENFORCEMENT DIVISION

**Report Submitted to the Texas State Board of Pharmacy
Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies
Due to Employee Pilferage
FY2006 - FY2008 (by Individuals)**

CLASSIFICATION OF EMPLOYEE	FY2006		FY2007		FY2008		% Change FY07-FY08
	Total # of Individuals	%	Total # of Individuals	%	Total # of Individuals	%	
Registered Pharmacist	8	4%	7	6%	17	5%	+143%
Pharmacist Intern	1	<1%	0	0%	0	0%	0%
Registered Pharmacy Technician	62	28%	34	29%	83	25%	+144%
Pharmacy Technician-in-Training	0	0%	0	0%	0	0%	0%
Physician	0	0%	0	0%	0	0%	0%
Registered Nurse	22	10%	13	11%	37	11%	+185%
Certified Registered Nurse Anesthetist	2	<1%	0	0%	0	0%	0%
Licensed Vocational Nurse	4	2%	1	<1%	9	3%	+800%
Delivery – In or Out of Pharmacy	36	16%	26	22%	51	15%	+96%
Pharmacy Cashier – Pharmacy Clerk	5	2%	2	2%	4	1%	+100%
Pharmacy Staff – Unidentified	56	25%	21	18%	49	15%	+133%
Hospital Staff – Unidentified	13	6%	3	3%	26	8%	+767%
Hospital Staff – Pharmacy Staff	1	<1%	1	<1%	6	2%	+500%
Miscellaneous *	12	5%	11	9%	52	16%	+373%
TOTALS	222	100%	119	100%	334	100%	+181%

* Examples: Non-pharmacy employees; contract workers (e.g., repairmen, cleaning crew).

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**Reports Submitted to the Texas State Board of Pharmacy
Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies
Due to Employee Pilferage
FY2006 - FY2008 (by Dosage Units)**

CLASSIFICATION OF EMPLOYEE	FY2006		FY2007		FY2008		% Change FY07-FY08
	Total # of Dosage Units	%	Total # of Dosage Units	%	Total # of Dosage Units	%	
Registered Pharmacist	10,392	2%	49,893	19%	40,964	5%	-18%
Pharmacist Intern	4,492	<1%	0	0%	0	0%	0%
Registered Pharmacy Technician	378,359	80%	99,199	38%	307,798	35%	+210%
Pharmacy Technician-in-Training	0	0%	0	0%	0	0%	0%
Physician	0	0%	0	0%	0	0%	0%
Registered Nurse	1,046	<1%	885	<1%	5,007	<1%	+466%
Certified Registered Nurse Anesthetist	6	<1%	0	0%	0	0%	0%
Licensed Vocational Nurse	438	<1%	16	<1%	894	<1%	+5,488%
Delivery – In or Out of Pharmacy	16,525	3%	25,996	10%	29,751	3%	+14%
Pharmacy Cashier – Pharmacy Clerk	29,641	6%	20,650	8%	11,302	1%	-45%
Pharmacy Staff – Unidentified	22,348	5%	50,655	19%	409,287	46%	+708%
Hospital Staff – Unidentified	334	<1%	47	<1%	2,901	<1%	+6,072%
Hospital Staff – Pharmacy Staff	10	<1%	10	<1%	22,385	3%	+223,750%
Miscellaneous *	9,353	2%	12,730	5%	59,483	7%	+367%
TOTALS	472,944	100%	260,081	100%	889,772	100%	+242%

* Examples: Non-pharmacy employees; contract workers (e.g., repairmen, cleaning crew).

- 4. To provide technical assistance, maintain liaison, and coordinate joint investigations of pharmacists, interns, pharmacy technicians, and pharmacies, in line with the “lead agency approach,” with federal, state, and local law enforcement agencies, including health regulatory or administrative agencies, throughout FY2008.**

Status: ACCOMPLISHED

Comment: TSBP continued to provide assistance to other agencies, when requested, throughout FY2008. TSBP Field Investigators maintained liaison with law enforcement agencies across the State, totaling over 544 contacts with 168 agencies. In-house investigative staff made hundreds of contacts with courts and law enforcement agencies both in Texas and out of state while conducting criminal background checks. Several Field Investigators testified in court hearings, providing information on pharmacy investigations in the Houston area.

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5. To monitor compliance with all Board Orders and Agreed Board Orders, including rehabilitation Orders relating to impaired or recovering pharmacists, throughout FY2008.

Status: ACCOMPLISHED

Comment: Almost all of the disciplinary orders entered in FY2008 required some type of monitoring by Division staff (i.e., 488 orders or 87% of the 563 disciplinary orders that TSBP entered during FY2008 required some type of monitoring). Monitoring included the following types of actions/activities:

- A. Licensure documents – Division staff monitored the receipt of licensure documents that were required to be submitted to TSBP (e.g., wall certificate of a revoked pharmacist license) and returned these documents as required (e.g., upon reinstatement of the license or completion of the suspension period).
- B. Fines & Fees – Division staff, in conjunction with Accounting staff, ensured that Administrative Penalties (fines) and probation fees were paid.
- C. Reinstatement – Division staff monitored the status of reinstatement applicants [e.g., whether the applicant completed Law Exam, Internship, and required CE within the required time period; reviewing reports from supervising pharmacist(s)].
- D. Rehabilitation Orders – These types of Orders are extremely labor-intensive, including monitoring of random drug screens and the review/evaluation of approximately 12 reports per year per Order [reports from probationer, supervising pharmacist(s), and mental health professional(s)].
- E. Other – Division staff monitored the submission of other documents (e.g., required continuing education and policy/procedures manuals; quarterly reports from a consulting/auditing pharmacist on a pharmacy's operation).

In addition to the in-house monitoring described above, Compliance Officers conducted inspections of pharmacies for the purpose of monitoring compliance with the terms of the Orders, particularly individuals/facilities who were revoked, suspended, or subject to a probated suspension (see Ongoing Objective #2).

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The following charts indicate the types of Orders entered in FY2008, which required the Division to monitor the licensee's compliance with the Order, in some manner:

Types of TSBP Disciplinary Orders Entered on Licensees (Pharmacists and Pharmacies) and Interns That Required Monitoring (FY2006-FY2008)						
Sanction	FY2006 Orders	FY2007 Orders	FY2008 Orders	% of FY2008	3-Yr. Avg.	% of 3-Yr. Avg.
Revoke / Retire	16	29	26	10%	24	9%
Suspension	25	33	23	9%	27	11%
Restricted	4	8	4	2%	5	2%
Rehabilitation Orders*	6	13	18	7%	12	5%
Reinstatement	5	4	4	2%	4	2%
Fines or Probation Fees Only	69	94	67	26%	77	30%
Continuing Education, Texas Jurisprudence Exam, and/or Pharmacy Law Course (could also include fines and/or probation fees)	29	46	35	14%	37	15%
Continuous Quality Improvement Program, Self Assessments, Policies/ Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	39	51	56	22%	49	19%
Public Orders Requiring Drug Screens	**	**	5	2%	2	<1%
TOTAL NUMBER OF ORDERS ON LICENSEES REQUIRING MONITORING	193	278	238	94%	236	93%
TOTAL NUMBER OF ORDERS NOT REQUIRING MONITORING	14	22	15	6%	17	7%
TOTAL ORDERS	207	300	253	100%	253	100%

* Rehabilitation Orders which are not included in the following categories: Revocation, Restriction, Reinstatement, and Suspension.

