



Texas State Board of Pharmacy

Annual Report FY2006

W. Michael Brimberry, R.Ph., MBA
President

Gay Dodson, R.Ph.
Executive Director/Secretary

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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.

Table of Contents

Contents

Board Members	1
Staff	2
Board-Appointed Task Forces	4
Board Mission	5
Board Philosophy	5
Board Strategic Goals	5
Board Structure.....	6
Organization Chart.....	7
Fiscal Report	12
Financial Report for Period Ending August 31, 2006.....	13
Executive Director’s Summary	15
FY2006 Significant Accomplishments	15
FY2006 Significant Disappointments/Constraints	18
Office of the Executive Director.....	19
FY2006 Annual Report.....	19
Goal	19
Objectives (New)	19
Objectives (Ongoing).....	22
Administrative Services and Licensing Division	35
FY2006 Significant Accomplishments	35
FY2006 Significant Disappointments/Constraints	37
FY2006 Annual Report.....	39
Goal	39
Objectives (New) - Administrative Services.....	39
Objectives (Ongoing) - Administrative Services	42
Objectives (Ongoing) - Licensing.....	57

TABLE OF CONTENTS

Professional Services Division 64
 FY2006 Significant Accomplishments 64
 FY2006 Significant Disappointments/Constraints 65
 FY2006 Annual Report..... 66
 Goal 66
 Objectives (New) 66
 Objectives (Ongoing) 69

Enforcement Division 80
 FY2006 Significant Accomplishments 80
 FY2006 Significant Disappointments/Constraints 82
 FY2006 Annual Report..... 84
 Goal 84
 Objectives (New) 84
 Objectives (Ongoing) 89

Legal Division 132
 FY2006 Significant Accomplishments 132
 FY2006 Significant Disappointments/Constraints 134
 FY2006 Annual Report..... 135
 Goal 135
 Objectives (New) 135
 Objectives (Ongoing) 137

Board Members

W. Michael Brimberry, R.Ph., MBA
President
Austin
12/19/01 – 8/31/07

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

W. Benjamin Fry, R.Ph., FIACP, FACS
Treasurer
San Benito
4/14/04 – 8/31/09

Roger W. Anderson, Dr.P.H., R.Ph.
Lewisville
11/10/99 – 8/10/06

Juliette F. Bartlett-Pack, Ph.D.
Public Member
Houston
1/13/03 – 8/31/07

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

Doyle E. High, R.Ph.
Austin
12/19/01 – 8/31/07

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

Alice G. Mendoza, R.Ph. (Replaced Oren M. Peacock, Jr., R.Ph.)
Kingsville
8/06/06 – 8/31/11

Oren M. Peacock, Jr., R.Ph.
Sachse
11/10/99 – 8/10/06

Jeanne D. Waggener, R.Ph. (Replaced Roger W. Anderson, Dr.P.H., R.Ph.)
Bellmead
8/06/06 – 8/31/11

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.

Chief Accountant

Jane Bennett

Accountant I

Mary Helen Oviedo

Accountant III

Sandra Morton

Staff Services Officer II

Robbi Dana

Purchaser

Darlene Guthrie

Information Resources Manager

Steve Rapp

Network Specialist

Todd Hayek

Licensing Administrator

Carol Willess

Licensing Specialists

Lisa Ake

Estella Casarez

Rachel Glass

Diana Ruedas

Melinda Uballe

Misty Whitcomb

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.

Legal Assistants

Jing Belfiglio

Michelle Fontana

Georgienne Nassauer

Cheryl Sepulveda

Enforcement

Division Director

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

Assistant Director

Paul Holder, Pharm.D.

Chief Investigator

Joe Lewis

Chief of Compliance

Ben Santana, R.Ph.

Compliance Specialist

Ann Driscoll, C.Ph.T.

Program Specialist

Janelle Nastri

Enforcement Specialists

Becky Damon

Patty Galan

Senior Enforcement Officer

Amy Schroeder

Enforcement Officers

Jill Kier

Linda Yazdanshenas

Enforcement Specialists

Cynthia Fazin

Robert Rivera, C.Ph.T.

Enforcement Technicians

Yvette Muniz

Noreen Trevino

In-House Investigator

Melissa Weeden

Deputy Chief Investigator

Robert Ebrom

Investigators

Allen Corporon

Sarah Guevara

Wayne Jones

Gordon Lunsford

Tara Rike

Senior Compliance Officers

Mike Ethridge, R.Ph.

Iona Grant, R.Ph.

Compliance Inspectors

Karen Guenther, C.Ph.T.

David Meryman, C.Ph.T.

Chris Schuttler, C.Ph.T.

Administrative Assistants

Kelly Clark

Diane Torres

Note: The organizational structure reflects the organization as of August 31, 2006.

Board-Appointed Task Forces

Task Force on Compounding

Loyd Allen, Ph.D., R.Ph., Edmond, OK

Randy Ball, R.Ph., M.B.A., Fort Worth

Gregory R. Behrens, R.Ph., BS, MHSA, Austin

Howard Biel, R.Ph., Waco

Pat Downing, R.Ph., Longview

Allan Hawkins, M.S., R.Ph.

Travis Leeah, R.Ph., Temple

Michael F. McMahan, R.Ph., Goldthwaite

Mark Range, R.Ph., DVM, Mart

Steve Sims, R.Ph., Austin

Karen Tannert, R.Ph., Austin

Board Member Liaisons

Roger Anderson, Dr.P.H., R.Ph., Lewisville

Ben Fry, R.Ph., San Benito

Oren M. Peacock, Jr., R.Ph., Sachse

(Sept. 1, 2005 – Aug. 31, 2006)

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 operations 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)].

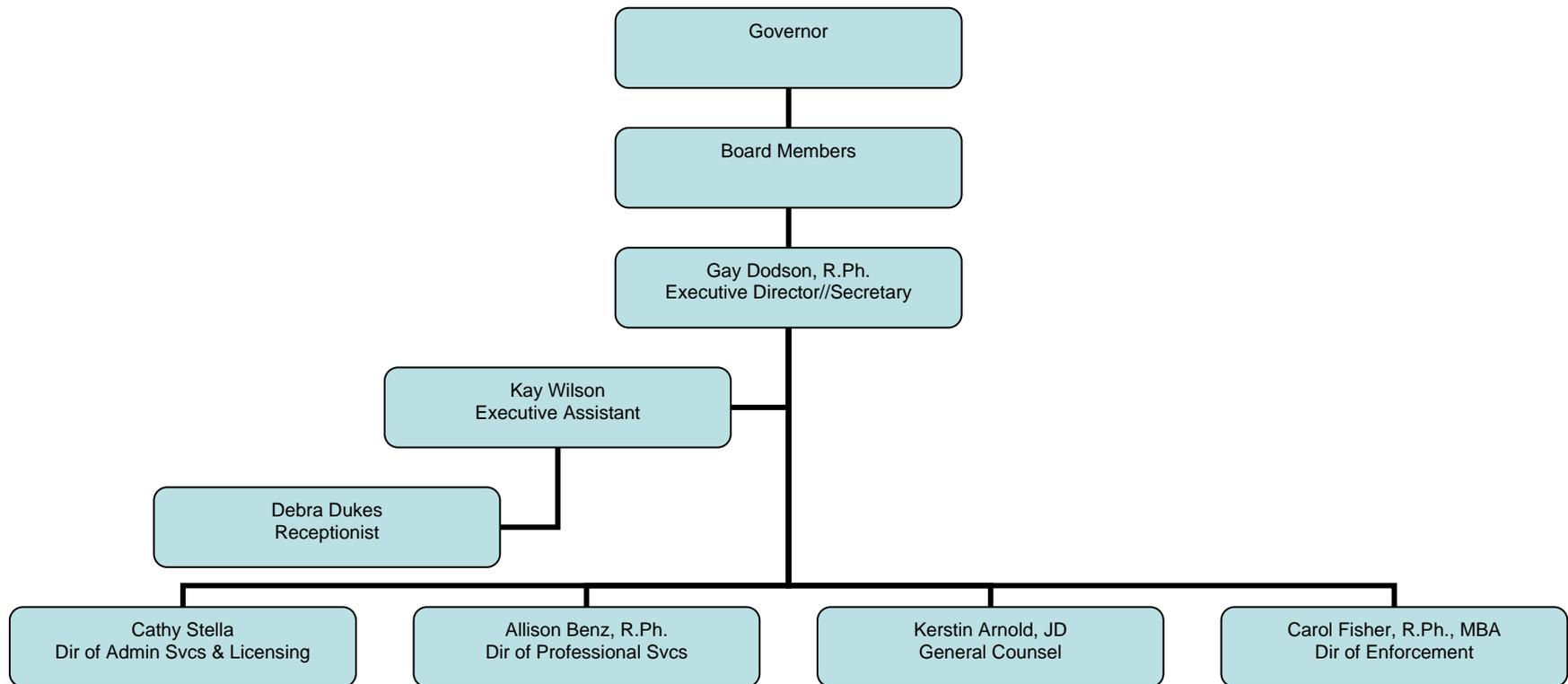
- We will assertively and swiftly enforce all laws relating to the practice of pharmacy to ensure that the public health and safety are protected from the following: incompetent pharmacists and pharmacy technicians; unprofessional conduct, fraud, and misrepresentation by licensees; and diversion of prescription 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

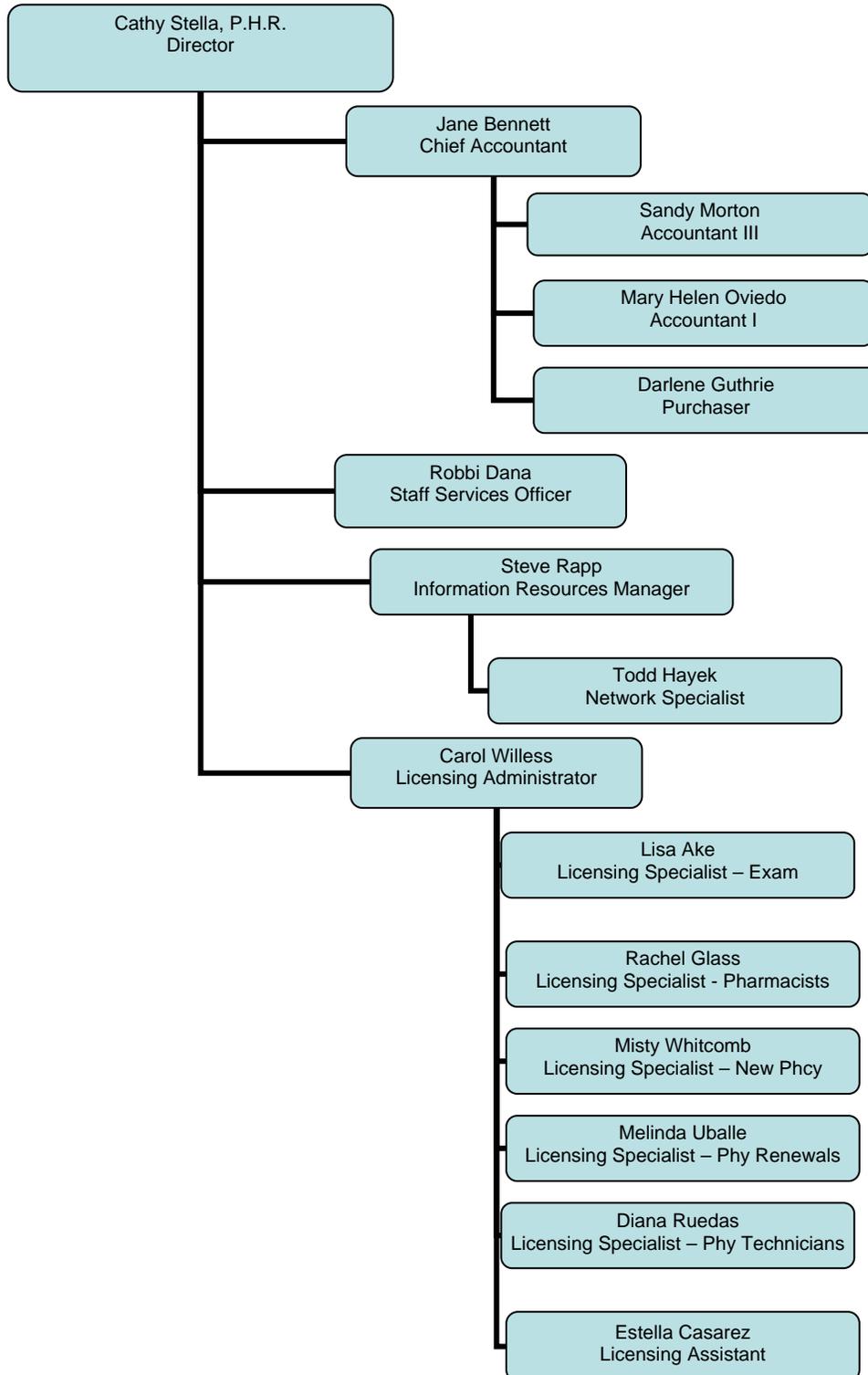
The Board's functional structure at the end of FY2006 was composed of the Office of the Executive Director and four Divisions:

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

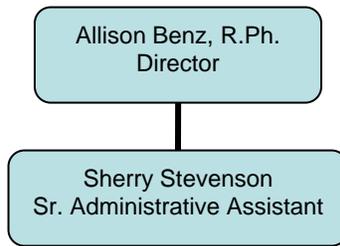
ORGANIZATIONAL CHART – ADMINISTRATION TEXAS STATE BOARD OF PHARMACY FY2006



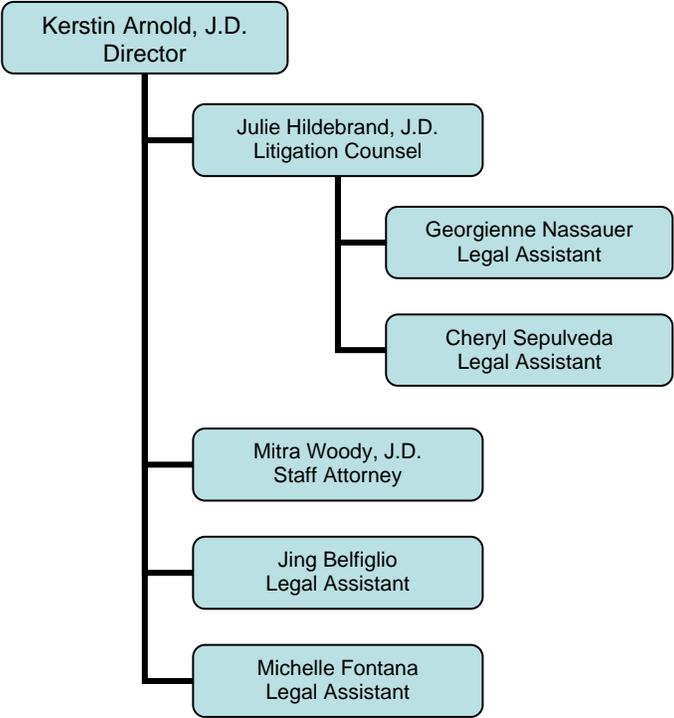
ORGANIZATIONAL CHART
ADMINISTRATIVE SERVICES & LICENSING
Fiscal Year 2006



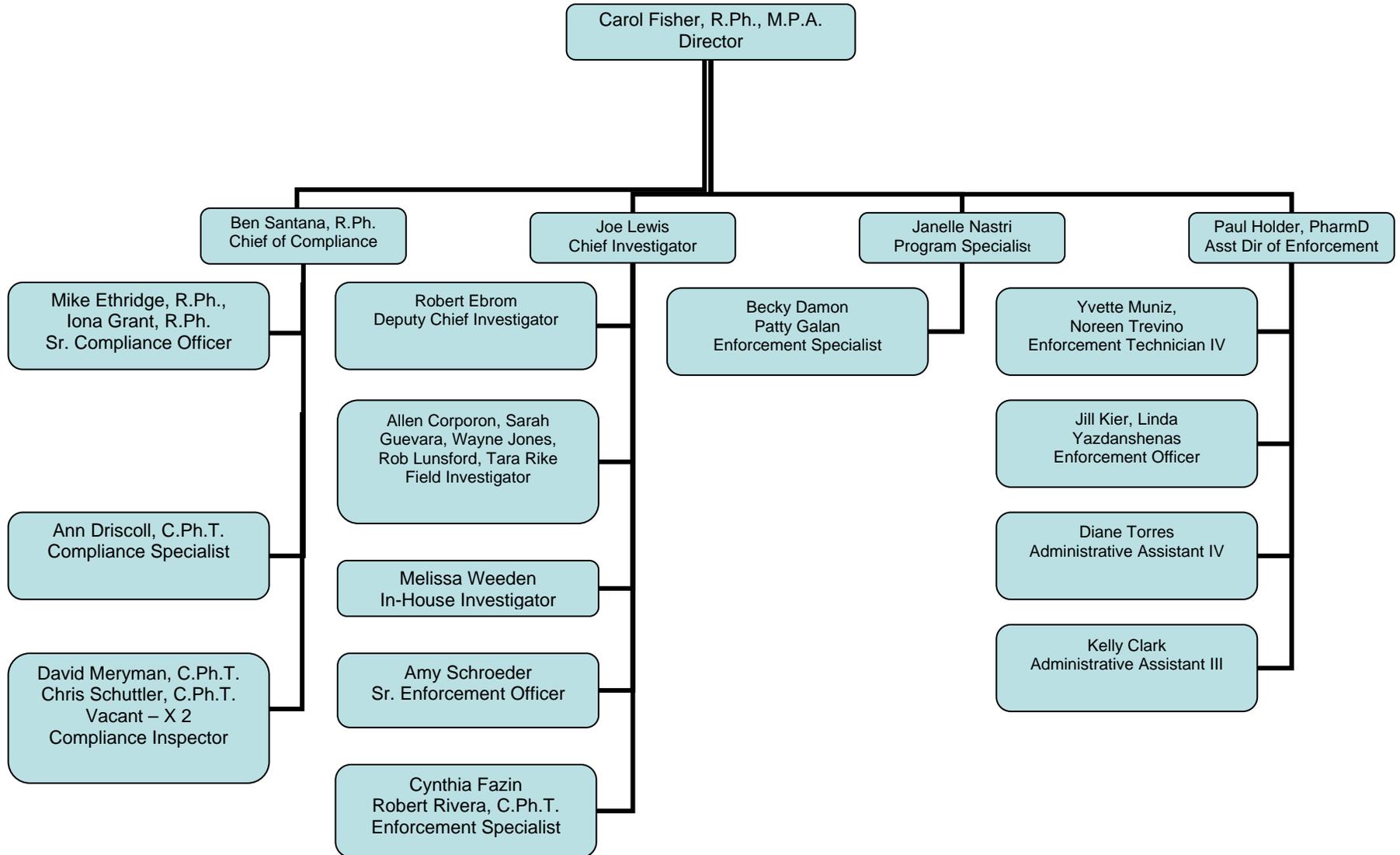
**ORGANIZATIONAL CHART
PROFESSIONAL SERVICES
Fiscal Year 2006**



**ORGANIZATIONAL CHART
LEGAL
Fiscal Year 2006**



ORGANIZATIONAL CHART - ENFORCEMENT FISCAL YEAR 2006



FY2006 Fiscal Report

FY2006 FISCAL REPORT

The attached report represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2006 (September 1, 2005 - August 31, 2006). 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 *"FY2006 Annual Financial Report."*

It is important to note that as of January 31, 2007, the unexpended balance for FY2006 was approximately \$13,692 or .37% under budget. In addition, the agency was able to move forward \$17,330 in capital budget, to FY2007.

Financial Statement – Fiscal Year 2006

September 1, 2006 – August 31, 2006

Code	Description	Budget	Expended	Capital Bdt Unexpended Balance to FY2007	Remaining Budget	Percent Remainin
1008	(a) Professional Fees & Svcs (Other)	10,741.88	10,741.88		0.00	0.00
1008	(b) Professional Fees & Svcs (TPA)	94,500.00	94,500.00		0.00	0.00
3002	Gas, Other Fuels & Lubricants	24,940.84	24,940.84		0.00	0.00
3003	Vehicles - Maintenance	11,160.41	11,160.41		0.00	0.00
3004	Consumable Supplies & Materials	23,078.66	23,078.66		0.00	0.00
3005	Postage	37,303.98	37,303.98		0.00	0.00
3006	Telephone	33,315.27	33,278.08		37.19	0.11
3014	Subscriptions	10,033.69	10,033.69		0.00	0.00
3015	Postage - Newsletter	5,000.00	1,724.97		3,275.03	65.50
3018	Travel - Board Members (Service)	20,780.05	20,694.79		85.26	0.41
3019	Travel - Board Members (Conference)	4,091.88	4,017.72		74.16	1.81
3020	Travel - Board Members (Conf-Out Of St.)	5,941.10	5,941.10		0.00	0.00
3027	Travel - State Vehicle	1,222.74	1,222.74		0.00	0.00
3028	Travel - Staff (Service)	78,110.42	78,110.42		0.00	0.00
3038	Travel - Staff (Conference)	10,102.46	10,102.46		0.00	0.00
3039	Travel - Staff (Conf Out Of State)	3,439.83	3,439.83		0.00	0.00
3516	Membership Fees & Dues	1,909.00	1,872.60		36.40	1.91
3518	Administrative Support Service	16,584.98	16,584.98		0.00	0.00
3521	Criminal Investigative Expense	68.25	68.25		0.00	0.00
3532	State Employee Relocation	2,804.00	2,804.00		0.00	0.00
3534	Freight & Delivery Service	2,173.80	2,173.80		0.00	0.00
3535	Maint & Repair - Furn & Equip	3,435.51	3,435.51		0.00	0.00
3536	Rental of Furn & Equip	9,237.31	9,231.85		5.46	0.06
3537	Rental of Space	2,433.03	2,433.03		0.00	0.00
3538	Bonds & Insurance	6,732.00	6,732.00		0.00	0.00
3539	Maintenance & Repair-Building	15,223.36	15,223.36		0.00	0.00
3540	Reproduction & Printing	31,585.97	31,353.10		232.87	0.74
3541	Printing - Newsletter	3,928.58	2,202.22		1,726.36	43.96
3545	Computer Expenses (Northrop)	164,960.98	162,903.04		2,057.94	1.25
3550	Hearing Expenses	350.00	350.00		0.00	0.00
3570	Registration Fees	17,967.25	16,254.75		1,712.50	9.53
3571	Board Member Registration	4,415.00	4,415.00		0.00	0.00
3581	Furniture and Equipment	83,418.33	66,633.67	15,950.48	834.18	1.00
3588	Books & Recorded Materials	378.74	378.74		0.00	0.00
3590	Miscellaneous (HPC Transfer and Fees)	22,419.66	22,404.66		15.00	0.07
3595	Awards	3,718.24	3,718.24		0.00	0.00
5001	Purchase of Vehicles	33,000.00	31,620.00	1,380.00	0.00	0.00
7001	Exempt Salaries	77,500.00	77,500.00		0.00	0.00
7002	Classified Salaries - Full Time	2,372,923.99	2,372,923.99		0.00	0.00

7017	Merit Raise	75,076.00	75,076.00	0.00	0.00
7020	Hazardous Pay	5,840.00	5,840.00	0.00	0.00
7021	Overtime Pay	14,760.01	14,760.01	0.00	0.00
7022	Longevity	57,580.00	57,580.00	0.00	0.00
7023	Lump Sum Termination Payment	4,657.51	4,657.51	0.00	0.00
7025	Compensatory Per Diem	9,450.00	5,850.00	3,600.00	38.10
7047	Retention Bonus	9,000.00	9,000.00	0.00	0.00
7048	Performance Awards	75,554.00	75,554.00	0.00	0.00
7219	TexasOnLine Fee	200,353.00	200,353.00	0.00	0.00
7947	State Office of Risk Management	6,611.51	6,611.51	0.00	0.00
	TOTAL ADMIN, LIC & ENF	3,709,813.22	3,678,790.39	17,330.48	13,692.35

Office of the Executive Director

This FY2006 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 FY2005.

FY2006 SIGNIFICANT ACCOMPLISHMENTS

1. The agency accomplished or partially accomplished 114 (97.4%) of its 117 objectives [113 accomplished (96.6%), 1 partially accomplished (0.9%), and 3 not accomplished (2.6%)].
2. The agency quickly responded to emergency conditions that resulted from Hurricanes Katrina and Rita through the following actions.
 - A. Because of the evacuation of New Orleans citizens to Texas and their need to receive medication, the agency, in consultation with the Governor's office, quickly notified pharmacies in Texas that they could dispense up to 30-days supply of medication to these patients without contacting the patients' physicians. This authorization was extended for approximately four months.
 - B. The agency quickly developed and implemented a web-based online application form to expedite the issuance of temporary licenses to pharmacists licensed in other states, so that these pharmacists could work in Texas pharmacies to aid in the hurricane relief effort. This temporary license allowed a person to work at a sponsoring pharmacy until the expiration date of February 28, 2006. The agency also waived the continuing education requirements for pharmacist with inactive licenses so they could immediately work in Texas pharmacies to aid in the hurricane relief effort.
 - C. The agency developed a procedure for issuing temporary pharmacy licenses to quickly issue licenses to pharmacies that were established in the various shelters throughout Texas.
 - D. Because of the heavy damage to the city of New Orleans by hurricane Katrina, fourth year students were not able to complete their pharmacy practice rotations. The Texas colleges of pharmacy worked to place these students in rotations in Texas. The agency developed an expedited intern certification process so that the majority of these student interns were certified within one day of receipt of their application.
 - E. To notify pharmacists, pharmacies, and the public of the actions taken by the agency in response to the hurricanes, the agency immediately:
 - # placed this information on the agency Web-site;
 - # notified all of the professional organizations; and
 - # assigned personnel to be available by telephone to answer questions from pharmacists during the times the agency was closed.

OFFICE OF THE EXECUTIVE DIRECTOR

3. The agency successfully implemented the great majority of the legislation passed by the 79th Texas legislature as follows.

A. S.B. 410 relating to Sunset Review of the agency – This bill required the agency to implement 28 action steps as a result of changes to the Pharmacy Act. Twenty-seven of the 28 action steps were completed by the end of the fiscal year. The remaining step required the adoption of rules. These rules were approved by the Board for publication as proposed rules at the August 2006 meeting with final adoption of the rules scheduled for the November 2006 meeting.

In addition, during the final days of the legislative session, this bill was amended to require the agency to inspect and license up to five pharmacies located in Canada that were providing drugs to Texas residents. Because the agency was notified by the federal Food and Drug Administration that TSBP would be in violation of federal law if the agency implemented the provisions of S.B. 410, on June 23, 2005, the agency asked the Texas Attorney General for an opinion on the legality of this law. The opinion was received on December 21, 2006, and stated that designating certain Canadian pharmacies, promoting them on the Board's website, and permitting Texas consumers to import prescription drugs from Canada would violate federal law.

B. S.B. 492 relating to Pharmacy Compounding – The Board reactivated the Task Force on Pharmacy Compounding to make recommendations regarding rules to implement this legislation. The Task Force met on October 11, 2005 and July 7, 2006, during FY2006 with a meeting scheduled in September 2006. The final report will be presented to the Board at the November 2006 meeting.

C. H.B. 836 relating to Generic Substitution – Draft rules were presented to the Board at the August 2005 meeting. The rules were published in the September 5, 2005, issue of the Texas Register. The Board adopted the rules at the November 1-2, 2005, meeting, and the rules became effective on December 5, 2005. A sign with the new language was mailed to all pharmacies on November 20, 2005.

D. S.B. 286 relating to Board Member Training – The Attorney General provided a free training video regarding open meetings and open records. Board members viewed these training videos at the August 1-2, 2006, meeting. New Board members were appointed in August 2006. The new Board members will view the videos during their orientation.

E. H.B. 164 relating to the Over-the-Counter Sale of Pseudoephedrine – No specific action was required by the agency. However, a summary of the provisions of the bill was placed in the summer 2005 *Newsletter*. In addition, compliance staff is informing pharmacists of the provisions of the bill during inspections.

F. S.B. 1188 relating to the Return of Prescription Drugs from Nursing Homes – The bill allowed the Board to request a waiver from the provisions of the federal Food, Drug, and Cosmetics Act. A letter requesting such a waiver was sent to Tom McGinnis of FDA on November 7, 2005. No response had been received by the end of FY2006.

OFFICE OF THE EXECUTIVE DIRECTOR

4. As reflected in the chart below, the agency resolved more complaints in FY2006 than in any of the prior five fiscal years. See Enforcement Ongoing Objective #3 for details.

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY02	1,836	+9%	2,137	+28%	116%	221 Days	-16%
FY03	1,935	+5%	1,887	-12%	98%	153 Days	-31%
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%

5. 100% 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, which resulted in significant efficiencies, both in terms of complaint resolution time and expenditures.
6. In line with the agency's "lead agency" philosophy, TSBP investigators made an extremely large number of contacts with other law enforcement agencies (see Enforcement Ongoing Objective #4). Of significant note were two *grey market* cases (one in San Antonio and one in the Metroplex area) in which Enforcement Division staff worked with multiple federal agencies; the San Antonio case involved one pharmacy and two pharmacists, and resulted in the indictment of eight persons, while the Metroplex case involved 18 pharmacies and one pharmacist and resulted in the indictment of 15 persons. In addition, Carol Fisher, R.Ph., M.P.A., testified in two federal trials in Houston; these cases resulted in felony convictions of eight pharmacists (seven convictions involved non-therapeutic dispensing of controlled substances and one conviction involved counterfeit drugs).
7. Carol Fisher, R.Ph., M.P.A, Director of Enforcement and Ben Santana, Chief of Compliance served as preceptors to ten students from three colleges of pharmacy (see Enforcement Ongoing Objective #7 for further details).
8. The following TSBP Board Members and staff were appointed to offices, received honors, or received recognition in FY2006.
- A. Board member Oren M. Peacock, Jr., R.Ph., was elected to the office of President-Elect of the National Association of Boards of Pharmacy (NABP) at the 2006 annual meeting of NABP. As a result of this election, Mr. Peacock will serve one year as President-Elect, one-year as President, and one-year as Chairman of the Executive Committee of NABP.

OFFICE OF THE EXECUTIVE DIRECTOR

FY2006 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Although the agency closed/resolved more complaints in FY2006 than in any prior fiscal year, the average complaint resolution time increased from 196 days in FY2005 to 207 days in FY2006. This increase was primarily due to the aging of complaints that occurred in FY2004-2005 when the agency was required to focus most of its investigative efforts on criminal background investigations of applicants for a pharmacy technician registration.
2. Several bills passed by the 79th Texas Legislature negatively affected the agency as follows.
 - A. H.B. 1 – the following provisions can be directly linked to employee dissatisfaction and ultimately, to employee turnover. These actions include:
 - # Legislative directive to increase state employee longevity and hazardous duty without corresponding increase to agency appropriations.
 - # Legislative directive to increase meals and lodging for board members and staff, without corresponding increase to agency appropriation.
 - # Significant increases to out-of-pocket costs for health coverage by all state employees;
 - # Reduced state contribution of health care coverage for part-time employees; and
 - # Continuance of a 90-day waiting period for health insurance and state retirement contribution for new state employees.
 - B. S.B. 492 – The Texas Pharmacy Act was amended to broaden the authority of a pharmacy to compound prescription drugs not pursuant to a prescription and to sample components in compounding. The expanded compounded practice re-emphasizes the need for an adequate number of well-qualified and well-trained Compliance field staff. Although TSBP attached a fiscal note to this bill, no funding was granted for additional FTEs or sampling of drug products.
 - C. S.B. 410 – The Texas Pharmacy Act was amended to expand the grounds for discipline for licensees/registrants, which significantly increased the Division's workload. However, no additional FTEs were funded to handle the increased workload.

OFFICE OF THE EXECUTIVE DIRECTOR

FY2006 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 assist and participate with the Board in updating and preparing the TSBP *Strategic Plan* for the FY2007-2011 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 2007-2011* was the product of the following:

- A. 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 needed to be addressed; and
- B. 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 2006 Board Business Meeting. The TSBP *Strategic Plan* was published and delivered to the Governor's Office and other applicable agencies by the due date.

