

## ENFORCEMENT DIVISION

### FY2003 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of the Division's 20 Objectives for FY2003 (19 objectives were accomplished and one objective was partially accomplished). In addition, TSBP met or exceeded (within a 5% variance) 11 of 13 (85%) FY2003 projections for enforcement-related performance measures. The following measures were not met: one key measure (relating to number of complaints received) and one non-key measure (relating to recidivism rate for participants in peer assistance program). The Enforcement Division did not have control over the performance regarding the two measures that were not met. (See Ongoing Objective #1.)
2. The agency received more complaints in FY2003 than it did during the prior four fiscal years, as indicated in the chart below. In addition, TSBP significantly improved the agency's complaint resolution time in FY2003: a 31% decrease from 221 days in FY2002 to 153 days in FY2003, as indicated 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
FY99	1533		1335		87%	221 Days	
FY00	1577	+3%	1513	+13%	96%	220 Days	-0.45%
FY01	1683	+7%	1667	+10%	99%	262 Days	+19%
FY02	1836	+9%	2137	+28%	116%	221 Days	-16%
FY03	1935	+5%	1887	-12%	97.5%	153 Days	-31%

3. Field Compliance Officers conducted 2,529 inspections during FY2003, which exceeded the objective of 2,300 inspections by 10%. This accomplishment was achieved despite the Houston Compliance Officer position being vacant for three months of the fiscal year.
4. In April 2003, TSBP implemented a new program that required new pharmacies to be inspected before receiving a pharmacy license. This procedure will help ensure that a pharmacy license (a license that allows an individual to purchase prescription drugs) is issued to legitimate operations. From May - August 2003 (four months of FY2003), Compliance Officers conducted 22 pre-inspections.
5. Assistant Director of Enforcement Allison Benz, R.Ph., M.S., served as a preceptor to six interns in FY2003 (a record-breaking number of interns). This accomplishment was even more remarkable because it marked the first time that TSBP served as an internship site for students from all four Texas pharmacy colleges (see Ongoing Objective #7).
6. Division staff spent significant time and efforts assisting Board Members, the Executive Director, and other Board staff (see New Objectives #1 - #4 and Ongoing Objectives #8 - #10 and #14 - #16). Of particular note is the assistance provided by the Division Director in the following areas: drafting a substantial portion of the agency's Self-Evaluation Report that was submitted to the Sunset Advisory Commission; reviewing and/or preparing impact statements regarding various bills being considered by the 78<sup>th</sup> Texas Legislature; and drafting response to report from the agency's internal change team. In addition, Division staff spent significant time and efforts assisting external customers, particularly responding to requests for information (see Ongoing Objectives #6 and #7).

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7. In line with the agency's "lead agency" philosophy, TSBP investigators made an extraordinary number of contacts with other law enforcement agencies (see Ongoing Objective #4).
8. Assistant Director of Enforcement Allison Benz, R.Ph., M.S., worked with other agency staff to prepare the bid specifications for the agency's peer assistance program. The contract was awarded to the Pharmacy Recovery Network, effective September 1, 2004 (see Ongoing Objective #9).
9. Division staff, with review/approval of TSBP General Counsel, prepared and mailed 13 cease and desist (C&D) letters to businesses/individuals that were operating and advertising as Canadian Storefront pharmacies. Additional C&D letters, investigations, and cooperation with state and federal authorities will be ongoing in order to regulate this type of operation.
10. Division staff made numerous recommendations to enhance agency operations and improve the laws/rules governing the practice of pharmacy (see Ongoing Objectives #14 and #15).

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### FY2003 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

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1. In mid-FY2003, the agency's appropriation was cut by 7% due to shortfalls in the state's revenue. As a result, the agency was forced to reduce expenses, which included not filling four positions in the Enforcement Division that became vacant in FY2003, as described below:

- Field Investigator (terminated in January 2003) – this position was vacant for eight months;
- Administrative Assistant (on extended medical leave, then resigned in May 2003) – this position was vacant for eight months;
- Staff Compliance Officer (resigned in May 2003) – this position was vacant for four months; and
- Field Compliance Officer (resigned in June 2003) – this position was vacant for three months.

The budget cuts mandated by the 78<sup>th</sup> Texas Legislature also required the agency to reduce spending for staff training and conference travel expenses. Accordingly, the agency did not display its professional exhibit at any professional meetings in FY2003.

2. In addition to the four vacancies described in (1) above, the Division experienced additional turnover and vacancies, as described below:

- one Field Investigator (resigned in September 2002) – this position was vacant for four months until the position was filled in January 2003; and
- one Enforcement Officer was on medical leave for three months during FY2003.

These six vacancies had a negative impact on the number of complaints that the agency was able to close in FY2003 (see chart on page 67 that reflects that the agency closed 12% fewer complaints in FY2003 than in FY2002). The vacancies will also have a negative impact on the average complaint resolution time in FY2004.

3. TSBP received more complaints in FY2003 than in any prior fiscal year, which taxed the Division's human resources. The most common type of consumer complaint is a complaint in which the complainant alleged that a dispensing error was committed by a pharmacist and/or pharmacy. The following chart indicates the number of dispensing error complaints closed during the past five years:

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**DATA ON DISPENSING ERROR COMPLAINTS**

**CLOSED FY99 - FY03**

Type of Dispensing Error	FY99	FY00	FY01	FY02	FY03	5-Year Avg.
Wrong Drug/Strength or Wrong Directions for Use	151	173	189	213	152	176
Mislabeling	10	15	15	16	10	13
Dispensed Wrong Quantity	28	28	57	85	66	53
Dispensed Outdated Drug	4	4	6	12	4	6
Packaging/Delivery Error	12	15	17	24	10	16
Error + No Counseling	*	*	27	26	25	*
Total # Dispensing Error Complaints	205	235	311	376	267	279
Total # Complaints Closed	1,335	1,513	1,667	2,137	1,887	1,708
% Dispensing Error Complaints	15%	16%	19%	18%	14%	16%

\* Data not collected as such during FY99 and FY00.

4. Division staff continued to spend significant time/efforts monitoring compliance with the terms of disciplinary orders that were entered by TSBP in FY2003. A large number (185 disciplinary orders or 87% of the total number of disciplinary orders entered in FY2003) required some type of intensive monitoring. Many of the disciplinary orders required the licensee to submit policies and procedures (e.g., Quality Assurance Programs including peer review procedures). See Ongoing Objective #5.
  
5. After 21 years of loyal service to TSBP, Chief Compliance Officer Cy Weich, R.Ph., retired at year-end FY2003 (effective August 31, 2003). Mr. Weich was consistently a top performer, providing assistance and guidance to pharmacists who appreciated his experience, insight, and expertise. His absence will have a negative impact on the Division's performance in FY2004.

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6. Factors contributing to the increase in the number of complaints that TSBP received in FY2003, include the following:

- ability for complainants to file online complaints;\*
- increased number of complaints filed against Internet pharmacies/websites advertising prescription services and Canadian Storefront pharmacies;
- increased number of complaints that were opened by TSBP following the receipt of a professional liability claim (malpractice report), an inspection by TSBP Compliance Officers, or an agency investigation; and
- increased number of complaints that were opened as a result of pharmacists who were in non-compliance with the terms of their previously entered disciplinary orders. Specifically, TSBP opened 88 complaints in FY2002 for non-compliance with terms of disciplinary orders [54 of the 88 complaints (61%) were due to problem drug screens], as compared to FY2003 when TSBP opened 146 complaints for non-compliance issues [with 84 of the 146 complaints (58%) regarding problem drug screens]. Accordingly, TSBP experienced a 66% increase in the number of complaints regarding non-compliance issues between FY2002 and FY2003, primarily due to problem drug screens (i.e., a 56% increase from 54 complaints in FY2002 to 84 complaints in FY2003 opened as a result of drug screening violations).

\* *TSBP first offered on-line complaint filing via the agency's website (Internet) in the Spring of FY2001. In FY2002 (the first full fiscal year that TSBP customers could file complaints on-line), TSBP received 214 Internet complaints. In FY2003, TSBP received 318 Internet complaints (49% increase as compared to prior fiscal year). However, TSBP experienced a decrease in the number of complaints received via email in FY2003 as compared to FY2002. TSBP makes a distinction between email complaints (where the complainant sends an electronic complaint message to a TSBP employee) and Internet complaints (where the complainant completes the TSBP complaint form online). Refer to chart below for comparison of all electronic complaints received in the past three fiscal years.*

	FY01	FY02	FY03	% Change from FY02 to FY03
Email Complaints	31	47	26	-45%
Internet Complaints	60+	214	318	+49%
Total Electronic Complaints Received	91	261	344	32%

+ *Ability to file an on-line complaint was not available for the entire fiscal year in FY2001.*

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## ENFORCEMENT DIVISION FY2003 ANNUAL REPORT

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### 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:
  - A. preparing testimony, attending public hearings, reviewing legislation, and providing any fiscal or technical information as required by the 78<sup>th</sup> Texas Legislature; and
  - B. reviewing all legislation introduced by the 78<sup>th</sup> Texas Legislature that has an impact on the practice of pharmacy or agency operations and monitor the progress of this legislation throughout FY2003.