** New category created in FY2008.

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Types of TSBP Disciplinary Orders Entered on Technicians That Required Monitoring (FY2006 – FY2008)						
Sanction	FY2006 Orders	FY2007 Orders	FY2008 Orders	% of FY2008	3-Year Average	% of 3-Year Average
Revoke	31	57	66	51%	51	17%
Suspension	114	75	27	9%	72	23%
Restriction	N/A	1	0	N/A	0	0%
Fines Only	62	60	56	18%	59	19%
Other *	57	129	101	33%	96	31%
TOTAL NUMBER OF ORDERS ON TECHNICIANS REQUIRING MONITORING	264	321	250	81%	278	90%
TOTAL NUMBER OF ORDERS ON TECHNICIANS NOT REQUIRING MONITORING	4	27	60	19%	30	10%
TOTAL NUMBER OF ORDERS ON TECHNICIANS	268	348	310	100%	309	100%

* Orders not in other categories (e.g., probation with conditions; probation with conditions and fines; report required from Mental Health Professional)

Total Number of Orders Entered by TSBP That Required Monitoring on Licensees (Pharmacists and Pharmacies), Interns, and Technicians (FY08)		
	FY2008	% of FY2008
Total Number of Orders on Licensees Requiring Monitoring	238	42%
Total Number of Orders on Technicians Requiring Monitoring	250	44%
Total Number of Orders Requiring Monitoring	488	87%
Total Number of Orders Not Requiring Monitoring	75	13%
Total Number of Orders Entered by TSBP in FY08	563	100%

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During FY2008, TSBP entered 57 confidential disciplinary Orders on pharmacists. These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below:

Confidential Disciplinary Orders Entered by TSBP (FY2006 – FY2008)						
Nature of Violation	FY2006	FY2007	FY2008	% of FY2008	3-Yr. Avg.	% of 3-Yr. Avg.
Non-Compliance with ABO	22	15	13	23%	17	30%
Non-Compliance with PRN	1	3	3	5%	2	4%
Action by Other Boards	1	3	5	9%	3	5%
Audit Shortages	0	1	0	0%	0	0%
Alcohol-Related Conviction	3	4	1	2%	3	5%
Theft of Prescription Drugs	0	6	1	2%	2	4%
Created Fraudulent Rx or Obtained C/S by Fraud	2	2	0	0%	1	2%
Convictions	0	1	0	0%	0	0%
Deferred Adjudication	0	2	3	5%	2	4%
Illegal Possession of Controlled Substances	2	0	1	2%	1	2%
Unauthorized Refills of Controlled Substances	0	0	0	0%	0	0%
Probable Cause/Dependency	5	3	11	19%	6	11%
Mental Impairment	0	0	3	5%	1	2%
Request for Modification of Previously Entered ABO	8	14	12	21%	11	20%
Request for Retirement or Revocation	3	2	2	4%	2	4%
Request for Reinstatement	5	4	2	4%	4	7%
TOTAL	52	60	57	100%	45	100%

Of the 57 confidential *pharmacist* Orders entered in FY2008, there were 27 Orders resulting in an impaired/recovering pharmacist being added to the number who were being monitored at the end of FY2008, as reflected in the chart below. However, 22 pharmacists were deleted from the list as a result of early termination of probation, successful completion of probation, death, revocation or retirement of license, or license expired. Accordingly, as of August 31, 2008, a total of 102

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impaired/recovering pharmacists were being monitored by TSBP. The number of individuals being monitored at year-end, as compared to the year-end of previous fiscal years, is depicted in the following chart:

Impaired/Recovering Pharmacists Monitored by Enforcement Division (FY2004 – FY2008)			
Fiscal Year	Total Orders*	Total New Orders**	Total Being Monitored***
FY2004	58	26	103
FY2005	43	15	93
FY2006	51	16	89
FY2007	60	27	97
FY2008	57	27	102

* All confidential Orders entered by the Board involving an impaired pharmacist (including revocations, modifications, and “second Orders” due to disciplinary action for violation of the terms of previously entered Orders).

** An Order that resulted in one individual being added to the list of impaired pharmacists to be monitored by the agency.

*** Total number of pharmacists being monitored by the agency as of the last day of the reporting period. The number represents the new Orders entered by the agency during the fiscal year, minus the number of deletions made during reporting period (e.g., as a result of death, early termination of probation through the entry of an Order, and/or successful completion of probation).

6. To provide verbal and written information to Board staff and customers as needed or required throughout FY2008, to include providing technical assistance to other Divisions and responding to surveys and questionnaires.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

A. COMPLIANCE INSPECTIONS

The Division conducted 2,048 inspections in FY2008 (see Ongoing Objective #2).

B. TELEPHONE CALLS

Division staff provided technical assistance and answered questions regarding laws and rules governing the practice of pharmacy from approximately 14,326 callers who were routed through the Compliance Queue telephone line.

Number of Telephone Calls Handled via Compliance Queue (FY2005 – FY2008)	
FY2005	7,995
FY2006	10,492
FY2007	11,498
FY2008	14,326

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C. WRITTEN INFORMATION

During FY2008, Division staff mailed 30 packets of information and 392 customer service surveys to TSBP customers.

D. PRESENTATIONS (PUBLIC SPEAKING ENGAGEMENTS) – regarding Pharmacy Laws/Rules (unless otherwise noted)

DATE	PRESENTATIONS Name of Association/Presentation and Location of Meeting	STAFF PERSON	ATTENDANCE (Approx.)
9/29/07	TSU Annual Preceptor Conference – Rules/Laws Update – Houston	Iona Grant, R.Ph.	100
10/17/07	Carvajal Pharmacy Group – San Antonio	Mike Ethridge, R.Ph.	10
10/18/07	Texas Pharmacy Laws Update – VHA Pharmacy Council – Tomball	Paul Holder, R.Ph., Pharm.D.	20
10/24/07	Presentations to 2nd Year TSU Pharmacy Students – Houston	Iona Grant, R.Ph.	103
10/24/07	Overview of the New Sterile Compounding Rules – Webinar presentation to Texas Society of Health-System Pharmacists – Austin and statewide	Paul Holder, R.Ph., Pharm.D.	2,000
11/14/07	Texas State Board of Pharmacy and You – The University of Texas at Austin Intern Group – Austin	Paul Holder, R.Ph., Pharm.D.	50
1/18/08	TSBP and the Professional Recovery Network (PRN) – University of Houston Student PRN Alcohol, Drugs and You Seminar – Houston	Paul Holder, R.Ph., Pharm.D.	100
1/22/08	Lake Houston Pharmacy Association – Humble	Iona Grant, R.Ph.	50
2/9/08	TSU Annual Preceptor's Conference – Houston	Iona Grant, R.Ph.	150
3/8/08	New Sterile Compounding Rule <i>New Rules 291.133</i> – El Paso Society of Health-System Pharmacists – El Paso	Paul Holder, R.Ph., Pharm.D.	75
3/8/08	Texas Pharmacy Law Update – El Paso Society of Health-System Pharmacists – El Paso	Paul Holder, R.Ph., Pharm.D.	75
3/11/08	Overview of the New Sterile Compounding Rules – Austin Area Society of Health-System Pharmacists – Austin	Paul Holder, R.Ph., Pharm.D.	50
4/6/08	TSBP Rule 291.133: A Summary of the New Sterile Compounding Rules – Texas Society of Health System Pharmacists 60th Annual Seminar – Dallas	Paul Holder, R.Ph., Pharm.D.	150
4/24/08	Hoffman Middle School Presentation – Houston	Iona Grant, R.Ph.	75
5/20/08	Christus Spohn Hospital – Corpus Christi	Mike Ethridge, R.Ph.	5
7/17/08	TPA Conference; Drug Diversion – Galveston	Rob Lunsford	75
7/18/08	Walgreens Interns and Pharmacy Managers – Houston	Iona Grant, R.Ph.	40
7/21/08	DPS Narcotics Class; Drug Diversion – Austin	Robert Ebrom	12
7/23/08	DPS Narcotics Class; Drug Audits – Austin	Robert Ebrom	12
8/2/08	TSU Annual Preceptors Conference - Houston	Iona Grant, R.Ph.	100
Total			3,252

E. ASSISTANCE TO BOARD MEMBERS AND EXECUTIVE DIRECTOR

- (1) Division Director assisted in the development of the proposed Goals and Objectives for FY2009, which were presented to/approved by the Board at its meeting held in August 2008;

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- (2) Division Director made presentations at all Board meetings held in FY2008 regarding the number of acting/pending complaints and the number of dismissed complaints;
- (3) Division Director assisted in the review/edit of drafts of minutes of four Board meetings;
- (4) In the absence or at the request of the Executive Director, Division Director responded to inquiries from the media; and
- (5) Assistant Division Director served as liaison to the Task Force on Class C (Institutional) Pharmacy Practice.