- 2. To direct the preparation of a proposed budget for the FY2008-2009 biennium for review and approval by the Board at the 2006 Board Budget Meeting.**

Status: ACCOMPLISHED

Comment: The Executive Committee reviewed staff's recommendations for the exceptional items contained in the *Legislative Appropriation Request (LAR)* for FY2008-2009 in March 2006. The full Board met in May 2006 to review and approve the agency's *Strategic Plan* for FY2007-2011 and the LAR for FY2008-2009. This review process linked the strategic planning process to the budgeting process. The Board Members were apprised of the exceptional items requested in the LAR, which included an increase to the Executive Director's salary, new positions to maintain services, funding for a merit salary program, the testing of compounded products, Texas Online appropriations, and the Pharmacy Recovery Network.

OFFICE OF THE EXECUTIVE DIRECTOR

- 3. To direct the submission of the agency's FY2008-2009 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 28, 2006. The LAR included the items approved by the Board in May 2006, as well as a funding level at 90% of the agency's current funding. The agency's first budget hearing with the staff of the GBO and LBB was held on August 21, 2006.

- 4. To direct the implementation of the new program to register and regulate pharmacy technician trainees throughout FY2006.**

Status: ACCOMPLISHED

Comment: Discussions were held with the Division Directors regarding proposed rules to implement the technician trainee program, which included the following four primary concepts:

- A. registration would be on-line at no charge;
- B. no person would be able to perform technician duties after the deadline (February 1, 2007) without first obtaining a registration certificate from TSBP;
- C. a two-year time period would be allowed to complete the registration process (and the registration would not be able to be renewed); and
- D. applicants for registration would be required to submit fingerprint information (and be responsible for all associated costs).

At its meeting held on February 7-8, 2006, the Board voted to approve the proposed rules as drafted by Board staff, including the four concepts described above. On May 9, 2006, the Board held a public hearing on the proposed rules and discussed the proposed rules and comments made at the public hearing. On May 10, 2006, the Board voted to adopt the proposed rules with the four concepts described above. The rules became effective on June 11, 2006. The process of registering technician trainees will begin in FY2007.

- 5. To review and implement legislation passed by the 79th Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2006, including the following:**

- A. S.B. 410 – relating to Sunset Review of the agency;**
- B. S.B. 492 – relating to Pharmacy Compounding;**
- C. H.B. 836 – relating to Generic Substitution;**
- D. S.B. 286 – relating to Board Member Training;**
- E. H.B. 164 – relating to the Over-the-Counter Sale of Pseudoephedrine; and**
- F. S.B. 1188 – relating to the return of prescription drugs from nursing homes.**

OFFICE OF THE EXECUTIVE DIRECTOR

Status: PARTIALLY ACCOMPLISHED

Comment: A chart containing the action steps to implement provisions of the above bills 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. S.B. 410 relating to Sunset Review of the agency – This bill required the agency to implement 28 action steps as a result of changes to the Pharmacy Act. Twenty-seven of the 28 action steps were completed by the end of the fiscal year. The remaining step required the adoption of rules. These rules were approved by the Board for publication as proposed rules at the August 2006 meeting with final adoption of the rules scheduled for the November 2006 meeting.

In addition, during the final days of the legislative session, this bill was amended to require the agency to inspect and license up to five pharmacies located in Canada that were providing drugs to Texas residents. Because the agency was notified by the federal Food and Drug Administration that TSBP would be in violation of federal law if the agency implemented the provisions of S.B. 410, on June 23, 2005, the agency asked the Texas Attorney General for an opinion on the legality of this law. The opinion was received on December 21, 2006, and stated that designating certain Canadian pharmacies, promoting them on the Board's website, and permitting Texas consumers to import prescription drugs from Canada would violate federal law.

- B. S.B. 492 relating to Pharmacy Compounding – The Board reactivated the Task Force on Pharmacy Compounding to make recommendations regarding rules to implement this legislation. The Task Force met on October 11, 2005, and July 7, 2006, during FY2006 with a meeting scheduled in September 2006. The final report will be presented to the Board at the November 2006 meeting.
- C. H.B. 836 relating to Generic Substitution – Draft rules were presented to the Board at the August 2005 meeting. The rules were published in the September 5, 2005, issue of the *Texas Register*. The Board adopted the rules at the November 1-2, 2005, meeting, and the rules became effective on December 5, 2005. A sign with the new language was mailed to all pharmacies on November 20, 2005.
- D. S.B. 286 relating to Board Member Training – The Attorney General provided a free training video regarding open meetings and open records. Board members viewed these training videos at the August 1-2, 2006, meeting. New Board members were appointed in August 2006. The new Board members will view the videos during their orientation.
- E. H.B. 164 relating to the Over-the-Counter Sale of Pseudoephedrine – No specific action was required by the agency. However, a summary of the provisions of the bill was placed in the summer 2005 *Newsletter*. In addition, compliance staff is informing pharmacists of the provisions of the bill during inspections.

OFFICE OF THE EXECUTIVE DIRECTOR

- F. S.B. 1188 relating to the Return of Prescription Drugs from Nursing Homes The bill allowed the Board to request a waiver from the provisions of the federal Food, Drug, and Cosmetics Act. A letter requesting such a waiver was sent to Tom McGinnis of FDA on November 7, 2005. No response had been received by the end of FY 2006.

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

Status: ACCOMPLISHED

Comment: On August 10, 2006, the Governor announced the appointment of two new Board Members (Jeanne Waggener, R.Ph., community pharmacist from Bellmead, Texas, and Alice Mendoza, R.Ph., hospital pharmacist from Kingsville, Texas) and the reappointment of Rosemary Combs, public member from El Paso, Texas. The orientation for the new members is scheduled September 26-27, 2006. Although the orientation will occur within 90 days of the Governor's appointments, the orientation process will not be completed until FY2007.

7. To direct the planning of the agency's centennial celebration, which will be held in FY2007.

Status: ACCOMPLISHED

Comment: During FY2006, a Centennial Committee was formed to plan activities and events to occur during FY2007. Allison Benz, R.Ph., Director of Professional Services staffed the Centennial Committee comprised of representatives from Texas pharmacy organizations, the colleges of pharmacy, and agency staff. The committee recommended a new centennial logo for the agency to use during FY2007. In addition, the committee suggested displays at the Capitol and other events, such as pharmacy meetings. The agency will also have a display in the Hobby Building lobby throughout FY2007.

Objectives (Ongoing)

1. To manage and monitor the agency's performance and operational efficiency throughout FY2006.

Status: ACCOMPLISHED

Comment: The agency accomplished or partially accomplished 114 (97.4%) of its 117 objectives [113 accomplished (96.6%), 1 partially accomplished (0.9%), and 3 not accomplished (2.6%)]. The agency also met or exceeded 10 (77%) of its 13 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. The three key performance measures that were not met were two relating to costs of issuing a license and one relating to average time for resolution of a complaint. The target figures for FY2006 that were originally reported by the agency in the LAR were not the target figures used by the LBB. These targets were amended by the LBB during the 79th Legislative Session to reflect the actual cost of these measures in FY2004. Also, the goal for the resolution of complaints was established by the LBB using the actual resolution time during FY2004. The

OFFICE OF THE EXECUTIVE DIRECTOR

agency informed the LBB that although the agency was able to achieve the 120 day resolution time in FY2004, this number would not be reached in FY2006. Therefore, the agency recommended that the resolution time should be set at 250 days. Had the LBB taken this suggestion, the agency would have met this performance goal.

Performance Measure	FY06 Projected Performance	FY06 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	99%	96.57%	Met
Percent of Licensees Who Renew Online	75%	84.48%	Exceeded
Percent of New Individual Licenses Issued Online	75%	80.17%	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	870	1,091	Exceeded
Number of Licenses Renewed (Individuals)	11,058	11,657	Exceeded
Efficiencies			
Average Licensing Cost Per Individual License Issued	\$10.44	\$11.89	Not Met
Average Licensing Cost Per Facility License Issued	\$35.12	\$41.09	Not Met
Explanatory			
Total Number of Business Facilities Licensed	5,950	6,201	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 Jurisdictional Complaints Resulting in Disciplinary Action	10%	15.04%	Exceeded
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	1,980	3,338	Exceeded
Efficiencies			
Average Time for Jurisdictional Complaint Resolution	120	208	Not Met
Explanatory			
Number of Jurisdictional Complaints Received	2,500	3,501	Exceeded
B.1.2. Strategy: Peer Assistance - Operate a peer assistance program.			
Output (Volume)			
Number of Licensed Individuals Participating in a Peer Assistance Program	175	149	Exceeded

OFFICE OF THE EXECUTIVE DIRECTOR

- 2. To coordinate the development of proposed goals and objectives and budget for FY2007, based on the *Strategic Plan* and projected budget, for submission to the Board two weeks prior to the 2006 Annual Policy Meeting.**

Status: ACCOMPLISHED

Comment: A proposed budget, including revenue projections, was presented and approved at the August 2006 Board Business Meeting.

- 3. 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 FY2006.**

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.)

- 4. 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 FY2006.**

Status: ACCOMPLISHED

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. To personally participate and represent Board policies and programs to local, state, and national pharmacy, health-related, and consumer organizations during FY2006.**

Status: ACCOMPLISHED

Comment:

- A. The Executive Director gave 24 interviews with the press concerning a number of issues as follows:

Date	Media/Subject
9/2/05	Telephone interview with Susan Lorimer of Consumer's digest regarding the licensing of Canadian pharmacies.
9/8/05	Telephone interview with John Davis of the Lubbock Avalanche Journal regarding health disparity and costs of pharmaceutical drugs.

OFFICE OF THE EXECUTIVE DIRECTOR

Date	Media/Subject
9/19/05	Telephone interview with Steve Davolt of Employee Benefit News regarding the licensing of Canadian pharmacies.
9/25/05	Telephone interview with Alex Cohen of National Public Radio regarding the new law concerning sale of pseudoephedrine.
11/1/05	Telephone interview with Randy Wallace of Fox 26 TV in Houston regarding the dispensing of prescription drugs by a physician's office.
11/3/05	Telephone interview with Nicki McCuiston of North Texas Broadcasting regarding the licensing of Canadian pharmacies.
12/6/06	Telephone interview with Gardner Harris of the New York Times regarding therapeutic substitution.
12/22/05	On camera interview with Mike Rosen of Fox 7 TV News in Austin regarding the licensing of Canadian pharmacies and the Attorney General's opinion.
12/22/05	Telephone interview with KUT Radio regarding the licensing of Canadian pharmacies and the Attorney General's opinion.
12/22/05	Telephone interview with Mary Alice Robbins of Texas Lawyer regarding the licensing of Canadian pharmacies and the Attorney General's opinion.
12/22/05	Telephone interview with Amie Davis of KPRC TV in Houston regarding weight loss clinics.
12/27/06	On camera interview with Amie Davis of KPRC-TV in Houston regarding weight loss clinic.
1/9/06	Telephone interview with Sunil Iyengar with FDC Reports regarding drug reimbursement programs for low income persons.
1/12/06	Telephone interview with freelance reporter David Sefton regarding pharmacy records.
1/27/06	On camera interview with Amie Davis of KPRC TV in Houston regarding internet medical clinics.
3/17/06	Telephone interview with Sue Lobbenstien of the Anderson County Courier regarding pharmacists eating while filling a prescription.
3/20/06	Telephone interview with Dave Michaels of the Dallas Morning News regarding the pseudoephedrine law.
3/27/06	Telephone interview with Jan Picciano of Fox TV News in Lubbock regarding pseudoephedrine.
4/6/06	Telephone interview with Donna Russell of Fox 4 TV News in Dallas regarding generic drug pricing.
4/10/06	Telephone interview with Amie Davis of KPRC TV in Houston regarding internet medical clinics.
6/6/06	Telephone interview with Craig Malison of the Houston Press regarding pseudoephedrine.
6/14/06	Telephone interview with Martin Bulhoid of the Kingwood Observer regarding abuse of fentanyl.
6/30/06	Telephone interview with Fred Gebhart of Drug Topics regarding telepharmacy.
7/17/06	Telephone interview with Maritza Salazar with WOAI Radio in San Antonio regarding licensing of Canadian pharmacies.

OFFICE OF THE EXECUTIVE DIRECTOR

- B. The Executive Director gave 8 presentations to 1,210 persons, as indicated below.

Date	Name of Association/Location of Meeting	Attendance (Approximate)
9/10/05	University of Texas' 53 rd Postgraduate Pharmacy Seminar – Austin	500
10/1/05	Central Texas Society of Health System Pharmacists – San Antonio	60
10/29/05	Gulf Coast Area Society of Health-System Pharmacists – Houston	50
3/25/06	El Paso Society of Health-System Pharmacists Frontiers in Pharmacy Seminar – El Paso	40
4/2/06	Texas Society of Health-System Pharmacists Annual Seminar – Galveston	60
4/6/06	HEB Pharmacists	200
4/22/06	West Texas Pharmaceutical Association's Annual Meeting – Kerrville	50
7/21/06	Texas Pharmacy Association's Annual meeting (Update and Town Hall Meeting) – The Woodlands	250
Total		1,210

- C. The Executive Director attended 46 meetings or conferences representing the agency as indicated below.

Date	Meeting
9/6 – 9/8/05	Informal Disciplinary Conferences
9/13/05	Technician Informal Disciplinary Conferences
9/13/05	State Employees Charitable Campaign Policy Committee Meeting
9/20/05	Conference Call with Pharmerica
9/26/08	Meeting with representatives of compounding pharmacy
10/5 – 10/6/04	Technician Informal Disciplinary Conferences
10/11/05	Task Force on Pharmacy Compounding
10/17-19/05	Informal Disciplinary Conferences
10/20/05	Meeting with representatives from United Health Care
10/24/05	Technician Informal Disciplinary Conferences
11/7/05	Meeting with representatives of a dialysis center
11/8/05	Meeting with representatives of CVS Pharmacy
11/9/05	State Employee's Charitable Campaign Policy Committee meeting
11/14/05	Temporary Suspension Hearing

OFFICE OF THE EXECUTIVE DIRECTOR

Date	Meeting
12/5/05	Conference call with representatives of CVS Pharmacy
12/13/05	Technician Informal Disciplinary Conferences
1/10-1/12/06	Informal Disciplinary Conferences
2/3/06	Food and Drug Administration 100 th Anniversary Celebration – Dallas
2/15-17/06	Accreditation Council for Pharmacy Education Recertification Visit to Texas Southern University College of Pharmacy
2/21/06	Meeting with Professional Recovery Network representatives regarding relapses
2/23/06	Technician Informal Disciplinary Conferences
2/28-3/2/06	Informal Disciplinary Conferences
3/10/06	Orientation of TSBP for Steven Palmer from the Governor's Budget, Policy, and Planning Office
3/23/06	Technician Informal Disciplinary Conferences
2/28/06	Meeting with Andre Alcatar of the Governor's Budget, Policy, and Planning Office regarding self-directed, semi-independent agency status
3/29/06	TSBP Executive Committee review of proposed TSBP budget
4/4-5/06	Informal Disciplinary Conferences
4/18/06	Meeting with representatives of the pharmacy for the Travis County Jail
4/19/06	Technician Informal Disciplinary Conferences
4/25/06	Temporary Suspension Hearing
5/2/06	Statewide Hurricane Exercise
5/8/06	Temporary Suspension Hearing
5/16/06	Meeting with representatives of HEB Pharmacy
6/6/06	State Employees Charitable Campaign Policy Committee Meeting
6/9/06	Telephone meeting with staff of the Dallas Regional Office of FDA
6/13/06	Meeting with DSHS representatives regarding statewide disaster planning
6/19/06	Meeting with Executive Director of the Texas Medical Board regarding electronic prescribing
6/20-22/06	Informal Disciplinary Conferences
7/7/06	Task Force on Compounding Meeting
7/11-7/13/06	Informal Disciplinary Conferences
7/18/06	Technician Informal Disciplinary Conferences
8/4/06	Orientation to TSBP for Legislative Budget Board's Analyst Aaron Hendrickson

OFFICE OF THE EXECUTIVE DIRECTOR

Date	Meeting
8/15/06	Meeting with representatives of compounding pharmacy
8/15/06	Meeting with Robert Nash, DSHS regarding disaster preparedness
8/21/06	LBB/GBO Joint Budget Hearing on TSBP FY2008-2009 budget request
8/24/06	Technician Informal Disciplinary Hearings

6. To act as the Board's liaison to the pharmacy professional associations throughout FY2006.

Status: ACCOMPLISHED

Comment: The Executive Director attended 11 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
10/5-8/05	NABP/AACP District 6, 7, & 8 Meeting – Jackson, WY
1/31/06	Texas Patient Safety Alliance Meeting – Austin
3/2/06	University of Texas Pharmaceutical Foundation Advisory Council Meeting – Austin
3/31-4/3/06	Texas Society of Health-System Pharmacists Annual Seminar – Galveston
4/8-4/11/06	National Association of Boards of Pharmacy's Annual Meeting – San Francisco
4/22/06	West Texas Pharmaceutical Association's Annual Meeting – Kerrville
5/11-12/06	Accreditation Council for Pharmacy Education Advisory Committee Meeting – Chicago
7/10/06	Blue Ribbon Task Force on Coordinating the receipt and distribution of Pharmaceuticals and Durable Medical Goods During a Disaster
7/19-7/23/06	Texas Pharmacy Association's Annual Meeting – The Woodlands
8/9/06	Texas Pharmacy Practice Coalition Meeting
8/10/06	Ribbon Cutting Ceremony for the Irma Lerma Rangel College of Pharmacy – Kingsville

7. To continue to take a proactive role in the operation of the Health Professions Council throughout FY2006.

Status: ACCOMPLISHED

OFFICE OF THE EXECUTIVE DIRECTOR

Comment: The Executive Director continued to serve as Vice-Chair of the Health Professions Council (HPC). The following chart shows the Executive Director's involvement in HPC activities.

Date	Activity
9/12/05	Health Professions Council Meeting
11/21/05	Health Professions Council Shared Services Committee Meeting
12/5/05	Health Professions Council Meeting
3/6/06	Health Professions Council Meeting
5/23/06	Meeting with the Health Professions Council Legislative Budget Board Analyst
6/5/06	Health Professions Council Meeting

8. To continue to support and participate in the Texas Pharmacy Congress throughout FY2006.

Status: ACCOMPLISHED

Comment: The Executive Director or Allison Benz, MS, R.Ph., Director of Professional Services, attended the following Texas Pharmacy Congress (TPC) meetings and provided staff support to President W. Michael Brimberry, R.Ph., M.B.A., and Vice President Kim A. Caldwell, R.Ph., at these meetings.

Date	Activity	Attendee
11/15-16/05	Texas Pharmacy Congress Meeting – Austin	Gay Dodson, R.Ph.
2/6-7/06	Texas Pharmacy Congress Meeting – Lubbock	Gay Dodson, R.Ph.
5/10-11/06	Texas Pharmacy Congress Meeting – Houston	Allison Benz, M.S., RPh.
8/9-8/10/06	Texas Pharmacy Congress Meeting – Kingsville	Gay Dodson, R.Ph.

9. To survey agency customers regarding the quality of service delivered by the agency as specified in Chapter 2113 of the Government Code and to analyze survey results, including the review of comments and implementation of appropriate suggestions submitted by agency customers.

Status: ACCOMPLISHED

Comment: The agency entered into a contract with the University of Texas Center for Social Work Research, to develop an online survey form, survey the attitudes and opinions of TSBP customers, and provide a statistical analysis of the data collected in FY2005. Data collection began in on May 24, 2005. Kay Wilson, Executive Assistant, presented a report on survey responses received through December 31, 2005, to the Board at the May 9-10, 2006, meeting. The great majority of persons completing the survey were persons who are licensed/registered by TSBP (94.26%). The agency scored an impressive 4.33 on a scale of five on the statement "Overall, I am satisfied with my experience."

OFFICE OF THE EXECUTIVE DIRECTOR

The service the respondents were most satisfied with was the online registration/license application with a score of 4.53 and the respondents were least satisfied with complaint resolution with a score of 3.95.

- 10. To continue to participate in the University of Texas Center for Social Work Research Survey of Organizational Excellence, review of the survey results by an Agency Change Team (ACT), and implementation of appropriate recommendations of ACT throughout FY2006.**

Status: ACCOMPLISHED

Comment: The agency participated in the Survey of Organizational Excellence in the fall of 2004 with the results received by the agency in early 2005. The following persons were assigned to the Agency Change Team: Becky Damon (Enforcement), facilitator; Jing Belfiglio (Legal); Robert Lunsford (Investigations), Paul Holder (Compliance); Patty Galan (Enforcement); Estella Casarez (Licensing); Lisa Ake (Licensing); and Robbi Dana (Accounting). The ACT team was charged with reviewing the results of the survey, identifying areas where TSBP could improve, and making recommendations to the Executive Director to improve TSBP performance. The final report of the ACT team was presented to the Executive Director on June 23, 2006. Management's Response to the ACT Report was presented and discussed with the staff at the August 22, 2006, staff meeting. Of the 25 items identified by the ACT team, 11 were implemented; six are under evaluation for future implementation; four had either previously been implemented or management's position was clarified; and four could not be implemented because of funding or legal problems.

- 11. 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 FY2006.**

Status: ACCOMPLISHED

Comment: The agenda for each meeting of the Board included discussion of possible suggestions for changes to the Pharmacy Act. Throughout FY2006 a total of 31 suggested changes to the Texas Pharmacy Act were approved by the Board for possible action by the 2007 Texas Legislature as follows.

Amend the Texas Pharmacy Act to:

- A. Allow pharmacists the authority to carry-out or sign prescription drug orders under written protocol from a physician.
- B. Clarify a pharmacist's authority to administer medications.
- C. Clarify that pharmacists have professional discretion when deciding to dispense a prescription or medication order.
- D. Specify the Board has the authority to mandate peer review.

OFFICE OF THE EXECUTIVE DIRECTOR

- E. Require written prescriptions to be legible and encourage all prescriptions to be transmitted electronically.
- F. Require all Class C Pharmacies (other than ASCs) to have the services of a full-time pharmacist (or alternatively, to require all Class C Pharmacies located in hospitals with more than 50 beds to have a full-time pharmacist).
- G. Allow pharmacists authority to refill a prescription for up to 30 days during a disaster.
- H. Allow for a greater range of disciplinary sanctions, such as reprimand, administrative penalty, or probation, similar to the sanctions allowed for other licensees. This change allows the Board to discipline a pharmacist-intern for minor violations without either restricting the internship or denying the ability to participate in the internship completely.
- I. Provide for a specific record retention period for prescription records maintained by a pharmacy of a minimum of three years from the date of dispensing for the original prescription and five years for electronic records.
- J. Allow TSBP to cancel a license by amending Section 565.051 of the Texas Pharmacy Act.
- K. Expand the Board's inspection authority to include the ability to enter a pharmacy for general regulation purposes.
- L. Allow the Board access to financial records.
- M. Add disciplinary action by another health licensing board in Texas or in another state to the grounds for disciplinary action for pharmacists and technicians/trainees. (Currently disciplinary action by another state's pharmacy board is grounds for discipline.)
- N. Provide for mechanism to require technicians to undergo mandatory evaluations by mental health professional if probable cause for impairment exists.
- O. Add the following to the grounds for discipline of a pharmacy technician/technician trainee:
 - (a) an impairment ground [same as 565.001(a)(4)] to disciplinary grounds for technicians/trainees, and change the "drug or alcohol dependency" ground to be the same as the "intemperate use" ground for pharmacists [same as 565.001(a)(7)].
 - (b) unprofessional conduct, as that term is defined by the rules of the Board; and
 - (c) performing acts that only a pharmacist may perform, as defined by the rules of the Board.

OFFICE OF THE EXECUTIVE DIRECTOR

- P. Clarify that in licensure, reinstatement, or modification cases, the applicant/licensee has the burden of proof to demonstrate that the Board should take the requested action (i.e., grant a license, reinstate a license, etc.).
- Q. Add a provision that a disciplinary action taken against a trainee stays in place as the individual becomes registered as a technician (i.e., that we don't have to take disciplinary action again for the same criminal history).
- R. Include a provision that the applicants be in the United States legally and be legally able to work prior to issuing a license for pharmacists and pharmacy technicians.
- S. Allow peace officers to carry a firearm in limited situations and to make arrests. The ability to carry a firearm would be limited to carrying the firearm outside a pharmacy unless a life-threatening situation exists.
- T. Increase the amount of the civil penalty authorized in the Pharmacy Act.
- U. Either repeal the chapter or locate the chapter in another part of the code that deals with manufacturing or repackaging, since these activities are not regulated by the Pharmacy Board.
- V. Transfer the authority to license and discipline wholesale drug distributors to the Pharmacy Board.
- W. Allow the Board the discretion of making public a second order against a person who has a chemical, physical, or mental impairment.
- X. Give the Board regulatory authority over pharmacist-relief services, especially, requiring them to tell us where a pharmacist is working on any given day.
- Y. Require interns and pharmacy technicians to notify the Board of a change of address.
- Z. Allow the Board to recover the costs of investigations when disciplining a licensee.
- AA. Clarify that patients have a right to access their pharmacy records in a reasonable time and for a reasonable charge (and allow the board to define "reasonable").
- BB. Allow the Board to recover cost of litigation from licensees if successfully prosecuted at SOAH.
- CC. Seek legislative authority to become a Self-Directed Semi-Independent Agency.
- DD. Give the Board the authority to receive and expend funds from seizure actions or judicial forfeiture.

OFFICE OF THE EXECUTIVE DIRECTOR

EE. Delete the provision that allows pharmacies to dispense Schedule III-V controlled substance prescriptions only on receipt of an original (written) prescription.

- 12. 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 FY2006.**

Status: ACCOMPLISHED

Comment: Division staff participated in professional and interpersonal development seminars, cross training and on-the-job training throughout FY2006 as follows:

Gay Dodson	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
10/5-8/05	NABP/AACP District 6, 7, & 8 Meeting – Jackson, WY
3/31-4/3/06	Texas Society of Health-System Pharmacists Annual Seminar – Galveston
4/8-4/11/06	National Association of Boards of Pharmacy’s Annual Meeting – San Francisco
4/22/06	West Texas Pharmaceutical Association’s Annual Meeting – Kerrville
6/29/06	USP 797 Webinar
7/19-7/23/06	Texas Pharmacy Association’s Annual Meeting – The Woodlands
8/1/06	Open Meetings Act Training – Austin
8/2/06	Open Records Act Training – Austin

Kay Wilson	
10/20/05	Texas Conference for Women – Austin
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
11/21/05	Managing Holiday Stress (Alliance Work Partners/EAP) – Austin
2/10/06	AED/CPR Training – Austin
2/23/06	Defensive Driving – Austin
5/25/06	The Essential Guide to Employment Law – Austin
8/01/06	Open Meetings Act Training - Austin
8/23/06	Working Together Effectively (Governor’s Center for Management Development) - Austin

OFFICE OF THE EXECUTIVE DIRECTOR

Debra Dukes	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
8/23/06	Working Together Effectively (Governor’s Center for Management Development) - Austin

- 13. 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 FY2006.**

Status: NOT ACCOMPLISHED

Comment: Performance evaluations were conducted for only one Division Employee during FY2006. Evaluations for the remainder of the Division Employees were scheduled during the first month of FY2007 as indicated below.

Employee	Date of Evaluation	Person Conducting Evaluation
Kerstin Arnold	9/29/06 scheduled	Gay Dodson
Allison Benz	9/29/06 scheduled	Gay Dodson
Debra Dukes	8/1/06	Kay Wilson
Carol Fisher	9/29/06 scheduled	Gay Dodson
Cathy Stella	9/28/06 scheduled	Gay Dodson
Kay Wilson	9/28/06 scheduled	Gay Dodson

- 14. To provide the Board information necessary to conduct performance evaluation of the Executive Director by August 31, 2006.**

Status: ACCOMPLISHED

Comment: A self and staff evaluation of the Executive Director were presented to the Board at its August 2006 meeting. The Board conducted the performance evaluation at this meeting.

Administrative Services & Licensing Division

FY2006 SIGNIFICANT ACCOMPLISHMENTS

1. The Division played an integral role in the coordination and development of the agency's response to the emergency conditions that resulted from Hurricanes Katrina and Rita. The following accomplishments are highlighted:
 - A. Immediate development and implementation of a web-based online application form to expedite the issuance of temporary licenses for pharmacists licensed in other states, so that these pharmacists could work in Texas pharmacies to aid in the hurricane relief effort. This temporary license allowed a person to work at a sponsoring pharmacy until the expiration date of February 28, 2006.
 - B. Successful certification of student interns who transferred from Louisiana to Texas following the devastation caused by Hurricane Katrina. This process was accelerated and resulted in the majority of these student interns being certified within one day of receipt.
 - C. Provision of an application to provide temporary remote pharmacy services for pharmacies that needed to begin operating immediately at remote sites.
 - D. Waiver of continuing education requirements until February 28, 2006, for Texas pharmacists who were inactive and seeking active status.
 - E. Disseminating information to licensees and public.
2. The Division accomplished 93% of the Division's 27 Objectives for FY2006.
3. The Division successfully implemented 100% of legislation passed as a result of the agency Sunset Bill that directly affected the Administrative Services and Licensing programs of the agency (see New Objective #5).
4. The Division continued to achieve an exception-free audit by the Texas Building and Procurement Commission on the Delegated Service Certification Program.
5. Division staff led the discussion and resolution of the purchase of a new Health Professions Council imaging system (see Ongoing Objective #9).
6. Security and data system availability remained high, with 14,290 viruses captured (280% increase from FY2005), 1,797 potential system attacks blocked, and 241,735 spam and bad mail diverted (660% increase from FY2005).
7. Eligible division employees received an enhanced compensation award for their direct contributions towards the agency achievement of meeting 100% of its key performance measures in FY2005.

ADMINISTRATIVE SERVICES & LICENSING

8. The agency's website continued to provide accurate and concise information to Board customers. As evidenced by the comments received from external customers, it appears that the website is easily navigable and serves our customers well.

ADMINISTRATIVE SERVICES & LICENSING

FY2006 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The actions of the 79th Texas Legislature continue to negatively affect the agency's budget, which can be directly linked to employee dissatisfaction and ultimately, to employee turnover. These actions include:
 - A. Legislative directive to increase state employee longevity and hazardous duty without corresponding increase to agency appropriations.
 - B. Legislative directive to increase meals and lodging for board members and staff, without corresponding increase to agency appropriation.
 - C. Significant increases to out-of-pocket costs for health coverage by all state employees;
 - D. Reduced state contribution of health care coverage for part-time employees; and
 - E. Continuance of a 90-day waiting period for health insurance and state retirement contribution for new state employees.

2. The continued implementation of the registration and ongoing renewal of Pharmacy Technicians, along with the increased workload caused by the natural disasters of Hurricanes Katrina and Rita, took its toll on all agency staff. The following chart shows some of the increase in workload requirements that affected not only Licensing, but Administrative Services as well.

WORKLOAD INCREASES

	Total Number of Licensees	% Increase	Telephone Calls Received	% Increase	E-Mail Inquiries Answered	% Increase
FY2003	27,364	--	10,000	--	4,000	--
FY2004	50,289	84%	19,737	97%	10,880	172%
FY2005	55,432	10%	20,600	5%	13,000	19%
FY2006	59,615	7.55%	26,500	28.64%	19,500	50%
Cumulative Increase		118%		165%		387%

ADMINISTRATIVE SERVICES & LICENSING

3. Workspace became a premium commodity in FY2006, as three new positions were added to the agency. Existing conference room and workroom space were downsized in order to accommodate the new office space. In addition, the agency has begun replacing existing offices with smaller cubicles, which historically, is not viewed as a positive employee benefit.