**Status:** ACCOMPLISHED

**Comment:** This objective was accomplished through the following activities:

- A. Interim Session
  1. Division Director/Assistant Director assisted the Executive Director in the preparation of the testimony for the public hearing on the agency's budget request and attended the public hearing on September 4, 2002.
  2. In September 2002, Division Director assisted the Executive Director in the preparation of the responses to the following surveys: survey from the House Public Health Interim Committee regarding the agency's complaint process; and survey from the Task Force on Personal Privacy. Division Director also assisted Executive Director in the preparation of the testimony for the public hearing regarding the agency's complaint process (that was scheduled before the House Public Health Interim Committee) and attended the public hearing on September 24, 2002.
- B. Reports to Legislature
  1. Division Director assisted the Health Professions Council (HPC) in preparing a report to the 78<sup>th</sup> Texas Legislature regarding the complaint processes of the HPC member agencies and the methods used by the agencies to provide public access to complaint information. The report was the culmination of an 18-month study of agencies' procedures. Division Director was the chair of the HPC committee that was responsible for the study of the agencies' procedures. The final report was approved by the Council as whole on December 17, 2002, and

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submitted to the Governor by the due date (January 1, 2003). The report, which was mandated by H.B. 2408 (77<sup>th</sup> Texas Legislature), contained both a summary of the complaint study as well as ten recommendations for standardizing HPC agencies' procedures regarding the complaint/disciplinary process and disclosure of complaint information to the public.

2. Upon request of Representative Deshotel, Division Director prepared a special report regarding disciplinary orders that were entered by TSBP during FY2001 and FY2002.

C. Regular Session of 78<sup>th</sup> Texas Legislature

1. Division Director reviewed and/or prepared impact statements regarding the following ten bills:

S.B. 803	–	pharmacies advertising compounded drugs
S.B. 925	–	referral of diagnostic services when health provider has financial interest in the business doing the service
H.B. 2046	–	pharmaceutical manufacturers who provide sample drugs
S.B. 1353	–	regarding HPC's authority to pass rules
S.B. 939	–	pharmacies using 5 to 1 tech/pharmacist ratio
H.B. 2985	–	Office of Patient Protection
H.B. 2933	–	transfer of Office of Human Rights to Office of Attorney General
H.B. 1814	–	consolidation of TSBP into Texas Health Department
H.B. 2996	–	mobile pharmacies
S.B. 1315	–	allowing TSBP to establish a new class of pharmacy license

2. On behalf of the Executive Director, Division Director served as a resource witness at the public hearing on S.B. 1315, and met with representatives of the Speaker of the House regarding H.B. 2985.

2. To assist the Executive Director, in cooperation with other Divisions, in the agency Sunset Review Process including the preparation of the agency self-evaluation report throughout FY2003.

**Status:**           **ACCOMPLISHED**

**Comment:**       With the Executive Director and at her request, Division Director attended a meeting with the staff of the Sunset Advisory Commission on May 19, 2003, to discuss the Sunset Review process. On June 6, 2003, the Commission sent TSBP the 21-pages of written instructions for completing the agency's Self-Evaluation Report (SER). On June 20, 2003, the Executive Director met with management staff to discuss time lines and assignments. Division Director accomplished the following activities: drafted the responses to most of the questions in five sections of the SER (Key Functions, Powers, and Duties; History and Major Events; Policymaking Structure; Guide to Agency Programs; and Agency Performance Evaluation); made recommendations for the section regarding Policy Issues; and assisted with the review and preparation of the final draft of the SER. The SER was submitted to the Sunset Advisory Commission by the approved due date (August 20, 2003).

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3. To assist the Executive Director, in cooperation with other Divisions, in the planning for implementation of the new program to register and regulate pharmacy technicians, if the program is funded by the 78<sup>th</sup> Texas Legislature.

**Status:** ACCOMPLISHED

**Comment:** In May 2003, the 78<sup>th</sup> Texas Legislature passed the Appropriations Act, which included funding for TSBP to register and regulate pharmacy technicians. During May-July 2003, Division staff attended meetings with the Director and staff of the Administrative Services and Licensing Division for the purpose of discussing procedures and proposed rules to implement the pharmacy technician registration program. In July 2003, the Executive Director met with management staff on several occasions to review proposed rules and discuss procedures. On August 5-6, 2003, at a regularly scheduled business meeting, the Board reviewed the proposed rules and voted to publish the proposed rules in the *Texas Register*. Final adoption of the rules will occur in FY2004, whereupon the implementation of the technician registration program will begin.

4. To assist the Executive Director, in cooperation with other Divisions, in the orientation of a new Board Member within 90 days of appointment by the Governor.

**Status:** ACCOMPLISHED

**Comment:** Division Director assisted the Executive Director with the orientation of new public member, Juliette F. Bartlett-Pack, Ph.D., by updating New Member Orientation Manuals and participating in an on-site orientation on February 28-March 1, 2003.

## Objectives (Ongoing)

1. To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2002-03 Appropriations Act to Executive Director by specified due dates throughout FY2003; to assist in the preparation of applicable reports to the Legislative Budget Board and Governor's Budget Office regarding performance measures; to meet (within a 5% variance) or exceed the Performance Targets over which the Division has control.

**Status:** ACCOMPLISHED

**Comment:** Throughout FY2003, Division Director collected data relating to enforcement performance measures and Assistant Division Director Allison Benz, R.Ph., M.S., collected data relating to peer assistance performance measures. The statistical data was certified and submitted to the Legislative Budget Board (LBB) and Governor's Budget Office (GBO) by the prescribed due dates, in conjunction with the licensing performance measures.

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 FY2003. The other 12 measures were reported to the LBB and GBO at year-end (annual basis).

As indicated in the chart below, TSBP met or exceeded, within a 5% variance, 5 of 6 key measures and 6 of 7 non-key measures. Accordingly, TSBP met or exceeded 85% of the FY2003 projections for 13 enforcement-related performance measures.

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Enforcement Performance Measure	FY03 Projected Performance	FY03 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
<b>Outputs:</b>				
Inspections	2,000	2,529	NK	Exceeded
Jurisdictional Complaints Resolved	1,300	1,850	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	150	173	K	Exceeded
Number of Students Participating in a Peer Assistance Program	1	2	NK	Exceeded
<b>Efficiency:</b>				
Average Cost per Jurisdictional Complaint Resolved	\$658.71	\$449.64	NK	Exceeded
Average Time for Jurisdictional Complaint Resolution	350	155	K	Exceeded
<b>Outcomes:</b>				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	10%	11.89%	K	Exceeded
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	99%	96.68%	K	Met
Recidivism Rate of Those Receiving Disciplinary Action	4%	4.59%	NK	Met
Percent of Jurisdictional Complaints Resolved within Six Months	60%	79%	NK	Exceeded
Recidivism Rate for Participants in Peer Assistance Program	20%	28%	NK	Not Met
One-Year Completion Rate for Participants in Peer Assistance Program	75%	91%	NK	Exceeded
<b>Explanatory:</b>				
Jurisdictional Complaints Received	2,000	1,893	K	Not Met

\* 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").

2. To monitor pharmacy operations and pharmacists' practice by conducting 2,300 inspections, inspection-visits, and visits, including follow-up inspections to "Warning Notices" throughout FY2003. To inspect pharmacies and monitor pharmacists' practice throughout FY2003, 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**

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**Comment:** A total of 2,529 pharmacies were inspected by the Field Compliance Officers through complete inspections, partial-inspections, and inspection visits. This number of inspections is 10% higher than the objective of 2,300. This accomplishment was achieved during a time when one of the Compliance regions was not staffed for a period of **three** months.

Inspections, partial-inspections, and inspection-visits are described as follows:

- A. *Inspections* are full inspections of licensed facilities in which Compliance Officers check the facilities for compliance with each of the items on the inspection report form.
- B. *Partial-Inspections* are inspections of licensed facilities in which Compliance Officers check the facility for compliance with a portion of the items on the inspection report form. Included in the partial-inspections are pre-inspections for new pharmacy applicants. In addition, partial inspections include follow-up inspections of pharmacies that received a “Warning Notice” to determine if the pharmacies have complied with 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.
- C. *Inspection-Visits* are inspections in which Compliance Officers 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 Officers after arriving at the addresses listed in Board records.