F. TECHNICAL ASSISTANCE TO BOARD STAFF

- (1) Legal Division
 - (A) Disciplinary Proceedings – At the request of TSBP General Counsel, Division Director reviewed drafts of Preliminary Notice Letters prior to these documents being finalized and mailed; and
 - (B) Informal Conferences involving pharmacists and pharmacies, and pharmacy technicians – Division staff attended numerous conferences.
- (2) Division of Professional Services
 - (A) TSBP *Newsletter* – Division staff assisted with each issue of the Newsletter (e.g., wrote articles such as Compliance Reminders and Complaint Corner and provided applicable information regarding disciplinary orders entered by the Board).
 - (B) NABP Survey of Pharmacy Law – Division Director provided assistance with applicable sections of this document.
- (3) Administrative Services and Licensing Division
 - (A) Review Applications for Licensure/Registration – Division staff reviewed applications of any applicant with a criminal history or prior disciplinary action by another professional licensing board, and determined, in concert with the Executive Director and Legal Counsel, whether disciplinary action would be

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instituted to deny the application. Division staff also assisted in the review of applications for a Class B or D Pharmacy license, as indicated in the chart below:

Activity	FY2006	FY2007	FY2008	3-Year Average
New Class D (Clinic) Pharmacy Applications	10	23	34	22
New Class B (Nuclear) Pharmacy Applications	0	0	1	0
Petitions for Expanded Formularies for Class D (Clinic) Pharmacies	72	69	51	64
Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies	6	3	10	6
Notifications of Temporary Locations for Class D (Clinic) Pharmacies	3	5	4	4
Standard Class D Formularies Reviewed	6	10	31	16

G. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS

- (1) Division staff notified various agencies regarding disciplinary orders entered by the Board (e.g., DEA, DPS, MHMR, HHS, NABP, HIP-DB, and Deans of the Texas Colleges of Pharmacy);
- (2) Division Director answered surveys from the Texas Board of Nursing; Oklahoma State Board of Pharmacy; and Washington State Board of Pharmacy.
- (3) See Ongoing Objective #4. In addition, Division Director provided assistance to the following agencies: Office of the Governor of Hawaii regarding Internet Pharmacies; Texas Medical Board regarding a disciplinary case on a dispensing doctor; and Attorney General's Office regarding various cases.
- (4) Division Director and Assistant Division Director participated in a conference call with members of the North Carolina State Board of Pharmacy regarding Texas laws/rules and TSBP policies/procedures pertaining to mandatory patient counseling.

7. In cooperation with the Executive Director and other Divisions, to provide internship experience to student pharmacist-interns upon requests from the Texas Colleges of Pharmacy, throughout FY2008.

Status: ACCOMPLISHED

Comment: During FY2008, Division Director, Assistant Director, and Chief of Compliance served as preceptors to nine students from four different Schools/Colleges of Pharmacy, as listed below:

FY2007 – 2008

- Amanda Kelly (August 13 – September 21, 2007) – University of Texas
- Lisa Garza Pena (August 20 – September 28, 2007) – Texas Tech University

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FY2008

- Bridget (Lacey) Mullins (September 24 – November 2, 2007) – University of Houston
- Tara Lee Rutherford (January 7 – February 15, 2008) – University of Texas
- Melinda Irene (Mindy) Edwards (February 18 – March 28, 2008) – University of Texas
- Lawrence Devine (March 31 – May 9, 2008) – University of Texas
- Ngan Vo (May 26 – July 3, 2008) – University of Houston
- Sang Luong (July 7 – August 15, 2008) – University of Texas
- John Carpio (July 7 – August 15, 2008) – Texas Tech University

FY2008 – 2009

- Linda Ho (August 18 – September 26, 2008) – Texas Southern University
- Bianca Cruz (August 18 – September 26, 2008) – University of Texas

- 8. To serve as liaison for the Board to the Professional Recovery Network (PRN) of the Texas Pharmacy Association and to monitor non-financial contractual obligations of PRN throughout FY2008.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Board Member W. Benjamin Fry, R.Ph., served as an ex-officio member of the TX-PRN State Committee throughout FY2008;
- B. The TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY2008;
- C. TSBP requested an independent audit be conducted on the data provided to TSBP (financial data and performance measure data). This audit was conducted on October 3, 2007, and the results of the audit were reported to the Board at its meeting held on May 6-7, 2008;
- D. Throughout FY2008, Division staff reviewed quarterly activity reports submitted to TSBP by TX-PRN Director;
- E. Division staff attended one TX-PRN State Advisory Committee meeting held on October 6, 2007; and
- F. Throughout FY2008, Enforcement Program Specialist Janelle Nastri worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

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9. **To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2008.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. HPC Annual Report – Division Director submitted agency Enforcement performance data to be incorporated in the HPC Annual Report.
- B. HPC Toll-Free Complaint Hotline – HPC member agencies are billed for hotline calls received by the respective agency. When complainants call the hotline, they may leave a message advising the agency of the complainant’s name, address, and telephone number, or they may “zero out” and speak to an HPC staff member for clarification of procedures. During FY2008, TSBP mailed 398 complaint forms to individuals requesting forms on the HPC toll-free complaint hotline and 406 complaint forms to individuals who called the TSBP voice mail complaint line, which represented a decrease in the number of complaint forms being mailed by TSBP to potential complainants, as compared to FY2007. The number of requests for complaint forms received in FY2008, as compared to the four previous fiscal years, is depicted in the following chart:

Complaint Forms Processed by Enforcement Division (FY2004 – FY2008)				
Fiscal Year	Requests for Complaint Forms via HPC 800#	% Change	Requests for Complaint Forms via TSBP Voice Mail	% Change
FY2004	260		232	
FY2005	490	+88%	422	+82%
FY2006	506	+3%	495	+17%
FY2007	564	+11%	585	+18%
FY2008	398	-29%	406	-30%

10. **To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2008.**

Status: ACCOMPLISHED

Comment: In FY2008, Division staff attended several team meetings, Division staff meetings, and general staff meetings. Division Staff Meetings and General Staff Meetings were held in September 2007, December 2007, February

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2008, May 2008, July 2008, and August 2008. In conjunction with quarterly General Staff Meetings, Division staff participated in all-staff training, as listed below:

- 11/27/08 – Retention Schedule Basics; presentation by Laura Finger
- 2/27/08 – First Class Customer Service; presentation by Alliance Work Partners
- 8/19/08 – Strategic Time Management; presentation by Alliance Work Partners

11. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2008.

Status: ACCOMPLISHED

Comment: Formal performance reviews were conducted for all Division employees in FY2008, except for those employees who were hired after January 1, 2008.

Other activities relating to personnel included:

- A. During FY2008, Division Director developed three new job descriptions [Compliance Officer (Pharmacist I); Enforcement Program Administrator and Investigative Case Manager]. In addition, four job descriptions were updated/revised (Chief of Investigations; Administrative Assistant; Enforcement Technician; and Compliance Specialist).
- B. During FY2008, the Division experienced 21 staffing changes, as a result of the following factors: four new positions funded by the 80th Texas Legislature; five employees resigned; loss of one employee due to transfer to the TSBP Legal Division; and eight internal promotions. All four new positions were filled in FY2008 (three as a result of internal promotions). Of the six employees who were lost due to resignations or transfer, four of these positions were filled in FY2008. All but one of the eight vacancies created as the result of promotions were filled in FY2008. Accordingly, at the end of FY2008, the Division had three vacancies. The 21 staffing changes are outlined below:

September 2007 (1) Melissa Weeden was promoted from Investigator III to Senior Staff Investigator (new position funded by 80th Texas Legislature).

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- October 2007 (2) Enforcement Specialist Cynthia Fazin resigned.
- (3) Robert Rivera was promoted from Enforcement Officer (Investigator III) to Enforcement Program Officer (new position funded by 80th Texas Legislature).
- November 2007 (4) Elaine Naivar was hired as Investigator II.
- December 2007 (5) Nelma Sanchez was promoted from Investigator II to Enforcement Officer.
- January 2008 (6) Compliance Specialist Ann Driscoll accepted a transfer to the TSBP Legal Division.
- (7) Jessica Rodriguez was hired as Investigator II.
- (8) George Redmond was hired as Investigator II.
- February 2008 (9) Shawn Clark was hired as Field Investigator (new position funded by the 80th Texas Legislature).
- March 2008 (10) Jessica Rodriguez was promoted from Investigator II to Compliance Specialist.
- April 2008 (11) Chief of Investigation Joe Lewis resigned.
- (12) Administrative Assistant Diane Torres resigned.
- (13) Robert Rivera was promoted from Enforcement Program Officer to Enforcement Program Administrator (new position created in lieu of filling Field Compliance Officer, a new position funded by the 80th Texas Legislature).
- (14) Brandy Plummer was hired as Investigator II.
- June 2008 (15) Nelma Sanchez was promoted from Investigator III to Enforcement Program Officer.