FY2006 ANNUAL REPORT

GOAL

To administer agency operations including personnel, accounting, budgeting, purchasing, property management, and information technologies. To conduct a pharmacy and pharmacist licensure system, 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 updating and preparing the TSBP *Strategic Plan* for the FY2007-2011 period and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date.**

Status: ACCOMPLISHED

Comment: The *Strategic Plan for the 2007-2011* period was the product of the following:

- 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
- 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 2006 Board Business Meeting. The TSBP *Strategic Plan* was published and delivered to the Governor's Office and other applicable agencies by the due date.

- 2. To assist the Executive Director, by preparing a proposed budget, in cooperation with other Divisions, for the FY2008-2009 biennium for review and approval by the Board at the 2006 Board Budget Meeting.**

Status: ACCOMPLISHED

Comment: The Executive Committee reviewed staff's recommendations for the exceptional items contained in the *Legislative Appropriation Request (LAR)* for FY2008-2009 in March 2006. The full Board met in May 2006 to review and approve the agency's *Strategic Plan* for FY2007-2011 and the LAR for FY2008-2009. This

ADMINISTRATIVE SERVICES & LICENSING

review process linked the strategic planning process to the budgeting process. The Board Members were apprised of the exceptional items requested in the LAR, which included an increase to the Executive Director's salary, new positions to maintain services, funding for a merit salary program, the testing of compounded products, Texas Online appropriations, and the Pharmacy Recovery Network.

- 3. To assist the Executive Director, by preparing and submitting, in cooperation with other Divisions, the agency's FY2008-2009 Legislative Appropriation Request (LAR) and corresponding performance measures by the due date.**

Status: ACCOMPLISHED

Comment: The LAR 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 28, 2006. The LAR included the items approved by the Board in May 2006, as well as a funding level at 90% of the agency's current funding. The agency's first budget hearing with the staff of the GBO and LBB was held on August 21, 2006.

- 4. To assist the Executive Director, in cooperation with other Divisions, in the implementation of the new program to register and regulate pharmacy technician trainees, throughout FY2006.**

Status: ACCOMPLISHED

Comment: Division Director participated in discussions with the Executive Director and other Division Directors regarding proposed rules to implement the technician trainee program, which included the following four primary concepts: (1) registration would be online at no charge; (2) no person would be able to perform technician duties after the deadline (February 1, 2007), without first obtaining a registration certificate from TSBP; (3) a two-year time period would be allowed to complete the registration process (and the registration would not be able to be renewed); and (4) applicants for registration would be required to submit fingerprint information (and be responsible for all associated costs). At its meeting held on February 7-8, 2006, the Board voted to approve the proposed rules as drafted by Board staff, including the four concepts described above. On May 9, 2006, the Board held a public hearing on the proposed rules. On May 9-10, 2006, the Board discussed the proposed rules and comments made at the public hearing regarding the proposed rules. On May 10, 2006, the Board voted to adopt the proposed rules with the four concepts described above. The process of registering technician trainees will begin in FY2007.

- 5. To assist the Executive Director, in cooperation with other Divisions, in reviewing and implementing legislation passed by the 79th Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2006.**

Status: ACCOMPLISHED

ADMINISTRATIVE SERVICES & LICENSING

Comment: Actions taken by the 79th Texas Legislature that had an impact on the Administrative Services & Licensing Division are described below:

- A. The general revenue-dedicated account of the agency was abolished. Approximately \$5.4 million was transferred from the TSBP dedicated account to the general revenue account.
- B. A number of positions in the Attorney, Legal Assistant and Accounting series were reallocated to a different classification due to changes to the State Classification of Position Descriptions.
- C. A number of changes affecting state employees were communicated to agency employees. These included increased mileage and travel rates; policies regarding return-to-work retirees; longevity and hazardous pay increases; across-the-board pay raises; use of equity adjustments; communication with employees regarding the State Kids Insurance Program; and various leave provisions.
- D. Increase in the maximum cost of certain awards presented to state employees.
- E. Establishment of a Business Portal by the Texas Economic Development & Tourism Office of the Governor's Office that required a "common permit application" for business permits (i.e., pharmacy licenses).
- F. Appropriation Transfers between Strategies was limited to 12.5%.
- G. A number of bills affecting the management of electronic and telecommunications services, security requirements, disposal of data processing equipment, and provision on the Internet of agency forms, and Internet training.
- H. Requirement for Board Members to complete Open Meetings and Open Records training.
- I. Agency Sunset Bill provided for a number of changes to the licensing programs, including:
 - (1) addition of a service field to pharmacy applications to capture sterile compounding risk levels.
 - (2) additional profile questions to pharmacy applications to determine information if a pharmacy has a website.
 - (3) confidentiality of home addresses and home telephone numbers of interns, pharmacist applicants, pharmacists, technicians, and pharmacy owners.
 - (4) adoption of rules to ensure that examinations are administered in compliance with the Americans with Disabilities Act of 1990.
 - (5) procedures regarding examination refunds to pharmacist applicants.
 - (6) procedures that address reciprocity requirements of pharmacist applicants.

ADMINISTRATIVE SERVICES & LICENSING

- (7) procedures regarding the delinquent fees charged to pharmacists and pharmacies.
- (8) additional renewal requirements for Class E pharmacies.

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

Status: ACCOMPLISHED

Comment: On August 10, 2006, the Governor announced the appointment of two new Board Members (Jeanne Waggener, R.Ph., community pharmacist from Bellmead, Texas, and Alice Mendoza, R.Ph., hospital pharmacist from Kingsville, Texas) and the reappointment of Rosemary Combs, public member from El Paso, Texas. After consultation with the new Board members and their approval, the Executive Director scheduled dates for the orientation (September 26-27, 2006). Although the orientation will occur within 60 days of the Governor's appointments, the orientation process will not be completed until FY2007.

Objectives (Ongoing – Administrative Services)

1. To prepare a proposed budget for FY2007 for submission to the Board two weeks prior to the 2006 Annual Policy Meeting.

Status: ACCOMPLISHED

Comment: A proposed budget, including revenue projections, was presented and approved at the August 2006 Board Business Meeting.

2. To comply with all Comptroller Accounting Policies, Notices to State Agencies, and Attorney General Opinions relating to fiscal matters by specified due dates throughout FY2006.

Status: ACCOMPLISHED

Comment: All accounting policies were reviewed and procedures were implemented or revised as required. These policies ranged from security procedures for USAS/USPS, calculations of various oversight agencies assessments, certifications, appropriation modifications, and a number of accounting/budget transactions.

3. To prepare and submit all required accounting and fiscal reports/reconciliations in compliance with all applicable state statutes throughout FY2006.

Status: ACCOMPLISHED

ADMINISTRATIVE SERVICES & LICENSING

Comment: 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, enforcement) and submitted the Risk Assessment Report by the due date to the SAO.

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, 2006, 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.

Finally, a report was submitted to the Executive Director/Secretary for each month during the fiscal year that outlined major financial reports and reconciliations completed for the prior month.

4. To review and recommend to the Executive Director additional sources of spendable revenue and to assess fees charged for Board services throughout FY2006.

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. Revenue projections were made in light of the passage of the agency's Sunset Bill (SB 410), additional capital budget items, an increase to the executive director's salary, and an across-the-board salary increase for classified employees. These revenue projections were based on a decrease to initial licensure and renewal of pharmacy and pharmacist licenses, as well as pharmacy technician fees, effective November 2006 (FY2007). The Board also approved a recommendation to allow the upcoming technician-in-training applicants to register at no charge.

Based on a review of the agency's revenue projections for FY2006-2007, the Comptroller of Public Accounts released contingent appropriations of \$599,987 and an estimated \$73,589 in employee benefits for the biennium.

5. 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 FY2006.

Status: ACCOMPLISHED

Comment: A Post-Procurement and Payment audit for the period May 2006 was conducted by the Texas Building and Procurement Commission (TBPC), resulting in a 95.56% compliance rating. In addition, 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.

ADMINISTRATIVE SERVICES & LICENSING

- 6. 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 FY2006.**

Status: ACCOMPLISHED

Comment: As a result of the passage of the General Appropriations Act, 79th Regular Session, which added three new positions in FY2006, an Office Space Project was implemented to convert existing conference room space to office space. This project included such tasks as developing floor plans, storing and/or disposing of existing conference room furniture, locating new conference room space, buildout of new office space, ordering and installing new furniture and telecommunications, and moving staff. The entire Project began in September 2005 and was completed by December 2005.

- 7. To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2006.**

Status: ACCOMPLISHED

Comment:

- A. All newly hired and current employees received Equal Employment Opportunity/Sexual Harassment Training as required by state law.
- B. Division directors continued to review and revise employee position descriptions, with a resulting five reclassifications submitted and approved.
- C. The agency reviewed its Handbook of Personnel Policies & Procedures, with particular emphasis on policies regarding recruitment, performance evaluations, disciplinary actions, and harassment, including sexual harassment. Updates were made as necessary. One employee complaint was filed and resolved internally and there were no employment discrimination or other charges initiated with the Texas Commission on Human Rights.
- D. The agency received 516 applications for employment during this fiscal year, which resulted in 12 new hires and three promotions. (Note: Providing EEO information by applicants is strictly voluntary. 67 applicants did not provide the information.)
- E. Employee turnover was 7.24%, which included four separations. This compares to the overall turnover of the state of 15.8%.
- F. The following table reflects the agency's EEO profile for employees hired, promoted, or terminated during FY2006, as well as an applicant profile report. This table is followed by workforce demographics that compare the agency to all state agencies.

ADMINISTRATIVE SERVICES & LICENSING

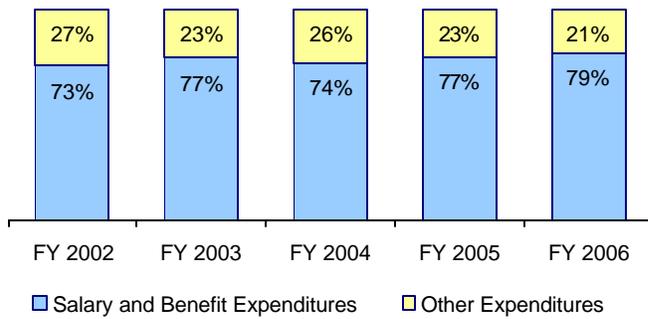
Texas State Board of Pharmacy											
EEO Data as of August 2006											
Agency EEO Data	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	5	0	0	0	0	0	0	0	5	5
Professional	5	9	0	1	1	0	0	0	6	10	16
Para-Prof	6	12	0	0	1	9	0	2	7	23	30
Admin Support	0	2	0	1	0	2	0	0	0	5	5
TOTALS	11	28	0	2	2	11	0	2	13	43	56
New Hires											
New Hires	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	2	0	0	0	0	0	0	0	2	2
Para-Prof	1	2	0	0	1	0	0	1	2	3	5
Admin Support	0	1	0	1	0	0	0	0	0	2	2
TOTALS	1	5	0	1	1	0	0	1	2	7	9
Promotions											
Promotions	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	1	0	0	0	0	0	0	1	1	2
Para-Prof	1	0	0	0	0	0	0	0	1	0	1
Admin Support	0	0	0	0	0	0	0	0	0	0	0
TOTALS	2	1	0	0	0	0	0	0	2	1	3
Terminations											
Terminations	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	0	2	0	1	0	0	0	0	0	3	3
Clerical	0	0	0	0	0	0	0	0	0	0	0
TOTALS	0	3	0	1	0	0	0	0	0	4	4

Texas State Board of Pharmacy
EEO Statistics - APPLICANTS
FISCAL YEAR 2006

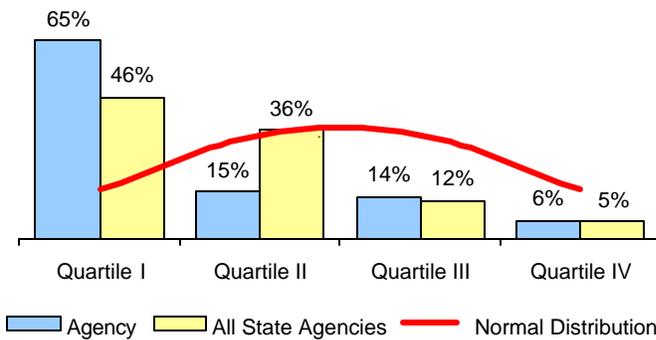
			EEO Cat	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL	EEO Info not provided	GRAND TOTAL
				M	F	M	F	M	F	M	F	M	F			
		Hire Date														
TBP05-011	Compliance Specialist	09/01/05	P	8	26	1	5	8	12	0	6	17	49	66	8	74
TBP05-013	Enforcement Specialist	10/01/05	P	4	24	0	6	4	7	1	0	9	37	46	12	58
TBP06-004	Staff Attny (Attny IV)	12/19/05	P	0	1	0	0	0	0	0	0	0	1	1	1	2
TBP06-006	Asst Dir of Enforcement	08/01/06	P	1	0	0	0	0	0	0	0	1	0	1	0	1
				13	51	1	11	12	19	1	6	27	87	114	21	135
TBP05-014	Investigator IV - Central Tx	11/07/05	Q	5	3	1	0	2	0	0	0	8	3	11	5	16
TBP06-002	Enforcement Specialist Inv II	01/01/06	Q	5	21	1	4	1	7	0	1	7	33	40	8	48
TBP06-003	Deputy Chief of Inv (Inv VI)	12/01/05	Q	2	0	0	0	0	0	0	0	2	0	2	0	2
TBP06-005	Admin Asst IV (Prof Svcs)	08/01/06	Q	4	49	0	18	6	18	0	2	10	87	97	9	106
TBP06-007	Compliance Inspector	08/14/06	Q	5	6	13	5	2	3	6	2	26	16	42	5	47
TPB06-010	Legal Assistant	06/26/06	Q	2	5	0	2	1	1	0	2	3	10	13	2	15
TBP06-011	Legal Assistant	08/14/06	Q	0	8	0	3	1	1	0	1	1	13	14	0	14
				23	92	15	32	13	30	6	8	57	162	219	29	248
TBP06-001	Enforcement Admin Asst III	12/05/05	C	6	34	0	15	2	21	1	3	9	73	82	7	89
TBP05-012	Receptionist	10/10/05	C	0	13	0	10	1	9	1	0	2	32	34	10	44
				6	47	0	25	3	30	2	3	11	105	116	17	133
				42	190	16	68	28	79	9	17	95	354	449	67	516

Compensation Information

Salary and Benefit Expenditures as a Percentage of Operating Expenditures (Cash only)



Employee Placement in Pay Range Quartiles



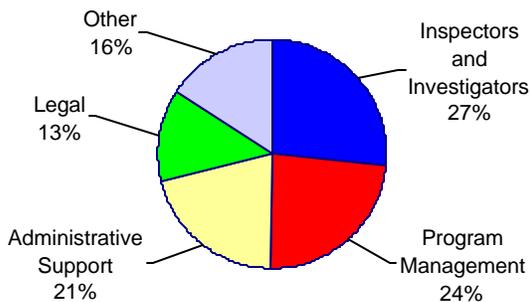
Salary Trends

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Executive Director	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 77,500
Agency Average	\$ 44,000	\$ 45,162	\$ 43,583	\$ 42,428	\$ 43,991
Article Average	\$ 39,550	\$ 40,226	\$ 40,899	\$ 41,165	\$ 43,476
Statewide Average	\$ 32,099	\$ 32,495	\$ 32,681	\$ 32,848	\$ 34,817

Salary Actions

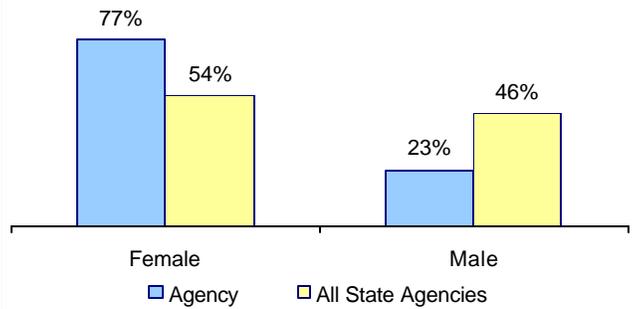
	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Promotions	0	0	5	2	3
Demotions	0	0	0	0	1
Merits	25	0	36	6	0
One-Time Merits	0	12	36	46	46
Reclassifications	6	4	3	3	5

Fiscal Year 2006 Major Job Groups

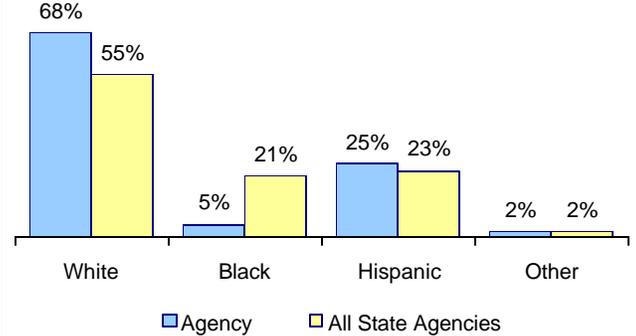


Fiscal Year 2006 Workforce Demographics *

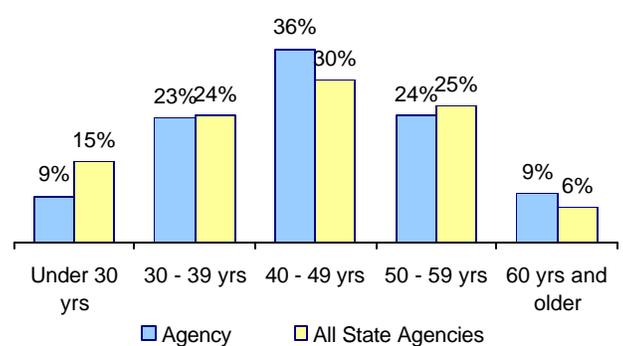
Gender



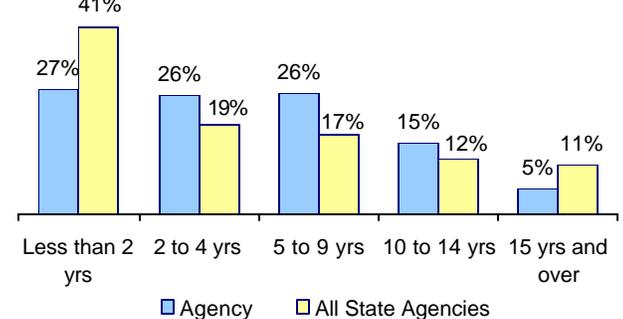
Ethnic Group



Age



Agency Tenure



Percentage in graphs may not always equal exactly 100% due to rounding.

* Workforce demographic information includes classified regular full-time and part-time employees. It may appear skewed for agencies with fewer than 50 employees.

ADMINISTRATIVE SERVICES & LICENSING

8. **To manage the information resource needs (data processing, telecommunication, and Web site) of the agency throughout FY2006.**

Status: ACCOMPLISHED

Comment:

- A. Security and system availability remained a top priority with 14,290 viruses captured (280% increase from previous year), 1,797 potential system attacks blocked, and 241,735 spam and bad mail diverted (660% increase from previous year).
- B. All necessary hardware/software were replaced in accordance with the agency's Life Cycle Schedule.
- C. Imaging import project continued for pharmacists and pharmacy technicians.
- D. Successful conversion of WordPerfect to WORD.
- E. Other conversions and migrations included a desktop anti-spyware upgrade and Outlook 2003 rollout. Successful web projects included the creation of a sex offender database match; Agreed Board Order station for the legal team; and the posting of Hurricane emergency information.
- F. Development of Information Technology budget for FY2008-2009; Strategy Allocation and Information Resources Strategic Plan.

9. **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 FY2006.**

Status: ACCOMPLISHED

Comment:

In cooperation with the Board of Nurse Examiners, the TSBP coordinated the purchase and replacement of the HPC imaging system. An upgrade of the previous system was determined to be cost prohibitive so a new and more cost effective solution was sought, selected, and implemented.

In addition, agency staff destroyed 421 cubic feet of records in accordance with the TSBP records retention schedule, and 68 cubic feet of records were sent to the State Library for storage.

Finally, the agency continues to save valuable square footage by imaging licensing files. The pharmacist imaging project continued with 11,494 pages scanned into the imaging system. The project to image all pharmacy technician files was initiated, with 105,248 pages scanned into the imaging system.

ADMINISTRATIVE SERVICES & LICENSING

10. To provide verbal and written information to Board staff and customers throughout FY2006 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 FY2006.

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 Comptroller; 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	Administration Enforcement

ADMINISTRATIVE SERVICES & LICENSING

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
FY06 Risk Assessment	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor, Sunset Advisory Commission	Administration
Report on Customer Service	Governor's Office	Administration
Strategic Plan	Governor, Legislative Budget Board, Leadership Leadership	All
Legislative Appropriations Request	Governor, Legislative Budget Board, Leadership Leadership	All

B. Other Surveys and Questionnaires:

Report Title	Recipient(s)	Division Reporting
DIR Survey of Internet Training	Department of Information Resources	Administration
Space Utilization Survey	Texas Building & Procurement Commission	Administration
SORM Report	SORM	Administration
Hurricane Katrina/Rita Costs	Office of the Governor	Administration
Fraud Prevention Plan Update	Office of the Governor	All
Texas Online Report	Legislative Budget Board	Administration
Classification Position Audit	Office of State Auditor	Enforcement
Agency Fee/Revenue Survey	Legislative Budget Board	Administration
Classification System Recommended Changes	Office of State Auditor	Administration
Energy Plan	Office of the Governor	Administration
Complaint Data	Senate	Enforcement
Regulatory Agency Testing Survey	House Appropriations committee	Licensing

ADMINISTRATIVE SERVICES & LICENSING

Report Title	Recipient(s)	Division Reporting
Survey on Criminal Background Records	Office of the State Auditor	Enforcement

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

The Administrative Services Division answered approximately 1,500 telephone calls and responded to approximately 4,500 emails to Board customers. See Licensing Services Ongoing Objective #1, Professional Services Ongoing Objectives #9 &10, Legal Services Ongoing Objective #8, and Enforcement Ongoing Objective #6. In addition, the agency reported approximately 24,210 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 pertinent to Division activities throughout FY2006.

Status: ACCOMPLISHED

Comment: Division staff participated in the following activities:

- A. Agency staff led the discussion and resolution of the purchase of the new HPC imaging system (see Ongoing Objective #9).
- B. Accounting staff contributed time and expertise to an HPC agency (Board of Chiropractic Examiners) by performing payroll and cash functions due to a staff vacancy.
- C. Health Professions Council (HPC) Annual Report - Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
- D. The agency continued to participate in several HPC centralized services, such as the Courier Service and Copy Center; Shared Employee Training; Shared Information Resource Technology staff, and use of the imaging system.

ADMINISTRATIVE SERVICES & LICENSING

- 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 FY2006.**

Status: ACCOMPLISHED

Comment: Division staff participated in the following activities:

.Cathy Stella	Participated in the development of the Consolidated Business Application Portal for Pharmacy Licenses
	Participant in Department of Health & Human Services Emergency Response Team
	Participant in meetings relating to additions/modifications to licensing applications relating to Texas Online, FBI Fingerprint System, and new computer systems (VERSA and Montana System)
	Budget Meetings with Management; Executive Committee and Board
	CPR and AED Recertification Training
	Defensive Driving Training
	Auditing the HR Function Workshop
	Occupational Licensing Committee Meetings
	Online Training on TBPC Recycling Program
	Orientation to Governor's Budget Analyst & Legislative Budget Board Analyst
	Employment Law Seminar
Jane Bennett	USAS User Meetings
	Internal Audit Meetings
	Small Agency Task Force Meetings
	Annual Financial Report Training
	Employee Assistance Presentations
	Statewide Property Accounting Users Group Meetings
	Texas Online Meetings
	Employment Law Seminar
	Working Together Effectively (Governor's Center for Management Development)
Robbi Dana	Fiscal Note Training
	Summer Enrollment Insurance Coordinator's Training
	Online EEO Compliance Training
	TX Human Resource Association Meetings
	CPR/AED Recertification Training
	EPay User Meetings
	Working Together Effectively (Governor's Center for Management Development)

ADMINISTRATIVE SERVICES & LICENSING

Darlene Guthrie	IT Commodity Purchasing
	Procurement Manual Update Training
	DIR/JPMorgan Chase Conference
	Brown Bag Training Topic: Taking Procurement Exams Brown Bag Training Topic: Legislative Updates Brown Bag Training Topic: Contract Management Brown Bag Training Topic: Payment Cards (JPMorgan Chase) Brown Bag Training Topic: ComData Fleet Card
	Career Survival in Supply Management
	TCP/TBPC State Use Annual Meeting
	Recycle Coordinator's Meeting
	HUB Expo Training Topic: State Purchasing Methods
	Hobby Building Evacuation Meetings
	IT Commodity Purchasing
	TBPC Space Management Meetings
	Working Together Effectively (Governor's Center for Management Development)
Sandy Morton	Online EEO Training
	Defensive Driving
	USPS User Group Meetings
	Employee Assistance Presentations
	Working Together Effectively (Governor's Center for Management Development)
Mary Helen Oviedo	JP Morgan/Chase Annual Conference
	Online EEO Training
	TINS Online Entry Training
	Defensive Driving Class
	Comptroller Expenditure Object Code Class
	Employee Assistance Presentations
	Working Together Effectively (Governor's Center for Management Development)
Steve Rapp	The Essential Guide to Employment Law
	Online EEO Training
	Continued involvement in Small State Agency Task Force Meetings
	Employee Assistance Presentations
	WORD Training
	Management Staff Meetings
	Business Continuity Planning Course
	TASSCC Scholarship Award to attend the World Conference on Information Technology Human Resources Certification Course
	Working Together Effectively (Governor's Center for Management Development)

ADMINISTRATIVE SERVICES & LICENSING

Todd Hayek	Online EEO Training
	Employee Assistance Presentations
	CD based Windows XP Course
	Working Together Effectively (Governor's Center for Management Development)
Lisa Ake	Informal Conference
	Agency Change Team Member
	State Agency Council Liaison
	Seminar on Fraud
	Presentation to Texas Schools of Pharmacy re: Intern Program and Applicant Process
	Working Together Effectively (Governor's Center for Management Development)
Estella Casarez	Proofreading
	First Class Customer Service
	EAP Presentation on Managing Holiday Stress
	Online EEO Training
	AED Training
	Working Together Effectively (Governor's Center for Management Development)
	Member of ACT (Agency Change Team)
	Life Balance & Stress Solutions
	Public Information Act
Rachel Glass	EAP Orientation to New Services
	EAP Presentation on Managing Holiday Stress
	Online EEO Training
	Defensive Driving Course
	Working Together Effectively (Governor's Center for Management Development)
Diana Martinez-Ruedas	Working Together Effectively (Governor's Center for Management Development)
	Open Records Training (Video)
	Clear Call Web-based Seminar
	Stress Management Seminar
	Informal Conference
	Online EEO Training
	EAP Presentations
Melinda Uballe	Online EEO Training
	Clear Call Web-based Seminar
	EAP Presentations
	Presentations to Texas Schools of Pharmacy re: Intern Program
	Working Together Effectively (Governor's Center for Management Development)

ADMINISTRATIVE SERVICES & LICENSING

Misty Whitcomb	Online EEO Training
	EAP Presentations
	Working Together Effectively (Governor's Center for Management Development)
Carol Willess	Presentations to Texas Schools of Pharmacy re: Intern Program & Applicant Process
	Participant in Department of Health & Human Services Emergency Response Team
	Participant in meetings relating to additions/modifications to licensing applications relating to Texas Online, FBI Fingerprint System, Governor's Business Portal, and new computer systems (VERSA and Montana System)

13. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2006.

Status: NOT ACCOMPLISHED

Comment: Performance data for all 14 division employees was collected and prepared in FY2006; however, all evaluations will be conducted in September 2007 (FY2007). This was due primarily to a three-week medical absence of the Division Director in August 2006.

14. To update the Agency Personnel Handbook and the Division's Policy and Procedure Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2006.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- A. In cooperation with management staff, the Agency Personnel Handbook (Employee Handbook) was revised and distributed to agency employees in August 2006.
- B. Revisions to the Board Member Policies and Procedures were approved in May 2006.
- C. An initial draft of a complete revision of the Licensing Policies and Procedures was completed.
- D. A draft of the TSBP Licensing and Enforcement System Description (VAX computer system) document was developed.
- E. Purchasing policies were updated.

ADMINISTRATIVE SERVICES & LICENSING

15. **To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2006.**

Status: ACCOMPLISHED

Comment: See comments in Ongoing Objectives #8, #9, #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 FY2006.**

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. Licensing of temporary pharmacists as a result of the Hurricane Katrina and Hurricane Rita disasters;
- B. Registration of pharmacy technicians-in-training;
- C. Decreased fees of all registrants and licensees.

In addition, new rider language was recommended for the FY2008-2009 LAR that allows the agency to collect money from awards related to the agency's participation in the seizure of controlled substances or other contraband.

17. **To prepare and submit a report on the accomplishment of Division objectives for incorporation into the agency's *FY2005 Annual Report* to be presented to the Board by its May 2006 Board Meeting.**

Status: ACCOMPLISHED

Comment: The division's first draft of the *FY2005 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 May 2006 Board meeting.

ADMINISTRATIVE SERVICES & LICENSING

Objectives (Ongoing) - Licensing

- 18. To coordinate the collection of licensing data for Key Performance Targets required under the 2006-2007 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2006.**

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 78% of these measures.

PERFORMANCE MEASURES	TARGET FY06	ACCOMPLISHED FY06	Key or Non Key (K-NK)	Expectations
Percent of Licensees with No Recent Violations	99%	96.57%	K	Met
Percent of Licenses Who Renew Online	75%	84.58%	K	Exceeded
Percent of New Individual Licenses Issued Online	75%	80.17%	NK	Exceeded
Individuals Examined (examinations administered)	1,500	1,742	NK	Exceeded
Number of Licenses Renewed (Pharmacists)	11,058	11,657	K	Exceeded
Number of New Licenses Issued to Pharmacists	870	1,091	K	Exceeded
Number of New Registrations Issued to Technicians	6,000	5,420	NK	Not Met
Number of Registrations Renewed (Technicians)	10,500	10,012	NK	Met
Average Licensing Cost Per Individual Pharmacist License Issued	\$10.44	\$11.89	K	Not Met
Average Licensing Cost Per Facility License	\$35.12	\$41.09	K	Not Met

ADMINISTRATIVE SERVICES & LICENSING

PERFORMANCE MEASURES	TARGET FY06	ACCOMPLISHED FY06	Key or Non Key (K-NK)	Expectations
Issued				
Average Cost Per Exam Administered	\$73.76	\$69.75	NK	Exceeded
Average Cost Per Individual Technician Registered	\$5.52	\$8.22	NK	Not Met
% of New Licenses Issued within 10 Days	98%	100%	NK	Exceeded
% Individual Licenses Issued within 7 Days	98%	100%	NK	Exceeded
Total Number of Individuals Licensed (pharmacists)	22,200	23,323	NK	Exceeded
Total Number of Business Facilities Licensed	5,950	6,201	K	Exceeded
Total Number of Individuals Registered (Technicians)	28,000	30,091	NK	Exceeded
Pass Rate (pharmacist applicants)	89%	85.77%	NK	Met

In addition to these statistics, division (Licensing) staff had the following workload statistics:

WORKLOAD	STATISTIC
Changes of Address/Employment/Name	8,485
Telephone Calls Received	25,000
Email Inquires Answered	15,000
Missing Item, Delinquent, Reminder Letters Sent	9,270

ADMINISTRATIVE SERVICES & LICENSING

- 19. 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 FY2006.**

Status: ACCOMPLISHED

Comment: Staff continued to present the NAPLEX and MPJE Orientation to students of Texas Southern University, University of Houston and Texas Tech University, in addition to an Intern Orientation to these same schools.