Statistics for inspections, partial-inspections, and inspection-visits are outlined below:

Inspections	2382
Partial-Inspections	77
Inspection-Visits	70
<b>Total FY03</b>	<b>2529</b>

Statistics for “Warning Notices” issued as a result of these inspection/visits are outlined below:

FY03	Number of Inspections/Visits (% of total)	Number of “WARNING NOTICES” Issued*	Number of Pharmacies Receiving “WARNING NOTICES” (% receiving a “Warning Notice”)**
Class A Pharmacies	1964	226	12%
Class B Pharmacies	11	2	18%
Class C Pharmacies	380	48	13%
Class D Pharmacies	174	15	9%
<b>FY03 TOTALS</b>	<b>2529</b>	<b>291</b>	<b>12%</b>

\* 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.

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**Conditions Receiving "Warning Notices"**

Percentages are based on the total number of "Warning Notices" issued to Pharmacies in FY2003 (530). Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.

<b>Equipment</b>	<b>46 (9%)</b>	<b>Computer Systems</b>	<b>24 (5%)</b>
Balance Failed Insp	24	Computer Records Incomplete	22
Equipment Insp Due (Not Balance)	11	Computer Record Non-Compliance	2
Insufficient Equipment	11	<b>Records</b>	<b>29 (5%)</b>
<b>Pharmacy Technicians</b>	<b>93 (18%)</b>	Records Not Available	19
No/Incomplete Training	55	DEA Order Forms Incomplete	2
No/Improper Supervision	22	Absence of R.Ph. Record	3
Improper Registration	16	Rx Not Separated	3
<b>Inadequate Library</b>	<b>76 (14%)</b>	No Provision Log (Class D)	2
<b>Licenses</b>	<b>66 (12%)</b>	<b>OBRA Violations</b>	<b>13 (2%)</b>
Licenses Not Posted	54	Written Information Not Provided	3
Delinquent Licenses	12	No Patient Counseling	5
<b>Prescriptions</b>	<b>19 (4%)</b>	PMR Absent or Incomplete	5
Lack Proper Information	5	<b>Sterile Pharmaceutical Violations</b>	<b>33 (6%)</b>
Prescription Label Incorrect	6	No/Incomplete QA/QC	10
Triplicate Non-Compliance	8	No/Incomplete P&P Manual	4
<b>Drug Stock/Environment</b>	<b>32 (6%)</b>	No/Inadequate Preparation Area	14
Improper Environment	5	No DUR	5
Out-of-Date Drug Stock	20	<b>No/Incomplete Non-Sterile Cpd Records</b>	<b>2 (1%)</b>
Security	3	<b>Improper Distribution</b>	<b>5 (1%)</b>
Unsanitary	1	<b>No PIC</b>	<b>3 (1%)</b>
Prohibited Drugs (Class D)	3	<b>Improper Dispensing</b>	<b>5 (1%)</b>
<b>Inventory</b>	<b>59 (11%)</b>	Aiding and Abetting	4
No Annual Inventory	26	Illegal Dispensing	1
No Change of Ownership Inventory	4	<b>Notification Violation</b>	<b>11 (2%)</b>
No Change of PIC Inventory	7	<b>Theft &amp; Loss of C/S Not Reported</b>	<b>4 (1%)</b>
Incomplete Inventory	17	<b>Gray Market Diversion</b>	<b>3</b>
No Perpetual (Class C)	1	<b>Improper Closing/Change of Ownership</b>	<b>2</b>
<b>Improper Prepackaging Procedures</b>	<b>7 (1%)</b>	<b>Improper Inpatient Procedures (Class C)</b>	<b>1</b>

*The total number of inspections, partial-inspections, and inspection-visits by priority are indicated below:*

Purpose of Inspection (In Order of Priority)	Number of Inspections	% of Total
Complaint	55	2%
Follow-up to Disciplinary Order	44	2%
Pre-Inspection New	22	1%
New Pharmacies	156	6%
Change of Ownership	68	2%
Preceptor	227	9%
Follow-up to "Warning Notice"	53	2%
Routine Inspections	1,886	75%
Other	18	1%
<b>TOTAL</b>	<b>2,529</b>	<b>100%</b>

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3. To coordinate and monitor throughout FY2003, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants; to achieve an average complaint resolution time (overall agency average) of 300 days. To investigate complaints throughout FY2003, according to the following priorities:
- A. Complaints filed against pharmacists who have a chemical, mental, or physical impairment;
  - B. Complaints involving the diversion of prescription drugs, through the following illegal means:
    - delivering prescription drugs without a prescription;
    - dispensing prescription drugs pursuant to a prescription of a practitioner not issued for a legitimate medical purpose or in the usual course of medical practice;
    - dispensing prescription drugs to patients when the pharmacist knew or should have known there was no valid doctor-patient relationship, such as prescriptions dispensed following an Internet consultation;
    - dispensing prescription drugs by a pharmacist not in the usual course of pharmacy practice;
    - distributing prescription drugs pursuant to forged or altered prescriptions;
    - failing to keep and maintain records of controlled substances; and
    - unauthorized refills.
  - C. Complaints involving applicants for licensure;
  - D. Complaints involving dispensing errors;
  - E. Complaints involving violations of rules relating to patient counseling or drug regimen review;
  - F. Complaints against licensees who have been convicted of a felony or misdemeanor involving offenses that are related to the practice of pharmacy;
  - G. 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;
  - H. Complaints against licensees who have been convicted of a felony or misdemeanor involving offenses that are not related to the practice of pharmacy;
  - I. Complaints against licensees who have been subject to a disciplinary action by another state board of pharmacy; and
  - J. Complaints involving other violations of the laws and rules relating to the practice of pharmacy.

**Status:**           **PARTIALLY ACCOMPLISHED**

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**Comment:** TSBP received 1,935 complaints in FY2003, which represented a 5% increase over the number of complaints received in FY2002, as reflected in the chart below. TSBP staff closed 1,887 complaints in FY2003, which represented a 12% decrease over the number of complaints closed in FY2002, as reflected in the chart below. However, TSBP staff significantly improved the agency's average complaint resolution time in FY2003: a 31% decrease from 221 days in FY2002 to 153 days in FY2003. However, not all notifications were mailed to complainants in a timely manner. For this reason, this objective was only partially accomplished.

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

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY99	1533		1335		87%	221 Days	
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<b>NUMBER OF COMPLAINTS HANDLED THROUGH FIELD INVESTIGATIONS</b>					
Fiscal Year	Compliance Officers	%	Investigators	%	Total
FY99	43	24%	136	76%	179
FY00	67	43%	89	57%	156
FY01	100	34%	191	66%	291
FY02	59	21%	228	79%	287
FY03	76	31%	166	69%	242
5-Year Average	69	30%	162	70%	231

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

**DATA ON COMPLAINTS CLOSED FY2001 - FY2003**

Form of Complaints	FY01	FY02	FY03	%	3-Yr. Avg.	%
Telephone	100	101	74	4%	92	5%
Letter	251	332	223	12%	269	14%
TSBP Complaint Form	268	342	224	12%	278	15%
HPC 800 #	120	150	84	4%	118	6%
Fax	68	100	97	5%	88	5%
Visit	7	15	16	<1%	13	<1%
Agency Report	38	46	48	3%	44	2%
Inspection	24	32	26	1%	27	1%
Interoffice Referral	64	53	52	3%	56	3%
Licensure Application	146	128	127	7%	134	7%
Data Bank	18	16	8	<1%	14	<1%
Theft/Loss Report	426	504	460	24%	463	24%
Investigation	54	52	88	5%	65	3%
Intra-Agency Referral	27	48	31	2%	35	2%
Malpractice Report	1	4	10	<1%	5	<1%
Press Clip	4	3	4	<1%	4	<1%
Email *	27	23	45	2%	32	2%
Internet *	22	187	270	14%	160	8%
Other	2	1	0	N/A	1	<1%
<b>TOTAL</b>	<b>1,667</b>	<b>2,137</b>	<b>1,887</b>	<b>100%</b>	<b>1,897</b>	<b>100%</b>

\* TSBP accepts complaints via email, as well as through the agency's web site (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 TSBP complaint form online).