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- (16) Robert Ebrom was promoted from Deputy Chief of Investigations to Chief of Investigations.
- July 2008
 - (17) George Redmond was promoted from Investigator II to Enforcement Officer.
 - (18) Field Investigator Rob Lunsford resigned.
 - (19) Compliance Inspector Chris Schuttler resigned.
- August 2008
 - (20) Amanda Huerta was hired as Investigative Case Manager
 - (21) Debra Beall was hired as Administrative Assistant

C. As a result of the staffing changes described above, Division staff were extremely busy in FY2008 with the following activities: reviewing hundreds of applications; conducting numerous interviews; and conducting in-depth orientations for seven new Division Staff: Elaine Naivar (November 2007); Jessica Rodriguez (January 2008); George Redmond (January 2008); Shawn Clark (February 2008); Brandy Plummer (April 2008); Amanda Huerta (August 2008); and Debra Beall (August 2008)

12. To destroy records in accordance with the agency’s record retention plan throughout FY2008; to update the Division’s *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2008.

Status: ACCOMPLISHED

Comment: The following activities relate to this objective:

A. Records Management

During FY2008, Division staff destroyed 27.88 cubic feet of records, in accordance with the TSBP record retention schedule. The quantity of Division records destroyed in the past five years is depicted in the chart below:

Fiscal Year (FY04 – FY08)	# of Cubic Feet of Records Destroyed	% Change
FY2004	30.50	
FY2005	72.00	+136%
FY2006	35.56	-51%
FY2007	7.02	-80%
FY2008	27.88	+297%

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B. Policies and Procedures

During FY2008, Division Director updated all sections of the agency's policy/procedure manual relating to the complaint process.

13. To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2008.

Status: ACCOMPLISHED

Comment: All Division staff made recommendations to improve the efficiency and effectiveness of agency operations. Significant recommendations included the following:

- A. Division staff implemented new program to sample compounded products, including new forms and policies/procedures;
- B. Division staff implemented a new procedure whereby field investigative staff give a technician or technician trainee the option to sign a proposed disciplinary order in lieu of further disciplinary procedures; this procedure has resulted in significant cost savings;
- C. Assistant Division Director made recommendations with regard to reconfiguring the office space that was eventually converted into a cubical office area;
- D. Director made recommendations to enhance the procedures relating to the registration of Exempt Technicians;
- E. Division Director recommended that the Preceptor Application be revised to include the same attest questions that are contained in a pharmacist's licensure application;
- F. Division staff made recommendations to enhance the agency's computerized complaint tracking system; these recommendations were implemented including changes recommended by the State Auditor;
- G. Division Director and Chief of Investigations made recommendations regarding the upgrading of the security system for the evidence locker;
- H. Division staff worked with the TSBP General Counsel and the Director of Administrative Services/Licensing to implement a new program to image certain enforcement records;
- I. Division Director and Assistant Director participated with other Division Directors in the annual review and update of the agency's Internal Risk Assessment;
- J. Division staff made recommendations to the TSBP Legal Division regarding revisions to wording in disciplinary orders;

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- K. Division Director recommended changes to the Division's organizational chart; these changes were approved by the Executive Director and implemented; and
- L. TSBP Enforcement Program Administrator Robert Rivera recommended paying the fees to obtain on-line computer access to Tarrant County court records. The cost for the online access was less expensive than the fees charged by Tarrant County for paper documents, with an estimated annual savings of \$1,000.00.

14. To recommend changes to the Texas Pharmacy Act and rules, which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2008.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Texas Pharmacy Act
 - (1) Division Director, working with TSBP General Counsel, made recommendations for revisions to the Act with respect to the program to sample compounded preparations.
 - (2) Division Director recommended that Section 554.005 of the Act be amended to grant TSBP the authority to quarantine any prescription drug or device that poses a hazard to the public health and welfare. Currently, the Act allows the board to seize such a product, but only after notice and hearing. In the interim (until the notice/hearing has been completed), the public is at risk.
- B. TSBP Rules
 - (1) Division staff recommended revisions to the rules relating to Class D Pharmacies, including the prohibition of certain drugs that may be possessed/provided by a Class D Pharmacy (e.g., erectile dysfunction drugs).
 - (2) Division Director recommended that TSBP rules be amended to clarify that prescriptions could not be dispensed/refilled without the authorization of the prescribing practitioner.

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- (3) Division Director recommended that TSBP rules be amended to require pharmacies to record and document anytime a change is made to a prescription record (e.g., computerized transactional logs).
- (4) Division Director recommended that TSBP rules be amended to outline the requirements for prescriptions placed "on hold."
- (5) Division Director recommended that TSBP rules be amended to require Class E Pharmacies to put the pharmacy's physical address on a prescription label.
- (6) Division Director recommended that TSBP rules be amended to require pharmacies who move to post a notice to consumers, in the same manner as pharmacies must do when they close.
- (7) Division Director recommended that TSBP rules be amended to clarify that pharmacies must report the theft/loss of prescription drugs when such theft/loss occurs via a forged or fraudulent prescription.
- (8) Division Director recommended that TSBP rules be amended to stipulate that the final verification pharmacist must check the data entry of prescription information, if the data entry is checked by an "off site" pharmacist (a pharmacist who is not physically present in the pharmacy that delivers the final preparation/prescription product to the patient).

15. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2007 Annual Report* and submit to the Executive Director by the due date.

Status: PARTIALLY ACCOMPLISHED

Comment: The Division's first draft of the *FY2007 Annual Report* was not submitted to the Executive Director by the due date, in that Division staff were spending enormous amounts of time and efforts working with representatives from the State Auditor's Office. Division staff participated in the State Auditors' review of the agency's complaint process from November 2007 through May 2008. Although the Division's Annual Report for FY2007 was not prepared by the specified due date, the report was subsequently prepared and presented to the Board at its meeting in August 2008.

FY2008 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of the Division's 15 objectives for FY2008.
2. During FY2008, the agency continued to handle a large number of ongoing disciplinary issues for pharmacy technicians. The Division handled approximately 519 disciplinary cases against the pharmacy technicians and pharmacy technician trainees who were found to have had a criminal history, who falsified the registration application, or who had some other ground for disciplinary action. The Division has seen an increase in the number of cases where pharmacy technicians or pharmacy technician trainees were suspected and investigated for diversion of drugs from the pharmacies at which they were employed, which requires more time to analyze and process. The Division initiated 496 disciplinary actions by mailing a Preliminary Notice Letter and entered 310 orders against pharmacy technicians and pharmacy technician trainees during the fiscal year. During the same time, 183 applicants for registration as a pharmacy technician or pharmacy technician trainee were subject to mandatory withdrawal, indicating that although the Division initiated disciplinary action, the applicant did not complete the process.
3. Approximately 98% of the disciplinary cases against pharmacists and pharmacies and 99% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders or default Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and expenditures.
4. The Division initiated more disciplinary actions by mailing Preliminary Notice Letters (PNL) in FY2008 than any prior fiscal year. The Division mailed a total of 799 PNLs, as compared to 792 in FY2007, with 303 PNLs mailed to pharmacists and pharmacies and 496 PNLs mailed to pharmacy technicians and pharmacy technician trainees.
5. The Division resolved five cases that were set for administrative hearings at the State Office of Administrative Hearings (SOAH) prior to proceeding to hearing. The cases were resolved through Agreed Board Orders (ABO) through negotiations with the licensees or their attorneys or through the SOAH Mediation process. These resolutions saved the agency considerable resources both in time and expenditures.
6. Three administrative hearings were conducted at SOAH. These hearings involved preparing motions for summary judgment and numerous discovery documents (including interrogatories and requests for admission), preparing for trial and for witness examination, and conducting the hearings. Following the hearings, exceptions were filed and drafts of proposed orders were prepared. The extensive preparation for the hearings and the presentations to the Board required a considerable amount of time, and the Division was able to maintain a fairly consistent number of cases resolved.

LEGAL DIVISION

PHARMACISTS/PHARMACIES

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF DEFAULT ORDERS ENTERED BY BOARD	NUMBER OF AGREED BOARD ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% CHANGE IN DISCIPLINARY ORDERS	% ABOs OR DEFAULT OF TOTAL ORDERS
FY04	6	0	229	235	10%	98%
FY05	2	5	165	172	-27%	99%
FY06	0	1	206	207	20%	100%
FY07	10	5	285	300	45%	97%
FY08	4	5	244	253	-16%	98%
TOTAL	22	16	1129	1167	8% OVER 5 YRS.	5 YR. AVG. 98%

PHARMACY TECHNICIANS/PHARMACY TECHNICIAN TRAINEES

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF DEFAULT BOARD ORDERS (BOs)	NUMBER OF AGREED BOARD ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% INCREASE IN DISCIPLINARY ORDERS	% ABOs OR DEFAULT OF TOTAL ORDERS
FY04	0	0	234	234	N/A	100%
FY05	3	0	377	380	62%	99.2%
FY06	4	34	230	268	-29%	98.5%
FY07	1	51	296	348	30%	99.7%
FY08	3	57	250	310	-11%	99.0%
TOTAL	11	142	1387	1540	32% OVER 5 YRS.	99.2%

- General Counsel and Division staff participated in meetings with and assisted with responses to State Auditor's Office regarding the audit of TSBP's enforcement and disciplinary processes. The Legal Division was determined to have properly handled the disciplinary processes according to agency rules and its policies and procedures in 100% of the cases audited.