The following statistics relate to all applicants who were determined eligible and received a score for the NAPLEX and MPJE in FY2006:

JURISPRUDENCE (MPJE)	Total Exams Administered
Candidates Passing	992 (90.02%)
Candidates Failing	110 (9.98%)
TOTAL EXAMS JURISPRUDENCE	1102 (100.0%)

NAPLEX	Total Exams Administered
Candidates Passing	569 (79.25%)
Candidates Failing	149 (20.75%)
TOTAL EXAMS NAPLEX	718 (100.0%)

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

NEW PHARMACISTS LICENSED - FY06	
Graduates of Texas Colleges of Pharmacy	390 (35.75%)
Graduates of Out-of-State Colleges of Pharmacy	617 (56.55%)
Credentialed by the Foreign Pharmacist Equivalency Committee	84 (7.70%)
Total	1,091 (100%)

ADMINISTRATIVE SERVICES & LICENSING

Regarding reciprocity (license transfer) in and out of Texas, 363 candidates were licensed by reciprocity in FY2006, 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 2006, Texas saw the most requests for licensure transfer into the state with 394, and 269 requests to transfer to other states.

20. To provide staff support to the Examination Retake Committee and any other advisory committee related to licensing issues as required in FY2006.

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).

21. 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 FY2006:

- 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

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. In addition to these statistics, as an extension to an existing pharmacy license, the agency currently licenses 1,200 "satellite pharmacies," or Remote Pharmacy Services that use automated pharmacy systems and telepharmacy systems.

The average processing time to issue a license from receipt of a completed application was two working days for a pharmacy renewal and 15 working days for a new pharmacy license. Approximately 16% 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:

ADMINISTRATIVE SERVICES & LICENSING

PHARMACIES ACTIVE FY06	
Class A (Community)	4,326
Class B (Nuclear)	38
Class C (Institutional)	1,007
Class D (Clinic)	429
Class E (Non Resident)	401
TOTAL	6,201

A total of 4,371 change documents were processed as follows:

PHARMACY APPLICATIONS PROCESSED	
Pharmacy Renewals	2,523
Remote Licenses Issued	314
New Opens	373
Change of Ownership	571
Change of Location/Name	153
Closings	280
Changes of Managing Officers	157
TOTAL	4,371

- 22. 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 FY2006.**

Status: ACCOMPLISHED

Comment: The agency renewed 11,657 pharmacist licenses on a biennial basis during FY2006. Approximately 80% 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:

ADMINISTRATIVE SERVICES & LICENSING

PHARMACISTS LICENSED – FY06	
Active Status	22,018
Inactive Status*	1,305 **
TOTALS	23,323

* Not practicing pharmacy in Texas and not reporting continuing education credits.
 ** Of the above number, 348 pharmacists have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as Exempt.®

23. 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 FY2006.

Status: ACCOMPLISHED

Comment: The agency issued 1,091 new pharmacist licenses with an average turnaround time of three 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.

Of particular note, was the implementation of a temporary pharmacist licensure program as a result of Hurricanes Katrina and Rita. A Temporary License Application for a pharmacist with an active license in another state and operating under the sponsorship of a Texas licensed pharmacy was developed and provided online within two days of the Katrina disaster. 95 temporary licenses were issued in this manner.

Other accomplishments included the implementation of the Texas Online Exam/Reciprocity application programs and continued revisions to the agency web site.

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

Status: ACCOMPLISHED

Comment: 822 new intern registrations were issued in FY2006, and all interns were certified within an average of four business days after receipt of all required documents. A total of 1,812 pharmacist preceptors were certified within five days of receipt of required documents.

Of particular note was the successful certification of the student interns who transferred from Louisiana to Texas following the devastation caused by Hurricane Katrina. This process was accelerated with the result that the majority of these student interns were certified within one day of receipt.

ADMINISTRATIVE SERVICES & LICENSING

- 25. 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 FY2006.**

Status: ACCOMPLISHED

Comment: Of the total number of audits initiated (180), 99% of the audits were closed or referred to Enforcement.

- 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 FY2006.**

Status: ACCOMPLISHED

Comment: The agency issued 5,420 new registrations to pharmacy technicians and renewed 10,012 registrations on a biennial basis during FY2006, bringing the total population of active registered technicians for this fiscal year to 30,091. Approximately 90% of pharmacy technicians applied or renewed their registrations online. The average processing time to issue a renewal license from receipt of a completed application was two business days.

- 27. To issue initial certificates to all pharmacy technician trainee candidates within an average of four working days of receipt of the required documents throughout FY2006.**

Status: NOT ACCOMPLISHED

Comment: The process of registering technician trainees was scheduled to begin in FY2007.

FY2006 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished all of the Division's 23 Objectives for FY2006.
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. With the assistance of pharmacist personnel from the Enforcement Division to review, develop, and evaluate questions, the MPJE continues to progress and remain a viable instrument.
3. Division Director gave 10 presentations during FY2006 to over 700 pharmacists, pharmacy students, and pharmacy technicians.
4. Division Director worked closely with Network Specialist Todd Hayek and Information Systems Manager Steve Rapp to keep the TSBP web page updated.
5. Division staff, consisting of two individuals, prepared and mailed or emailed 2,971 pieces of information during FY2006.

PROFESSIONAL SERVICES DIVISION

FY2006 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Senior Administrative Assistant Retta Cole resigned in December 2005 and the position was vacant until March 2006. In addition, Division Director was on leave from February 2006 through May 2006.
2. TSBP experienced a 23% increase in the number of requests for agency records in FY2006, as compared to FY2005.
3. Division Director received and responded to 1,166 emails during FY2006.
4. Two issues of the Newsletter were published on the TSBP web page during FY2006, and one issue was printed. The print issue (Winter – Summer 2006) was mailed only to pharmacies.

PROFESSIONAL SERVICES DIVISION

FY2006 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)

1. **To assist the Executive Director, in cooperation with other Divisions, in updating and preparing the TSBP Strategic Plan for the FY2007-2011 period, and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board, by the due date.**

Status: ACCOMPLISHED

Comment: At its meeting held on November 1-2, 2005, the Board reviewed comments concerning strategic planning by TSBP from persons who had submitted comments. Division Director, in consultation with Board Members Oren Peacock, Jr., R.Ph., and Marcello Laijas, 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 meeting held on February 7-8, 2006. Division Director 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 on May 9-10, 2006. The TSBP *Strategic Plan* was published and delivered to the Governor's office and other applicable agencies by the due date.

2. **To assist the Executive Director, in cooperation with other Divisions, in the preparation of a proposed budget for the FY2008-2009 biennium for review and approval by the Board at the 2006 Board Budget Meeting.**

Status: ACCOMPLISHED

Comment: Division Director assisted the Executive Director and Director of Administrative Services and Licensing in the preparation of the proposed budget for FY2008-2009. The agency's first budget hearing with the staff of the Governor's Office and Legislative Budget Board was held on August 21, 2006.

3. **To assist the Executive Director, in cooperation with other Divisions, in the preparation of the TSBP Legislative Appropriation Request and corresponding performance measures for the FY2008-2009 biennium by the due date.**

Status: ACCOMPLISHED

PROFESSIONAL SERVICES DIVISION

Comment: Division Director assisted the Executive Director and Director of Administrative Services and Licensing in the preparation of the FY2008-2009 Legislative Appropriations Request (LAR) and reviewed the final draft of the document, which was subsequently submitted to the Governor and the Legislative Budget Board (LBB) by the due date.

4. To assist the Executive Director, in cooperation with other Divisions, in implementation of the new program to register and regulate pharmacy technician trainees throughout FY2006.

Status: ACCOMPLISHED

Comment: Division Director participated in discussions with the Executive Director and other Division Directors regarding proposed rules to implement the technician trainee program, which included the following four primary concepts: (1) registration would be online at no charge; (2) no person would be able to perform technician duties after the deadline (February 1, 2007), without first obtaining a registration certificate from TSBP; (3) a two-year time period would be allowed to complete the registration process (and the registration would not be able to be renewed); and (4) applicants for registration would be required to submit fingerprint information (and be responsible for all associated costs). At its meeting held on February 7-8, 2006, the Board voted to approve the proposed rules as drafted by Board staff, including the four concepts described above. On May 9, 2006, the Board held a public hearing on the proposed rules. On May 9-10, 2006, the Board discussed the proposed rules and comments made at the public hearing regarding the proposed rules. On May 10, 2006, the Board voted to adopt the proposed rules with the four concepts described above. The process of registering technician trainees will begin in FY2007.

5. To assist the Executive Director, in cooperation with other Divisions, in reviewing and implementing legislation passed by the 79th Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2006.

Status: ACCOMPLISHED

Comment: Actions taken by the 79th Texas Legislature that had an impact on the Professional Services Division are described below:

- A. Section 566.002 of the Texas Pharmacy Act (regarding Administrative Penalty Schedule) – The Act was amended to require the Board to publish rules setting forth the types of violations that would be subject to an administrative penalty (fine) and the amount (or range) of the penalty. Division Director worked with General Counsel and Director of Enforcement to incorporate a proposed matrix reflecting amounts of penalties imposed for violations into rule language. The proposed rule was presented to the Board at its meeting held on November 1-2, 2005. The Board voted to propose the rule, and it was subsequently published in the *Texas Register* on December 9, 2005. At its meeting held on February 7-8, 2006, the Board voted to adopt the proposed rule regarding the administrative penalty schedule. This rule became effective on March 6, 2006.

PROFESSIONAL SERVICES DIVISION

- B. S.B. 492 (regarding the compounding of prescription drugs for “office use” by a practitioner) – This bill broadened the authority of a pharmacy to compound prescription drugs not pursuant to a prescription. This bill also gave TSBP the authority to sample components used in compounding. The Board established a Task Force on Pharmacy Compounding to review the current federal and state requirements for pharmacy compounding, to review SB 492 with regard to pharmacy compounding and to make recommendations to the Board regarding standards for pharmacy compounding in Texas. The task force met two times during FY2006 and will make recommendations to the Board during FY2007.

- C. Other Bills – Division Director educated Board customers, through telephone and email inquiries and presentations (see Ongoing Objective #10, regarding open records requests) other changes made by the 79th Texas Legislature, such as:
 - ‡ the new law which requires pharmacy personnel to ask the patient to choose between the generic and the brand prescribed;
 - ‡ the new law pertaining to faxed Schedule II prescriptions for Hospice and Nursing Home patients; and
 - ‡ the new law which established requirements for the sale of certain ephedrine and pseudoephedrine drug products.

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

Status: ACCOMPLISHED

Comment: On August 10, 2006, the Governor announced the appointment of two new Board Members (Jeanne Waggener, R.Ph., community pharmacist from Bellmead, Texas, and Alice Mendoza, R.Ph., hospital pharmacist from Kingsville, Texas) and the reappointment of Rosemary Combs, public member from El Paso, Texas. After immediate consultation with the new Board Members and their approval, the Executive Director scheduled dates for the orientation (September 26-27, 2006). Although the orientation will occur within 60 days of the Governor’s appointments, the orientation process will not be completed until FY2007.

7. To assist the Executive Director in the planning of the agency’s centennial celebration, which will be held in FY2007.

Status: ACCOMPLISHED

Comment: During FY2006, a Centennial Committee was formed to plan activities and events to occur during FY2007. Division Director staffed the Centennial Committee, which is comprised of representatives from Texas pharmacy organizations, the colleges of pharmacy, and agency staff. The committee recommended a new logo for the agency to use during FY2007. In addition, the committee suggested having displays at the Capitol and other events, such as

PROFESSIONAL SERVICES DIVISION

pharmacy meetings. The agency will also have a display in the Hobby Building lobby throughout FY2007.

Objectives (Ongoing)

- To assist the Board, throughout FY2006, 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 2005, the Division Director requested records from each of the four Texas colleges of pharmacy. Records were received and reviewed by the Director of Professional Services. The results of the review of the internship records for the four Texas colleges of pharmacy were presented to the Board at its February 2006 meeting.

In addition, a "Questionnaire on Texas Colleges of Pharmacy Internship Programs" was sent to the four Texas colleges of pharmacy. Responses were reviewed by the Director of Professional Services and presented to the Board on February 2006, resulting in approval of the internship programs for the 2006-2007 academic year.

- 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:

Date	Activity	Personnel
1/18-22/06	MPJE Texas Item Pool Review and National Item Pool Review, San Diego, CA	Allison Benz, Kerstin Arnold
5/18-21/06	MPJE Texas Item Writing Workshop, Chicago, IL	Allison Benz

- To publish an Internet version of the Newsletter during FY2006, 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: Two issues of the *TSBP Newsletter*, Fall 2005 and Winter – Summer 2006, were published on the TSBP web page during FY2006. The Winter – Summer 2006 issue was printed and mailed only to pharmacies.

PROFESSIONAL SERVICES DIVISION

The Newsletter Planning Committee, consisting of members from each of the agency's divisions, met prior to publication of each issue to provide input on the articles included in the *Newsletter*. Throughout FY2006, an email subscription to the Newsletter was available on the TSBP website. Subscribers provided an email address and were notified when a Newsletter was available on the web.

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 22 rules and assisted others in drafting of 29 additional rules as follows:

RULES
Drafted:
New §291.13 regarding Emergency Remote Pharmacy
New §295.6 regarding Emergency Temporary License
Amendments to §283.6 regarding Ratio of Pharmacist to Interns
Amendments to §295.9 regarding Reactivation of an Inactive Pharmacist License
Amendments to §§283.2, 283.4, 283.6 regarding Health Care Professionals Other Than a Pharmacist Serving as a Preceptor
Amendments to §283.8 regarding Reciprocity Requirements
Amendments to §291.21 regarding Information on a Pharmacy Web Page
Amendments to §291.33 Labeling of a Prescription for Patients in Nursing Homes
Amendments to Chapter 297 regarding Registration of Pharmacy Technician Trainees
Amendments to §§305.1, 305.2 regarding Pharmacy Education Requirements and Pharmacy Technician Training Programs
Amendments to §291.93 regarding Antipsychotic Drugs in Class D Pharmacies
Amendments to §283.8 regarding Reciprocity Requirements
Amendments to §§291.34, 291.55, 291.75, 291.76, 291.105 regarding Requirements for Pharmacies to Produce Records for Pharmacy Board Investigators
Amendments to §297.3 prohibiting Pharmacy Technicians from Returning to Pharmacy Technician Trainee Status
Amendments to §311.1 regarding Complaints Against a Board Employee
Assisted the Legal Division in drafting:
Amendments to §281.9 regarding Administrative Penalty Schedule
New §281.9 regarding Grounds for Discipline for a Pharmacy Technician or Pharmacy Technician Trainee
New §§281.60, 281.61, 281.62, 281.63, 281.64, 281.65 regarding Disciplinary Guidelines
New §§281.71, 281.72, 281.73, 281.74, 281.75, 281.76 regarding Rulemaking
New §291.28 regarding Patient Access to Pharmacy Records
Assisted the Licensing Division in drafting:
Amendments to §283.7 regarding Licensure Exams in Compliance with the American with Disabilities Act
Amendments to §§291.6, 291.14 regarding Delinquent Penalties and Additional Requirements for Class E Pharmacy

PROFESSIONAL SERVICES DIVISION

RULES
Amendments to §§283.10, 295.5, 295.7 regarding Delinquent Penalties for Pharmacists
Amendments to §291.104 regarding Qualifications for Class E Pharmacy License
Amendments to §283.8 regarding Refunds of Examination Fees
Amendments to §§283.4, 283.7, 291.1 regarding applications for Pharmacy, Pharmacist, and Intern
Amendments to §291.6 regarding Pharmacy Licensing Fees
Amendments to §295.5 regarding Pharmacist Licensing Fees
Amendments to §297.4 regarding Pharmacy Technician Registration Fees

- 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 FY2006.**

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.

Law Reference Updates

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

- | December 1, 2005
- | April 6, 2006
- | June 22, 2006

NABPLAW Updates

Updates to NABPLAW were submitted as requested to the National Association of Boards of Pharmacy on the following dates during FY2006:

- | September 15, 2005
- | January 31, 2006
- | April 21, 2006

NABP Survey of Pharmacy Law Updates

The NABP publication, Survey of Pharmacy Law, is updated annually. During FY2006, 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

PROFESSIONAL SERVICES DIVISION

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

RULE SUBMISSIONS TO THE *TEXAS REGISTER*

During FY2006, 85 submissions to the *Texas Register* were made that proposed, adopted, reviewed, repealed, or withdrew Texas Pharmacy rules. This represents a 131% increase in the number of submissions as compared to FY2005 (there were 39 submissions during FY2005). 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:

Rules	Type of Action	Published in TxReg as Proposed	Memo to Staff and Others	Published in TxReg as Adopted	Memo to Staff and Others
§281.80	Amendments	FY2005	FY2005	9/2/2005	FY2005
§291.26	Amendments	FY2005	FY2005	9/2/2005	FY2005
§297.3	Amendments	FY2005	FY2005	9/2/2005	FY2005
§291.73	Amendments	FY2005	FY2005	9/2/2005	FY2005
§291.74	Amendments	FY2005	FY2005	9/2/2005	FY2005
§283.6	Emergency – Adopt Amendments			10/7/2005	
§295.9	Emergency – Adopt Amendment			10/7/2005	
§295.6	Emergency – Adopt New			10/7/2005	
§291.13	Emergency – Adopt New			10/7/2005	
§281.22	Amendments	9/2/2005	FY2005	11/25/2005	12/1/2005
§291.57	Amendments	9/2/2005	FY2005	11/25/2005	12/1/2005
§291.37	Amendments	9/2/2005	FY2005	11/25/2005	12/1/2005
§309.4	Amendments	9/2/2005	FY2005	11/25/2005	12/1/2005
§283.6	Amendments	12/9/2005	12/1/2005*	3/3/2006	4/6/2006
§291.13	New	12/9/2005	12/1/2005*	3/3/2006	4/6/2006
§295.6	New	12/9/2005	12/1/2005*	3/3/2006	4/6/2006
§295.9	Amendments	12/9/2005	12/1/2005*	3/3/2006	4/6/2006
§281.9	Amendments	12/9/2005	12/1/2005*	3/3/2006	4/6/2006
§283.7	Amendments	12/9/2005	12/1/2005*	3/3/2006	4/6/2006
§283.10	Amendments	12/9/2005	12/1/2005*	3/3/2006	4/6/2006
§295.5	Amendments	12/9/2005	12/1/2005*	3/3/2006	4/6/2006
§295.7	Amendments	12/9/2005	12/1/2005*	3/3/2006	4/6/2006
§291.6	Amendments	12/9/2005	12/1/2005*	3/3/2006	4/6/2006
§291.14	Amendments	12/9/2005	12/1/2005*	3/3/2006	4/6/2006
§291.104	Amendments	12/9/2005	12/1/2005*	3/3/2006	4/6/2006
Chapter 291 Rule Review	Published	12/9/2005	12/1/2005*	2/24/2006	4/6/2006
Chapter 305 Rule Review	Published	12/9/2005	12/1/2005*	2/24/2006	4/6/2006
Chapter 309 Rule Review	Published	12/9/2005	12/1/2005*	2/24/2006	4/6/2006
§§283.2, 283.4, 283.6	Amendments	3/31/2006	4/6/2006	6/3/2006	
§283.8	Amendments	3/31/2006	4/6/2006	6/3/2006	6/11/2006
§283.9	Amendments	3/31/2006	4/6/2006	6/3/2006	6/11/2006
§291.33	Amendments	3/31/2006	4/6/2006	6/3/2006	6/11/2006
Chapter 297	Amendments	3/31/2006	4/6/2006	6/3/2006	6/11/2006

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
§§305.1, 305.2	Amendments	3/31/2006	4/6/2006	6/3/2006	6/11/2006
§281.9	Repeal and New	3/31/2006	4/6/2006	8/25/2006	FY2007
§§281.60, 281.61, 281.62, 281.63, 281.64, 281.65	New	3/31/2006	4/6/2006	8/25/2006	FY2007
§§281.71, 281.72, 281.73, 281.74, 281.75, 281.75	Repeal and New	3/31/2006	4/6/2006	8/25/2006	FY2007
§§281.20, 281.57, 281.80	Repeal	3/31/2006	4/6/2006	8/25/2006	FY2007
§291.28	New	6/23/2006	6/23/2006	8/25/2006	FY2007
§291.93	Amendments	6/23/2006	6/23/2006	Withdrawn	
§291.1	Amendments	6/23/2006	6/23/2006	FY2007	FY2007
§283.4	Amendments	6/23/2006	6/23/2006	8/25/2006	FY2007
§283.7	Amendments	6/23/2006	6/23/2006	8/25/2006	FY2007
§291.6	Amendments	6/23/2006	6/23/2006	8/25/2006	FY2007
§295.5	Amendments	6/23/2006	6/23/2006	8/25/2006	FY2007
§297.4	Amendments	6/23/2006	6/23/2006	8/25/2006	FY2007
Chapter 281 Rule Review	Published	6/23/2006	6/23/2006	8/25/2006	FY2007
Chapter 311 Rule Review	Published	6/23/2006	6/23/2006	8/25/2006	FY2007

* Advanced Notice

OPEN MEETING SUBMISSIONS TO THE TEXAS REGISTER

During FY2006, 12 notices of open meetings were submitted by the Division to the *Texas Register* for publication as follows:

Type of Submission	Date Published
Open Meeting 9/7/2005 – Election of Officers	9/23/2005
Open Meeting 9/16/2005 – Emergency Board Business Meeting	9/16/2005
Open Meeting 10/11/2005 – Task Force Meeting	10/4/2005
Open Meeting 11/1/2005 – Board Business Meeting	10/24/2005
Open Meeting 11/14/2005 – Disciplinary Panel Hearing	11/4/2005
Open Meeting 2/7/2006 – Board Business Meeting	1/25/2006
Open Meeting 4/25/2006 – Disciplinary Panel Hearing	4/17/2006
Open Meeting 5/9/2006 – Public Hearing	4/25/2006
Open Meeting 5/9/2006 – Board Business Meeting	4/25/2006
Open Meeting 5/8/2006 – Disciplinary Panel Hearing	4/26/2006
Open Meeting 7/21/2006 – Board Forum	7/7/2006
Open Meeting 8/1/2006 – Board Business Meeting	7/18/2006

PROFESSIONAL SERVICES DIVISION

7. To provide professional staff support to Board-appointed task forces and complete other special projects as assigned throughout FY2006.

Status: ACCOMPLISHED

Comment: 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
10/17/05	Proposed Rules from the Texas Building and Procurement Commission	Reported to Director of Administrative Services & Licensing
11/28/05	Adopted Rules from the Texas State Library and Archives Commission	Reported to Director of Administrative Services & Licensing
11/30/05	Proposed Rules from the Texas Building and Procurement Commission	Reported to Director of Administrative Services & Licensing
11/30/05	Proposed Rules from the Employees Retirement System of Texas	Reported to Director of Administrative Services & Licensing
11/30/05	Proposed and Adopted Rules from the Department of Information Resources	Reported to Director of Administrative Services & Licensing; Information Systems Manager
11/30/05	Adopted Rules from the State Office of Administrative Hearings	Reported to General Counsel
2/1/06	Adopted Rules from the Department of Information Resources	Reported to Director of Administrative Services & Licensing; Information Systems Manager
2/1/06	Adopted Rules from the Texas Building and Procurement Commission and the Employees Retirement System	Reported to Director of Administrative Services
3/7/06	Proposed Rules from the Texas Department of State Health Services	Reported to Board Members and Staff

8. To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2006.

Status: ACCOMPLISHED

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

- A. Division Director assisted the Texas Department of Public Safety in the review and approval of plans from six Texas pharmacies to dispense prescriptions for Schedule II controlled substances issued by out-of-state practitioners.

PROFESSIONAL SERVICES DIVISION

- 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 had contact with numerous agencies as indicated below:

AGENCY
Texas Department of State Health Services, Center for Health Statistics
Texas Department of State Health Services, Drugs and Medical Devices Division
Texas Vendor Drug Program
Texas Department of Public Safety, Official Prescription Program
Texas Department of Aging and Disabilities
Texas Sunset Advisory Commission
U.S. Food and Drug Administration
Internal Revenue Service

State Boards of Pharmacy
Arkansas Board of Pharmacy
Iowa Board of Pharmacy
Kansas Board of Pharmacy
Wyoming Board of Pharmacy

9. To respond to open records requests throughout FY2006, 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 23% increase in the number of requests for records in FY2006, as compared to FY2005. On average, inquiries in FY2006 asked for more information (greater number of licensees per request) as compared to FY2005 (22% increase in the number of licensees who were the subjects of inquiry).

OPEN RECORDS REQUESTS C FY02 through FY06

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
FY02	82	82	385	2,121	467	2,203	39	184	+17%	-42%
FY03	108	108	452	1,569	560	1,677	47	140	+20%	-24%
FY04	116	116	412	599	528	715	44	60	-6%	-57%
FY05	114	114	606	1,010	720	1,124	60	94	+36%	+57%
FY06	154	154	730	1,230	884	1,384	74	115	+23%	+22%

PROFESSIONAL SERVICES DIVISION

- 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 FY2006.**

Status: ACCOMPLISHED

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

- A. The Division sent out 1,805 pieces of written information as indicated in the following chart:

Written Information	
Packets of Information	4
Memos Regarding Rules & Open Meetings	845
Letters	32
Emails	2,084
Surveys	6
TOTAL	2,971
AVERAGE PER MONTH	248

- B. The Division Director gave 10 presentations as indicated in the following charts:

Date	Group	Attendance (Approx.)
9/17/05	West Texas Pharmacy Association, Lubbock	90
9/21/05	McNeill High School Health Careers Class, Round Rock	20
9/24/05	North Texas Education Fair, Frisco	150
10/5/05	Texas Patient Safety Alliance, Austin	20
10/6/05	University of Texas 1 st Semester Pharmacy Students, Austin	125
10/7/05	Texas Federation of Drug Stores, Austin	30
10/10/05	University of Texas Law Class, Austin	120
11/12/05	Central Texas Education Fair, Austin	80
6/14/06	Walgreen's Summer Pharmacy Interns, Austin	25
7/12/06	National Institute of Technology Pharmacy Technician Program, Austin	40
TOTAL		700

PROFESSIONAL SERVICES DIVISION

C. The Division Director provided information to Board staff as follows:

Date	Training	Personnel
9/30/05	Orientation to Professional Services Division	Suzanne Fry, Pharmacist-Intern; Ann Driscoll
11/9/05	Orientation to Professional Services Division	Greg Gibson, Pharmacist-Intern; Allen Corporon
12/1/05	Rules from November 2005 Board Meeting	Enforcement Staff
1/23/06	Orientation to Professional Services Division	Amy Primmer, Pharmacist-Intern; Kelly Clark; Robert Rivera; Mitra Woody
2/22/06	Rules from February 2006 Board Meeting	Enforcement Staff
2/23/06	Orientation to Professional Services Division	Russell Abellera, Pharmacist- Intern
4/6/06	Orientation to Professional Services Division	Codi Triesch, Pharmacist-Intern
5/24/06	Rules from May Board meeting	Enforcement Staff
6/15/06	Orientation to Professional Services Division	Kasey Brizendine, Pharmacist- Intern
6/27/06	Orientation to Professional Services Division	Michelle Fontana
7/10/06	Orientation to Professional Services Division	Joseph Jessup, Pharmacist-Intern
8/4/06	Orientation to Professional Services Division	Aaron Hendrickson, LBB Analyst
8/16/06	Orientation to Professional Services Division	Sharanya Rao
8/17/06	Orientation to Professional Services Division	April Aguierre, Pharmacist-Intern; Chau Hong, Pharmacist-Intern
8/22/06	Rules from August 2006 Board Meeting	Enforcement Staff

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 assisted the Enforcement Division in answering calls routed to the Compliance Hotline.
- ‡ The Division Director monitored the web site for currentness of the information presented. Changes and/or updates were forwarded to Network Specialist Todd Hayek.
- ‡ The Division Director served on the agency Wellness Committee.

PROFESSIONAL SERVICES DIVISION

- 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 FY2006.**

Status: ACCOMPLISHED

Comment: In FY2006, Division staff attended general staff meetings held on the following dates:

- ⋮ December 2, 2005
- ⋮ February 22, 2006
- ⋮ May 23, 2006
- ⋮ August 22, 2006

Division staff completed the following education activities:

Retta Cole	
10/20/05	Texas Conference for Women
10/25/05	Orientation – EAP Presentation
12/30/05	Resigned

Sherry Stevenson	
02/23/06	Behavioral Course in Traffic Safety Education
04/28/06	InDesign CS – Level 1
08/02/06	Public Information Act Training – Attorney General
08/23/06	Working Together Effectively – Staying Cool – Governor’s Center for Management Development

Allison Benz	
11/21/05	Coping with Holiday Stress; EAP presentation
12/12 – 14/05	Open Government Conference
12/14/05	EEO Training (online training)
5/25/06	Essential Guide to Employment Law
6/29/06	USP 797 Webinar
7/25/06	Public Information Coordinator’s Luncheon – “Open Records Complaints and Cost Rules”

- 12. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2006.**

Status: ACCOMPLISHED

Comment: Division staff had the opportunity to participate in the Survey of Organizational Excellence, as well as in activities culminating in the Agency Change Team report. Senior Administrative Assistant Retta Cole resigned effective December 31, 2006. Following the resignation of Ms. Cole, Enforcement Division Specialist Sherry Stevenson transferred to the Division to fill the vacant Senior Administrative Assistant position. The annual review for Senior Administrative Assistant Sherry Stevenson occurred on August 30, 2006.

PROFESSIONAL SERVICES DIVISION

13. **To destroy records in accordance with the agency's record retention plan throughout FY2006; to update the Division's Policy and Procedure Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2006.**

Status: ACCOMPLISHED

Comment: During FY2006, the Division accomplished this goal as follows:

A. Records Management

Records in the possession of the Division scheduled for destruction during FY2006 under the approved Record Retention Schedule were identified and destroyed.

B. Policies and Procedures

The policies and procedures for handling Open Records requests and Open Meetings were reviewed during FY2006.

14. **To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2006.**

Status: ACCOMPLISHED

Comment: Division Director made numerous recommendations to keep the TSBP website current and easier to use. Recommendations included adding a link to the agency's Rule Review Plan; reformatting information on the laws and rules page; and allowing pharmacist-interns to update their addresses electronically via the website. Division Director also recommended that the pharmacist-interns be included with other licensees and registrants in the quarterly background checks.

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 FY2006.**

Status: ACCOMPLISHED

Comment: Division Director recommended that the Pharmacy Act be amended to include pharmacies in other states applying for a Class E (Non-resident) pharmacy permit that are only involved in the processing of prescription information.

16. **To prepare and submit a report on the accomplishment of Division objectives for incorporation in the agency's FY2005 Annual Report to be presented to the Board at its May 2006 Board Meeting.**

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2005 *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 May 2006.

FY2006 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 100% of the Division’s 20 Objectives for FY2006.
2. As reflected in the chart below, TSBP closed more complaints in FY2006 than in any prior fiscal year (see Ongoing Objective #3 for further information regarding complaints that were closed by TSBP in FY2006).

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY02	1836		2137		116%	221 Days	
FY03	1935	+5%	1887	-12%	98%	153 Days	-31%
FY04	4475	+131%	3018	+60%	67%	118 Days	-23%
FY05	3086	-31%	3327	+10%	108%	196 Days	+66%
FY06	3550	+15%	3387	+2%	95%	207 Days	+6%

3. In line with the agency’s “lead agency” philosophy, TSBP investigators made an extremely large number of contacts with other law enforcement agencies (see Ongoing Objective #4). Of significant note were two *grey market* cases (one in San Antonio and one in the Metroplex area) in which Division staff worked with multiple federal agencies; the San Antonio case involved one pharmacy and two pharmacists, and resulted in the indictment of eight persons, while the Metroplex case involved 18 pharmacies and one pharmacist and resulted in the indictment of 15 persons. In addition, Division Director testified in two federal trials in Houston; these cases resulted in felony convictions of eight pharmacists (seven convictions involved non-therapeutic dispensing of controlled substances and one conviction involved counterfeit drugs).
4. Field Compliance staff conducted 2,165 pharmacy inspections, thereby exceeding the inspection goal for FY2006 (see Ongoing Objective #2 for further details about compliance inspections). This number of inspections included 78 pre-inspections of new pharmacies, a process to ensure that TSBP is issuing licenses to valid facilities.
5. Division staff spent significant time and effort responding/handling approximately 10,000 telephone calls received via the Compliance Queue Phone Line (see Ongoing Objective #6 for further details). Such calls included calls from persons inquiring about new laws passed by the 79th Texas Legislature (see New Objective #4 for further details). In addition, Division staff made 19 presentations to over 1,300 individuals during FY2006 (see Ongoing Objective #6 for further details).
6. Division Director and Chief of Compliance served as preceptors to ten students from three Colleges of Pharmacy (see Ongoing Objective #7 for further details).
7. Division Director assisted Executive Director, in cooperation with other Division Directors, in the preparation of the *Strategic Plan* for FY2007-FY2011, Legislative Appropriations Request for FY2008-2009, implementation of the new laws passed by the 79th Texas Legislature, and implementation of the new program to register Technician Trainees (see New Objectives #1 - #4 for further details). In addition, Division staff spent significant time and effort assisting all divisions (see Ongoing Objective #6).