**ENFORCEMENT**

**DATA ON COMPLAINTS CLOSED FY2001 - FY2003**

<b>Source of Complaints</b>	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>	<b>%</b>	<b>3-Yr. Avg.</b>	<b>%</b>
Consumer	580	865	629	33%	691	36%
Government Agency	75	96	88	5%	86	5%
Pharmacist	67	69	99	5%	78	4%
Pharmacist (Self)	70	86	75	4%	77	4%
Applicant (Self)	100	61	87	5%	83	4%
TSBP	168	163	181	10%	171	9%
Doctor	61	90	65	3%	72	4%
Other Health Professional	13	24	28	1%	22	1%
NABP	20	18	16	<1%	18	<1%
PIC, Pharmacy Manager, or Supervisor	430	516	461	24%	469	25%
Loss Prevention Officer (Corporate)	5	7	0	<1%	4	<1%
Manufacturing Rep.	0	19	4	<1%	8	<1%
Pharmacy Recovery Network (PRN)	9	17	4	<1%	10	<1%
Insurance Company	2	7	9	<1%	6	<1%
Attorney	9	6	10	<1%	8	<1%
Employee/Ex-Employee	14	21	17	<1%	17	<1%
Media	4	1	6	<1%	4	<1%
Drug Screening	20	48	86	5%	51	3%
Other	20	23	22	1%	22	1%
<b>TOTAL</b>	<b>1,667</b>	<b>2,137</b>	<b>1,887</b>	<b>100%</b>	<b>1,897</b>	<b>100%</b>

ENFORCEMENT

**DATA ON CLOSED FY2001 - FY2003 COMPLAINTS**

Subjects of Complaints	FY01	FY02	FY03	3-Yr. Avg.
<b>Licensees</b>	<b>1,479 (89%)</b>	<b>1,955 (92%)</b>	<b>1,633 (87%)</b>	<b>1,689 (89%)</b>
Pharmacist	632	755	671	686
In-State Pharmacy	829	1,120	906	952
Out-of-State Pharmacy	18	80	56	51
<b>Applicants</b>	<b>97 (6%)</b>	<b>72 (3%)</b>	<b>104 (6%)</b>	<b>91 (5%)</b>
Pharmacist	36	25	43	35
Pharmacy	3	8	7	6
Intern	58	39	54	50
<b>Non-Licensees</b>	<b>91 (5%)</b>	<b>110 (5%)</b>	<b>150 (8%)</b>	<b>117 (6%)</b>
Doctor	20	20	20	20
Manufacturer	2	1	1	1
Wholesaler	0	0	2	1
Non-Licensed Facility or Person	38	22	76	45
Insurance Company/PBM	10	8	4	7
Pharmacy Technician	16	47	35	33
Out-of-State Facility	5	9	12	9
Other	0	3	0	1
<b>TOTAL</b>	<b>1,667</b>	<b>2,137</b>	<b>1,887</b>	<b>1,897 (100%)</b>

**ENFORCEMENT**

**NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2001 - FY2003**

<b>Alleged Violation</b>	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>	<b>3-Yr. Avg.</b>	<b>%</b>
Diversion	29	29	22	27	1%
Controlled Substances	17	19	19		
Dangerous Drugs	2	5	2		
Both	10	5	1		
Unauthorized Refills	8	21	11	13	*
Controlled Substances	2	3	3		
Dangerous Drugs	2	12	7		
Both	4	6	1		
Illegal Delivery	5	7	2	5	*
Controlled Substances	1	0	0		
Dangerous Drugs	2	4	1		
Both	2	3	1		
Illegal Possession	2	2	4	3	*
Controlled Substances	2	2	2		
Dangerous Drugs + Controlled Substances	0	0	2		
Convictions	105	91	89	95	5%
Felony	8	9	15		
Misdemeanor	45	37	33		
DWI / PI	50	44	38		
Deferred Adjudication, Controlled	2	1	3		
Dispensing Error	311	376	267	318	17%
Wrong Drug/Strength	189	213	152		
Mislabeling	15	16	10		
Wrong Quantity	57	85	66		
Outdated Drug	6	12	4		
Packaging/Delivery	17	24	10		
Dispensing Error / Patient Counseling	27	26	25		
Patient Counseling	25	22	30	26	1%
Drug Regimen Review	9	18	22	18	*
Theft/Loss	424	512	469	468	25%

\* = percentage is less than 1%

**ENFORCEMENT**

<b>Alleged Violation</b>	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>	<b>3-Yr. Avg.</b>	<b>%</b>
Aiding & Abetting	14	6	10	10	*
Action by Other Board	42	52	40	45	2%
Substitution	38	115	62	72	4%
Non-Compliance with Disciplinary Order	56	84	151	97	5%
Interference with Doctor/Patient Relationship	23	59	42	41	2%
Confidentiality	7	23	14	15	*
Failed to Keep Records	9	5	5	6	*
Impairment	32	45	28	35	2%
Probable Cause	8	7	90		
Drug & Alcohol	6	12	4		
Drug	11	17	6		
Alcohol	4	4	3		
Physical	0	1	2		
Mental	3	4	4		
Negligence	1	1	1	1	*
Unsafe Practice	4	2	6	4	*
Unprofessional Conduct	2	3	4	3	*
Gross Immorality	1	0	0	0	*
Fraud	28	41	36	35	2%
Fraud, Deceit & Misrepresentation	1	5	1		
Falsified Response to Warning Notice	1	3	0		
Falsified Application	19	9	23		
Filled/Passed Forged Prescription	5	15	6		
Insurance Fraud	0	6	3		
Medicare Fraud	2	3	3		
Changed Prescription	29	61	48	46	2%
Non-Therapeutic Dispensing	16	32	21	23	1%
Excessive Purchases of Controlled <i>Substances</i>	1	4	0	2	*
Anabolic Steroids	0	0	2	1	*
Grey Market Diversion	1	5	3	3	*

\* = Percentage is less than 1%

**ENFORCEMENT**

<b>Alleged Violation</b>	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>	<b>3-Yr. Avg.</b>	<b>%</b>
Samples	9	12	0	7	*
Technician Violation	0	6	6	4	*
Improper Security	2	4	3	3	*
Problem with OTC Drug	2	2	1	2	*
Closed Pharmacy Improperly	13	14	19	15	*
Operating Pharmacy without Pharmacy License	8	5	3	5	*
Working Conditions	11	18	21	17	*
Delinquent License	17	5	6	9	*
Kickbacks	1	1	0	1	*
No PIC	3	2	4	3	*
Recordkeeping Error	41	96	84	74	4%
Notification Violation	4	2	2	3	*
No Annual Inventory / No PIC Inventory	2	2	4	3	*
C-II Rx	3	1	4	3	*
Improper Rx's Issued by Doctors	14	13	7	11	*
Advertising	22	16	59	32	2%
Overcharging	0	1	2	1	*
Billing Dispute	45	63	34	47	2%
Customer Service	65	69	52	62	3%
Hot Check	4	2	2	3	*
CE Audit	21	17	4	14	*
Default on Student Loans	3	1	0	1	*
Other Allegations	138	154	164	152	8%
Texas Pharmacy Act	12	32	39		
Texas Dangerous Drug Act	1	5	1		
Texas Controlled Substance Act	11	8	13		
Food Drug & Cosmetic Act	11	11	11		
TSBP Rule	59	72	59		
Other Laws/Rules	44	26	41		
Reinstatement	6	8	7	7	*
Modification	11	7	10	9	*
<b>TOTAL</b>	<b>1,667</b>	<b>2,137</b>	<b>1,887</b>	<b>1,897</b>	<b>100%</b>

\* = Percentage is less than 1%

**ENFORCEMENT**

**ACTION TAKEN BY TSBP  
TO CLOSE COMPLAINTS FY2001 - FY2003**

	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>3-Yr. Avg.</b>	<b>%</b>
<b>Investigations Not Resulting in Disciplinary Action</b>	<b>1,327</b>	<b>1,724</b>	<b>1,469</b>	<b>1,506</b>	<b>79%</b>
Investigate + Dismissal Letter	412	449	389	417	22%
Investigate + Complaint Closed with Telephone Call	270	483	387	380	20%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	228	418	313	320	17%
Inspections	53	20	45	39	2%
Inspection + Warning Notice or Dismissal (Warning) Letter	6	5	10	7	<1%
Other *	358	349	325	344	18%
<b>Investigations Resulting in Disciplinary Action</b>	<b>181</b>	<b>236</b>	<b>236</b>	<b>218</b>	<b>12%</b>
Agreed Board Order	167	208	213		
Board Order	6	3	7		
Preliminary Notice Letter + Dismissal (Warning) Letter	2	2	1		
Informal Conference + Dismissal Letter	5	5	10		
Informal Conference + Case Dismissed	1	18	5		
<b>Referrals To:</b>	<b>44</b>	<b>87</b>	<b>108</b>	<b>80</b>	<b>4%</b>
Medical Board	5	2	4		
PRN Program	9	9	10		
Supervisor	10	18	7		
Other Agency	20	58	87		
<b>No Action Because:</b>	<b>115</b>	<b>90</b>	<b>74</b>	<b>93</b>	<b>5%</b>
No Violation	71	49	48		
No Jurisdiction	27	27	19		
Insufficient Information	13	13	7		
Other	4	1	0		
<b>TOTAL</b>	<b>1,667</b>	<b>2,137</b>	<b>1,887</b>	<b>1,897</b>	<b>100%</b>

\* 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 compliance inspection or the resolution is not described by the above categories.