LEGAL DIVISION

FY2008 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The Legal Division experienced the abrupt medical leave of absence of a legal assistant for the first three months of FY2008, which was initially thought to be temporary but became permanent. During that time, the other legal assistant who works on pharmacist and pharmacy cases not only had to perform the majority of work involved for these types of cases, but also oversaw the training and work of a temporary employee.
2. The caseload has continued to increase and reflected an increase in the resolution time for cases in FY2008. In addition, the cases against pharmacy technicians and pharmacy technician trainees continued to become more complicated and time-consuming as the cases began to involve not merely adjudicated criminal offenses, but also cases involving investigations by TSBP of thefts at pharmacies, which leads to a longer resolution time in the Legal Division due to the longer amount of time to draft and prepare the cases.

FY2008 ANNUAL REPORT

GOAL

To prosecute violations of the laws and rules related to the practice of pharmacy. To provide adjudicative information to agency customers. To provide legal services and guidance to the Board and the agency staff relating to the regulation of the practice of pharmacy and the administration of the agency.

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2008:

- A. Reviewing and implementing legislation passed by the 80th Legislature that affects agency operations and/or the practice of pharmacy throughout FY2008.
- B. Updating and preparing the TSBP Strategic Plan for FY2009-2013 and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date.
- C. Preparing of a proposed budget for the FY2010-2011 biennium for review and approval by the Board at the 2008 Board Budget Meeting.
- D. Preparing the agency's Legislative Appropriation Request for the FY2010-2011 biennium and corresponding performance measures by the due date.
- E. Conducting the orientation of new Board Members within 90 days of appointment by the Governor.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Legislation - A summary of legislative action affecting the agency's FY2008-2009 budget included the following additional appropriations:
 - (1) New program to test compounded products
 - (2) Board electronic meeting project
 - (3) A new FTE for the Legal Division, in conjunction with four other new FTEs in the Enforcement Division, to assist in the new Pharmacy Technician Trainee Program and ongoing registration of Pharmacy Technicians

These items required the implementation of separate project plans and the cooperation of all divisions to successfully complete.

LEGAL DIVISION

- B. Strategic Plan - The Strategic Plan for FY2009-2013 was the product of the following:
- (1) Overall review of the 2007-2011 Strategic Plan by the Board Members and agency staff (Internal Assessment) with a significant amount of input provided as to changes, issues, and updates that need to be addressed; and
 - (2) Comments solicited from key pharmacy professional organizations, consumer advocacy groups, governmental agencies, and academic institutions.

The agency researched the trends and resulting issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years. The Board Members worked with staff to develop Issue Statements and approved the final Strategic Plan at the May 2008 Board Business Meeting. General Counsel assisted with review of the Strategic Plan. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

- C. Proposed Budget for FY2010-2011 - The Executive Committee reviewed staff's recommendations for the exceptional items contained in the Legislative Appropriations Request (LAR) for FY2010-2011 in April 2008. The full Board met in May 2008 to review and approve the agency's LAR for FY2010-2011. The Board Members were apprised of the exceptional items requested in the LAR, the most significant being the agency database replacement and migration. Other exceptional items included an increase to the Executive Director's salary, new positions to maintain services, equity increases for key employees, funding for a merit salary program, the testing of compounded products, and the Pharmacy Recovery Network.
- D. Legislative Appropriations Request FY2010-2011 – The Executive Committee approved staff's estimated cost for the replacement of the agency database and migration on July 17, 2008. The Legislative Appropriations Request was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy (GBO) by the due date of July 30, 2008. The LAR included the items approved by the Board in May and July 2008, as well as a funding level at 90% of the agency's current funding.
- E. Orientation of New Board Members - On May 9, 2008, the Governor announced the appointment of three new Board Members (Buford T. Abeldt, Sr., R.Ph., community pharmacist from Lufkin, Texas; Dennis F. Wiesner, R.Ph., community pharmacist from Austin, Texas; and L. Suzan Kedron, public member from Dallas, Texas) The orientation for the new members was held on June 30 - July 1, 2008.

Objectives (Ongoing)

1. To coordinate and monitor throughout FY2008 the receipt, assignment, and resolution of all cases accepted by the Division.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division staff met approximately once a month to discuss the status of pending cases, to assess workload allocation, and determine the most effective strategies to complete cases in a timely and efficient manner.
- B. Division staff maintained a database system to track the current status of all cases, which has increased efficiency in monitoring cases.
- C. TSBP entered a total of 563 disciplinary orders in FY2008, as reflected in the charts below.

Type of Order	Summary Suspensions	SOAH Board Orders	Default Board Orders	ABOs Entered by ED	ABOs Public	ABOs Confidential	Total Number of Orders
Pharmacists and Pharmacies	0	4	5	58	135	51	253
Pharmacy Technicians	0	3	57	140	110	0	310
Total	0	7	62	198	245	51	563

The Division Staff prepared for the presentation of Agreed Board Orders and Board Orders for approval at the four regularly scheduled Board meetings throughout the year.

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Information regarding the disciplinary cases entered in FY2008 is set forth in the following charts:

TEXAS STATE BOARD OF PHARMACY
SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON
PHARMACISTS, PHARMACIES, INTERNS, AND
APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2008)

			Pharmacist	Pharmacy	Total
Licenses Removed	26	(10%)			
Revoke			11	11	22
Retire			4	0	4
Suspensions	65	(26%)			
Suspension			1	0	1
Suspension w/Conditions	21		0	21	
Suspension/Fine			0	0	0
Suspension/Probation			6	1	7
Suspension/Probation w/Conditions	23		3	26	
Suspension/Probation/Fine			2	0	2
Suspension/Probation/Fine w/Conditions			2	6	8
Restrictions	3	(1%)	3	0	3
Other	116	(46%)			
Fine			28	7	35
Fine with Conditions			4	24	28
Fine and Reprimand			3	0	3
Fine, Reprimand with Conditions			11	12	23
Reprimand			3	2	5
Reprimand with Conditions			10	12	22
Issuance License/Regist.	32	(13%)			
Grant with Suspension			1	0	1
Grant with Restrictions			1	0	1
Grant with Probation			9	3	12
Grant with Probation/Fine/Conditions			1	0	1
Grant with Probation and Conditions	7		0	7	
Grant with Reprimand and Fine			1	0	1
Grant with Reprimand			2	1	3
Grant with Fine			6	0	6
Deny			0	0	0
Reinstatements	5	(2%)			
Grant			0	0	0
Grant with Probation/Conditions			4	0	4
Deny			1	0	1
Modifications	6	(2%)			
Grant			6	0	6
Deny			0	0	0
TOTAL FY08:	253	(100%)	171	82	253

FY2008 Orders Entered Against Pharmacist Licenses	171	68%
FY2008 Orders Entered Against Pharmacy Licenses	82	32%
FY2008 Total Disciplinary Orders on Pharmacist/Pharmacy	253	100%

TEXAS STATE BOARD OF PHARMACY
DISCIPLINARY ORDERS ON PHARMACISTS, INTERNS, AND
APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2008)
NATURE OF VIOLATIONS*

	RPh	Phcy	Total	Total %
Diversion	17	2	19	8%
Illegal Delivery	1	1	2	
Possession of C/S	1	0	1	
Unauthorized Dispensing	4	0	4	
Theft of Controlled Substances	2	0	2	
Obtained C/S by Fraud	0	0	0	
No Valid Dr-Pt Relationship (InternetRXs)	9	1	10	
Convictions/Defer Adj	28	5	33	13%
Felony	3	4	7	
Misdemeanor	1	0	1	
Deferred Adjudication, Felony	11	1	12	
Deferred Adjudication, Misdemeanor	12	0	12	
Alcohol-Related	1	0	1	
Audit Discrepancies	13	19	32	13%
Drug	10	19	29	
Continuing Education	3	0	3	
Practice Deficiencies	25	26	51	20%
Dispensing Errors	10	13	23	
Dispensing Errors & No Counsel and/or No Drug Regimen Review	13	13	26	
No Counsel and/or DRR	2	0	2	
Unprofessional Conduct	67	26	93	37%
Aiding and Abetting	3	0	3	
Allow Tech to Work with Delinquent or No Registration	18	18	36	
Falsified Application for Licensure Samples	8	1	9	
Practicing/Delinquent License	0	0	0	
Falsify Response to W/N	1	1	2	
Probable Cause or Chemical or Mental Dependency	1	1	2	
Action by Other Boards	14	0	14	
Non-Compliance with Previously Entered Order	6	5	11	
Non-Compliance with PRN Program	13	0	13	
Confidentiality Violations	3	0	3	
	0	0	0	
Other				
Modification	12	0	12	5%
Reinstatement	4	0	4	2%
Request for Revocation/Retirement	5	4	9	4%
TOTAL FY2008:	171	82	253	102% **

* Board Orders/Agreed Board Orders may contain more than one type of violation. However, for purposes of this list, only one type of violation has been identified. The identified violation was selected as the primary violation.