ENFORCEMENT DIVISION

8. The Division experienced several significant personnel changes during FY2006 (two new positions funded by 79th Texas Legislature, three internal promotions, four new hires, and two losses), as described below:
 - A. In November 2005, Administrative Assistant Becky Damon was promoted to Program Specialist, a new position created to monitor technicians who were placed on probation as a result of a disciplinary order;
 - B. In December 2005, Senior Investigator Robert Ebrom was promoted to Deputy Chief of Investigations;
 - C. In December 2005, Kelly Clark was hired to fill the position vacated by Ms. Damon [see A above];
 - D. In January 2006, Robert Rivera was hired to fill a new position funded by the 79th Texas Legislature (to conduct criminal background checks for technician trainees);
 - E. In February 2006, the Division experienced a significant loss when Enforcement Division Specialist Sherry Stevenson transferred to TSBP's Professional Services Division; her position was subsequently reclassified to an Assistant Director position;
 - F. In May 2006, Paul Holder, R.Ph., Pharm.D., Compliance Officer for the Dallas Region, was promoted to Assistant Director of Enforcement;
 - G. In May 2006, Susan Furnas resigned her position as Compliance Inspector for the West Texas Region;
 - H. In August 2006, Karen Guenther, C.Ph.T. was hired to fill the position vacated by Dr. Holder [see F above]; and
 - I. In August 2006, Sharon Dimmick, C.Ph.T., was selected to fill the position vacated by Ms. Furnas [see G above], with employment to begin in FY2007.
9. During FY2006, Division staff successfully responded to a Classification Audit of Inspector and Investigator positions (17 staff) that was conducted by the State Auditor. In addition, during FY2006, Division Director updated 16 job descriptions (see Ongoing Objective #11 for further details).
10. During FY2006, TSBP received over 350 reports of the theft/loss of controlled substances which included 220 reports of employee pilferage. Division staff contacted each pharmacy that filed a report of employee pilferage and determined that 472,944 dosage units of controlled substances were allegedly pilfered by 222 individuals. Although there were a large number of dosage units reported missing in FY2006, there was a dramatic 42% decrease when compared to the 821,393 dosage units of controlled substances that were reported missing in FY2005 (see Ongoing Objective #3 for further details).

ENFORCEMENT DIVISION

FY2006 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Although TSBP closed/resolved more complaints in FY2006 than in any prior fiscal year, TSBP's average complaint resolution time increased from 196 days in FY2005 to 207 days in FY2006. This increase was primarily due to the aging of complaints that occurred in FY2004-2005 when TSBP was required to focus most of its investigative efforts on criminal background investigations of applicants for a pharmacy technician registration.
2. The pharmacy technician registration program continued to have a huge impact on the Enforcement Division. The primary reason for the increase in the number of complaints received by TSBP in FY2006 was due to complaints opened on registered technicians, following a quarterly criminal background check (i.e., TSBP opened approximately 1,000 complaints on technicians who were arrested for a criminal offense after becoming registered).
3. Because TSBP was underfunded for the technician registration program, TSBP was unable to employ sufficient staff to handle the workload relating to the investigation of complaints involving pharmacy technicians. As a result, the backlog of pending complaints has continued to increase.
4. TSBP met or exceeded, within a 5% variance, only four of its six Key Performance Measures, and six of seven Non-Key Performance Measures, as set forth in the FY2006-2007 Appropriations Act. Accordingly, TSBP met or exceeded only 77% of the FY2006 projections for 13 enforcement-related performance measures (see Ongoing Objective #1 for further details).
5. The most common type of consumer complaint was a complaint in which the complainant alleged that a dispensing error was committed by a pharmacist and/or pharmacy (see Ongoing Objective #3 for a trend analysis indicating the number of dispensing error complaints closed during the past five years).
6. Division staff continued to spend significant time and efforts monitoring compliance with the terms of disciplinary orders that were entered by TSBP in FY2006. Almost all of the disciplinary orders entered in FY2006 required some type of monitoring. Specifically, 457 Orders or 96% of the 475 disciplinary orders entered in FY2006 required some type of monitoring (see Ongoing Objective #5).
7. Several bills passed by the 79th Texas Legislature had a negative impact on the Enforcement Division, including:
 - S.B. 492 – The Texas Pharmacy Act was amended to broaden the authority of a pharmacy to compound prescription drugs not pursuant to a prescription and to sample components in compounding. The expanded compounded practice re-emphasizes the need for an adequate number of well-qualified and well-trained Compliance field staff. Although TSBP attached a fiscal note to this bill, no funding was granted for additional FTEs or sampling of drug products.
 - Sunset Bill – The Texas Pharmacy Act was amended to expand the grounds for discipline for licensees/registrants, which significantly increased the Division's workload. However, no additional FTEs were funded to handle the increased workload.

ENFORCEMENT DIVISION

8. During FY2006, TSBP Compliance Field Staff issued Warning Notices for more than 1,000 violations, which represented a 119% increase over FY2005 (see Ongoing Objective #2 regarding Compliance Inspections conducted in FY2006). The most common violations (“Top 5”) included the following:
- 18% of total Incomplete or No Documentation of Technician Training (27% decrease when compared to FY2005 data)
 - 16% of total Delinquent Licenses or Licenses Not Posted (33% increase over FY2005 data)
 - 10% of total Incomplete or No Inventory (e.g., Annual; Change of PIC) (29% increase over FY2005 data)
 - 10% of total Equipment Inspection Past Due or Failed Inspection (10% decrease when compared to FY2005 data)
 - 8% of total Inadequate Area to Prepare Sterile Pharmaceuticals (8%) (285% increase over FY2005 data)

ENFORCEMENT DIVISION
FY2006 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 updating and preparing the *TSBP Strategic Plan* for the FY2007 – FY2011 period, and submitting the plan to the Governor’s Office of Budget and Planning and the Legislative Budget Office, by the due date.**

Status: ACCOMPLISHED

Comment: At its meeting held on November 1-2, 2005, the Board reviewed comments concerning strategic planning by TSBP from persons who had submitted comments. Division Director, in consultation with Board Members Doyle High, R.Ph., Ben Fry, R.Ph., and Rosemary Combs, prepared the first draft of Policy Issue #3 relating to “Pharmacy Personnel and Working Conditions.” The Board approved the draft of Policy Issue #3 at its meeting held on February 7-8, 2006. Division Director 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 on May 9-10, 2006. The *TSBP Strategic Plan* was published and delivered to the Governor’s office and other applicable agencies by the due date.

- 2. To assist the Executive Director, in cooperation with other Divisions, in the preparation of the agency’s *Legislative Appropriation Request* and corresponding performance measures for FY2008 – FY2009.**

Status: ACCOMPLISHED

Comment: Division Director assisted the Executive Director and Director of Administrative Services and Licensing in the preparation of the FY2008-2009 Legislative Appropriations Request (LAR) through the following activities: attended a budget meeting with the TSBP Executive Committee on March 29, 2005; prepared projections for Legislative Budget Board (LBB) performance measures relating to enforcement at three different levels of funding; and reviewed/edited the final draft of the document, which was subsequently submitted to the Governor and the LBB by the due date. The agency’s first budget hearing with the staff of the Governor’s Office and the LBB was held on August 21, 2006.

ENFORCEMENT DIVISION

3. **To assist the Executive Director, in cooperation with other Divisions, in the implementation of the new program to register and regulate pharmacy technician trainees throughout FY2006.**

Status: ACCOMPLISHED

Comment: Division Director participated in discussions with the Executive Director and other Division Directors regarding proposed rules to implement the technician trainee program, which included the following four primary concepts: (1) registration would be online at no charge; (2) no person would be able to perform technician duties after the deadline (February 1, 2007), without first obtaining a registration certificate from TSBP; (3) a two-year time period would be allowed to complete the registration process (and the registration would not be able to be renewed); and (4) applicants for registration would be required to submit fingerprint information (and be responsible for all associated costs). At its meeting held on February 7-8, 2006, the Board voted to approve the proposed rules as drafted by Board staff, including the four concepts described above. On May 9, 2006, the Board held a public hearing on the proposed rules. On May 9-10, 2006, the Board discussed the proposed rules and comments made at the public hearing regarding the proposed rules. On May 10, 2006, the Board voted to adopt the proposed rules with the four concepts described above. Division Director also participated in discussions regarding the computer programming changes that were needed to implement the technician trainee registration program. The process of registering technician trainees will begin in FY2007.

4. **To assist the Executive Director, in cooperation with other Divisions, in reviewing and implementing legislation passed by the 79th Texas Legislature which affects agency operations and/or the practice of pharmacy throughout FY2006.**

Status: ACCOMPLISHED

Comment: Actions taken by the 79th Texas Legislature that had an impact on the Enforcement Division are described below:

- A. Section 555.007 of the Texas Pharmacy Act (regarding complaints) – The Act was amended to clarify that appropriate employees of the Board may dismiss a complaint if an investigation shows that no violation occurred or the subject of the complaint is outside the Board’s jurisdiction. The Act requires the Executive Director to notify the Board regarding “dismissed complaints” at a public meeting of the Board. Board staff defines the term “dismissed complaints” as the complaints that are closed with an action other than a disciplinary order. As a result of these amendments, Division Director, on behalf of Executive Director, presented a chart at each of the four Board meetings held in FY2006, which reflected the number of complaints that had been closed as a result of an action other than a disciplinary order, and how these complaints were closed.
- B. Section 566.002 of the Texas Pharmacy Act (regarding Administrative Penalty Schedule) – The Act was amended to require the Board to publish rules setting forth the types of violations that would be subject to an administrative penalty (fine) and the amount (or range) of the penalty. Division Director worked with General Counsel to develop a proposed matrix to ensure that the amounts of penalties imposed were appropriate

ENFORCEMENT DIVISION

to the violation. The proposed matrix, in the form of a proposed rule, was presented to the Board at its meeting held on November 1-2, 2005. The Board voted to propose the rule, and it was subsequently published in the *Texas Register* on December 9, 2005. At its meeting held on February 7-8, 2006, the Board voted to adopt the proposed rule regarding the administrative penalty schedule. This rule became effective on March 6, 2006.

- C. Sections 565.001, 565.002, and 568.003 of the Texas Pharmacy Act (regarding grounds for discipline for pharmacists, pharmacies, and pharmacy technicians) – The Act was amended to add additional grounds for discipline, including the ground of a deferred adjudication for misdemeanor offenses. These changes have resulted in more cases being referred to the Legal Division, which has increased the workload on both the Enforcement and Legal Divisions.
- D. Section 568.0035 of the Texas Pharmacy Act (regarding discipline authorized for pharmacy technicians) – The Act was amended to allow the Board to impose the same range of disciplinary sanctions on pharmacy technicians as the Board may impose on pharmacists and pharmacies. This change has resulted in large numbers of pharmacy technicians being placed on probation under various terms and conditions (such as random drug screens). The Division received one additional FTE to handle this increased workload.
- E. Section 568.007 of the Texas Pharmacy Act (regarding the registration of pharmacy technician trainees) – See Ongoing Objective #3 above. The full impact of this new program will not be felt until FY2007. Although the Division requested several FTEs to handle the increased workload that will result from this new program, the Division received only one additional FTE. This FTE was employed in January 2006 and has been handling the 900 complaints that were opened in FY2006 as a result of quarterly criminal background checks on registered technicians.
- F. Section 565.059 of the Texas Pharmacy Act (regarding the temporary suspension of a license or registration) – The Act was amended to allow the Board to temporarily suspend a pharmacy’s license or a technician’s registration (an authority that did not previously exist). The Act also provided a less burdensome procedure to temporarily suspend a license or registration. On two separate occasions in FY2006, Division staff collected sufficient evidence in an extremely expedient manner and referred the case to the Legal Division, which resulted in the temporary suspensions of two pharmacist licenses.
- G. S.B. 492 (regarding the compounding of prescription drugs for “office use” by a practitioner) – This bill broadened the authority of a pharmacy to compound prescription drugs not pursuant to a prescription. This bill also gave TSBP the authority to sample components used in compounding. The expanded compounded practice re-emphasizes the need for an adequate number of well-qualified and well-trained Compliance field staff. Although TSBP attached a fiscal note to this bill, no funding was granted for additional FTEs or sampling of drug products.

ENFORCEMENT DIVISION

- H. S.B. 1 (regarding the agency's appropriation for FY2006-07) – The Division requested additional FTEs to handle the increased workload resulting from the technician registration program that was underfunded by the 78th Texas Legislature. The 79th Texas Legislature did not fund any additional FTEs to the agency for FY2006-07, other than the FTEs funded pursuant to the fiscal note attached to S.B. 410 for the Pharmacy Technician Trainee Registration Program.
- I. Other Bills – Division staff have educated Board customers, through telephone inquiries and Compliance inspections, regarding other changes made by the 79th Texas Legislature, such as:
- the new law allowing pharmacies to return sealed, unopened containers (not in original manufacturer's containers) of prescription drugs dispensed to nursing home patients, if FDA grants a waiver for this procedure to be used in Texas;
 - the new law which requires pharmacy personnel to ask the patient to choose between the generic and the brand prescribed;
 - the new law pertaining to faxed Schedule II prescriptions for Hospice and Nursing Home patients; and
 - the new law which established requirements for the sale of certain ephedrine and pseudoephedrine drug products.

In addition, Division staff amended procedures relating to complaints filed against Class E (Non-Resident) Pharmacies, as a result of the following amendments:

- Section 565.053 of the Texas Pharmacy Act – Under the new amendment, TSBP is allowed to immediately investigate any complaint filed against a Class E Pharmacy license, without first having to report the pharmacy to the licensing agency in the state where the pharmacy is located (i.e., eliminated the "waiting period" previously mandated). The new amendment only requires TSBP to notify the other Pharmacy Board if TSBP imposes disciplinary sanctions against the Class E Pharmacy.
- Section 565.003 of the Texas Pharmacy Act – The new amendment removed the limitations regarding the grounds for discipline on a Class E Pharmacy license.

- 5. To assist the Executive Director, in cooperation with other Divisions, in the orientation of new Board Members within 90 days of appointment by the Governor.**

Status: ACCOMPLISHED

ENFORCEMENT DIVISION

Comment: On August 10, 2006, the Governor announced the appointment of two new Board Members (Jeanne Waggener, R.Ph., community pharmacist from Bellmead, Texas, and Alice Mendoza, R.Ph., hospital pharmacist from Kingsville, Texas) and the reappointment of Rosemary Combs, public member from El Paso, Texas. After immediate consultation with the new Board Members and their approval, the Executive Director scheduled dates for the orientation (September 26-27, 2006). Although the orientation will occur within 60 days of the Governor's appointments, the orientation process will not be completed until FY2007.

ENFORCEMENT DIVISION

Objectives (Ongoing)

- To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2006 – FY2007 Appropriations Act to Executive Director by specified due dates throughout FY2006; to assist in the preparation of applicable reports to the Legislative Budget Board and Governor’s Budget Office regarding performance measures.**

Status: ACCOMPLISHED

Comment: Throughout FY2006, 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	FY06 Projected Performance	FY06 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
Outputs:				
Inspections	1,600	2,165	NK	Exceeded
Jurisdictional Complaints Resolved	1,980	3,338	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	175	149	K	Not Met
Number of Students Participating in a Peer Assistance Program	1	1	NK	Met
Efficiency:				
Average Cost per Jurisdictional Complaint Resolved	\$511.99	\$341.36	NK	Exceeded
Average Time for Jurisdictional Complaint Resolution	120	208	K	Not Met
Outcomes:				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	10%	15.04%	K	Exceeded
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	99%	96.57%	K	Met
Recidivism Rate of Those Receiving Disciplinary Action	6%	2.70%	NK	Met
Percent of Jurisdictional Complaints Resolved within Six Months	65%	62.00%	NK	Met
Recidivism Rate for Participants in Peer Assistance Program	20%	30.55%	NK	Not Met
One-Year Completion Rate for Participants in Peer Assistance Program	78%	77.41%	NK	Met
Explanatory:				
Jurisdictional Complaints Received	2,500	3,501	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 FY2006. 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, four of six key measures and six of seven non-key measures. Accordingly, TSBP met or exceeded 77% of the FY2006 projections for 13 enforcement-related performance measures.

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 FY2006. To inspect pharmacies and monitor pharmacists' practice throughout FY2006, 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 2,165 inspections during FY2006. This performance was noteworthy, given that the Division experienced turnover in two regions during FY2006, as described below:

- A. West Texas Region – In May 2006, Compliance Inspector Susan Furnas submitted her resignation. This position was vacant at the end of FY2006, resulting in the West Texas Region not having a Compliance Inspector for four months; and
- B. Dallas Region – In May 2006, Compliance Officer Paul Holder, R.Ph., Pharm.D., was promoted to Assistant Director of Enforcement. Dr. Holder continued to conduct inspections in the Dallas area on a part-time basis for three months, until the position was filled in mid-August 2006, with the employment of Karen Guenther, Compliance Inspector.

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.

ENFORCEMENT DIVISION

- 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.

- 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.

As reflected in the charts below, TSBP Compliance Staff conducted more inspections in FY2006 than in prior two fiscal years. Statistics regarding these inspections are set forth below:

Total Inspections by Type	FY2004	FY2005	FY2006	% of FY06	3-Year Average	% of 3-Yr. Average
Inspections	1,341	1,599	1,878	87%	1,606	86%
Pre-Inspections	92	63	78	4%	78	4%
Partial-Inspections	67	221	150	7%	146	8%
Inspection-Visits	34	39	55	3%	43	2%
Other	0	5	4	<1%	3	<1%
Total	1,534	1,927	2,165	100%	1,875	100%

Number of Inspections/Visits by Class	FY2004	FY2005	FY2006	% of FY06	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	1,247	1,581	1,711	79%	1,513	81%
Class B Pharmacies	6	5	4	<1%	5	<1%
Class C Pharmacies	177	220	291	13%	229	12%
Class D Pharmacies	104	121	159	7%	128	7%
Total	1,534	1,927	2,165	100%	1,875	100%

ENFORCEMENT DIVISION

As reflected in the chart below, TSBP Compliance Field Staff issued more than twice as many Warning Notices in FY2006 than in the prior two fiscal years:

Number of Warning Notices Issued by Class*	FY2004	FY2005	FY2006	% of FY06**	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	419	392	861	83%	557	83%
Class B Pharmacies	4	2	0	0%	2	<1%
Class C Pharmacies	57	60	131	13%	83	12%
Class D Pharmacies	18	19	45	4%	27	4%
Total	498	473	1,037	100%	669	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.

Conditions Receiving "Warning Notices" FY04 – FY06						
Percentages are based on the total number of "Warning Notices" issued to pharmacies.						
Note – Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.						
Type of Violation	FY2004	FY2005	FY2006	3-Year Average	% FY2006	% 3-Year Average
Equipment	44	114	103	87	10%	10%
Balance Failed Inspection	29	83	63	58		
Equipment Inspection Due (Not Balance)	8	31	36	25		
Insufficient Equipment	7	70	4	27		
Pharmacy Technicians	109	257	181	182	18%	22%
No/Incomplete Training	90	185	135	137		
No/Improper Supervision	14	41	25	27		
Improper Registration	5	30	18	18		
No Name Tags	0	1	3	2		
Inadequate Library	59	75	57	64	6%	8%
Counseling Area	0	1	5	3	<1%	0%
Licenses	62	122	162	115	16%	14%
Licenses Not Posted	48	89	144	94		
Delinquent Licenses	14	33	18	22		
Prescriptions	18	29	27	25	3%	3%
Lack Proper Information	5	10	16	10		
Prescription Label Incorrect	5	6	8	6		
Triplicate Non-Compliance	8	13	3	8		
Drug Stock/Environment	29	66	90	62	9%	7%
Improper Environment	5	31	36	24		
Out-of-Date Drug Stock	13	19	28	20		
Security	1	2	6	3		
Unsanitary	5	8	10	8		
Improper Drug Storage	1	1	3	2		
Area for Non-Sterile Compounding	1	0	2	1		
Violation of Limited Formulary	0	4	3	4		
Prohibited Drugs (Class D)	3	0	1	1		

ENFORCEMENT DIVISION

Improper Drug Destruction	0	1	1	1		
Type of Violation	FY2004	FY2005	FY2006	3-Year Average	% FY2006	% 3-Year Average
Inventory	33	79	103	72	10%	9%
No Annual Inventory	19	45	41	35		
No Change of Ownership Inventory	1	5	31	12		
No Change of PIC Inventory	5	11	11	9		
Incomplete Inventory	7	18	20	15		
No Perpetual Inventory (Class C)	1	0	0	0		
Improper Prepackaging Procedures	16	29	20	22	2%	3%
Computer Systems	31	45	43	40	4%	5%
Computer Records Incomplete	30	43	42	38		
Computer Records Non-Compliance	1	2	1	1		
Records	25	41	36	34	4%	4%
Records Not Available	12	18	10	13		
DEA Order Forms Incomplete	0	0	0	0		
Absence of R.Ph. Record	2	7	4	4		
Rx Not Separated	4	3	5	4		
Rx Records not Numerical Order	0	2	2	2		
Improper Transfer of Rx Copies	0	0	1	1		
Invoices Not Separated or Retrievable	2	1	2	2		
Records for Non-Sterile Compounds	5	8	10	8		
No Written Information on Prescription	0	1	1	1		
Improper Refill Documentation	0	1	1	1		
OBRA Violations	15	16	11	14	1%	2%
Written Information Not Provided	4	0	0	1		
No Patient Counseling	8	13	10	10		
PMR Absent or Incomplete	3	3	1	2		
Sterile Pharmaceutical Violations	20	47	116	61	12%	7%
No/Incomplete QA/QC	11	6	12	10		
No/Incomplete P&P Manual	4	15	19	13		
No/Inadequate Preparation Area	2	20	77	33		
IV Preparation	0	2	6	4		
No DUR	3	3	1	2		
Absence of R.Ph. Pick-up Records	0	1	0	1		
Cytotoxic/Bio Procedures	0	0	1	1		
Improper Distribution	0	5	3	3	<1%	0%
No PIC	1	6	10	6	1%	1%

ENFORCEMENT DIVISION

Type of Violation	FY2004	FY2005	FY2006	3-Year Average	% FY2006	% 3-Year Average
Dispensing	13	9	11	11	1%	1%
Improper Dispensing	0	2	1	2		
Aiding and Abetting	2	2	3	2		
Illegal Dispensing	9	3	4	5		
Substitution Non-Compliance	1	0	1	1		
Out-of-State Rxs for Controlled Substances	1	1	0	1		
Improper Emergency Room Dispensing	0	1	0	1		
Improper Provision	0	0	2	2		
Procedures	6	0	0	6	1%	1%
Notification Violation	11	18	18	16	2%	2%
Theft & Loss of C/S Not Reported	1	6	8	5	1%	1%
Gray Market Diversion	0	0	0	0	0%	0%
Improper Closing/Change of Ownership	0	4	3	2	<1%	0%
Improper Inpatient Procedures (Class C)	3	1	1	2	<1%	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)	FY2004	FY2005	FY2006	% of FY06	3-Year Average	% of 3-Yr. Average
Complaint	41	49	73	3%	54	3%
Follow-up to Disciplinary Order	58	186	7	0%	84	4%
Pre-Inspection New	92	63	78	4%	78	4%
New Pharmacies	82	81	146	7%	103	5%
Change of Ownership	23	77	80	4%	60	3%
Preceptor	141	109	177	8%	142	8%
Follow-up to "Warning Notice"	27	65	95	4%	62	3%
Routine Inspections	1,068	1,281	1,493	69%	1,281	68%
Other	2	16	16	1%	11	1%
Total	1,534	1,927	2,165	100%	1,875	100%

3. To coordinate and monitor throughout FY2006, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants. To investigate complaints throughout FY2006, according to the following priorities:

A. Complaints filed against pharmacists who have a chemical, mental or physical impairment;

ENFORCEMENT DIVISION

- 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 health-care 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: ACCOMPLISHED

ENFORCEMENT DIVISION

Comment: As reflected in the chart below, TSBP closed more complaints in FY2006 than in any prior fiscal year. In addition, TSBP received 3,550 complaints in FY2006, as compared to 3,086 complaints received in FY2005 (15% increase). The primary reason for the increased number of received complaints was due to criminal background checks that Division staff conducted on a quarterly basis. Specifically, TSBP opened approximately 1,000 complaints on technicians who were arrested for a criminal offense after becoming registered. TSBP experienced only a slight 6% increase in the agency's average complaint resolution time (increased from 196 days in FY2005 to 207 days in FY2006), 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
FY02	1836		2137		116%	221 Days	
FY03	1935	+5%	1887	-12%	98%	153 Days	-31%
FY04	4475*	+131%	3018**	+60%	67%***	118 Days	-23%
FY05	3086	-31%	3327	+10%	108%	196 Days	+66%
FY06	3550	+15%	3,387	+2%	95%	207	+6%

* Of the 4,475 complaints received, 2,108 complaints (47%) were filed against pharmacy technicians (applicants for registration).

** Of the 3,018 complaints closed, 1,724 complaints (57%) were filed against pharmacy technicians (applicants for registration).

*** TSBP closed 1,724 of the 2,108 complaints filed against pharmacy technicians (82% closure rate).

The most common type of consumer complaint was 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:

DATA ON DISPENSING ERROR COMPLAINTS CLOSED FY02 – FY06

Type of Dispensing Error	FY02	FY03	FY04*	FY05	FY06	5-Year Avg.
Wrong Drug/Strength or Wrong Directions for Use	213	152	122	126	114	145
Mislabeling	16	10	7	11	13	11
Dispensed Wrong Quantity	85	66	30	70	58	62
Dispensed Outdated Drug	12	4	5	3	3	5
Packaging/Delivery Error	24	10	8	14	23	16
Error + No Counseling	26	25	9	7	7	15
Total # Dispensing Error Complaints	376	267	181	231	218	254
Total # Complaints Closed	2,137	1,887	3,081	3,327	3,387	2,764
% Dispensing Error Complaints	18%	14%	6%	7%	6%	9%

* During FY04, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technician's application for registration. The majority of complaints closed in FY04 involved the implementation of the new technician registration program and thereby this data is skewed when compared to prior fiscal years.

ENFORCEMENT DIVISION

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 FY2002 – FY2006					
Fiscal Year	Compliance Officers	%	Investigators	%	Total
FY02	59	21%	228	79%	287
FY03	76	31%	166	69%	242
FY04	37	17%	180	83%	217
FY05	107	46%	126	54%	233
FY06	128	41%	182	59%	310
5-Year Avg.	81	31%	176	68%	258

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

DATA ON COMPLAINTS CLOSED FY2004 – FY2006

Form of Complaints	FY04*	FY05	FY06	% of FY06	3-Yr. Avg.	% of 3-Yr. Avg.
Telephone	64	65	62	2%	64	2%
Letter	125	218	250	7%	198	6%
TSBP Complaint Form	171	230	198	6%	200	6%
HPC 800 #	44	93	74	2%	70	2%
Fax	65	64	63	2%	64	2%
Visit	10	3	8	<1%	7	<1%
Agency Report	19	25	385	11%	143	4%
Inspection	10	22	55	2%	29	<1%
Interoffice Referral	30	70	65	2%	55	2%
Licensure Application	1,844*	1,641	1,308	39%	1,598	49%
Data Bank	8	11	4	<1%	8	<1%
Theft/Loss Report	293	490	343	10%	375	12%
Investigation	106	68	141	4%	105	3%
Intra-Agency Referral	27	18	18	<1%	21	<1%
Malpractice Report	17	9	6	<1%	11	<1%
Press Clip	4	2	3	<1%	3	<1%
Email **	29	32	34	1%	32	1%
Internet **	152	265	370	11%	262	8%
Other	0	1	0	0%	0	0%
TOTAL	3,018	3,327	3,387	100%	3,244	100%

* During FY04, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technician's application for registration. The majority of complaints closed in FY04 involved the implementation of the new technician registration program and thereby, this data is skewed when compared to prior fiscal years.

** 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 online TSBP complaint form). TSBP began accepting online complaints in the Spring of 2001.

ENFORCEMENT DIVISION

DATA ON COMPLAINTS CLOSED FY2004 – FY2006

Source of Complaints	FY04*	FY05	FY06	% of FY06	3-Yr. Avg.	% of 3-Yr. Avg.
Consumer	409	717	736	22%	621	19%
Government Agency	59	73	425	13%	186	6%
Pharmacist	56	44	60	2%	53	2%
Pharmacist (Self)	47	88	87	3%	74	2%
Applicant (R.Ph. Self)	41	102	108	3%	84	3%
Technician	7	7	12	<1%	9	<1%
Technician (Self)	1,099*	868	35	1%	667	21%
Applicant (Tech Self)**	N/A	N/A	805	24%	268	8%
TSBP	800	770	537	16%	702	22%
Doctor	28	45	60	2%	44	1%
Other Health Professional	23	17	14	<1%	18	<1%
NABP	11	10	4	<1%	8	<1%
PIC, Pharmacy Manager, or Supervisor	304	496	344	10%	381	12%
Loss Prevention Officer (Corporate)	3	3	6	<1%	4	<1%
Manufacturing Rep.	4	1	5	<1%	3	<1%
Professional Recovery Network (PRN)	7	6	13	<1%	9	<1%
Insurance Company	12	6	5	<1%	7	<1%
Attorney	10	8	3	<1%	7	<1%
Employee/Ex-Employee	9	14	29	<1%	17	<1%
Media	4	3	6	<1%	4	<1%
Drug Screening	67	41	71	2%	60	2%
Other	18	8	22	<1%	16	<1%
TOTAL	3,018	3,327	3,387	100%	3,244	100%

* During FY04, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technician's application for registration. The majority of complaints closed in FY04 involved the implementation of the new technician registration program and thereby, this data is skewed when compared to prior fiscal years.

** FY06 was the first year to use the source code for "Applicant (Tech Self)."

ENFORCEMENT DIVISION

DATA ON CLOSED FY2004 – FY2006 COMPLAINTS

Subjects of Complaints	FY04*	FY05	FY06	3-Yr. Average
Licensees	1,081 (36%)	1,544 (46%)	1,642 (48%)	1,422 (44%)
Pharmacist	511	489	707	569
In-State Pharmacy	538	1,026	889	818
Out-of-State Pharmacy	32	29	46	36
Technicians	N/A	123 (4%)	1,160 (34%)	428 (13%)
Applicants	1,868 (62%)	1,604 (48%)	514 (15%)	1,329 (41%)
Pharmacist	27	53	63	48
Pharmacy	6	22	35	21
Intern	29	66	53	49
Technician	1,806*	1,463	363	1,211
Non-Licensees	69 (2%)	56 (2%)	71 (2%)	65 (2%)
Doctor	13	7	12	11
Manufacturer	0	0	1	0
Wholesaler	1	1	3	2
Non-Licensed Facility or Person	45	34	43	41
Insurance Company/PBM	1	4	2	2
Out-of-State Facility	7	8	5	7
Other	2	2	5	3
TOTAL	3,018	3,327	3,387	3,244

* During FY04, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technician's application for registration. The majority of complaints closed in FY04 involved the implementation of the new technician registration program and thereby, this data is skewed when compared to prior fiscal years.