**ENFORCEMENT**

**REPORTS RECEIVED IN FY2003 INVOLVING THEFT OR LOSS OF  
CONTROLLED SUBSTANCES BY EMPLOYEE PILFERAGE**

<b>Classification</b>	<b>Class "A"</b>	<b>Class "C"</b>	<b>Hospital Stock</b>	<b>Total Shortage in DU</b>
Registered Pharmacist	19	2	0	42,258
Certified Pharmacy Technician	60	2	2	312,205
Pharmacy Technician	0	0	0	0
Pharmacy Technician Trainee	13	0	0	52,623
Registered Nurse	0	0	42	3,439
Certified Registered Nurse Anesthetist	0	0	0	0
Licensed Vocational Nurse	0	0	12	1,260
Nurse's Aid	0	0	0	0
Delivery in or out of Pharmacy	28	5	0	18,469
Pharmacy Cashier-Pharmacy Clerk	24	1	0	58,038
Pharmacy Staff-Unidentified	47	4	1	15,198
Hospital Staff-Unidentified	0	0	18	1,119
Hospital Staff-Pharmacy Staff	0	3	2	79
Miscellaneous	30	0	3	42,876
<b>TOTALS – FY2003</b>	<b>221</b>	<b>17</b>	<b>80</b>	<b>547,564</b>

<b>Classification</b>	<b>% of Complaints</b>	<b>% of Drugs Diverted</b>
Registered Pharmacist	6.98%	7.72%
Certified Pharmacy Technician	21.26%	57.02%
Pharmacy Technician	0.00%	0.00%
Pharmacy Technician Trainee	4.32%	9.61%
Registered Nurse	13.95%	0.63%
Certified Registered Nurse Anesthetist	0.00%	0.00%
Licensed Vocational Nurse	3.99%	0.23%
Nurse's Aid	0.00%	0.00%
Delivery in or out of Pharmacy	10.96%	3.37%
Pharmacy Cashier-Pharmacy Clerk	8.31%	10.60%
Pharmacy Staff-Unidentified	17.28%	2.78%
Hospital Staff-Unidentified	5.98%	0.20%
Hospital Staff-Pharmacy Staff	1.66%	0.00%
Miscellaneous	10.96%	7.83%

**ENFORCEMENT**

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 FY2003.

**Status:**           **ACCOMPLISHED**

**Comment:**       This objective was accomplished through the following activities:

<b>State / Local Agencies</b>	<b>Division and / or Location</b>
Department of Public Safety	Waco, Temple, Belton, Killeen, Dallas, Bryan, College Station, Huntsville, Conroe, San Angelo, Georgetown, Burnet, Ozona, San Antonio, Midland, Corpus Christi, Laredo, Beeville, Victoria, Austin, Karnes City, Kerrville, McAllen, Lubbock, Houston, Garland, Dallas, Sherman, Kaufman, Texarkana, Longview, Odessa, Midland, Tyler, Lufkin, Beaumont, Bay City, El Paso, Fort Stockton, Abilene, Lubbock, and Amarillo, Texas.
Sheriffs' Offices	Williamson County, Georgetown, Texas; Travis County, Austin, Texas; Bell County, Belton, Texas; Tom Green County, San Angelo, Texas; Brazos County, Bryan, Texas; Burnet County, Burnet, Texas; Live Oak County, George West, Texas; Atascosa County, Jourdanton, Texas; Wilson County, Floresville, Texas; Dewitt County, Cuero, Texas; Fayette County, La Grange, Texas; Victoria County, Victoria, Texas; Bee County, Beeville, Texas; Karnes County, Karnes City, Texas; Colorado County, Columbus, Texas; San Patricio County, Sinton, Texas; Grayson County, Sherman, Texas; Ector County, Odessa, Texas; Cook County, Gainesville, Texas; Dallas County, Dallas, Texas; Tarrant County, Fort Worth, Texas; Montgomery County, Conroe, Texas; Harris County, Houston, Texas; Brazoria County, Angleton, Texas; and Walker County, Huntsville, Texas.
Police Departments	Austin, Plano, Dallas, Lubbock, Sherman, Denison, McKinney, Irving, Allen, Longview, Fort Worth, Denton, The Colony, Live Oak, Boerne, Pleasanton, Schulenburg, Kenedy, Karnes City, Beeville, Lewisville, San Antonio, Gonzales, Helotes, Georgetown, Temple, Round Rock, Bryan, Conroe, College Station, Lufkin, Waco, Midland, Odessa, Abilene, Bonham, Houston, League City, Baytown, Tyler, Amarillo, Dumas, and Palestine PD.
District Attorneys' Office	Williamson County, Georgetown, Texas; Travis County, Austin, Texas; Brazos County, Bryan, Texas; Bell County, Belton, Texas; 81 <sup>st</sup> District Attorney Office, Jourdanton, Texas; Karnes County, Karnes City, Texas; Bexar County, San Antonio, Texas; Ector County, Odessa, Texas; Grayson County, Sherman, Texas; Harris County, Houston, Texas; Smith County, Tyler, Texas; Tarrant County, Fort Worth, Texas, Denton County, Denton, Texas; Dallas County, Dallas, Texas.
Narcotic Task Force	DEA Task Force in Houston, Texas; East Texas Task Force, Beaumont, Texas; 81 <sup>st</sup> Narcotic Task Force, Floresville, Texas; TNT Task Force, Sulphur Springs, Texas; 24 <sup>th</sup> and 25 <sup>th</sup> District Task Force, Seguin, Texas; Harris County Organized Crime Task Force, Houston, Texas; and the Multi-Narcotic Task Force in Dallas/Fort Worth, Texas.
Dental Board Examiners	Austin, Dallas, and Fort Worth, Texas.
Board of Medical Examiners	Pottsboro, Houston, Austin, and Dallas, Texas.
Attorney General's Medicaid Fraud Control Units	Austin, Texas.
Dept. of Human Health Service Commission	Austin, Texas.
Other	Parkland Hospital Police Department, Dallas, Texas; Harris County Hospital District Police; and Harris County Attorney's Office.

**ENFORCEMENT**

<b>Federal Agencies</b>	<b>Division and / or Locations</b>
Drug Enforcement Administration	Dallas Office, El Paso Office, Fort Worth Office, Houston Office, San Antonio Office, Fort Worth Office, Tyler Office, and the Waco Office.
United States Attorney's Office	Houston, Dallas, San Antonio, Tyler and Beaumont, Texas.
Federal Bureau of Investigations	Bryan, Houston, and Dallas, Texas.
United States Food & Drug Administration/Office of Criminal Investigations	Austin, Dallas, San Antonio, and Houston, Texas.

<b>Retail Pharmacies-Loss Prevention Departments</b>	<b>Division and / or Locations</b>
Eckerd Drugs	Dallas, Fort Worth, and Houston, Texas; and Clearwater, Florida.
Walgreens Company	Dallas, Fort Worth, Houston and Austin, Texas; and Deerfield, Illinois.
Wal-Mart	Bentonville, Arkansas.
Kroger	Dallas, Texas.

5. To monitor compliance with all Board Orders and Agreed Board Orders, including Orders relating to impaired pharmacists, throughout FY2003.

**Status:**           **ACCOMPLISHED**

**Comment:**       As indicated in the chart below, 87% of the 213 disciplinary orders that TSBP entered during FY2003 required some type of monitoring. Division staff ensured that wall certificates of revoked and suspended licenses were returned to TSBP (upon the date of the revocation or suspension) or were returned to the licensee (upon reinstatement of the license or completion of the suspension period). Division staff, in conjunction with Accounting staff, ensured that administrative penalties (fines) and probation fees were paid. Division staff monitored the submission of required continuing education (CE), policy and procedure manuals, and other reports.

In addition to the in-house monitoring described above, Compliance Officers conducted 44 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).

The following chart indicates the types of Orders entered in FY2003, which required the Division to monitor the licensee's compliance with the Order, in some manner.