** Due to rounding.

LEGAL DIVISION

TEXAS STATE BOARD OF PHARMACY
SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON
PHARMACY TECHNICIANS, TECHNICIAN TRAINEES, AND
APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2008)

		Total	Percent
Licenses Removed		66	(21%)
Revoke	65		
Retire	1		
Suspensions		37	(12%)
Suspension	0		
Suspension w/Conditions	4		
Suspension/Fine	0		
Suspension/Fine with Conditions	3		
Suspension w/Conditions, followed by Probation	16		
Suspension/Probation with Conditions	13		
Suspension/Probation/Fine	1		
Restrictions	0	0	(0%)
Other		27	(9%)
Fine	19		
Fine with Conditions	0		
Fine/Reprimand	1		
Fine/Reprimand with Conditions	0		
Reprimand	7		
Reprimand with Conditions	0		
Issuance Registration		180	(58%)
Grant with Suspension	0		
Grant with Suspension/Probation	2		
Grant with Suspension/Fine	1		
Grant with Suspension and Fine/Probation	1		
Grant with Probation/Conditions	76		
Grant with Probation/Conditions and Fine	11		
Grant with Fine	24		
Grant with Reprimand/Fine	12		
Grant with Reprimand	52		
Deny	1		
Reinstatements/Modifications	0	0	(0%)
TOTAL FY2008:		310	(100%)

TEXAS STATE BOARD OF PHARMACY
DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS, TECHNICIAN TRAINEES,
AND APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2008)
NATURE OF VIOLATIONS

		Total	Percent
Diversion		32	(10%)
Theft	20		
Forged Rx	9		
Violations of Controlled Substance Act	3		
Convictions/Deferred Adjudications		213	(69%)
Felony	17		
with Falsified Application	3		
Misdemeanor	32		
with Falsified Application	14		
Deferred Adjudication/Felony	43		
with Falsified Application	10		
Deferred Adjudication/Misdemeanor	78		
with Falsified Application	11		
Alcohol-Related (e.g., DWI)	4		
with Falsified Application	1		
Chemical Impairment		4	(1%)
Drug or Alcohol Dependency	4		
with Falsified Application	0		
Falsified Application *		25	(8%)
Other Violations		28	(9%)
Gross Immorality	1		
Performed Tech Duties without Registration	8		
Performed Tech Duties with Expired or			
Delinquent Registration	7		
Performed Pharmacist Duties	1		
Non-Compliance with Previously Entered Order	11		
Request for Revocation/Retirement		8	(3%)
TOTAL FY08:		310	(100%)

* Does not include 39 falsified applications submitted along with additional grounds for disciplinary grounds described above.

LEGAL DIVISION

- 2. To review all cases referred to the Division for potential disciplinary action; and if sufficient evidence exists to warrant action, to institute disciplinary proceedings against licensees within an average of 150 days of the date of the receipt of the case, in accordance with priorities established for the Enforcement Division, throughout FY2008.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. During FY2008, Division staff participated in 18 case and/or complaint review meetings. These meetings were held approximately twice per month with participation by the Executive Director and Legal and Enforcement Division staff.
- B. Division Staff mailed a record high number of 799 Preliminary Notice Letters in FY2008, in accordance with the priorities established for the Division, as compared to FY2007, when the Division mailed 792 PNLs. Of these PNLs, 303 PNLs were mailed to pharmacists and pharmacies, and 496 PNLs were mailed to pharmacy technicians.
- C. The number of days to mail PNLs after the case review date in FY2008 was 91 days, which is an increase from the FY2007 number of 49 days. The number of days for PNLs to be sent to pharmacists and pharmacies averaged 110 days as compared to 82 days in FY2007. PNLs to pharmacy technicians were sent in an average of 82 days from receipt of the case, as compared to 30 days in FY2007.
- D. Total resolution time for cases in FY2008 was 165 days from receipt of the case in the Legal Division to the entry of an Agreed Board Order, which is slightly higher than last year's number of 148 days. Case resolution for pharmacists and pharmacies averaged 210 days, up from 186 days as in FY2007, and for pharmacy technicians averaged 143 days, also up from 123 days in FY2007.
- E. The Division filed petitions to conduct a Temporary Suspension hearing for a case involving a pharmacist and a pharmacy in FY2008. The case was based on allegations of illegal delivery of controlled substances. The case was settled with the revocation of the pharmacist's and pharmacy's licenses.

- 3. To plan and conduct a minimum of 15 days of informal conference sessions in FY2008 to adjudicate violators of pharmacy laws/rules.**

Status: ACCOMPLISHED

Comment: During FY2008, the Division prepared for 32 days of Informal Conferences for 467 licensees/registrants, as indicated in the following charts. The number of licensees/registrants decreased slightly in FY2008, from 480 licensees/registrants in FY2007.

LEGAL DIVISION

Informal Conferences for Pharmacies and Pharmacists

Dates of Informal Conferences	# of Days	# of Phy/RPh Licensees	# of Techs	# of Cases	# of Licensees Dismissed
9/4-6/2007	2 ½	19	0	14	3
10/2-4/2007	3	27	1	21	1
12/11-12/2007	2	21	0	14	2
1/16-17/2008	2	13	0	10	2
3/4-5/2008	2	18	0	15	2
4/15-17/2008	2 ½	32	1	21	0
6/3-5/2008	2 ½	18	1	13	1
7/8-10/2008	3	31	0	21	4
7/24/2008	½	3	0	2	0
TOTAL FY2008	20	182	3	103	15

Informal Conferences for Technicians/Technician Trainees

Dates of Informal Conferences	# of Days	# of Cases	Applicants (tech/TNT)	Registrants	No-show (tech/TNT)	Defaults
9/20/2007	1	27	7/1	5	3/4	7/0
10/18/2007	1	26	7/7	2	1/7	2/0
11/15/2007	1	24	3/7	4	3/4	3/0
12/19/2007	1	27	1/6	2	2/10	6/0
1/24/2008	1	26	6/9	1	1/9	0/0
2/21/2008	1	21	1/1	1	0/11	7/0
3/20/2008	1	23	2/2	2	1/10	6/0
4/24/2008	1	22	1/9	4	0/5	3/0
5/22/2008	1	24	2/4	2	2/6	7/1
6/26/2008	1	19	0/3	2	0/7	7/0
7/24/2008	1	25	1/4	4	1/7	7/1
8/21/2008	1	21	1/5	2	2/8	2/1
TOTAL FY2008	12	285	32/58	31	16/88	57/3

4. To refer disciplinary cases to the State Office of Administrative Hearings (SOAH) throughout FY2008, and file a complaint with SOAH within an average of 120 days of the date that the agency determines the case cannot be settled with an Agreed Board Order.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. At the onset of FY2008, one case was ongoing following a hearing at the State Office of Administrative Hearings in FY2006 and pending approval of a Board Order, and one case had been filed at SOAH and was pending a hearing. The Division filed formal Complaints at SOAH, within 120 days that the case failed to settle with an Agreed Board Order, for nine additional cases in FY2008.

LEGAL DIVISION

- B. Four cases were resolved prior to a full contested administrative hearing being conducted at SOAH. Two of these cases were resolved through a Mediated Settlement Conference and two through negotiations. This resolution was beneficial in saving the agency both considerable time and effort in the alternative of preparing for and presenting a full contested case hearing. However, considerable preparation was required for several of the cases because they were not resolved until shortly before the scheduled hearing date.
- C. Three administrative hearings were conducted in FY2008, and two cases were resolved through motions for summary disposition. Six Proposals for Decision (PFD) were issued by the Administrative Law Judges during FY2008. In each case, the Board essentially adopted the recommendations in the PFDs by Board Order. One case was pending a hearing at the end of FY2008.
- D. SOAH performed 193.3 hours of work on 13 cases for the TSBP in FY2008, totaling approximately \$24,292.08 in direct hearings expenses and \$27,241.89 in total case expenses. These SOAH hours are significantly increased from the 104.35 hours of work on 14 cases in FY2007. This data indicates that the complexity of the SOAH cases has increased and requires more preparation and resources from Division staff.