ENFORCEMENT DIVISION

NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2004 – FY2006

Alleged Violation	FY04*	FY05	FY06	3-Yr. Avg.	% of 3-Yr. Avg.
Diversion	18	11	24	18	<1%
Controlled Substances (C/S)	11	8	14	11	<1%
Dangerous Drugs (D/D)	1	1	3	2	<1%
Both (C/S & D/D)	6	2	7	5	<1%
Unauthorized Dispensing	12	15	29	19	<1%
Controlled Substances	2	5	4	4	<1%
Dangerous Drugs	7	6	15	9	<1%
Both (C/S & D/D)	3	4	10	6	<1%
Illegal Delivery	1	3	0	2	<1%
Controlled Substances	0	2	0	1	<1%
Dangerous Drugs	0	0	0	0	0%
Both (C/S & D/D)	1	1	0	1	<1%
Illegal Possession	0	1	1	1	<1%
Controlled Substances	0	0	1	0	0%
Both (C/S & D/D)	0	1	0	0	0%
Convictions /Criminal Offenses	1,082	1,001	1,189	1,090	34%
Felony	16	34	28	26	<1%
Misdemeanor	202*	130	197	176	5%
DWI/PI	409*	197	292	299	9%
Deferred Adjudication	131	195	264	197	6%
Offense on Application	324*	445	408	392	12%
Dispensing Error	181	240	218	211	7%
Wrong Drug/Strength	122	126	114	121	4%
Mislabeling	7	11	13	10	<1%
Wrong Quantity	30	70	58	53	2%
Outdated Drug	5	3	3	4	<1%
Packaging/Delivery	8	14	23	15	<1%
Dispensing Error and No or Improper Patient Counseling	9	7	7	8	<1%
No or Improper Patient Counseling	8	9	9	9	<1%
No or Improper Drug Regimen Review	14	12	10	12	<1%
Theft/Loss of C/S and/or D/D	303	499	361	388	12%
Aiding & Abetting	11	9	33	18	<1%
Action by Other Board	25	42	52	40	1%
Non-Compliance with Substitution Rules	37	83	68	63	2%
Non-Compliance with Disciplinary Order	121	90	158	123	4%
Interference with Doctor/Patient Relationship	37	74	67	59	2%
Confidentiality	6	13	11	10	<1%
Failed to Keep Records	4	0	0	1	<1%
Negligence	0	0	0	0	0%
Unsafe Practice	3	2	5	3	<1%
Unprofessional Conduct	7	7	10	8	<1%
Gross Immorality	2	1	4	2	<1%
Fraud	774	652	338	588	18%
Fraud, Deceit & Misrepresentation	3	2	4	3	<1%
Falsified Response to Warning Notice	0	1	0	0	0%
Falsified Application	758	636	318	571	18%
Filled/Passed Forged Prescription	11	9	7	9	<1%
Insurance Fraud	1	2	9	4	<1%
Medicare Fraud	1	2	0	1	<1%

ENFORCEMENT DIVISION

Alleged Violation	FY04*	FY05	FY06	3-Yr. Avg.	% of 3-Yr. Avg.
Impairment	22	21	22	22	<1%
Probable Cause	5	5	5	5	<1%
Drug & Alcohol	6	1	4	4	<1%
Drug	8	10	10	9	<1%
Alcohol	1	2	2	2	<1%
Physical	0	0	0	0	0%
Mental	2	3	1	2	<1%
Changed Prescription	20	53	31	35	1%
Non-Therapeutic Dispensing	13	17	18	16	<1%
Excessive Purchases of Controlled Substances	0	0	0	0	0%
Anabolic Steroids	0	0	0	0	0%
Grey Market Diversion	2	2	5	3	<1%
Samples	6	2	1	3	<1%
Technician Violation	2	12	12	9	<1%
Improper Security	3	2	0	2	<1%
Problem with OTC Drug	2	1	2	2	<1%
Closed Pharmacy Improperly	4	6	3	4	<1%
Operating Pharmacy without License	4	9	4	6	<1%
Working Conditions	5	19	7	10	<1%
Delinquent License	2	5	20	9	<1%
Kickbacks	0	1	0	0	0%
No PIC	0	0	4	1	<1%
Recordkeeping Error	37	67	104	69	2%
Notification Violation	0	1	0	0	0%
No Annual Inventory / No PIC Inventory	0	1	0	0	0%
C-II Rx	1	1	3	2	<1%
Improper Rx's Issued by Doctors	3	1	3	2	<1%
Advertising	12	13	20	15	<1%
Overcharging	0	4	2	2	<1%
Billing Dispute	30	64	76	57	2%
Customer Service	29	49	63	47	1%
Hot Check	25	25	14	21	<1%
Accountability Audit Discrepancies (shortages/overages)	N/A	2	0	1	<1%
CE Audit	13	23	20	19	<1%
Default on Student Loans	0	0	1	0	0%
Other Allegations	121	147	344	204	6%
Texas Pharmacy Act	45	24	60	43	1%
Texas Dangerous Drug Act	1	0	2	1	<1%
Texas Controlled Substances Act	3	7	29	13	<1%
Food Drug & Cosmetic Act	6	6	15	9	<1%
TSBP Rule	45	90	77	71	2%
Other Laws/Rules	21	20	161	67	2%
Reinstatement	7	6	8	7	<1%
Modification	9	18	13	13	<1%
TOTAL	3,018	3,327	3,387	3,244	100%

* During FY04, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technician's application for registration. The majority of complaints closed in FY04 involved the implementation of the new technician registration program and thereby, this data is skewed when compared to prior fiscal years.

ENFORCEMENT DIVISION

ACTION TAKEN BY TSBP TO CLOSE COMPLAINTS FY2004 – FY2006

	FY2004*	FY2005	FY2006	3-Yr. Avg.	% of 3-Yr. Avg.
Investigations Not Resulting in Disciplinary Action:	2,397	2,350	2,527	2,425	75%
Investigate + Dismissal (Warning) Letter	1,149	896	816	954	29%
Investigate + Complaint Closed with Verbal Warning	204	386	268	286	9%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	780	679	936	798	25%
Inspections	24	74	13	37	1%
Inspection + Warning Notice or Dismissal Letter	2	11	12	8	<1%
Application Withdrawn	N/A	15	15	10	<1%
Other**	238	289	467	331	10%
Investigations Resulting in Disciplinary Action:	515	717	619	617	19%
Agreed Board Order	446	523	448	472	15%
Board Order	15	12	49	25	<1%
Preliminary Notice Letter + Dismissal (Warning) Ltr.	0	1	1	1	<1%
PNL + Application Withdrawn (with or without Informal Conference)	35	162	101	99	3%
PNL + Informal Conference + Dismissal Letter	10	6	4	7	<1%
PNL + Informal Conference + Case Dismissed	9	12	7	9	<1%
PNL + Case Dismissed	N/A	1	9	3	<1%
Referrals To:	57	73	61	64	2%
Medical Board	4	1	0	2	<1%
PRN Program	0	2	5	2	<1%
Supervisor	2	8	9	6	<1%
Other Agency	51	62	47	53	2%
No Action Because:	49	187	180	139	4%
No Violation	24	31	15	23	<1%
No Jurisdiction	18	16	49	28	<1%
Insufficient Information	6	14	17	12	<1%
Other	1	126	99	75	2%
TOTAL	3,018	3,327	3,387	3,244	100%

* During FY04, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technician's application for registration. The majority of complaints closed in FY04 involved the implementation of the new technician registration program and thereby, this data is skewed when compared to prior fiscal years.

** 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].

ENFORCEMENT DIVISION

**Reports Submitted to the Texas State Board of Pharmacy
Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies
Due to Employee Pilferage
FY2006 (9/1/2005 – 8/31/2006)**

CLASSIFICATION OF EMPLOYEE	Class "A"	Class "C"	Hospital Floor Stock	Total	%	DU	%
Registered Pharmacist	6	2	0	8	4%	10,392	2%
Pharmacist Intern	1	0	0	1	<1%	4,492	<1%
Registered Pharmacy Technician	48	8	0	56	25%	351,867	74%
Pharmacy Technician-in-Training	6	0	0	6	3%	26,492	6%
Physician	0	0	0	0	0%	0	0.00%
Registered Nurse	0	0	22	22	10%	1,046	<1%
Certified Registered Nurse Anesthetist	0	0	2	2	<1%	6	<1%
Licensed Vocational Nurse	0	0	4	4	2%	438	<1%
Delivery – In or Out of Pharmacy	32	4	0	36	16%	16,525	3%
Pharmacy Cashier – Pharmacy Clerk	5	0	0	5	2%	29,641	6%
Pharmacy Staff – Unidentified	50	6	0	56	25%	22,348	5%
Hospital Staff – Unidentified	0	0	13	13	6%	334	<1%
Hospital Staff – Pharmacy Staff	0	0	1	1	<1%	10	<1%
Miscellaneous*	12	0	0	12	5%	9,353	2%
TOTALS	160	20	42	222**	100%	472,944	100%

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

** A total of 220 DEA Reports involving 222 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
FY2005 and FY2006 (by Individuals)**

CLASSIFICATION OF EMPLOYEE	FY 2005		FY 2006		% Change
	Total # of Individuals	%	Total # of Individuals	%	
Registered Pharmacist	23	9%	8	4%	-65%
Pharmacist Intern	0	00%	1	<1%	N/A%
Registered Pharmacy Technician	65	24%	56	25%	-14%
Pharmacy Technician-in- Training	8	3%	6	3%	-25%
Physician	1	<1%	0	0%	-100%
Registered Nurse	18	7%	22	10%	+22%
Certified Registered Nurse Anesthetist	3	1%	2	<1%	-33%
Licensed Vocational Nurse	9	3%	4	2%	-56%
Delivery – In or Out of Pharmacy	21	8%	36	16%	+71%
Pharmacy Cashier – Pharmacy Clerk	7	3%	5	2%	-29%
Pharmacy Staff – Unidentified	48	18%	56	25%	+17%
Hospital Staff – Unidentified	10	4%	13	6%	+30%
Hospital Staff – Pharmacy Staff	3	1%	1	<1%	-67%
Miscellaneous *	51	20%	12	5%	-76%
TOTALS	267	100%	222	100%	-17%

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

ENFORCEMENT DIVISION

**Reports Submitted to the Texas State Board of Pharmacy
Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies
Due to Employee Pilferage
FY2005 and FY2006 (by Dosage Units)**

CLASSIFICATION OF EMPLOYEE	FY 2005		FY 2006		% Change
	Total # of Dosage Units	%	Total # of Dosage Units	%	
Registered Pharmacist	159,796	19%	10,392	2%	-94%
Intern (Pharmacist)	0	0%	4,492	<1%	N/A%
Registered Pharmacy Technician	407,170	50%	351,867	74%	-14%
Pharmacy Technician-in- Training	30,698	4%	26,492	6%	-14%
Physician	131	<1%	0	0.00%	-100%
Registered Nurse	2,679	<1%	1,046	<1%	-61%
Certified Registered Nurse Anesthetist	38	<1%	6	<1%	-84%
Licensed Vocational Nurse	3,419	<1%	438	<1%	-87%
Delivery – In or Out of Pharmacy	11,927	1%	16,525	3%	+39%
Pharmacy Cashier – Pharmacy Clerk	49,664	6%	29,641	6%	-40%
Pharmacy Staff – Unidentified	136,730	17%	22,348	5%	-84%
Hospital Staff – Unidentified	403	<1%	334	<1%	-17%
Hospital Staff – Pharmacy Staff	103	<1%	10	<1%	-90%
Miscellaneous *	18,635	2%	9,353	2%	-50%
TOTALS	821,393	100%	472,944	100%	-42%

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

ENFORCEMENT DIVISION

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 FY2006.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

Department of Public Safety	Location
Texas:	Austin, Abilene, Houston, San Antonio, Marble Falls, Chambers, Corpus Christi, Palestine, Alice, Anderson, Bryan, San Angelo, Beeville, Karnes City, Dallas, McAllen, Texas City, McKinney, Garland, Sherman, and Fort Worth Texas.
Missouri:	Jefferson City, Missouri
Kansas:	Kansas City, Kansas

Police Departments	Location
Texas Cities:	Ganada, Haltom City, Hereford, Hickory Creek, Abilene, Houston, Dallas, Austin, Fort Worth, Athens, Corsicana, Amarillo, Boerne, Marble Falls, Stafford, Grapevine, Hearne, Missouri City, Burnet, Palestine, Nacogdoches, Texas A&M University, College Station, Bryan, Rockwall, West University Place, University Place, La Joya, Marshall, Sulphur Springs, Wincrest, Benbrook, Friendswood, Galveston, Irving, Pasadena, Willis, University of Houston, San Antonio, South Padre Island, Pleasanton, Floresville, Kenedy, Karnes City, Gonzales, McAllen, West Lake Hills, Rockport, Laferia, George West, El Paso, Corpus Christi, Galveston, Alamo Heights, Alvarado, Andrews, Arlington, Bellaire, Beverly Hills, Blooming Grove, Bonham, Burleson, Carrollton, Cedar Hills, Cedar Park, Cleburne, Converse, Denton, Duncanville, Edinburg, Edna, Euless, Frisco, Garland, Georgetown, Grand Prairie, Haltom City, Henderson, Hereford, Hillsboro, Houston Metro Transit, Humble, Hurst, Joshua, Katy, Kirby, Lake Jackson, Lake Worth, Lewisville, Los Fresno, Lubbock, Lufkin, Mansfield, Mc Kinney, Mesquite, Mission, Mount Pleasant, North Richland Hills, Richland Hills, Orange, Palmview, Pearland, Pharr, Plano, Port Arthur, Round Rock, Rowlett, San Angelo, San Benito, San Marcos, Santa Fe, Seagoville, Silsbee, Sugarland, Texarkana, Tomball, Tyler, University of Texas Medical Branch, Rice University, University of Texas, Victoria, Weslaco and Wichita Falls, Texas.
Out of State:	Kent State University Police Department, Maine; Arvada, Colorado; Anne Arundel City, Maryland; Hinesville, Georgia; Virginia Commonwealth University, Richmond, Virginia; Los Angeles, California; Asher, Oklahoma; Sherwood, Arkansas; Pascagoula, Mississippi; Lafayette, Indiana; Burnsville, Maine; Bayport, Maine; Beverly Hills, California; Waycross, Georgia; Little Rock, Arkansas; Long Beach City, Mississippi; Salinas, California; Berkeley, California; San Leandro, California; Long Beach, California; New Orleans, Louisiana; Hudson, Ohio; Columbus, Georgia; Gulfport, Florida; Laurel, Mississippi; and Carlsbad, New Mexico.

ENFORCEMENT DIVISION

Sheriff's Offices	Location
Texas:	Collin County, Mc Kinney, Texas; Castro County; Dallas County, Dallas, Texas; Travis County, Austin, Texas; Harris County, Houston, Texas; Tarrant County, Fort Worth, Texas; Bexar County, San Antonio, Texas; Hidalgo County, Edinburg, Texas; Ft. Bend County, Richmond, Texas; Rusk County, Henderson, Texas; Andrews County, Andrews, Texas; Angelina County, Lufkin, Texas; Atascosa County, Jourdanton, Texas; Austin County, Bellville, Texas; Brazos County, Bryan, Texas; Burnet County, Burnet, Texas; Callahan County, Baird, Texas; Cameron County, Brownsville, Texas; Denton County, Denton, Texas; DeWitt County, Yoakum, Texas; Ector County, Odessa, Texas; El Paso County, El Paso, Texas; Fannin County, Bonham, Texas; Fisher County, Roby, Texas; Galveston County, Galveston, Texas; Grayson County, Sherman, Texas; Guadalupe County, Seguin, Texas; Jefferson County, Beaumont, Texas; Johnson County, Cleburne, Texas; Kerr County, Kerrville, Texas; Kleberg County, Kingsville, Texas; Lamar County, Paris, Texas; Liberty County, Liberty, Texas; Live Oak County, George West, Texas; Montgomery County, Conroe, Texas; Panola County, Carthage, Texas; Sabine County, Sabine, Texas; Starr County, Rio Grande City, Texas; Taylor County, Abilene; Terry County, Brownfield, Texas; Tom Green County, San Angelo, Texas; Walker County, Huntsville, Texas; Wichita County, Wichita Falls, Texas; Williamson County, Georgetown, Texas; Zapata County, Hebbbronville, Texas; Tarrant County, Fort Worth, Texas; Karnes County, Karnes City, Texas; San Patricio County, Sinton, Texas; Reagan County, Big Lake, Texas; Bee County, Beeville, Texas; Goliad County, Goliad, Texas; and Wilson County, Floresville, Texas.
Out of State:	Lincoln County, Colorado; Carter County, Oklahoma; Muscogee County, Oklahoma; Hillsborough County, Florida; Jones County, Mississippi; Landry Parish, Louisiana; Collier County Sheriff's Office, Naples, Florida; Alameda County SO, San Leandro, California; Prima County, Tucson, Arizona; Johnson County, Olathe, Kansas; Orleans Parish, Louisiana; and DeKalb County, Georgia.

Texas Rangers	Location
	Houston, Texas; Dallas, Texas; San Antonio, Texas; Austin, Texas; Sherman, Texas; Mc Allen, Texas; Amarillo, Texas; and Lubbock, Texas.

Special Crime Units	Location
	Austin, Texas.

District & County Attorney's Offices	Location
Texas:	Burnet County, Burnet Texas; Harris County, Houston, Texas; Travis County, Austin, Texas; Dallas County, Dallas, Texas; El Paso County, El Paso, Texas; Bexar County, San Antonio, Texas; Collin County, McKinney, Texas; ; Karnes County and Wilson County, Floresville, Texas; Guadalupe County, Seguin, Texas; Webb County, Laredo, Texas; Grayson County, Sherman Texas; Potter County, Amarillo, Texas; Starr County, Liberty County, Liberty, Texas and Cass County District Attorney.
Out of State:	New Orleans District Attorney, New Orleans, Louisiana.

ENFORCEMENT DIVISION

State, County, and City Courts	Location
Texas Courts:	Aransas County District Court, Aransas Pass, Texas; Denton Municipal Court, Denton, Texas; El Paso County Combine Court, El Paso, Texas; Nueces County District Court, Corpus Christi, Texas; San Antonio Municipal Court, San Antonio, Texas; Schertz Municipal Court, Schertz, Texas; Lake Worth Municipal Court, Lake Worth, Texas; Bonham Municipal Court, Bonham, Texas; Mercedes Municipal Court, Mercedes, Texas; Justice of the Peace, Brazoria, Texas; Northern District Court of Texas, Dallas, Texas; Rowlett Municipal Court, Rowlett, Texas; Garland Municipal Court, Garland, Texas; Rockwall Municipal Court, Rockwall, Texas; Sweetwater Municipal Court, Sweetwater, Texas; Potter County Court, Amarillo, Texas; Orange District Court, Orange, Texas; Orange County Court, Orange, Texas; Cameron County Court, Brownsville, Texas; Starr County Court, Rio Grande City, Texas; Colorado County Court, Columbus, Texas; Johnson County Court, Cleburne, Texas; Deaf Smith County Court, Hereford, Texas; Dallas County Court, Dallas, Texas; Dallas District Court, Dallas, Texas; Bexar County Court, San Antonio, Texas; Bexar District Court, San Antonio, Texas; Travis County Court, Austin, Texas; Callahan District Court, Baird, Texas; Hill District Court, Hillsboro, Texas; Hidalgo County Court, Edinburg, Texas, Texas; Atascosa County Court, Jourdanton, Texas; Tarrant County Court, Fort Worth, Texas; Tarrant District Court, Fort Worth, Texas; Midland District Court, Midland, Texas; Webb County Court, Laredo, Texas; Hays County Court, San Marcos, Texas; Kerr County Court, Kerrville, Texas; Wichita County Court, Wichita Falls, Texas; and Huntsville Municipal Court, Huntsville, Texas.
Out of State Courts:	Anne Arundel Circuit Court, Maryland; Buncombe Superior Court, North Carolina; Colorado Springs Municipal Court, Colorado; Carter County District Court, Oklahoma; Dewitt Town Court, New York; Forsyth District Court, North Carolina; Jefferson County Combined Court, Colorado; Franklin Circuit Court, Kentucky; Franklin County Court, Kentucky; Hillsborough County Circuit Court, Florida; Gilpin County Court, New England; Lincoln County Combined Court, Colorado; Portage Common Please Court, Florida; Syracuse City Court, New York; Virginia Beach Circuit Court, Virginia; Wake Superior County Court, North Carolina; Liberty Superior Courts, State Court and Magistrate Courts, Hinesville, GA; Superior Court of California, Fontana, CA; Circuit Court of Missouri, Kansas City, Missouri; Superior Court of California, Vista, California; Superior Court of California, Palo Alto, California; Jackson County Circuit Court, Missouri; Richmond District Court, Richmond, Virginia; Salinas Division Courts, Salinas, California; Henry County Circuit Court, Cambridge, Illinois; Hall of Justice, Kelso, Washington; Anniston Municipal Court, Anniston, Alabama; New Orleans Municipal Court, New Orleans, Louisiana; New Orleans Criminal District Court, New Orleans, Louisiana; and Weld District Court, Colorado.
Federal Courts	Location
	Houston, Texas; Dallas, Texas; Beaumont, Texas; Austin, Texas; San Antonio, Texas; Sherman, Texas; and Tyler, Texas.

ENFORCEMENT DIVISION

District and County Clerks	Location
Texas:	Van Zandt County Clerk; Val Verde County Clerk; Fort Bend County Clerk, Richmond, Texas; Rockwall County Clerk, Rockwall; Polk County Clerk, Livingston, Texas; Lubbock District Clerk's Office, Lubbock, Texas; Palo Pinto County Clerk, Palo Pinto, Texas; Aransas County District Clerk, Aransas Pass, Texas; Castro County Clerk, Dimmitt, Texas; Dallas County Clerk, Dallas, Texas; Dallas District Clerk, Dallas, Texas; Harris County Clerk, Houston, Texas; Harris County District Clerk, Houston, Texas; Bexar County Clerk, San Antonio, Texas; Bexar County District Clerk, San Antonio, Texas; Brazoria County Clerk, Angleton, Texas; Bell County Clerk, Belton, Texas; and Bastrop County Clerk, Bastrop, Texas.
Out of State:	Clerk of Circuit Court, Jackson, Mississippi; Clerk of Superior Court, Decatur, Georgia; Circuit Clerk, St Charles, Missouri; Ward County District Clerk, Circuit/County Court, Miami, Florida; Pulaski Circuit/County Clerk, Arkansas; Clerk of Superior Court, Wayne County, Jesup, Georgia; Wyandotte County Clerk, Kansas City, Kansas; Clerk of Court, Naples, FL; City Clerk, Waycross, GA; Clerk of Courts, Muncie, IN; Count Clerk, Long Beach, MS; Clerk District Court, Kansas City, KS; Shelby County Clerk, Memphis, TN; Arapahoe County Clerk, Colorado; Bossier Parish Clerk of Court, Louisiana; Cameron Parish Clerk of Court, Louisiana; and Phillips County Clerk, Kansas.

Drug Enforcement Administration	Location
Texas:	Houston, Texas; Dallas, Texas; San Antonio, Texas; El Paso, Texas; Fort Worth, Texas; Waco, Texas; and Tyler, Texas.
Out of State:	Washington D.C.; Miami, Florida; Quantico, Virginia; Los Angeles, California; and Phoenix, Arizona.

Federal Bureau of Investigation	Location
Texas:	Dallas, Texas; Fort Worth, Texas; San Antonio, Texas; and Houston, Texas.
Out of State:	Phoenix, Arizona and Miami, Florida.

United States Marshall Service	Location
	San Antonio, Texas; Houston, Texas; Austin, Texas; and Dallas, Texas.

Texas Attorney General's Office	Location
	Austin, Texas; Dallas, Texas; Mc Allen, Texas; San Antonio, Texas; and Houston, Texas.

State Regulatory Boards	Location
	Texas Medical Board, Austin, Texas; Texas Dental Board, Austin and Dallas, Texas; Texas Veterinary Board, Austin, Texas; Health and Human Service Commission, San Antonio, Dallas, Austin, Houston, Texas.

ENFORCEMENT DIVISION

5. To monitor compliance with all Board Orders and Agreed Board Orders, including rehabilitation Orders relating to impaired or recovering pharmacists, throughout FY2006.

Status: ACCOMPLISHED

Comment: Almost all of the disciplinary orders entered in FY2006 required some type of monitoring by Division staff (i.e., 457 orders or 96% of the 475 disciplinary orders that TSBP entered during FY2006 required some type of monitoring). Monitoring the following types of Orders was extremely labor-intensive:

- A. 34 disciplinary Orders involving a dispensing error; these types of Orders generally required the licensee to submit proof of additional hours of continuing education (Orders on pharmacists) or policies and procedures relating to quality assurance programs, including peer review procedures (Orders on pharmacies);
- B. 59 disciplinary Orders involving technicians who were required to undergo an evaluation by a mental health professional before their registrations would be granted; and
- C. 16 confidential rehabilitation Orders involving impaired/recovering pharmacists; these types of Orders required the review/evaluation of approximately 12 reports per year per pharmacist.

Other types of monitoring included:

- 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. Other – Division staff also 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).

ENFORCEMENT DIVISION

The following charts indicate the types of Orders entered in FY2006, 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 (FY04-FY06)						
Sanction	FY04 Orders	FY05 Orders	FY06 Orders	% of FY06	3-Yr. Avg.	% of 3-Yr. Avg.
Revoke / Retire	20	12	16	8%	16	8%
Suspension	19	22	25	12%	22	11%
Restricted	5	4	4	2%	4	2%
Rehabilitation Orders	13	6	6	3%	8	4%
Reinstatement	5	2	5	2%	4	2%
Fines or Probation Fees Only	49	46	69	33%	55	27%
Continuing Education, Texas Jurisprudence Exam, and/or Pharmacy Law Course (could also include fines and/or probation fees)	48	38	29	14%	38	19%
Continuous Quality Improvement Program, Self Assessments (ISMP), Policies/Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	51	24	39	19%	38	19%
TOTAL NUMBER OF ORDERS ON LICENSEES REQUIRING MONITORING	210	154	193	93%	186	91%
TOTAL NUMBER OF ORDERS NOT REQUIRING MONITORING	25	18	14	7%	19	9%
TOTAL ORDERS	235	172	207	100%	205	100%

Types of TSBP Disciplinary Orders Entered on Technicians That Required Monitoring (FY06)		
Sanction	FY06 Orders	% of FY06
Revoke	31	12%
Suspension	114	43%
Report from Mental Health Provider (MHP)	40	15%
Fines Only	62	23%
Probation with Conditions	17	6%
TOTAL NUMBER OF ORDERS ON TECHNICIANS REQUIRING MONITORING	264	99%
TOTAL NUMBER OF ORDERS ON TECHNICIANS NOT REQUIRING MONITORING	4	1%
TOTAL NUMBER OF ORDERS ON TECHNICIANS	268	100%

ENFORCEMENT DIVISION

Total Number of Orders Entered by TSBP Licensees (Pharmacists and Pharmacies), Interns, and Technicians (FY06)		
	FY06	% of FY06
Total Number of Orders on Licensees Requiring Monitoring	193	41%
Total Number of Orders on Technicians Requiring Monitoring	264	55%
Total Number of Orders Requiring Monitoring	457	96%
Total Number of Orders Not Requiring Monitoring	18	4%
Total Number of Orders Entered by TSBP in FY06	475	100%

During FY2006, TSBP entered 52 confidential disciplinary Orders. These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below:

Confidential Disciplinary Orders Entered by TSBP (FY04 – FY06)						
Nature of Violation	FY04	FY05	FY06	% of FY06	3-Yr. Avg.	% of 3-Yr. Avg.
Non-Compliance with ABO	20	11	22	42%	18	35%
Non-Compliance with PRN	N/A	N/A	1	2%	N/A	N/A
Action by Other Boards	7	5	1	2%	4	8%
Audit Shortages	3	0	0	0%	1	2%
Alcohol-Related Conviction	4	1	3	6%	3	6%
Theft of Prescription Drugs	5	1	0	0%	2	4%
Created Fraudulent Rx or Obtained C/S by Fraud	4	1	2	4%	2	4%
Convictions	2	4	0	0%	2	4%
Deferred Adjudication	2	0	0	0%	1	2%
Illegal Possession of Controlled Substances	0	0	2	4%	1	2%
Unauthorized Refills of Controlled Substances	0	0	0	0%	0	0%
Probable Cause	5	6	5	10%	5	10%
Request for Modification of ABO	6	12	8	15%	9	17%
Request for Retirement or Revocation	0	0	3	6%	1	2%
Request for Reinstatement	2	2	5	10%	3	6%
TOTAL	60	43	52	100%	52	100%

Of the 51 confidential *pharmacist* Orders entered in FY2006, there were 16 Orders resulting in an impaired/recovering pharmacist being added to the number who were being monitored at the end of FY2006, as reflected in the chart below. However, 20 pharmacists were deleted from the list as a result of early termination of probation, successful completion of probation, death, revocation of license, or license expired. Accordingly, as of August 31, 2006, a total of 89 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:

ENFORCEMENT DIVISION

Impaired/Recovering Pharmacists Monitored by Enforcement Division (FY02 – FY06)			
Fiscal Year	Total Orders*	Total New Orders**	Total Being Monitored***
FY02	63	35	97
FY03	48	23	102
FY04	58	26	103
FY05	43	15	93
FY06	51	16	89

* 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 provide verbal and written information to Board staff and customers as needed or required throughout FY2006, 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 2,165 inspections in FY2006 (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 10,492 callers who were routed through the Compliance Queue telephone line.

Number of Telephone Calls Handled via Compliance Queue (FY04 – FY06)	
FY04	8,661
FY05	7,995
FY06	10,492

C. WRITTEN INFORMATION

During FY2006, Division staff mailed 23 packets of information and 462 customer service surveys to TSBP customers.

ENFORCEMENT DIVISION

D. PRESENTATIONS (PUBLIC SPEAKING ENGAGEMENTS)

DATE	PRESENTATIONS Name of Association/Presentation and Location of Meeting	STAFF PERSON	ATTENDANCE (Approx.)
9/29/05	Denton County Pharmacy Association – Lewisville	Paul Holder	30
10/12/05	Rx Forum and Rule Review	Mike Ethridge	75
1/15/06	Drug Diversion; Federal Bureau of Investigation (FBI) Health Care Task Force – Dallas	Joe Lewis	124
1/20/06	Alcohol, Drugs and You; University of Houston College of Pharmacy Students	Carol Fisher	130
1/24/06	Lake Houston Pharmacy Association – Humble	Iona Grant	100
2/17/06	TSU Presentation – Houston	Iona Grant	86
2/17/06	VHA Southwest Pharmacy Council – Update on Pharmacy-related Actions by 79th Texas Legislative Session and Rule Changes – Plano	Paul Holder	25
2/28/06	John Peter Smith Hospital System – Update on Texas Pharmacy Act and Rule Changes – Fort Worth	Paul Holder	60
3/4/06	TPA South Texas Education Fair – Corpus Christi	Mike Ethridge	110
3/16/06	Drug Diversion in Pharmacies; Tarrant County Pharmacy Association – Fort Worth	Joe Lewis	35
4/2/06	Drug Diversion in Pharmacies; Texas Society of Health System Pharmacists Conference – Galveston	Joe Lewis	60
4/21/06	Drug Diversion in Pharmacies; West Texas Pharmacy Association – Kerrville	Joe Lewis	85
5/9/06	CTSHP – San Antonio	Mike Ethridge	85
6/14/06	Diversion of Controlled Substances; Walgreens' Interns – Austin	Gordon Lunsford	26
6/15/06	Diversion of Controlled Substances; Walgreens' Interns – Houston	Gordon Lunsford	64
6/16/06	Diversion of Controlled Substances; Walgreens' Interns – Houston	Gordon Lunsford	54
6/22/06	Houston Area Pharmacy Association – Houston	Iona Grant	40
6/30/06	Walgreens Interns & District Managers – Houston	Iona Grant	65
7/17/06	Prescription Fraud; Texas Crime Prevention Association Annual Conference – Dallas	Gordon Lunsford	116
		Total	1,370

E. SURVEYS / QUESTIONNAIRES

Division Staff responded to questionnaires and/or surveys from the following agencies:

- (1) Division Director completed a questionnaire submitted to TSBP by the Japanese Embassy, relating primarily to disciplinary policies and procedures;
- (2) Division Director completed a survey submitted to TSBP by the Texas State Auditor's Office, relating to the use of criminal record information at TSBP;
- (3) Division Director completed a phone survey by the FBI in El Paso, relating primarily to trends in white collar crime in healthcare fraud;

ENFORCEMENT DIVISION

- (4) Enforcement Program Specialist completed a National EtG Survey Questionnaire, relating to the use of EtG drug screens tests by TSBP; and
- (5) Division Director responded to questions from Legislative Budget Board with respect to “backlogged” complaints.