**ENFORCEMENT**

<b>TYPES OF TSBP DISCIPLINARY ORDERS ENTERED IN FY03 REQUIRING MONITORING</b>		
<b>Sanction</b>	<b>Orders (#)</b>	<b>Percentage</b>
Revocation, Cancellation, and Retirement	17	8%
Suspension	10	5%
Restricted	5	2%
Rehabilitation Orders*	22	10%
Reinstatement/Relicensure	4	2%
Fines and/or Probation Fee Only	42	20%
Continuing Education and/or Pharmacy Law Course (could also include fines and/or probation fees)	43	20%
Other: Continuous Quality Improvement Program, Self Assessments (ISMP), Policies/ Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	42	20%
<b>TOTAL NUMBER OF ORDERS REQUIRING MONITORING</b>	<b>185</b>	<b>87%</b>
<b>TOTAL NUMBER OF ORDERS NOT REQUIRING MONITORING</b>	<b>28</b>	<b>13%</b>
<b>TOTAL ORDERS FY03</b>	<b>213</b>	<b>100%</b>

\* *New Orders excluding reinstatements, suspensions, revocations, retirements, and modifications.*

During FY2003, TSBP entered 48 confidential disciplinary Orders. These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below.

<b>CONFIDENTIAL DISCIPLINARY ORDERS ENTERED BY TSBP IN FY03</b>	
<b>Nature of Violation</b>	<b>Total</b>
Action by Other Boards	2
Audit Shortages	4
Alcohol-Related Conviction	3
Non-Compliance with ABO	18
Theft of Prescription Drugs	5
Created Fraudulent Rx	2
Convictions	1
Deferred Adjudication	3
Illegal Possession of Controlled Substances	1
Unauthorized Refills of Controlled Substances	0
Probable Cause	4
Request for Modification of ABO	4
Request for Retirement or Revocation	0
Request for Reinstatement	1
<b>TOTAL FY03</b>	<b>48</b>

**ENFORCEMENT**

Of the 48 confidential Orders entered in FY2003, there were 23 Orders resulting in an impaired/recovering pharmacist being added to the number who were being monitored at the end of FY2002, as reflected in the chart below. However, 18 pharmacists were deleted from the list as a result of early termination of probation, successful completion of probation, death, or revocation of license. Accordingly, as of August 31, 2003, a total of 102 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 (FY99 through FY03)**

Fiscal Year	Total Orders*	Total New Orders**	Total Being Monitored+
FY99	34	22	89
FY00	35	18	82
FY01	36	21	85
FY02	63	35	97
FY03	48	23	102

\* All 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 respond to open records requests throughout FY2003, 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 20% increase in the number of requests for enforcement records in FY2003, as compared to FY2002. However, on average, inquiries in FY2003 asked for less information (fewer number of licensees per request) as compared to FY2002 (24% decrease in the number of licensees who were the subjects of inquiry). The number of verbal and written requests significantly decreased following the implementation of the TSBP web site in FY99.

**OPEN RECORDS REQUESTS HANDLED BY ENFORCEMENT DIVISION — FY99 through FY03**

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
FY99	544	841	413	4953	957	5794	80	483	-37%	+36%
FY00	168	177	339	2078	507	2255	42	188	-47%	-61%
FY01	124	125	276	3642	400	3767	33	314	-21%	+67%
FY02	82	82	385	2121	467	2203	39	184	+17%	-42%
FY03	108	108	452	1569	560	1677	47	140	+20%	-24%

**ENFORCEMENT**

7. To provide verbal and written information to Board staff and customers, through compliance inspections, display of the TSBP exhibit at meetings, public speaking engagements, and responses to surveys and questionnaires, as needed and required throughout FY2003.

**Status:**           **ACCOMPLISHED**

**Comment:**       This objective was accomplished through the following activities:

- A.     **COMPLIANCE INSPECTIONS**  
The Division conducted 2,529 inspections in FY2003 (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 6,706 callers.
- C.     **WRITTEN INFORMATION**  
During FY2003, Division staff mailed 365 packets of information to TSBP customers.
- D.     **PROFESSIONAL DISPLAY**  
Due to budget cutbacks mandated by the 78<sup>th</sup> Texas Legislature, the agency did not display its professional exhibit at any professional meetings in FY2003.
- E.     **PRESENTATIONS (PUBLIC SPEAKING ENGAGEMENTS)**

DATE	PRESENTATIONS Name of Association/Presentation and Location of Meeting	STAFF PERSON	ATTENDANCE (Approx.)
09/30/02	University of Houston Pre-Pharmacy Students	Iona Grant	50
11/20/02	Presentation to UT Open House regarding Internships at TSBP	Allison Benz	30
11/25/02	Big Country Pharmacy Association of Abilene	Richard Thompson	25
01/21/03	University of Houston 2 <sup>nd</sup> Year Students	Heidi Holmes	120
02/10/03	TSBP's Role in Addiction; Co-Presenter with Julie Hildebrand; University of Houston College of Pharmacy, Houston, Texas	Allison Benz	100
03/18/03	National Association of Drug Diversion Investigators	Joe Lewis	50
<b>TOTAL</b>			<b>375</b>

- F.     **SURVEYS / QUESTIONNAIRES**  
Division Staff responded to questionnaires and/or surveys from the following agencies:
  - 1.     Legislative Budget Board — Division staff, in cooperation with other Divisions, submitted data to LBB with regard to the number of written requests for information that are handled by TSBP each month.
  - 2.     Division Director and Assistant Director completed a survey regarding the HIP-DB.

**G. TECHNICAL ASSISTANCE TO BOARD MEMBERS**

1. Division Director assisted in the development of the FY2004 Calendar of Events, as well as proposed Goals and Objectives for FY2004. These proposals were subsequently presented to and approved by the Board at its meetings held in May 2003 and August 2003, respectively.
2. Division Director and Assistant Division Director made presentations at all Board meetings held in FY2003. Presentations included information about proposed Agreed Board Orders and reports regarding the number of active/pending complaints.
3. Division Director assisted in the review/editing of drafts of minutes of four Board meetings.
4. Division staff assisted with the orientation of new Board Member (see New Objective #1).

**H. TECHNICAL ASSISTANCE TO BOARD STAFF**

1. Division staff assisted Director of Professional Services, as follows:
  - (a) Division staff assisted with the *TSBP Newsletter*, as follows:
    - authored two articles for the two *TSBP Newsletters* that were published during FY2003;
    - provided the following information for publication in *TSBP Newsletter* - descriptions of disciplinary actions and statistics regarding confidential disciplinary orders; and
    - served on the *TSBP Newsletter* committee.
  - (b) Division staff assisted in the development, review, and evaluation of the Texas question pool for the Multistate Jurisprudence Exam administered by the National Association of Boards of Pharmacy.
2. Division staff assisted Director of Administrative Services and Licensing, as follows:
  - (a) Staff Compliance Officers provided technical assistance with regard to Class B and Class D Pharmacy licenses (see Ongoing Objective #8);
  - (b) Division Director and Assistant Division Director assisted TSBP's Licensing Division, with respect to:
    - eligibility for licensure and internship (from individuals who had checked "yes" on the attest questions on TSBP applications); and
    - eligibility of individuals wishing to serve as preceptors.
  - (c) Division staff served on the in-house TSBP web site committee.
3. Division staff assisted the Legal Division as follows:
  - (a) At the request of TSBP General Counsel, Division Director or Assistant Division Director reviewed drafts of Preliminary Notice Letters (PNLs) prior to the PNLs being finalized and mailed.
  - (b) Division staff served as expert witnesses for two formal disciplinary hearings conducted by the State Office of Administrative Hearings.
  - (c) Division staff attended 23.5 days of informal conferences.

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**ENFORCEMENT**

4. Division Director assisted with the orientation of Estella Casarez. Division staff participated in the orientation of new Division employees: Jill McGahey and Rob Lunsford. Division staff also participated in the orientation of the following six interns:

November - December 2002	Jason Zucha, Texas Southern University
January - February 2003	Mark Comfort, University of Texas
February - March 2003	Josh Rodgers, Texas Tech University
April - May 2003	Melissa Sanders, University of Texas
July - August 2003	Lisa Bernhardt, University of Texas
August - September 2003	Staci Prescott, University of Houston

Orientation regarding Division activities, such as Compliance inspections; the complaint process; investigations of complaints; monitoring licensees, and responding to inquiries for enforcement records.

**I. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS**

1. Division staff responded to 50 requests for complaint/disciplinary information from 23 different boards of pharmacy, as well as 37 requests from the Texas Department of Health.
  2. Division staff notified various agencies regarding disciplinary orders entered by the Board (e.g., DEA, DPS, TDH, MHMR, HHS, and NABP).
  3. Division staff assisted the Director of the Pharmacy Recovery Network (PRN) program. (See Ongoing Objective #9.)
  4. Division staff assisted the Health Professions Council. (See Ongoing Objective #10.)
  5. Investigative staff assisted numerous other law enforcement agencies. (See Ongoing Objective #4.)
  6. Division staff assisted Curtis Burch, R.Ph., Texas Drug Vendor Program, by providing statistics regarding patient counseling violations (i.e., number of closed complaints and disciplinary orders entered involving licensees who failed to provide written or verbal counseling or drug regimen review; and number of Warning Notices issued during compliance inspections).
8. To provide technical assistance to the Administrative Services and Licensing Division regarding interpretation of the laws and rules relating to the licensing of pharmacies and pharmacists throughout FY2003.