5. **To research legal issues and provide legal services and advice to the Board and agency staff; to provide legal services to the Enforcement and Administrative Services and Licensing Divisions regarding interpretation of the laws and rules and to the Division of Professional Services in the development of agency rules and publication of newsletters.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Legal Research and Advice on Agency Administration
 - (1) General Counsel reviewed the following for legal sufficiency and effectiveness:
 - (a) contractual requirements in bid proposal for drug screening services for impaired pharmacists;
 - (b) audit procedures for Professional Recovery Network program for approval of FY2007 independent audit;
 - (c) memorandum of understanding with the Department of State Health Services for registration of volunteer healthcare professionals for disaster relief;
 - (d) request for proposal regarding testing of samples of compounded products collected by Compliance staff;

LEGAL DIVISION

- (e) record retention considerations for the Intern/Volunteer Agreement;
 - (f) contract with vendor providing imaging services for Enforcement files; and
 - (g) clerkship agreement with pharmacy school.
- (2) General Counsel served as Fraud Coordinator and responded to Fraud Survey for the Governor's office.
- (3) General Counsel participated in meetings and provided recommendations in the development of the agency's Risk Management Plan. In addition, General Counsel reviewed the Risk Management Manual for legal compliance.
- (4) General Counsel provided legal advice and consultation on numerous personnel issues during FY2008, including:
- (a) provided recommendations on actions for failure to appear for duty;
 - (b) analyzed applicability of ADA and FMLA to employee actions;
 - (c) assisted with issues in various hiring/disciplinary processes and complaints against agency employees;
 - (d) provided legal advice regarding outside employment for agency staff;
 - (e) developed and reviewed performance plan;
 - (f) interviewed applicants for new positions; and
 - (g) reviewed employee vehicle operation policy and ethics policy in TSBP Employee Handbook.
- (5) General Counsel continued to serve as the agency's Ethics Advisor and continued to assist Board Members and staff with legal and ethical issues.
- (6) General Counsel consulted with other Division Directors regarding completion of the Survey of Organizational Excellence by agency staff. Division staff prepared recommendations based on survey results. General Counsel prepared management response in consultation with the Executive Director and other Division Directors.

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- (7) General Counsel attended numerous management staff meetings.
- (8) Division staff participated in development of plan to image closed complaint files by the Enforcement Division.
- (9) General Counsel and Division staff participated in meetings and evaluation of new licensing and enforcement systems for migration in next biennium dependent on funding.
- (10) General Counsel participated in meetings with EAP representative to plan continuation of contract services.

B. Technical Assistance to Enforcement Activities

- (1) Division staff researched numerous issues, including the determination of crimes of moral turpitude and various forms of disposition for criminal cases.
- (2) General Counsel attended quarterly meetings of Compliance staff and Investigative staff, as requested, to provide legal guidance on inspection and investigative issues including obtaining evidence and issuing subpoenas.
- (3) Division staff drafted numerous subpoenas to assist with the investigative work of the TSBP investigators.
- (4) Division staff handled numerous legal questions from all staff regarding a myriad of issues.
- (5) General Counsel reviewed numerous complaint files for pharmacists and pharmacies and provided guidance regarding the identification of violations and the resolution of the cases. In addition, General Counsel reviewed numerous complaint files on pharmacy technicians to determine type of violation and appropriate action, as previously determined by the Board.
- (6) Division staff made presentations at all Board meetings held in FY2008. Presentations included information about proposed Agreed Board Orders and proposed Board Orders following SOAH proceedings.
- (7) General Counsel assisted in the review and preparation of minutes of four regularly-scheduled Board meetings.
- (8) Division staff informed the Enforcement staff of disciplinary actions to be taken by the Board prior to entry of the orders, to ensure the correct information is immediately available on the computer system.

LEGAL DIVISION

- (9) Division staff assisted the Enforcement Division with issues involving the monitoring of impaired pharmacists, including legal consultation on handling of positive drug screens and interfacing with the PRN program.
- (10) Division staff updated the Disciplinary Index to all actions taken by TSBP on a quarterly basis following each Board meeting.
- (11) General Counsel assisted with coordination of investigations of illegal pharmacy operations in Houston.
- (12) General Counsel developed modifications to contractual requirements and finalized contractual negotiations regarding peer assistance contract.
- (13) General Counsel assisted with development of protocols for use by Compliance staff in sampling compounded products.

C. Legal Services for Professional Services

- (1) Division staff participated on a committee to develop articles for the TSBP Newsletter.
- (2) General Counsel assisted the Division of Professional Services in the review/drafting of proposed rules and preambles for rules, and the review of rule submissions to the *Texas Register* for all rules either proposed or adopted during FY2008, including rules on hospital formularies, security, generic substitution, and flavoring.

D. Legal Services for Licensing

- (1) Division staff assisted with recommendations on eligibility for licensure and registration, verified accuracy of warning letters, and handled cases through the legal process.
- (2) Division staff assisted the Licensing Division with development of web pages for on-line intern registration to incorporate fingerprinting of applicants.
- (3) General Counsel reviewed responses regarding ADA issues for legal compliance.
- (4) General Counsel updated Candidates Guide to the Texas Jurisprudence Examination.

LEGAL DIVISION

- E. Other Legal Services regarding Pharmacy Issues
- (1) General Counsel participated in meetings and teleconferences regarding:
 - (a) hospital formularies;
 - (b) dispensing of contact lenses with prescription drugs by optometrists;
 - (c) requirements for hospital pharmacies compounding sterile products;
 - (d) continuous quality improvement program developed by the Texas Pharmacy Association;
 - (2) General Counsel participated in the review of the question pool for the Multistate Jurisprudence Examination to ensure the validity of the questions in the pool.
 - (3) General Counsel participated in teleconference meetings of committee to review requests for two pilot projects on hospital pharmacies to waive rules.
 - (4) General Counsel participated in meetings of the following task forces:
 - (a) Internship Task Force;
 - (b) Security Task Force;
 - (c) Class D Pharmacy Task Force;
 - (5) General Counsel participated in meeting of the Joint Committee of the TSBP and the Texas Medical Board regarding Narrow Therapeutic Drugs.

6. To review and monitor the Texas Register for Attorney General opinions; to draft requests for Attorney General Opinions throughout FY2008; to serve as liaison for the Board to the Office of the Attorney General (OAG); to monitor and assist with appeals, injunctions, or civil litigation handled by the OAG against pharmacists or non-pharmacists.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division Staff reviewed new opinions of the Office of the Attorney General and the Texas Ethics Commission for applicability to TSBP on a weekly basis, and disseminated any relevant material to appropriate agency personnel.

LEGAL DIVISION

B. Liaison with the Office of Attorney General

- (1) Division staff continued to serve as liaison with the OAG throughout FY2008. Mike Crowley followed by John Langley served as the Assistant Attorney General assigned to TSBP from the OAG Administrative Law Division.
- (2) Appeals; Injunctions; Civil Litigation
 - (a) One disciplinary case was appealed during FY2008 involving a pharmacist convicted of felony DWI and the pharmacy owned by the pharmacist. The file was transferred to the OAG in July 2008.
 - (b) General Counsel coordinated representation by OAG on enforcement of a TSBP subpoena to which a licensee failed to respond. General Counsel attended meetings to attempt to resolve the case and also the hearing enforcing compliance with the subpoena by the licensee.
 - (c) General Counsel consulted with attorney at OAG regarding FMLA employment matters;
- (3) Requests for AG Opinions
 - (a) No requests for AG Opinions were filed in FY2008.
- (4) General Assistance
 - (a) General Counsel and Staff Attorney served on the Electronically Stored Information Task Force to develop statewide guidance policy for retention of electronic records and attended several meetings of the task force, which ultimately implemented a state-wide recommendation for state agencies.
 - (b) General Counsel provided information to the Consumer Protection Division regarding hospital formulary issues.
 - (c) General Counsel assisted attorney in Medicaid Fraud Division with prosecution of pharmacist.

7. To assist with open records requests throughout FY2008, in accordance with the procedures set forth in the Texas Public Information Act.