F. TECHNICAL ASSISTANCE TO BOARD MEMBERS AND EXECUTIVE DIRECTOR

- (1) Division Director assisted in the development of the proposed Goals and Objectives for FY2006, which were presented to/approved by the Board at its meeting held in August 2006;
- (2) Division Director made presentations at all Board meetings held in FY2006 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, as well as policies/procedures relating to Board Members;
- (4) In the absence or at the request of the Executive Director, Division Director responded to inquiries from the media;
- (5) Division Director assisted in the orientation of representatives from Governor’s Office and Legislative Budget Board with respect to agency operations;

Division staff assisted in the orientation of Debra Dukes, Receptionist;

- (6) On behalf of Executive Director, Division Director attended the House of Representatives Appropriation Committee, Subcommittee on Health and Human Services, on April 17, 2006;
- (7) On behalf of Executive Director, Division Director attended the Texas Pharmacy Congress meeting on May 11, 2006;
- (8) Division Director assisted in the review/edit of the Customer Service Survey submitted to the Governor in June 2006; and
- (9) Division Director assisted in the review/edit of the agency’s FY2005 Annual Report.

G. 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;

ENFORCEMENT DIVISION

- (B) Division staff attended 33 days of informal conferences (21 days of informal conferences involving pharmacists and pharmacies, and 12 days of informal conferences involving pharmacy technicians);
 - (C) Division Director served as an expert witness for two formal disciplinary hearings conducted by the State Office of Administrative Hearings; and
 - (D) Division staff provided orientation of Enforcement Division's activities to two new employees (Michelle Fontana and Sharanya Rao).
- (2) Division of Professional Services
- (A) *TSBP Newsletter* – Division staff assisted with each issue of the Newsletter (e.g., authorized articles such as Compliance Reminders and Complaint Corner and provided applicable information regarding disciplinary orders entered by the Board); and
 - (B) Presentations – When Professional Services Division Director was unable to make a requested presentation on pharmacy laws/rules, Division Director or Compliance staff made the presentation.
- (3) Administrative Services and Licensing Division
- (A) *TSBP Employee Handbook* – Division Director assisted Director of Administrative Services and Licensing, in cooperation with General Counsel, in updating the policy/procedure manual for agency employees;
 - (B) Computer System – Division Director and Enforcement Program Specialist, in cooperation with personnel from other Divisions, attended demonstrations of the Versa and Montana computer systems to determine the possibility of TSBP converting to these systems; and
 - (C) 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 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:

ENFORCEMENT DIVISION

Activity	FY2004	FY2005	FY2006	3-Year Average
New Class D (Clinic) Pharmacy Applications	15	19	10	15
New Class B (Nuclear) Pharmacy Applications	1	0	1	1
Petitions for Expanded Formularies for Class D (Clinic) Pharmacies	51	41	72	55
Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies	14	10	6	10
Notifications of Temporary Locations for Class D (Clinic) Pharmacies	3	1	3	2
Standard Class D Formularies Reviewed	0	4	6	3

H. 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); and
- (2) Division Director assisted staff of the Sunset Advisory Commission (who were evaluating the Board of Nurse Examiners) with questions about TSBP's procedures relating to peer assistance and disciplinary guidelines.
- (3) See Ongoing Objective #4.

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 FY2006.

Status: ACCOMPLISHED

Comment: During FY2006, Division Director and Chief of Compliance served as preceptors to ten students from three different Colleges of Pharmacy, as listed below:

- Shawn Sams (Aug. 15 – Sept. 23, 2005) – University of Texas
- Suzanne Fry (Sept. 26 – Nov. 4, 2005) – University of Texas
- Greg Gibson (Nov. 7 – Dec. 16, 2005) – University of Texas
- Amy Primmer (Jan. 9 – Feb. 17, 2006) – University of Texas
- Russell Abellera (Feb. 20 – Mar. 31, 2006) – University of Texas
- Codi Triesch (Apr. 3 – May 12, 2006) – University of Texas
- Kasey Brizendine (May 22 – Jun. 20, 2006) – University of Houston
- Joey Jessup (Jul. 3 – Aug. 11, 2006) – University of Texas
- April Aguierre (Aug. 14 – Sept. 22, 2006) – University of Texas
- Chau Hong (Aug. 14 – Sept. 22, 2006) – Texas Southern University

Division Director prepared a Rotation Schedule for each intern that covered goals, expectations and scheduled activities during the six-week rotation. Preceptors conducted mid-term and final evaluations of each intern.

ENFORCEMENT DIVISION

- 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 FY2006.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Board Member Ben Fry, R.Ph., served as an ex-officio member of the TX-PRN State Committee throughout FY2006;
- B. The TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY2006;
- 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 September 22, 2005, and the results of the audit were reported to the Board at its meeting held on May 9-10, 2006;
- D. Throughout FY2006, Division staff reviewed monthly activity reports submitted to TSBP by TX-PRN Director;
- E. Division staff attended two TX-PRN State Advisory Committee meetings (September 18, 2005, and April 9, 2006); and
- F. Throughout FY2006, Enforcement Program Specialist Janelle Nastri worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

- 9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2006.**

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 FY2006, TSBP mailed 506 complaint forms to individuals requesting forms on the HPC toll-free complaint hotline and 495 complaint forms to individuals who called the TSBP voice mail complaint line, which represented an increase in the number of complaint forms being mailed by TSBP to potential complainants, as compared to

ENFORCEMENT DIVISION

FY2005. The number of requests for complaint forms received in FY2006, as compared to the five previous fiscal years, is depicted in the following chart:

Complaint Forms Processed by Enforcement Division (FY02 – FY06)				
Fiscal Year	Requests for Complaint Forms via HPC 800#	% Change	Requests for Complaint Forms via TSBP Voice Mail	% Change
FY02	735		789	9%
FY03	628	-15%	634	-20%
FY04	260	-59%	232	-63%
FY05	490	+88%	422	+82%
FY06	506	+3%	495	+17%

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 FY2006.

Status: ACCOMPLISHED

Comment: In FY2006, 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:

- November 30 – December 2, 2005
- February 21-23, 2006
- May 22-24, 2006
- August 21-24, 2006

Carol Fisher, R.Ph., M.P.A.	
11/25/05	Online EEO Training
1/26/06	Novel Approaches to Precepting Students; sponsored by University of Texas College of Pharmacy – Austin
2/7-8/06	USP Chapter <797> Training Program, presented by Pharmacy Systems, Inc. – Austin
04/05/06	How to Write Policies and Procedures – Austin
05/25/06	The Essential Guide to Employment Law Course – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) – Austin
8/25/06	Texas Pain Management Summit -- Austin

ENFORCEMENT DIVISION

Paul Holder, R.Ph., Pharm.D.	
2/8/06	USP Chapter <797> Training Program, presented by Pharmacy Systems, Inc. – Austin
3/13-15/06	Aseptic Training Course, presented by Professional Compounding Centers of America (PCCA) – Houston
3/30/06 – 4/3/06	Texas Society of Health-System Pharmacists 58th Annual Seminar and Exhibit – Galveston
5/25/06	The Essential Guide to Employment Law Course – Austin
7/24-26/06	Council on Licensure, Enforcement and Regulation (CLEAR) Basic Investigator/Inspector Certification – Austin
8/1/06	Completion of Texas Open Meetings Act Training Course – Austin
8/2/06	Completion of Texas Public Information Act Training Course – Austin
8/19/06	24th Annual University of Texas Preceptor Orientation and Training Conference – Salado
8/23/06	Working Together Effectively (Governor’s Center for Management Development) - Austin

Joe Lewis	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
11/21/06	Coping with Holiday Stress – Austin
12/7/06	EAP Financial Seminar – Austin
2/23/06	Defensive Driving – Austin
3/8-9/06	Financial Crimes – Austin
5/25/06	The Essential Guide to Employment Law Course – Austin
8/23/06	Working Together Effectively (Governor’s Center for Management Development) -- Austin

Ben Santana, R.Ph.	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
12/15-16/06	EEO Training
1/26/06	Novel Approaches to Precepting Students; University of Texas College of Pharmacy – Austin
3/31/06	Texas Society of Health-System Pharmacists 58th Annual Seminar – Galveston
5/25/06	The Essential Guide to Employment Law Course – Austin
6/29/06	Webinar: Proposed Changes to USP Chapter <797>
8/23/06	Working Together Effectively (Governor’s Center for Management Development) – Austin

Sherry Stevenson	
10/20/05	Texas Conference for Women – Austin
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
11/21/05	Coping with Holiday Stress (EAP Presentation) – Austin
12/20/05	EEO Online Training
2/06	Transferred to Professional Services Division

ENFORCEMENT DIVISION

Janelle Nastri	
9/18/05	PRN Fall Seminar; "Living in the Solution...if not here, where? If not now, when?" – Austin
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
12/15/05	EEO Online Training
4/4-7/06	Governor's Management Development Program – Austin
4/9/06	PRN Spring Seminar; "Not My Way: Sustaining Recovery through Surrendering and Humility" – Austin
5/25/06	Essential Guide to Employment Law – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) – Austin

Iona Grant, R.Ph.	
10/13/05	Defensive Driving Education – Houston
11/16-18/05	Aseptic Training Course, presented by Professional Compounding Centers of America (PCCA) – Houston
12/27/05	EEO Training – Houston
2/8/06	USP Chapter <797> Training Program, presented by Pharmacy Systems, Inc. – Austin
4/27/06	Benefit Wise Seminar – Houston
7/20-23/06	Texas Pharmacy Association Annual Meeting and Expo 2006 – The Woodlands
8/23/06	Working Together Effectively (Governor's Center for Management Development) – Austin

Mike Ethridge, R.Ph.	
10/12/05	Medicare Drug Forum – Weslaco
10/27/05	Defensive Driving Education – San Antonio
11/16-18/05	Aseptic Training Course, presented by Professional Compounding Centers of America (PCCA) – Houston
12/11/05	EEO Training
2/8/06	USP Chapter <797> Training Program, presented by Pharmacy Systems, Inc. – Austin
3/4-5/06	Texas Pharmacy Association; South Texas Education Fair – Corpus Christi
5/3/06	Be Benefit Wise; a presentation by ERS – San Antonio
7/20-23/06	Texas Pharmacy Association Annual Meeting and Expo 2006 – The Woodlands
8/23/06	Working Together Effectively (Governor's Center for Management Development) – Austin

Susan Furnas	
5/21/06	Resigned from TSBP

Chris Schuttler	
11/15-18/05	Aseptic Training Course, presented by Professional Compounding Centers of America (PCCA) – Houston
12/22/05	EEO Training
2/8/06	USP Chapter <797> Training Program, presented by Pharmacy Systems, Inc. – Austin
2/23/06	Defensive Driving Training – Austin
3/30/06 – 4/3/06	Texas Society of Health-System Pharmacists 58th Annual Seminar and Exhibit – Galveston
8/23/06	Working Together Effectively (Governor's Center for Management Development) – Austin

ENFORCEMENT DIVISION

David Meryman	
12/16/05	EEO Training
2/8/06	USP Chapter <797> Training Program, presented by Pharmacy Systems, Inc. – Austin
3/12-15/06	Aseptic Training Course, presented by Professional Compounding Centers of America (PCCA) – Houston
7/20-23/06	Texas Pharmacy Association Annual Meeting and Expo 2006 – The Woodlands
8/23/06	Working Together Effectively (Governor's Center for Management Development) – Austin

Karen Guenther	
8/23/06	Working Together Effectively (Governor's Center for Management Development) – Austin

Ann Driscoll	
10/16/05	Texas Pharmacy Association Law Symposium – Austin
2/8/06	USP Chapter <797> Training Program, presented by Pharmacy Systems, Inc. – Austin
2/13/06	TCIC In-service with TDI – Austin
2/23/06	Defensive Driving Training – Austin
7/20-23/06	Texas Pharmacy Association Annual Meeting and Expo 2006 – The Woodlands
2/23/06	Working Together Effectively (Governor's Center for Management Development) – Austin

Robert Ebrum	
9/20/05	Intoxilyzer Re-Certification Training – Floresville
3/8-9/06	Financial Crimes School – Austin
3/15/06	Special Investigations – Karnes City
5/25/06	The Essential Guide to Enforcement – Austin
6/27-29/06	Governor's Management School – San Antonio
7/24-26/06	National Certified Investigator/Inspector Training (CLEAR) – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) - Austin

Gordon R. Lunsford	
2/23/06	Defensive Driving – Austin
3/8-9/06	Financial Crimes – Austin
7/18-20/06	Critical Incident Training (The Training Course) – Houston
7/24-26/06	National Certified Investigator/Inspector Training (CLEAR) – Houston
8/23/06	Working Together Effectively (Governor's Center for Management Development) - Austin

Wayne L. Jones	
1/17/06	EEOC Online
1/30/06	Cultural Diversity; Racial Profiling; Asset Forfeiture – Austin
2/23/06	Defensive Driving
4/5-6/06	Crisis Intervention – San Antonio
8/23/06	Working Together Effectively (Governor's Center for Management Development) -- Austin

ENFORCEMENT DIVISION

Tara M. Rike	
2/17/06	Defensive Driving – Austin
3/8-9/06	Financial Crimes – Austin
7/24-26/06	National Certified Investigator/Inspector Training (CLEAR) – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) -- Austin

Sarah Guevara	
9/13/05	Identity Theft – Austin
9/13/05	Asset Forfeiture – Austin
2/23/06	Defensive Driving – Austin
4/19-21/06	Special Investigative Topics and Investigative Approaches (Crimes against Women) – San Antonio
7/5/06	Prescription Errors: Legal Consequences & Patient Safeguards (Online CE) – Georgetown
7/6/06	Strategies for Preventing Medication Misadventures: Impact on Insulin Safety (Online CE) – Georgetown
7/6/06	Drug Product Selection: Legal Issues for Pharmacists (Online CE) – Georgetown
7/6/06	Turning Information Into Knowledge Using the Internet (Online CE) – Georgetown
7/6/06	New Options in Chronic Obstructive Pulmonary Disease Management (Online CE) – Georgetown
7/9/06	Blood Glucose Monitoring and the Pharmacy Technician (Online CE) – Georgetown
7/9/06	Smoking Cessation Therapy (Online CE) – Georgetown
7/9/06	New Insights into Osteoporosis Management (Online CE) – Georgetown
7/9/06	Management of Stress Urinary Incontinence (Online CE) – Georgetown
7/11/06	Cardiovascular Care in the Patient with Diabetes (Online CE) – Georgetown
7/11/06	Onychomycosis: Fungal Infection of the Nails (Online CE) – Georgetown
7/24-26/06	National Certified Investigator/Inspector Training (CLEAR) – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) - Austin

Allen Corporon	
11/7–14/05	Texas State Board of Pharmacy Orientation – Austin
11/10/05	EEO Training Online – Austin
11/14-17/05	Cultural Diversity, Special Investigative Topics and Identity Theft – Waco
2/23/06	Defensive Driving – Austin
3/8-9/06	Financial Crimes – Austin
7/24-26/06	National Certified Investigator/Inspector Training (CLEAR) – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) -- Austin

ENFORCEMENT DIVISION

Melissa Weeden	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
11/30/05	Building Evacuation – Austin
12/16/05	EEO Training Online – Austin
2/23/06	DEA/DPS Drug Diversion – Austin
4/6/06	CLEAR Webinar – Austin
7/24-26/06	National Certified Investigator/Inspector Training (CLEAR) – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) - Austin

Cynthia Fazin	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
12/28/05	EEO Training Online – Austin
4/6/06	CLEAR Webinar – Austin
7/24-25/06	National Certified Investigator/Inspector Training (CLEAR) – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) - Austin

Robert Rivera	
2/13/06	NCIC/TCIC Policy and Procedures – DPS – Austin
4/6/06	Web Seminar – CLEAR – Austin
5/10/06	Web Seminar – Benefits -- Austin
7/24-26/06	National Certified Investigator/Inspector Training (CLEAR) – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) – Austin
8/28/06	Texas Communication Information Center -- Austin

Amy Schroeder	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
12/13/05	EEO Training on Sexual Harassment Online – Austin
4/10/06	CLEAR Webinar – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) - Austin

Jill Kier	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
12/05	EEO Sexual Harassment Training Online
4/06	CLEAR Webinar Detecting Fraud in Licensing Documents
7/06	Council on Licensure, Enforcement and Regulation (CLEAR) Advanced Investigator/Inspector Certification – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) - Austin

Linda Yazdanshenas	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
12/15/05	EEO Sexual Harassment Training
2/06	USP Chapter <797> Training Program, presented by Pharmacy Systems, Inc. – Austin
4/06	CLEAR Webinar Detecting Fraud in Licensing Documents
7/06	Council on Licensure, Enforcement and Regulation (CLEAR) Advanced Investigator/Inspector Certification – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) - Austin

ENFORCEMENT DIVISION

Patty Galan	
9/18/05	Living in the solution...If not here, where? If not now, when? (PRN Seminar) – Austin
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
12/5/05	EEO Training – Austin
4/6/06	CLEAR – Fraudulent Credentials – Austin
4/9/06	Not My Way: Sustaining Recovery through Surrendering and Humility (PRN Seminar) – Austin
7/31/06 – 8/4/06	Improving the Quality of Care for Texans (Texas Institute on Substance Abuse and Mental Health) – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) - Austin

Becky Damon	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
4/9/06	Not My Way: Sustaining Recovery through Surrendering and Humility (PRN Seminar) – Austin
7/31/06 – 8/4/06	Improving the Quality of Care for Texans (Texas Institute on Substance Abuse and Mental Health) – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) – Austin
8/30/06	Texas Public Information Act (video) – TSBP Headquarters

Diane Torres	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
12/15/05	EEO Training – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) - Austin

Yvette Muniz	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
12/2/05	EEO Training – Austin
7/5/06	Texas Law Enforcement Telecommunications System (TLETS) Training
8/23/06	Working Together Effectively (Governor's Center for Management Development) – Austin

Noreen Trevino	
10/25/05	Orientation to New Programs (Alliance Work Partners/EAP) – Austin
11/28/05	EEO Training – Austin
2/10/06	CPR and AED Machine Training and Certification
2/23/06	Defensive Driving Course – Austin
4/6/06	CLEAR/Fraudulent Credentials and False Information – Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) - Austin

Kelly Clark	
2/13/06	NCIC/TCIC Policy and Procedures Training for Criminal Justice Practitioners - Austin
8/23/06	Working Together Effectively (Governor's Center for Management Development) – Austin

ENFORCEMENT DIVISION

11. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2006.

Status: ACCOMPLISHED

Comment: All Division staff had the opportunity to participate in the Survey of Organizational Excellence, as well as in activities culminating in the Agency Change Team report. Formal performance reviews were conducted as follows:

Employee	Date of Evaluation
Joe Lewis	August 29, 2006
Ben Santana, R.Ph.	August 29, 2006
Janelle Nastri	August 28, 2006
Iona Grant, R.Ph.	August 24, 2006
Mike Ethridge, R.Ph.	August 24, 2006
Chris Schuttler	August 24, 2006
David Meryman	August 24, 2006
Paul Holder, R.Ph.	August 31, 2006
Ann Driscoll	August 31, 2006
Robert Ebrom, Jr.	August 22, 2006
Wayne Jones	May 24, 2006
Gordon Lunsford	May 24, 2006
Tara Rike	May 24, 2006
Sarah Guevara	May 24, 2006
Allen Corporon	May 24, 2006
Amy Schroeder	August 29, 2006
Melissa Weeden	August 29, 2006
Cynthia Fazin	August 29, 2006
Robert Rivera	August 29, 2006
Linda Yazdanshenas	August 30, 2006
Jill Kier	August 30, 2006
Patty Galan	August 30, 2006
Becky Damon	August 30, 2006
Noreen Trevino	August 29, 2006
Yvette Muniz	August 30, 2006
Diane Torres	August 30, 2006
Kelly Clark	August 30, 2006

Other activities relating to personnel included:

- A. During FY2006, Division Director created or updated 16 job descriptions (or 89% of the Division's 18 different job descriptions). The only job descriptions that were not updated were (i) Compliance Specialist and (ii) In-House Investigator III. The following job descriptions were updated:

New Positions: Assistant Director of Enforcement
 Deputy Chief of Investigations
 Enforcement Specialist I
 Investigator II

ENFORCEMENT DIVISION

Revised Job Descriptions:

- Director of Enforcement
- Chief of Investigations
- Field Investigator
- Senior Enforcement Officer
- Enforcement Officer
- Chief of Compliance
- Senior Compliance Officer
- Compliance Inspector
- Enforcement Program Specialist
- Enforcement Specialist III
- Enforcement Technician
- Administrative Assistant

- B. In the fall of 2005, 17 Division staff (57% of the 30 Division employees) successfully responded to a Classification Audit of Inspector and Investigator positions that was conducted by the State Auditor. The following positions were audited:

Investigators (11)

- Senior Field Investigator (1)
- Field Investigators (5)
- Senior Enforcement Officer (1)
- Enforcement Officers (2)
- Investigator III
- Investigator II

Inspectors

- Senior Compliance Officer (2)
- Compliance Officer (1)
- Inspector V (3)

- C. Although the Division filled six vacant positions during FY2006, the

- (1) Losses – the Division experienced turnover in the following two positions:
 - (a) Sherry Stevenson, Enforcement Division Specialist and assistant to Division Director for 13 years, transferred to the Division of Professional Services; and
 - (b) Susan Furnas, Compliance Inspector for West Texas, submitted her resignation in May 2006.

ENFORCEMENT DIVISION

- (2) New FTE Positions -- as a result of funding appropriated by the 79th Texas Legislature, the Division was able to hire two new employees:
- (a) one program specialist to monitor technicians placed on probation as a result of a disciplinary order; this position was filled in November 2005, following the internal promotion of Becky Damon; and
 - (b) one in-house investigator to conduct criminal background checks on technician trainees; this position was filled in January 2006, with the employment of Robert Rivera.

The new FTEs required new offices to be built, which unfortunately resulted in a 50% reduction of the size of the TSBP Conference room.

- (3) Vacant Positions – in addition to two new hires, the Division filled four other positions (a total of six vacant positions), as described below:
- (a) following Ms. Damon's promotion, the Division experienced a vacancy for an Administrative Assistant, which was subsequently filled by Kelly Clark, effective December 5, 2005;
 - (b) following the loss of Sherry Stevenson, the position was reclassified to an Assistant Director position and subsequently filled by Paul Holder, R.Ph., Pharm.D., effective August 1, 2006;
 - (c) following Dr. Holder's promotion, the Division experienced a vacancy for the Dallas Compliance Officer position; this position was reclassified to an Inspector V and subsequently filled by Karen Guenther, C.Ph.T.; and
 - (d) following the resignation of Susan Furnas, C.Ph.T., the Division selected Sharon Dimmick, C.Ph.T. as the Compliance Inspector for the West Texas region.
- (4) Internal Promotions – the Division was able to make three internal promotions during FY2006, as described below:
- (a) the promotions mentioned above for Ms. Damon and Dr. Holder; and
 - (b) Senior Investigator Robert Ebrom was promoted to Deputy Chief of Investigations.

ENFORCEMENT DIVISION

- D. During FY2006, Division staff conducted orientations for four new Division Staff: Ann Driscoll (September 2005); Kelly Clark (December 2005); Robert Rivera (January 2006); and Karen Guenther (August 2006). Division Director prepared in-depth orientation schedules for each new employee.

12. To destroy records in accordance with the agency’s record retention plan throughout FY2006; to update the Division’s *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2006.

Status: ACCOMPLISHED

Comment: The following activities relate to this objective:

A. Records Management

During FY2006, Division staff destroyed 35.56 cubic feet of records, in accordance with the TSBP record retention schedule. This performance represented a 51% decrease over the prior fiscal year, as represented in the chart below:

Fiscal Year (FY02 – FY06)	# of Cubic Feet of Records Destroyed	% Change
FY2002	56.25	+65%
FY2003	39.00	-31%
FY2004	30.50	-22%
FY2005	72.00	+136%
FY2006	35.56	-51%

B. Policies and Procedures

During FY2006, Chief of Compliance updated the section of the Compliance Policy and Procedure Manual relating to inspections of pharmacies that are compounding sterile pharmaceuticals. In addition, Division Director updated procedures relating to complaint worksheet.

13. To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2006.

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 made recommendations for procedures to streamline/enhance the pre-inspection program;
- B. Division staff made recommendations to enhance the agency’s computerized complaint tracking system;

ENFORCEMENT DIVISION

- C. Compliance Field Staff made recommendations to enhance inspection report forms and regional pharmacy rosters;
- D. Field staff made recommendations regarding equipment needs (e.g., provide Global Positioning System Devices; wireless access to Internet); and
- E. Field staff made recommendations regarding training needs (e.g., inspecting prescription balances; and safety training).

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 FY2006.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Texas Pharmacy Act
 - (1) Division staff made recommendations for amendments to the Texas Pharmacy Act to help ensure that controlled substances prescribed for chronic pain were dispensed in a manner consistent with public health and welfare (e.g., require a pain management pharmacist to obtain continuing education specifically designed for pain management care; hold pain management pharmacies to strict rules designed for pain management settings, such as requiring patient progress notes on all patients receiving controlled substances for chronic pain).
 - (2) Division Director recommended that theft of money from a pharmacy be included as a ground for discipline in the Texas Pharmacy Act.
 - (3) Division staff recommended that the Texas Pharmacy Act be amended to raise the minimum education for pharmacy technicians.
 - (4) Division Director recommended that the Texas Pharmacy Act be amended to require owners for new pharmacy licenses to post a bond that would be forfeited to the state in the event the pharmacy did not comply with legal opening and closing procedures.
- B. TSBP Rules
 - (1) Division staff made several recommendations regarding TSBP rules relating to Pharmacies Compounding Sterile Pharmaceuticals (e.g., increase the number of hours of instruction/experience that a pharmacist must have before preparing sterile pharmaceuticals).

ENFORCEMENT DIVISION

- (2) Division staff made recommendation to amend TSBP rules to require pharmacy computer systems to capture the initials of pharmacy technicians who were participating in the dispensing of a prescription (e.g., initials of the technician who was responsible for the data entry of a prescription). In addition, the prescription hardcopy should be initialed by a pharmacy technician in the same manner as the dispensing pharmacist.
- (3) Division staff made recommendations for TSBP rules regarding the implementation of the registration of Technician Trainees.
- (4) Division staff made recommendations for amendments to TSBP rules requiring applicants to be fingerprinted and recommended a phase-in process.
- (5) Assistant Director of Enforcement recommended that Class A Pharmacy rules be amended to prohibit flammable materials from being stored in the pharmacy, similar to rule language in Class C Pharmacies.
- (6) Assistant Director of Enforcement recommended that TSBP Rules be amended to clarify procedures during temporary leave of absence of a pharmacist-in-charge (e.g., vacation and medical leave).
- (7) Division staff recommended that Class A Pharmacy rules be amended to require a perpetual inventory of highly abused drugs.
- (8) Division staff recommended that Class D Pharmacy rules be amended to require facility lot number on package label and pre-packaging records.

15. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2005 Annual Report* to be presented to the Board at its May 2006 Board meeting.

Status: **ACCOMPLISHED**

Comment: The Division's first draft of the *FY2005 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 2006.

FY2006 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished all of the Division's Objectives for FY2006.
2. During FY2006, the agency continued the initial registration process for all pharmacy technicians and began handling the large number of ongoing disciplinary issues for pharmacy technicians. The Division handled numerous disciplinary cases against the pharmacy technicians 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 initiated 399 disciplinary actions by mailing a Preliminary Notice Letter and entered 268 orders against pharmacy technicians during the fiscal year.
3. TSBP continued with the significantly increased number of disciplinary orders in FY2006 over fiscal years prior to the registration of pharmacy technicians, based in large part on the additional cases against pharmacy technicians but also on an increase in cases against pharmacists and pharmacies. The Division entered 207 disciplinary actions against pharmacists and pharmacies and 268 against pharmacy technicians, for a total of 475 disciplinary actions.
4. 100% 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, which resulted in significant efficiencies, both in terms of complaint resolution time and expenditures.
5. The Division initiated more disciplinary actions by mailing Preliminary Notice Letters (PNL) in FY2006 than any prior fiscal year. The Division mailed a total of 654 PNLs, as compared to 618 in FY2005 and the previous record of 652 in FY2004, with 255 PNLs mailed to pharmacists and pharmacies and 399 PNLs mailed to pharmacy technicians. The number of days to mail all PNLs after the case review date, which was 50 days in FY2006, as compared to 37 days in FY2005, fell slightly due largely to the increased complexity of pharmacy technician PNLs and the increased number of pharmacist and pharmacy PNLs, which are inherently more complex.
6. The Division conducted a total of 33 days of Informal Conferences for both pharmacists and pharmacies and for pharmacy technicians in FY2006, an increase in number of days from 30 days in FY2005. This large number of Informal Conference days allowed the Division to resolve a large number of disciplinary cases.
7. The Division resolved nine 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.

LEGAL DIVISION

8. Four 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 even with the increase in the number of hearings, the Division was able to maintain a fairly consistent number of cases resolved.

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
FY02	2	0	179	181	25%	99%
FY03	4	0	209	213	17%	98%
FY04	6	0	229	235	10%	98%
FY05	2	5	165	172	-27%	99%
FY06	0	1	206	207	20%	100%
TOTAL	14	6	988	1008	14% OVER 5 YRS.	5 YR. AVG. 99%

PHARMACY TECHNICIANS

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%
TOTAL	7	34	841	882	N/A	99.2%

9. General Counsel played an integral role in the coordination and development of the agency's response to Hurricanes Katrina and Rita, in developing the emergency procedures to be used for temporary licensing, developing advisory information on closing of pharmacies in evacuated areas, and disseminating information to licensees and the public.

LEGAL DIVISION

FY2006 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The number of days to resolve a case increased in FY2006 due, in part, to the loss of an attorney approximately one-half way through the year. In addition, the cases against pharmacy technicians became more complicated as the cases began to involve not merely adjudicated criminal offenses, but also cases involving more complicated investigations by TSBP of thefts at pharmacies, which ultimately led to a longer resolution time in the Legal Division due to the longer amount of time to draft and prepare the cases.

FY2006 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)

- 1. To assist the Executive Director, in cooperation with other Divisions, in updating and preparing the TSBP *Strategic Plan* for the 2007-2011 period, and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date.**

Status: ACCOMPLISHED

Comment: At the meeting on November 1-2, 2005, the Board reviewed comments concerning strategic planning by TSBP from persons who had submitted comments. General Counsel 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 on May 9-10, 2006. The TSBP *Strategic Plan* was published and delivered to the Governor's office and other applicable agencies by the due date.

- 2. To assist the Executive Director, in cooperation with other Divisions, in the preparation of the TSBP Legislative Appropriation Request and corresponding performance measures for the FY2008-2009 biennium by the due date.**

Status: ACCOMPLISHED

Comment: General Counsel assisted the Executive Director and Director of Administrative Services and Licensing in the preparation of the proposed budget for FY2008-2009, attended a budget meeting with the TSBP Executive Committee on March 29, 2005, and reviewed the final draft of the document, which was subsequently submitted to the Governor and the LBB by the due date. The agency's first budget hearing with the staff of the Governor's Office and Legislative Budget Board was held on August 21, 2006.