**Status: ACCOMPLISHED**

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**ENFORCEMENT**

**Comment:** Compliance Specialist Carol Willess and Staff Compliance Officers Milton Jez, R.Ph., and Ben Santana, R.Ph., assisted the Licensing Division in the following areas:

Number	Activity
11	New Class D (Clinic) Pharmacy applications
5	New Class B (Nuclear) Pharmacy applications
37	Petitions for Expanded Formularies for Class D (Clinic) Pharmacies
10	Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies
4	Notifications of Temporary Locations for Class D (Clinic) Pharmacies

9. To serve as liaison for the Board to the Pharmacy Recovery Network (PRN) of the Texas Pharmacy Association and to monitor non-financial contractual obligations of PRN throughout FY2003.

**Status:** **ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. Board Member Donna Rogers served as an ex-officio member of the TX-PRN State Committee throughout FY2003.
- B. The TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY2003.
- 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 December 13, 2002, and the results of the audit were reported to the Board at its meeting held May 13-14, 2003 .
- D. Throughout FY2003, Division Director and Assistant Division Director reviewed monthly activity reports submitted to TSBP by TX-PRN Director.
- E. Assistant Division Director attended two TX-PRN State Advisory Committee meetings (September 7, 2002, and March 8, 2003).
- F. Throughout FY2003, Assistant Division Director worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

In addition, Assistant Division Director worked with other agency staff to prepare the bid specifications for the agency's peer assistance program. The contract was awarded to the Pharmacy Recovery Network, effective September 1, 2004.

**ENFORCEMENT**

10. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2003.

**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 General Meetings – Division Director attended two meetings of the Council as they discussed recommendations regarding HPC member agencies’ procedures for handling complaints and disclosing complaint information to the public (see New Objective #1).
- C.     HPC Complaint Process Study Committee – Division Director assisted in the preparation of the final report regarding the HPC Complaint Study (see New Objective #1).
- D.     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 FY2003, TSBP mailed 628 complaint forms to individuals requesting forms on the HPC toll-free complaint hotline and 634 complaint forms to individuals who called the TSBP voice mail complaint line, which represented a significant decrease in the number of complaint forms being mailed by TSBP to potential complainants. The number of requests for complaint forms received in FY2003, as compared to the four previous fiscal years, is depicted in the following chart.

**COMPLAINT FORMS PROCESSED BY ENFORCEMENT DIVISION (FY99 through FY03)**

<b>Fiscal Year</b>	<b>Requests for Complaint Forms Via HPC 800#</b>	<b>% Change</b>	<b>Requests for Complaint Forms via TSBP Voice Mail</b>	<b>% Change</b>
FY99	836	+13%	361	+73%
FY00	1,498	+79%	603	+67%
FY01	851	-43%	725	+20%
FY02	735	-14%	789	9%
FY03*	628	-15%	634	-20%

\* TSBP received a dramatic 49% increase in the number of online complaints that were filed in FY2003 as compared to FY2002 (see Significant Constraints #2). Accordingly, it appears TSBP customers filed complaints via the agency’s website rather than call the TSBP office and request a complaint form.

**ENFORCEMENT**

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 FY2003.

**Status:**           **ACCOMPLISHED**

**Comment:**       In FY2003, Division staff attended several team meetings, Division staff meetings, and general staff meetings. Division Staff Meetings and General Staff Meetings were held on the following dates:  
                           December 5-6, 2002;  
                           February 18-19, 2003;  
                           May 20-22, 2003, and  
                           August 26-28, 2003.

Division staff attended one joint training session (with other agency staff) on May 21, 2003, regarding *Challenge of Change*. In addition, Division staff attended the following programs, seminars, or events:

<b>Carol Fisher, R.Ph., M.P.A.</b>	
9/8/02	PRN Fall Seminar ("Should I Dispense This?") - Austin
11/12/02	Drug Therapy for Hepatitis C, CAPA Monthly CE Meeting - Austin
11/15-16/02	NABP Fall Conference - San Antonio
2/7-8/03	Federated Association of Regulatory Boards (FARB) Annual Meeting - Austin
3/29/03	Defensive Driving Course - Austin
4/24/03	Update in Asthma Therapy, CAPA Monthly CE Meeting - Austin
6/12/03	Reducing Stress (EAP presentation) - Austin
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Allison Benz, R.Ph., M.S.</b>	
9/8/02	PRN Fall Seminar ("Should I Dispense This?") - Austin
11/7/02	First Aid/CPR/AED Program; American Red Cross - Austin
3/9/03	PRN Spring Seminar ("Recognizing Personal Boundaries & Re-entry Into the Workplace") - Austin
3/19/03	Counseling for Improved Performance, University of Texas - Austin
6/12/03	Reducing Stress (EAP presentation) - Austin
7/16-20/03	Texas Pharmacy Association Annual Meeting - Galveston
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

**ENFORCEMENT**

<b>Milton Jez, R.Ph.</b>	
9/8/02	PRN Fall Seminar ("Should I Dispense This?") - Austin
3/9/03	PRN Spring Seminar ("Recognizing Personal Boundaries & Re-entry Into the Workplace") - Austin
4/4-7/03	Texas Society of Health System Pharmacists Annual Meeting - Arlington
5/03	Resigned

<b>Ben Santana, R.Ph.</b>	
3/18-19/03	National Association of Drug Diversion Investigators Conference - Austin
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Amy Schroeder</b>	
10/10-11/02	Leadership for Women - Austin
1/8/03	First Aid/CPR/AED Program; American Red Cross - Austin
2/24/03	TCIC/NCIC Training - Austin
3/18-19/03	National Association of Drug Diversion Investigators Conference - Austin
7/14-18/03	DEA State and Local Diversion Training - Dallas
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Sarah Guevara</b>	
12/23/02	Management of Disruptive Behaviors in Geriatric Dementia - Internet
12/23/02	Prescription Errors and Legal Responsibility - Internet
12/23/03	Treatment of Insomnia - Internet
1/8/03	First Aid/CPR/AED Program; American Red Cross - Austin
2/11/03	Respiratory Tract Infections - Internet
3/18-19/03	National Association of Drug Diversion Investigators Conference - Austin
7/14-18/03	DEA State and Local Diversion Training - Dallas
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Jill McGahey</b>	
10/8/02	EEO Training - Austin
2/24/03	TCIC/NCIC Training - Austin
3/18-19/03	National Association of Drug Diversion Investigators Conference - Austin

**ENFORCEMENT**

<b>Sherry Stevenson</b>	
1/9/03	First Aid/CPR/AED Program; American Red Cross - Austin
6/12/03	Reducing Stress (EAP presentation) - Austin
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Janelle Nastri</b>	
1/8/03	First Aid/CPR/AED Program; American Red Cross - Austin
6/12/03	Reducing Stress (EAP presentation) - Austin
7/21-25/03	Texas Commission on Alcohol and Drug Abuse 46 <sup>th</sup> Annual Institute, "Discovering and Using New Ways to Change Lives" - Austin
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Patty Galan</b>	
11/20/02	Conflict Management Skills for Women - Austin
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Diane Torres</b>	
11/20/02	Conflict Management Skills for Women - Austin
3/14/03	Behavior Course in Traffic Safety Education - Austin
6/12/03	Reducing Stress (EAP presentation) - Austin
6/18/03	The New Technology of Achievement; #3 - Discovering Your Mission, #4 - Achieving Your Goals (Tape)
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Angela Hicks</b>	
10/2/02	WordPerfect 8 Intermediate - Austin
5/21/03	Resigned

<b>Joe Lewis</b>	
1/03	Telcon Class; Texas Legislative System - Austin
3/18-19/03	National Association of Diversion Drug Investigators Conference - Austin
6/03	Domestic Interdiction/Consensual Searches - San Antonio
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

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**ENFORCEMENT**

<b>Robert Ebrom</b>	
9/02	Intoxilyzer Training - Floresville
6/03	Domestic Interdiction/Consensual Search - San Antonio
8/03	Texas Narcotic Officers Association Training - Galveston
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Anita A. Arnet</b>	
3/18-19/03	National Association of Diversion Drug Investigators Conference - Austin
7/14-18/03	DEA State and Local Diversion Training - Dallas
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Wayne L. Jones</b>	
3/18-19/03	National Association of Diversion Drug Investigators Conference - Austin
6/03	Domestic Interdiction/Consensual Search - San Antonio
8/03	Texas Narcotic Officers Association Training - Galveston
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Gordon R. Lunsford</b>	
3/18-19/03	National Association of Diversion Drug Investigators Conference - Austin
6/03	Domestic Interdiction/Consensual Search - San Antonio
7/14-18/03	DEA State and Local Diversion Training - Dallas
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Melissa Weeden</b>	
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Cy Weich, R.Ph.</b>	
02/21/03	Responding to Change in the Treatment of Opioid Addiction - Dallas
8/31/03	Retired