Status: ACCOMPLISHED

LEGAL DIVISION

Comment: This objective was accomplished through the following activities:

General Counsel reviewed written responses to open records requests, prepared by the Professional Services Division, for legal compliance with the Public Information Act in FY2008. In addition, the General Counsel assisted with clarifying certain open records requests requiring telephonic clarification, when legal issues were involved.

- 8. To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2008; to provide legal assistance and maintain liaison with appropriate local, state, and federal prosecutors, legal divisions, and enforcement agencies involved in the investigation or prosecution of Board licensees, in conjunction with the Enforcement Division, throughout FY2008.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

A. Surveys/Questionnaires and Other Correspondence

- (1) General Counsel and/or Division staff responded to the following surveys:
 - (a) NABP survey for the Connecticut Board of Pharmacy regarding legislative authority to obtain a civil penalty;
 - (b) LBJ School of Public Affairs survey regarding ethics in government;
 - (c) NABP survey regarding administrative fines;
 - (d) Annual survey from the State Office of Administrative Hearings;
 - (e) Texas State Agency Purchasing Survey from the Office of Attorney General.
 - (f) NALP's 2008 Public Sector & Public Interest Attorney Salary Survey; and
 - (g) North Carolina Board of Pharmacy survey regarding Internet-based veterinary pharmacies.

B. Technical Assistance to Other Agencies and Organizations

- (1) Division staff attended Public Service Career Day at the University of Texas School of Law.
- (2) Division staff assisted Harris County District Attorney with prosecution of the owner of a pharmacy engaging in illegal activity.

LEGAL DIVISION

- (3) General Counsel provided information to New Mexico Board of Pharmacy regarding pharmacy under investigation by TSBP.
- (4) General Counsel clarified pharmacy record confidentiality requirements for Department of Public Safety attorney.
- (5) General Counsel met with Executive Director and General Counsel of the Texas Medical Board to discuss hospital formulary requirements.
- (6) General Counsel attended several meetings to facilitate transition to the new Director of the Professional Recovery Network and to provide information regarding contractual requirements for reporting of impaired individuals.
- (7) Division staff assisted the Texas Medical Board with interpretation of law concerning controlled substances and dangerous drugs and with drafting an article for the Medical Board newsletter on generic substitution.
- (8) Division staff provided information to the Department of Aging and Disability Services regarding use of government resources to purchase drugs from Mexico.
- (9) General Counsel participated in meeting with architect from the Department of State Health Services regarding requirements for hospitals compounding sterile products.
- (10) General Counsel responded to questionnaire from Veterinary Board regarding statutes of limitation.
- (11) Division attorney assisted Nursing Board with presentation of a mock disciplinary hearing before SOAH.
- (12) Division staff provided information to DEA agent to assist with prosecution of a pharmacy and pharmacist.
- (13) General Counsel assisted the Secretary of State's office with questions about medication therapy management as a professional service for determining viability of registration as a professional organization.
- (14) Division attorney participated in Table Talk for Public Service Employers at the University of Texas School of Law and gave presentation regarding careers for government attorneys.

LEGAL DIVISION

- D. Technical Assistance to the Legislature
- (1) General Counsel compiled data and prepared report for Legislature as required by SB1879 on disciplinary actions taken in FY2007 for violations of the Controlled Substances Act.
 - (2) General Counsel and/or Division staff responded to questions from Legislators regarding pharmacy technician applicants with criminal history.
- E. Technical Assistance to the Press and the Public
- (1) Division staff answered numerous telephone calls from pharmacist and pharmacy technician applicants regarding the application process and the associated disciplinary process, including providing information about denial of registration and options for Informal Conference.
 - (2) Division staff answered numerous questions from licensees, attorneys, and other members of the public regarding legal issues, including:
 - (a) licensing eligibility and requirements;
 - (b) effect of convictions and deferred adjudications and/or probation for various crimes on registration and licensure;
 - (c) restraint of trade; and
 - (d) compounding issues.
 - (3) General Counsel answered questions from members of the public about dispensing from dentists' offices.
 - (4) General Counsel participated in meetings and provided legal analysis regarding narrow therapeutic drugs.

9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2008.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

General Counsel served as chair of the HPC Legal Committee, which includes attorneys from other agencies, and provided updates to HPC about Legal Committee activities as requested.

LEGAL DIVISION

- 10. To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2008.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

In FY2008, Division staff attended general staff meetings and in-house training sessions. In addition, Division attorneys attended required continuing legal education, and Division staff attended various programs, seminars, and events.

- 11. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2008.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division staff was evaluated on an annual basis, as required by agency policy.
- B. General Counsel conducted team meetings approximately once a month with Division staff.
- C. The Division interviewed for and had two law clerks during the summer of 2008 from the University of Texas School of Law, who provided assistance with the preparation of legal cases.
- D. General Counsel prepared and conducted orientations of all new TSBP employees and interns during FY2008 regarding the Legal Division, the legal process, ethics, and Public Information and Open Meetings Acts.
- E. The Division hired and completed training of a new Attorney and two new Legal Assistants.
- F. General Counsel implemented plan for restructuring Division responsibilities to facilitate improvements in hearings coordination and scheduling.

- 12. To destroy records in accordance with the agency's record retention plan throughout FY2008; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2008.**

Status: ACCOMPLISHED

LEGAL DIVISION

Comment: This objective was accomplished as follows:

A. Records Management

During FY2008, Division staff destroyed records, in accordance with the TSBP record retention schedule, including general correspondence. Division staff also prepared and indexed material for transfer to the State Library.

B. Policies and Procedures

- (1) Division staff updated and maintained Disciplinary Notebooks and Index containing all Board Orders and Agreed Board Orders.
- (2) Division staff updated notebook of samples of preliminary notice letters for pharmacist and pharmacy disciplinary actions and forms for various pharmacy technician and technician trainee PNLs and ABOs.
- (3) Division staff drafted several new written policies and procedures for case reviews and preparation of PNLs, including instructions and samples, and developed new chart for disciplinary sanctions and penalties.

13. To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2008.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- A. General Counsel and Division staff developed a new electronic recordkeeping system to convert from the previous paper system for tracking dates involving mailing of Preliminary Notice Letters, scheduling of Informal Conferences, mailing and receiving of Agreed Board Orders, and other due dates. The new system allows Division staff to view and update the new on-line logs from their own computers rather than accessing the previous manual system.
- B. General Counsel served as co-chair on the agency's Wellness Committee, and coordinated the Maintain No Gain program during the winter and the agency's Curves participation, in conjunction with the Director of Professional Services. Division staff recommended, organized, and/or assisted with October fitness walks, antibacterial gel dispensers, scale, healthy snacks, Summer Wellness Bingo contest, and wellness blog.
- C. Division staff recommended implementation of ice breaker at each staff meeting to facilitate communication among agency employees.
- D. Division staff developed Calendar of Events for FY2008 for informal conferences and reserved conference rooms accordingly.

LEGAL DIVISION

- E. General Counsel and Division staff participated on the Email Team that developed and implemented extensive changes to agency's records retention policies related to email. Staff attorney served as chair of task force, and Division staff played an integral role in presenting and implementing the new procedures, including staff training sessions.
- F. Division staff recommended increased probation fee for probationary periods for ten years.
- G. Division staff implemented changes to the priority system for the Legal case tracking tool to more closely coincide with agency case priorities.
- H. General Counsel recommended changes to the Board Notebook project to protect from liability regarding open records issues.
- I. Division staff updated forms explaining Informal Conference procedures to licensees and registrants to reflect changes to administrative rules.
- J. General Counsel participated in meetings to develop new status code protocols for pharmacy technicians and pharmacy technician trainees.

14. To recommend changes to the Texas Pharmacy Act and rules, which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2008.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

A. Texas Pharmacy Act

General Counsel submitted numerous changes to the Pharmacy Act for approval by the TSBP regarding disciplinary and legal proceedings.

B. Board Rules

- (1) General Counsel drafted changes to disciplinary sanctions for pharmacy technicians and pharmacy technician trainees.
- (2) General Counsel submitted changes to disciplinary rules to apply guidelines for sanctions to all licensees and registrants rather than only to applicants.

LEGAL DIVISION

15. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2007 *Annual Report* to be presented to the Board by its May 2008 Board meeting.

Status: PARTIALLY ACCOMPLISHED

Comment: The Division's first draft of the FY2007 *Annual Report* was submitted to the Executive Director by the due date. The final draft of the report was submitted to the Board at the August 2008 Board meeting.