- 3. To assist the Executive Director, in cooperation with other Divisions, in implementation of the new program to register and regulate pharmacy technician trainees throughout FY2006.**

Status: ACCOMPLISHED

LEGAL DIVISION

Comment: General Counsel participated in meetings with the Executive Director and other Division Directors regarding proposed rules to implement the technician trainee program, which included the following four primary concepts: (1) registration would be on-line at no charge; (2) no person would be able to perform technician duties after the deadline (February 1, 2007), without first obtaining a registration from TSBP; (3) a two-year registration would be issued and would not be renewable; and (4) applicants for registration would be required to submit fingerprint information (and be responsible for all associated costs). General Counsel reviewed and assisted with development of the associated proposed rules.

At its meeting held on February 7-8, 2006, the Board voted to approve the proposed rules as drafted by Board staff, including the four concepts described above. On May 9, 2006, the Board held a public hearing on the proposed rules. On May 9-10, 2006, the Board discussed the proposed rules and comments made at the public hearing regarding the proposed rules. On May 10, 2006, the Board voted to adopt the proposed rules with the four concepts described above.

General Counsel has also participated in several meetings to assist with the development of the computer programming changes that were needed to implement the technician trainee registration program. The process of registering technician trainees will begin in FY2007.

4. To assist the Executive Director, in cooperation with other Divisions, in reviewing and implementing legislation passed by the 79th Legislature that affects agency operations and/or the practice of pharmacy throughout FY2006.

Status: ACCOMPLISHED

Comment: Actions taken by the 79th Texas Legislature that had an impact on the Enforcement Division are described below:

- A. During the 79th Legislative Session, the Board was authorized to conduct Temporary Suspension hearings before a three-member panel of Board Members to determine whether a licensee/registration should be temporarily suspended or restricted based on a continuing threat to the public welfare. General Counsel developed policies and procedures for convening the disciplinary panel and a protocol for conducting the hearing. Temporary Suspension hearings were held for two pharmacists in FY2006 based on allegations of impairment while working as a pharmacist. Both cases resulted in the temporary suspension of the licenses, and were ultimately settled with an ABO for an indefinite suspension for a minimum of one year, without the necessity of taking the case before the State Office of Administrative Hearings for a contested case hearing.
- B. The 79th Legislature required that the Board adopt a schedule of administrative penalties applicable to disciplinary sanctions. General Counsel developed an administrative penalty matrix for regulatory violations applicable to pharmacists, pharmacies, and pharmacy technicians, which was translated into administrative rules by the Division of Professional Services and approved by the Board in FY2006.

LEGAL DIVISION

- C. General Counsel developed procedures to be used for implementing the additional disciplinary sanctions authorized for pharmacy technicians by the 79th Legislature.
- D. General Counsel participated in Pharmacy Compounding Task Force meeting on July 7, 2006, and assisted with development of rules to implement compounding provisions passed by the 79th Legislature in S.B. 492.
- E. In order to implement confidentiality provisions of S.B. 410 relating to personal licensee/registrant information, General Counsel removed certain information contained in agreed board orders and developed new application forms for reinstatement and relicensure.
- F. General Counsel requested an opinion in Fy2005 whether federal law preempted the implementation of sections of S.B. 410 regarding authorization by the board for certain Canadian pharmacies to dispense drugs to Texas residents. The opinion was issued on December 21, 2005, concluding that the Board would violate federal law by "designating" certain Canadian pharmacies, promoting them on its website, and expressly permitting Texas consumers to import prescription drugs that cannot be imported under federal law.

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

Status: ACCOMPLISHED

Comment: On August 10, 2006, the Governor announced the appointment of two new Board Members (Jeanne Waggener, R.Ph., community pharmacist from Bellmead, Texas, and Alice Mendoza, R.Ph., hospital pharmacist from Kingsville, Texas) and the reappointment of Rosemary Combs, public member from El Paso, Texas. After immediate consultation with the new Board members and their approval, the Executive Director scheduled dates for the orientation (September 26-27, 2006). Although the orientation will occur within 60 days of the Governor's appointments, the orientation process will not be completed until FY2007.

Objectives (Ongoing)

1. To coordinate and monitor throughout FY2006 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.

LEGAL DIVISION

- 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 475 disciplinary orders in FY2006, 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	4	0	1	34	116	52	207
Pharmacy Technicians	0	4	34	118	112	0	268
Total	4	4	35	152	228	52	475

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

Information regarding the disciplinary cases entered in FY2006 is set forth in the following charts:

LEGAL DIVISION

**DISCIPLINARY ORDERS ON
PHARMACISTS AND PHARMACIES (FY2006)
NATURE OF VIOLATIONS***

	Pharmacists	Pharmacies	Total	Total %
Diversion	9	2	11	5%
Unauthorized Dispensing of C/S and/or D/D	0	0	0	
Theft of C/S	6	2	8	
Obtained C/S by Fraud	2	0	2	
No Valid Dr-Pt Relationship (Internet)	1	0	1	
	0	0	0	
Convictions	14	0	14	7%
Felony	1	0	1	
Misdemeanor	4	0	4	
Deferred Adjudication, Felony	7	0	7	
Alcohol-Related	2	0	2	
Audit Discrepancies	14	8	22	11%
Drug	4	8	12	
Continuing Education	10	0	10	
Practice Deficiencies	17	17	34	16%
Dispensing Errors	6	8	14	
Dispensing Errors and No Counsel and/or No Drug Regimen Review	10	8	18	
No Counsel and/or DRR	1	1	2	
Unprofessional Conduct	77	35	112	54%
Aiding and Abetting	0	1	1	
Allow Tech to Practice w/Delinquent Registration	19	19	38	
Supervising Sterile Compounding w/o Proper Training	1	1	2	
Falsified Application for Licensure	10	12	22	
Possession of Samples	1	1	2	
Insurance Fraud	1	1	2	
Probable Cause/Chemical Dependency	9	0	9	
Action by Other Boards	8	0	8	
Non-Compliance with Previously Entered Order	28	0	28	
Other	13	1	14	7%
Modification	8	1	9	
Reinstatement	5	0	5	
TOTAL FY06:	144	63	207	

* BOs/ABOs may contain more than one type of violation. The identified violation was selected as the primary violation.

LEGAL DIVISION

**SANCTIONS IMPOSED BY THE ENTRY OF
DISCIPLINARY ORDERS ON
PHARMACISTS AND PHARMACIES (FY2006)**

	Pharmacist	Pharmacy	Total		(%)
License Removed				16	8%
Revoke	13	2	15		
Retire	1	0	1		
Suspensions				51	25%
Suspension	6	0	6		
Suspension with Conditions	16	0	17		
Suspension/Fine	2	0	2		
Suspension/Probation	1	1	2		
Suspension/Probation/Conditions	8	0	7		
Suspension/Probation/Fine	2	4	6		
Suspension/Probation and Fine w/Conditions	7	5	11		
Restrictions	4	0		4	2%
Other				98	47%
Fine	31	4	35		
Fine with Conditions	10	21	32		
Fine and Reprimand	2	0	2		
Fine, Reprimand with Conditions	8	9	17		
Reprimand	4	0	4		
Reprimand with Conditions	4	4	8		
Issuance License/Regist.				24	11%
Grant with Suspension	0	0	0		
Grant with Probation	3	0	3		
Grant with Probation and Conditions	1	0	1		
Grant with Reprimand	2	0	2		
Grant with Fine	6	12	18		
Deny	0	0	0		
Reinstatements				5	2%
Grant	0	0	0		
Grant with Probation/Conditions	5	0	5		
Deny	0	0	0		
Modifications				9	5%
Grant	8	1	9		
Deny	0	0	0		
TOTAL FY06:	144	63		207	

LEGAL DIVISION

**VIOLATIONS IN DISCIPLINARY ORDERS ON
PHARMACY TECHNICIANS (FY2006)**

	Pharmacy Technician	Total	(%)
Gross Immorality		17	6
Immoral conduct	0		
with falsified application	0		
Engaging in felony	12		
with falsified application	4		
Engaging in sexually deviant behavior	1		
with falsified application			
Falsification		49	18
Conviction		91	34
Misdemeanor	53		
with falsified application	15		
Felony	16		
with falsified application	7		
Drug or Alcohol Dependency		26	10
Drug or Alcohol Dependency	20		
with falsified application	6		
Violation of Drug Laws		65	24
Misdemeanor	30		
with falsified application	3		
Felony	28		
with falsified application	4		
Delinquent License Violation of Rehab ABOs		17	6
		3	1
TOTAL FY06:		268	

LEGAL DIVISION

**SANCTIONS IMPOSED BY THE ENTRY OF
DISCIPLINARY ORDERS ON
PHARMACY TECHNICIANS (FY2006)**

	Pharmacy Technician	Total	(%)
License Removed		31	12%
Revoke	31		
Retire	0		
Suspensions		35	13%
Suspension	12		
Suspension with Conditions	1		
Suspension/Fine	0		
Suspension/Fine with Conditions	0		
Suspension/Probation	10		
Suspension/Probation/Fine	0		
Probation	12		
Probation/Fine	0		
Restrictions	0	0	0%
Other		40	15%
Fine	40		
Fine with Conditions	0		
Reprimand	0		
Reprimand with Conditions	0		
Fine/Reprimand	0		
Fine/Reprimand with Conditions	0		
Issuance License/Regist.		162	60%
Grant with Suspension	70		
Grant with Suspension/Probation	19		
Grant with Probation	49		
Grant with Fine	20		
Grant with Reprimand	0		
Deny	4		
Reinstatements		0	0%
Grant with Probation	0		
Deny	0		
Modifications		0	0%
Grant	0		
Deny	0		
TOTAL FY06:		268	

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 FY2006.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. During FY2006, Division staff participated in 20 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 654 Preliminary Notice Letters (PNLs) in FY2006, in accordance with the priorities established for the Division, as compared to FY2005, when the Division mailed 618 PNLs. Of these PNLs, 255 PNLs were mailed to pharmacists and pharmacies, and 399 PNLs were mailed to pharmacy technicians.
- C. The number of days to mail PNLs after the case review date in FY2006 was 50 days which is a slight increase from the FY2004 number of 37 days. This increase is due to the increase in the number of days for pharmacy technician PNLs (as noted below) and was caused by increased complexity in the pharmacy technician cases.
- The number of days for PNLs to be sent to pharmacists and pharmacies averaged 69 days as compared to 82 days in FY2005. PNLs to pharmacy technicians were sent in an average of 37 days from receipt of the case, as compared to 16 days in FY2005.
- D. Total resolution time for cases in FY2006 was 136 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 113 days. Case resolution for pharmacists and pharmacies averaged 186 days, down significantly from 223 days in FY2005, and for pharmacy technicians averaged 100 days, up from 73 days in FY2005.
- E. During the 79th Legislative Session, the Board was authorized to conduct Temporary Suspension hearings before a three-member panel of Board Members to determine whether a licensee/registration should be temporarily suspended or restricted based on a continuing threat to the public welfare. The Division conducted Temporary Suspension hearings for two pharmacists in FY2006 based on allegations of impairment while working as a pharmacist. Both cases resulted in the temporary suspension of the licenses, and were ultimately settled with an ABO for an indefinite suspension for a minimum of one year, without the necessity of taking the case before the State Office of Administrative Hearings for a contested case hearing.

LEGAL DIVISION

- 3. To plan and conduct a minimum of 15 days of informal conference sessions in FY2006 to adjudicate violators of pharmacy laws/rules.**

Status: ACCOMPLISHED

Comment: During FY2006, the Division prepared for 33 days of Informal Conferences for 402 licensees/registrants, as indicated in the following charts. The number of conference days and the number of licensees/registrants increased in FY2006, from 30 days and 293 licensees/registrants in FY2005.

Informal Conferences for Pharmacies and Pharmacists

Dates of Informal Conferences	# of Days	# of Phy/RPh Licensees	# of Techs	# of Cases	# of Licensees Dismissed
9/6-8/05	3	19	6	22	3
10/17-19/2005	3	25	4	21	3
1/10-12/2006	3	29	4	26	4
2/28/2006-3/2/2006	3	27	9	24	2
4/4-6/2006	3	23	5	27	0
6/20-22/2006	3	28	7	23	5
7/11-13/2006	3	26	1	22	4
TOTAL FY2006	21	177	36	165	21

Informal Conferences for Technicians

Dates of Informal Conferences	# of Days	# of Cases	Applicants	Registrants	No-show Applicants	Defaults on Registrants
9/13/2005	1	18	13	0	5	0
10/24/2005	1	16	12	0	4	0
11/22/2005	1	12	7	1	4	0
12/13/2005	1	9	7	0	2	0
1/26/2006	1	16	13	0	1	2
2/23/2006	1	15	8	2	3	2
3/23/2006	1	11	2	0	5	4
4/19/2006	1	15	5	3	3	4
5/3/2006	1	18	7	5	1	5
6/8/2006	1	17	2	4	4	7
7/18/2006	1	24	12	6	2	4
8/24/2006	1	18	4	8	4	2
TOTAL FY2006	12	189	92	29	38	30

- 4. To refer disciplinary cases to the State Office of Administrative Hearings (SOAH) throughout FY2006, 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

LEGAL DIVISION

Comment: This objective was accomplished through the following activities:

- A. At the onset of FY2006, six cases were either ongoing or pending the filing of a complaint at the State Office of Administrative Hearings. The Division filed formal Complaints at SOAH, within 120 days that the case failed to settle with an Agreed Board Order, for seven additional cases in FY2006.
- B. Nine cases were resolved prior to a full contested administrative hearing being conducted at SOAH. 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. Four administrative hearings were conducted in FY2006. Five Proposals for Decision (PFD) were issued by the Administrative Law Judges during FY2006, for two hearings conducted in FY2005 and for two hearing conducted in FY2006. In each case, the Board essentially adopted the recommendations in the PFDs by Board Order. One PFD had been received by the end of FY2006 but still required the entry of a Board Order, and one case was anticipating the return of a PFD at the end of FY2006.
- D. SOAH performed 147.15 hours of work on 13 cases for the TSBP in FY2006, totaling approximately \$10,447.96 in direct hearings expenses and \$18,364.71 in total case expenses. These SOAH hours are consistent with the 152.15 hours of work in FY2005.

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) Policy and Procedures for Board Members;
 - (b) Interagency Contract with Department of Information Resources;
 - (c) TSBP Employee Handbook;

LEGAL DIVISION

- (d) Memorandum of Understanding with the Department of Information Resources regarding Austin Disaster Recovery Operations Center;
 - (e) Amended Agreement with Northrup Grumman; and
 - (f) Supplemental Agreement with Laserlink and the Texas Medical Board for imaging services to include TSBP.
- (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.
 - (4) General Counsel provided legal advice and consultation on numerous personnel issues during FY2006, including:
 - (a) coordinated and provided recommendations on actions for violations of employment policies and procedures;
 - (b) assisted with issues in various hiring/disciplinary processes;
 - (c) drafted HIPAA release for employee medical information; and
 - (d) interviewed applicants for new positions.
 - (5) General Counsel, as part of the management team, participated in meetings to develop implementation of recommendations made by the Agency Change Team and to plan teambuilding seminar for staff.
 - (6) General Counsel continued to serve as the agency's Ethics Advisor and continued to assist Board Members and staff with legal and ethical issues.

B. Technical Assistance to Enforcement Activities

- (1) Division staff researched numerous issues, including the following issues:
 - (a) Crimes of moral turpitude;
 - (b) Legality of automated prescription delivery devices;
 - (c) Expiration of requirement to register as a sex offender;
 - (d) Applicability of law to applicants;
 - (e) Effect of expunction order on admissibility of evidence;

LEGAL DIVISION

- (f) Application of retroactive laws and vested rights;
 - (g) Requirements for reimbursement to licensees for samples of compounded pharmaceuticals collected by the Board staff during inspections; and
 - (h) Securities Exchange Commission procedures for criminal background checks on officers of publicly held corporations.
- (2) General Counsel attended quarterly meetings of Compliance staff and Investigative staff 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 FY2006. 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 and an additional Board meeting.
 - (8) Division staff informed the Director of Enforcement 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.
 - (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) Division staff handled response to expunction orders received for criminal convictions on pharmacists.

LEGAL DIVISION

- (12) Division staff participated in a meeting with representatives of the drug screening company used for TSBP licensees and registrants to develop new procedures for drug screening.

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 FY2006, including emergency licensing, administrative penalty guidelines, fee changes, accessibility of records, Class D pharmacy formularies, and rule reviews. In addition, Division staff analyzed and prepared a response to extensive comments on proposed disciplinary process rules.

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) General Counsel developed new application forms for reinstatement and relicensure, in compliance with confidentiality requirements and to standardize attest questions and obtain additional employment information.
- (3) Division staff assisted the Licensing Division with development of procedures for registration of pharmacy technicians in compliance with the Pharmacy Act and Board rules.
- (4) General Counsel attended demonstrations of various licensing systems used by Texas and other state licensing board to determine feasibility of implementing a new licensing system for TSBP.
- (5) General Counsel participated in meetings with the Department of Public Safety to develop the implementation of an electronic fingerprinting system for TSBP applicants.

E. Other Legal Services regarding Pharmacy Issues

- (1) General Counsel participated in meetings and teleconferences regarding:
 - (a) patient assistance programs;
 - (b) licensure requirements for prior-authorization facilities;

LEGAL DIVISION

- (c) quality assurance programs; and
 - (d) licensure requirements for dialysis centers.
- (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 meeting of committee to review Wal-Mart's request for pilot project on automated prescription machines.
 - (4) General Counsel participated in Pharmacy Compounding Task Force meeting on July 7, 2006.
6. **To review and monitor the *Texas Register* for Attorney General opinions; to draft requests for Attorney General Opinions throughout FY2006; 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.
- B. Liaison with the Office of Attorney General
 - (1) Division staff continued to serve as liaison with the OAG throughout FY2006. Joe Pitner served as the Assistant Attorney General assigned to TSBP from the OAG Administrative Law Division.
 - (2) Appeals; Injunctions; Civil Litigation
 - (a) No disciplinary cases were appealed during FY2006.
 - (b) General Counsel coordinated with Assistant Attorney General regarding settlement of civil case against Internet veterinary pharmacy allegedly dispensing without a valid practitioner-patient relationship.
 - (c) General Counsel drafted proposed settlement and with Internet veterinary pharmacy for an administrative penalty and practice restrictions.

LEGAL DIVISION

- (3) Requests for AG Opinions
 - (a) General Counsel requested an open records decision regarding the release of a photograph of a former TSBP employee licensed as a peace officer.
 - (b) General Counsel submitted a brief regarding an open records request for TSBP's Planned Procurement Schedule from the Department of Information Resources.
 - (c) General Counsel requested an opinion in FY2005 whether federal law preempted the implementation of sections of S.B. 410 regarding authorization by the board for certain Canadian pharmacies to dispense drugs to Texas residents. The opinion was issued on December 21, 2005, concluding that the Board would violate federal law by "designating" certain Canadian pharmacies, promoting them on its website, and expressly permitting Texas consumers to import prescription drugs that cannot be imported under federal law.
- (4) General Assistance
 - (a) General Counsel informed the Opinions Committee of a federal district court decision regarding the illegality of Vermont's proposed Canadian drug importation program.
 - (b) Division staff coordinated with the Cyber Crimes unit on information regarding prosecution of pharmacy technician applicant who was a registered sex offender.
 - (c) General Counsel assisted Consumer Protection Division with trial preparation against patient assistance program.

7. To assist with open records requests throughout FY2006, in accordance with the procedures set forth in the Texas Public Information Act.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division staff was responsible for answering telephonic open records requests on licensees subject to disciplinary action until May 2006, at which time the Division of Professional Services began handling this duty. Division staff responded to approximately 115 verbal requests for complaint and disciplinary information in FY2006.
- B. General Counsel reviewed written responses to open records requests, prepared by the Professional Services Division, for legal compliance with the Public Information Act in FY2006. In addition, the General Counsel assisted with clarifying certain open records requests requiring telephonic clarification, when legal issues were involved.

LEGAL DIVISION

8. To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2006; 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 FY2006.

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) Survey by Structural Pest Control Board regarding enforcement policies.
 - (b) Legal Client Survey for Office of Attorney General;
 - (c) Fraud Survey for Governor's office;
 - (d) On-line legal research services survey for General Counsel division of the Office of Attorney General;
 - (e) Evaluation of mediation services at the State Office of Administrative Hearings; and
 - (f) Annual survey from the State Office of Administrative Hearings.

B. Technical Assistance to Other Agencies and Organizations

- (1) Division staff attended State Agency Council meetings during FY2006.
- (2) General Counsel and Division staff answered inquiries from the following:
 - (a) Houston Community Health Centers regarding receipt of drugs at Class D pharmacies;
 - (b) Texas Medical Association regarding importation of drugs from Canada;
 - (c) Internal Revenue Service regarding prosecution of TSBP licensees;
 - (d) Texas Department of State Health Services regarding prescription requirements, possession of drugs by researchers, and dissemination of disaster recovery information;

LEGAL DIVISION

- (e) Illinois Board of Pharmacy regarding pharmacist duties that can be performed away from the pharmacy;
 - (f) City of Austin regarding possession of weapons in pharmacies;
 - (g) United States Probation Office regarding disciplinary procedures;
 - (h) Dallas County District Attorney regarding prosecution of pharmacist;
 - (i) United States Attorney's office regarding prosecution of pharmacist;
 - (j) Travis County Jail regarding licensing requirements and pharmacy operations;
 - (k) Drug Enforcement Agency regarding illegal dispensing of dangerous drugs; and
 - (l) Texas Medical Board regarding receipt of public input at Board meetings.
- (3) General Counsel met with representatives of various pharmacies to discuss the legality of proposed operations.
 - (4) General Counsel assisted the Professional Recovery Network with system to refer participants to TSBP for relapse and positive alcohol/drug screens.
 - (5) General Counsel prepared projections for FY2008-2009 on anticipated workload for the State Office of Administrative Hearings.
 - (6) Division staff attended Public Service Career Day at the University of Texas School of Law.

C. Technical Assistance to the Legislature

- (1) General Counsel answered questions from legislative offices regarding implementation of the provisions of S.B. 410 regarding designation of Canadian pharmacies to ship prescription drugs to Texas residents.
- (2) General Counsel responded to an inquiry from Rep. Yvonne Davis's office regarding the disciplinary process against a technician with a felony criminal history.
- (3) Division staff responded to questions from U.S. Rep. Solomon Ortiz's office regarding disciplinary case against pharmacist for numerous violations.

LEGAL DIVISION

- D. 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; and
 - (b) effect of convictions and deferred adjudications and/or probation for various crimes on registration and licensure.
 - (3) General Counsel responded to requests for information from the following television and newspaper reporters on issues including:
 - (a) Fort Worth Telegram regarding disciplinary history of various pharmacies;
 - (b) KHOU regarding return of prescription drugs; and
 - (c) San Antonio Express News regarding request for photograph of former TSBP employee.
 - (4) General Counsel answered questions from members of the public about public disclosure of complaint information.

9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2006.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. 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.
- B. General Counsel coordinated a meeting of HPC attorneys to discuss procedures for disciplinary hearings of applicants and licensees/registrants with criminal histories at the State Office of Administrative Hearings and for modifying proposals for decision issued following such hearings.
- C. General Counsel reviewed referral scheme between HPC agencies to ensure legal compliance.

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 FY2006.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

In FY2006, Division staff attended several general staff meetings, and in-house training sessions. In addition, Division staff attended the following programs, seminars, and events:

Kerstin Arnold	9/19/2005	On-line Training on TBPC Recycling Program
	9/22-23/05	Advanced Administrative Law Course
	10/25/2005	EAP Presentation on Wellness Program
	12/2005	On-line EEOC Training
	2/17/2006	Anatomy of an Administrative Hearing - Administrative Law
	4/11/2006	Presentation regarding USP 797/795
	5/17/2006	Austin Bar Association Administrative Law Update
	5/25/2006	Essential Guide to Employment Law
	6/15-16/06	State Bar Association Meeting
	6/29/2006	Webinar on USP 797
	8/23/2006	All Staff Training on Teambuilding
Julie Hildebrand	9/22-23/05	Advanced Administrative Law Course
	10/25/2005	EAP Presentation on Wellness Program
	12/2005	On-line EEOC Training
	2/17/2006	Anatomy of an Administrative Hearing - Administrative Law
	4/11/2006	Presentation regarding USP 797/795
	5/17/2006	Austin Bar Association Administrative Law Update
	5/25/2006	Essential Guide to Employment Law
	6/15-16/06	State Bar Association Meeting
	7/20-23/06	Texas Pharmacy Association Meeting
	7/25-28/06	Governor's Management Development Training
	8/23/2006	All Staff Training on Teambuilding
Stephanie Chambers	10/25/2005	EAP Presentation on Wellness Program
	12/2005	On-line EEOC Training
	4/11/2006	Presentation regarding USP 797/795

LEGAL DIVISION

Mitra Woody	12/2005	On-line EEOC Training
	2/10/2006	State Bar Mandatory Training for Newly Licensed Attorneys
	2/13/2006	TLETS Training
	4/11/2006	Presentation regarding USP 797/795
	6/15/2006	State Bar Association Meeting
	6/18-25/06	Utah Conference on Alcoholism and other Drug Dependencies
	8/23/2006	All Staff Training on Teambuilding
Cheryl Sepulveda	10/25/2005	EAP Presentation on Wellness Program
	12/2005	On-line EEOC Training
	8/23/2006	All Staff Training on Teambuilding
Georgienne Naussauer	10/25/2005	EAP Presentation on Wellness Program
	12/2005	On-line EEOC Training
	8/23/2006	All Staff Training on Teambuilding
Jing Belfiglio	10/25/2005	EAP Presentation on Wellness Program
	12/2005	On-line EEOC Training
	8/23/2006	All Staff Training on Teambuilding
Sharanya Rao	8/23/2006	All Staff Training on Teambuilding

11. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2006.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

Employee	Date of Evaluation	Evaluation By
Kerstin Arnold, J.D.	9/29/06	Executive Director
Julie Hildebrand, J.D.	8/29/06	General Counsel
Mitra Woody, J.D.	8/30/06	General Counsel
Cheryl Sepulveda	8/30/06	Assistant General Counsel
Georgienne Nassauer	8/30/06	Assistant General Counsel
Jing Belfiglio	8/30/06	General Counsel

Other activities related to Division personnel are listed below:

- A. General Counsel conducted team meetings approximately once a month with Division staff.
- B. The Division had a law clerk during the summer of 2006 from the University of Texas School of Law, who provided assistance with the preparation of legal cases.

LEGAL DIVISION

- C. General Counsel prepared and conducted orientations of all new TSBP employees and interns during FY2006 regarding the Legal Division, the legal process, ethics, and Public Information and Open Meetings Acts.
- D. Staff attorney, Mitra Woody, was hired in December 2005 to fill the position created by the 79th Legislature. Ms. Woody previously served as an intern for TSBP, and therefore, she required little training.
- E. Former staff attorney, Stephanie Chambers, resigned in FY2006, and the position was replaced with a legal assistant, Sharanya Rao, who was hired, effective August 14, 2006. She was trained in agency and Division policies and procedures by Division staff.

12. To destroy records in accordance with the agency's record retention plan throughout FY2006; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2006.

Status: ACCOMPLISHED

Comment: This objective was partially accomplished as follows:

A. Records Management

During FY2006, 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 documented procedures for handling disciplinary process against pharmacy technicians and developed samples for preliminary notice letters and agreed board orders.
- (3) Division staff developed notebook of samples of preliminary notice letters for pharmacist and pharmacy disciplinary actions.

13. To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2006.

Status: ACCOMPLISHED

LEGAL DIVISION

Comment: This objective was accomplished as follows:

- A. General Counsel played an integral role in the coordination and development of the agency's response to Hurricanes Katrina and Rita, in developing the emergency procedures to be used for temporary licensing, developing advisory information on closing of pharmacies in evacuated areas, and disseminating information to licensees and the public.
- B. General Counsel served on the agency's Wellness Committee. She coordinated the Maintain No Gain program during the winter, the Heart Health Awareness program and the agency's Texas Roundup participation in the spring, in conjunction with the Director of Professional Services, and the 5-A-Day Challenge in the summer.
- C. Division staff recommended new format for rehabilitation orders for pharmacy technicians that provides for monitoring of the technicians, as allowed by the changes made to the disciplinary sanctions in the 79th Legislature.
- D. General Counsel developed an administrative penalty matrix for statutory and rule violations applicable to pharmacists, pharmacies, and pharmacy technicians, which was developed into administrative rules by the Division of Professional Services and approved by the Board in FY2006.
- E. General Counsel developed a disciplinary scheme for criminal violations for applicants for licensure and registration, which provides guidelines for the type of sanction that is appropriate for each type of criminal violation. The scheme was developed by analyzing the sanctions previously imposed by informal conference panels and then applying the sanctions consistently to various criminal violations.
- F. General Counsel drafted a standard revocation order for use by field investigators for licensees and registrants seeking voluntarily revocation.
- G. General Counsel suggested procedure to verify notification of employers by impaired pharmacists under a standard rehabilitation order.
- H. Division staff implemented the presentation to the Board of a summary of agreed board orders for continuing education audit violations rather than each individual order at Board meetings for greater efficiency and cost-savings.
- I. General Counsel removed certain personal information contained in agreed board orders to comply with confidentiality provisions of S.B. 410 of the 79th Legislature.
- J. Division staff developed Calendar of Events for FY2007 for informal conferences and reserved conference rooms accordingly.
- K. General Counsel participated in meetings to develop implementation of computer system for pharmacy technician trainees and recommended enhancements to the system to track individuals by social security number.

LEGAL DIVISION

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 FY2006.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

A. Texas Pharmacy Act

General Counsel and Division staff recommended numerous changes to the Texas Pharmacy Act, including, to:

- (1) Add violation of a disciplinary order as a ground for disciplinary action against pharmacy technicians/trainees.
- (2) Require that an applicant for pharmacy technician/trainee registration be of good moral character.
- (3) Add commission of criminal offense that requires registration as a sex offender as a ground for disciplinary action for all types of licenses and registrations.
- (4) Allow licensees/registrants to report impairment by other licensees/registrants.
- (5) Provide the full range of disciplinary sanctions for pharmacist-interns.
- (6) Require that applicants for licenses and registrations be in the United States legally and legally able to work.
- (7) Add disciplinary action by another health licensing board in Texas or in any other state as a ground for disciplinary action for pharmacist and pharmacy technician/trainees.
- (8) Provide for mandatory evaluations by a mental health professional if probable case for impairment exists.
- (9) Add disciplinary grounds for pharmacy technicians/trainees for impairment (similar to that for pharmacists), for unprofessional conduct (similar to that for pharmacists), and for performing acts outside their scope of duty.
- (10) Clarify the burden of proof in licensing, reinstatement and modification cases at the State Office of Administrative Hearings.
- (11) Allow Board the discretion to make subsequent orders for impaired pharmacists public.

LEGAL DIVISION

B. Board Rules

- (1) The Act was amended to require the Board to publish rules setting forth the types of violations that would be subject to an administrative penalty (fine) and the amount (or range) of the penalty. General Counsel developed a proposed matrix to ensure that the amounts of penalties imposed were appropriate to the violation. The proposed matrix, in the form of a proposed rule, was presented to the Board at its meeting held on November 1-2, 2005. The Board voted to propose the rule, and it was subsequently published in the *Texas Register* on December 9, 2005. At its meeting held on February 7-8, 2006, the Board voted to adopt the proposed rule regarding the administrative penalty schedule. This rule became effective on March 6, 2006.
- (2) Division staff restructured the disciplinary guidelines in chapter 281 to incorporate required statutory and rule changes applicable to contested case hearings at the State Office of Administrative Hearings and to make the chapter easier to understand and use.
- (3) Division staff researched laws and rules applicable to patient access to healthcare records for presentation to the Board and developed proposed rules in compliance with these laws and rules defining applicable guidelines for patient access and reasonable charges for pharmacy records.

15. **To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2005 *Annual Report* to be presented to the Board by its May 2006 Board meeting.**

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2005 *Annual Report* was submitted to the Executive Director by the due date. The final draft of the Annual Report was presented to, and approved by, the Board at its meeting held in May 2006.