**ENFORCEMENT**

<b>Carol Willess</b>	
09/01/02	3 Semester Hours - Principles in Marketing - Austin Community College
10/02/02	TSABAA Bi-Monthly C.E. - "Debits, Credits, Technology, and You" - Austin
11/01/02	D.I.R.'s I.T. Conference - Austin
12/11-12/13/02	TSABAA's 23 <sup>rd</sup> Mid-Winter Conference - Kerrville
01/09/03	First Aid/CPR/AED Program; American Red Cross - Austin
01/22/03	Microsoft ACCESS Intermediate
01/25/03	3 Semester Hours - Business Ethics - Austin Community College
03/09/03	PRN Spring Seminar ("Recognizing Personal Boundaries & Re-entry Into the Workplace") - Austin
06/22-27/03	TSABAA's 34 <sup>th</sup> Annual Summer Conference - Round Rock
08/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Mike Ethridge, R.Ph.</b>	
01/29/03	New Frontiers in Coronary Syndrome - Corpus Christi
08/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Iona Grant, R.Ph.</b>	
07/16-19/03	Texas Pharmacy Association Annual Meeting - Galveston
08/25/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

<b>Richard Thompson, R.Ph.</b>	
10/25/02	Long Arm of Immune System - Internet
12/07/02	The Enigma of Huntington's Disease - Internet
02/08/03	Nutrition - Rebuilding The Food Pyramid - Internet
4/4-7/03	TSHP's Annual Seminar - Arlington
07/20/03	Censors of the Genome - Internet
08/18/03	Quest for a Smart Pill - Internet
08/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

**ENFORCEMENT**

12. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2003.

**Status:**           **ACCOMPLISHED**

**Comment:**       Formal performance reviews were conducted as follows:

<b>Employee</b>	<b>Date of Evaluation</b>	<b>Evaluation By</b>
Allison Benz, R.Ph., M.S.	August 26, 2003	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Joe Lewis	August 27, 2003	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Cy Weich, R.Ph.	May 22, 2003	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Sherry Stevenson	August 28, 2003	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Carol Willess	August 29, 2003	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Milton Jez, R.Ph.	Resigned May 2003	
Ben Santana, R.Ph.	August 27, 2003	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement
Jill McGahey	August 29, 2003	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement.
Sarah Guevara	August 13, 2003	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement
Amy Schroeder	August 13, 2003	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement
Janelle Nastri	August 13, 2003	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement
Iona Grant, R.Ph.	May 22, 2003	Cy Weich, R.Ph. Chief Compliance Officer
Mike Ethridge, R.Ph.	May 22, 2003	Cy Weich, R.Ph. Chief Compliance Officer
Richard Thompson, R.Ph.	February 19, 2003	Cy Weich, R.Ph. Chief Compliance Officer
Heidi Holmes, R.Ph.	Resigned June 2003	
Robert Ebrom	August 12, 2003	Joe Lewis, Chief Investigator
Wayne Jones	August 12, 2003	Joe Lewis, Chief Investigator
Dwayne Darter	Terminated January 21, 2003	
Richard Klemme	Resigned September 5, 2002	

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**ENFORCEMENT**

<b>Employee</b>	<b>Date of Evaluation</b>	<b>Evaluation By</b>
Rob Lunsford	Hired January 2003	
Anita Arnet	August 18, 2003	Joe Lewis, Chief Investigator
Melissa Weeden	August 13, 2003	Joe Lewis, Chief Investigator
Patty Galan	July 22, 2003	Sherry Stevenson Sr. Administrative Assistant
Diane Torres	July 22, 2003	Sherry Stevenson Sr. Administrative Assistant
Angela Hicks	September 30, 2002 Resigned May 21, 2003	Sherry Stevenson Sr. Administrative Assistant

13. To destroy records in accordance with the agency's record retention plan throughout FY2003; to update the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2003.

**Status:** **ACCOMPLISHED**

**Comment:** The following activities relate to this objective:

- A. Records Management  
During FY2003, Division staff destroyed 39 cubic feet of records, in accordance with the TSBP record retention schedule.
- B. Policies and Procedures  
Division Director updated procedures relating to requests for enforcement records (complaints and disciplinary actions/orders). In addition, Division staff updated procedures regarding conditions that would result in the issuance of a Warning Notice.

14. To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2003.

**Status:** **ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. Division Director/Assistant Division Director implemented several changes/improvements to internal forms (e.g., Division Director changed the Medical Release Form so that it could be printed on the front of one page, rather than the front and back of one page).
- B. Division Director implemented several changes to internal procedures to enhance the complaint process (e.g., expedited handling of theft/loss reports that implicate a pharmacist; expedited processing of malpractice reports, to include an initial professional review and then to obtain the patient's medical records prior to assignment of the report to a field investigator; improvements to the computerized tracking system).

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**ENFORCEMENT**

- C. Division Director implemented several changes to improve procedures in handling requests for enforcement records.
- D. Division Director recommended that NABP discontinue their procedure of allowing a reciprocity applicant to correct a falsified NABP application without TSBP's knowledge.
- E. Assistant Division Director recommended several changes to improve procedures in monitoring licensees (e.g., recommended that public Agreed Board Orders with reporting requirements include toll language).
- F. Together with the Executive Director and other Division Directors, Division Director responded to the report made by the Agency Change Team (ACT) and implemented numerous changes to implement most of the recommendations of the ACT committee.
- G. Division staff implemented new procedure to notify the TSBP receptionist of the Division staff's weekly schedules, to assist the receptionist in responding to callers wanting to speak to Division staff.
- H. Following input by Board Members at their August 2003 Board meeting, Division staff implemented new internal procedures to notify prescribers when their poorly written prescriptions contribute to a dispensing error.
- I. Division Director worked with the Executive Director and other Division Directors to improve the form that agency employees use to record their time worked for payroll purposes.

15. 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 FY2003.

**Status:** **ACCOMPLISHED**

- Comment:**
- A. Division Director recommended that rules regarding Class E Pharmacies be amended to clarify that Non-Resident Pharmacies may not dispense a prescription drug if the prescription was issued on the basis of an Internet-based or a telephonic consultation without a valid doctor-patient relationship.
  - B. Division Director recommended that the agency's self-evaluation report to the Sunset Advisory Commission include the following policy issues:
    - amend the Texas Pharmacy Act with respect to the length of time that a pharmacy must keep and maintain prescription records; time period should be increased from two to five years to allow the agency to investigate malpractice reports that are often not received until two years after the date of the incident;
    - amend the Texas Pharmacy Act to expand inspection authority to cover procedures for outcome-based regulation;

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**ENFORCEMENT**

- amend the Texas Pharmacy Act to clarify that audit discrepancies (shortages/overages) constitute grounds for discipline against a license to practice or operate a pharmacy;
  - amend the Texas Pharmacy Act to allow the agency to investigate financial data, sales data and pricing data, to allow the agency to investigate complaints, such as those involving gray market diversion and overpricing by Internet pharmacies; and
  - amend the Medical Practice Act and the Texas Pharmacy Act to clarify the definition of doctor-patient relationship.
- C. Following input by the Board at its May 2003 Board Meeting, Assistant Division Director drafted proposed amendments to rules regarding preceptors; the amendments will provide guidelines to pharmacists who have been subject to disciplinary sanctions within the previous three years and want to petition the Board to serve as a preceptor.
- D. Division Director/Assistant Director recommended amending the rules that require an applicant for a new pharmacy license to undergo a pre-inspection; the amendments would give the agency staff more flexibility in waiving the pre-inspection requirement.
- E. Following input by the Board at its August 2003 Board Meeting, Division Director recommended that the agency's self-evaluation report to the Sunset Advisory Commission include the following policy issues:
- amend the Texas Pharmacy Act to clarify that the Board may register pharmacy technicians that are not currently working in a pharmacy; and
  - amend the Texas Pharmacy Act and other Practice Acts to require written prescriptions to be legible.
- F. Division staff recommended the following changes to the Texas Pharmacy Act:
- amend the statute to allow the agency to participate in DEA/DPS procedures for asset forfeitures; and
  - amend the statute to allow peace officers employed by the agency, under stringent guidelines set by the Board, to carry weapons and make arrests.
16. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2002 Annual Report* to be presented to the Board by its May 2003 Board meeting.

**Status:**           **ACCOMPLISHED**

**Comment:**       The Division's first draft of the FY2002 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 May 2003.