

	Fiscal Year 2016	Fiscal Year 2017	TOTAL
ITEM #1			
Increase Executive Director's Salary	\$ 57,784	\$ 57,784	\$ 115,567
Benefits = 29.74%	\$ 17,185	\$ 17,185	\$ 34,370
	<u>\$ 74,969</u>	<u>\$ 74,969</u>	<u>\$ 149,937</u>
ITEM #2			
Merit Increases (75% of Staff)	\$ 141,770	\$ 287,793	\$ 429,563
Benefits = 29.74%	\$ 42,162	\$ 85,590	\$ 127,752
Total Item #2	<u>\$ 183,932</u>	<u>\$ 373,383</u>	<u>\$ 557,315</u>
ITEM #3			
Unfunded Mandate			
Additional Payroll Retirement Contribution - 5%	\$ 22,662	\$ 22,813	\$ 45,475
Additional Payroll Health Contribution - 1%	\$ 46,856	\$ 47,158	\$ 94,014
	<u>\$ 69,518</u>	<u>\$ 69,971</u>	<u>\$ 139,489</u>
ITEM #4			
Reclassifications & Equity Adjustments			
Licensing	\$ 27,534	\$ 27,534	\$ 55,069
Admin	\$ 28,443	\$ 28,443	\$ 56,885
Legal	\$ 15,251	\$ 15,251	\$ 30,502
Prof Svcs	\$ 6,921	\$ 6,921	\$ 13,842
Enforce	\$ 64,325	\$ 64,325	\$ 128,651
	<u>\$ 142,475</u>	<u>\$ 142,475</u>	<u>\$ 284,949</u>
Benefits = 29.74%	\$ 42,372	\$ 42,372	\$ 84,744
Total Item #3	<u>\$ 184,846</u>	<u>\$ 184,846</u>	<u>\$ 369,693</u>

	Fiscal Year 2016	Fiscal Year 2017	TOTAL
ITEM #5			
Technology	\$ 58,914	\$ 41,003	99,917
Imaging	\$ -	\$ 17,000	17,000
Total Item #4	\$ 58,914	\$ 58,003	\$ 116,917

ITEM #6				
New Positions				
Network Specialist IV	B22	\$ 60,000	\$ 60,000	120,000
Attorney IV	B25	\$ 68,277	\$ 68,277	136,554
Total Salaries	\$ 128,277	\$ 128,277	\$ 256,554	
Increase in FTEs	2	2		
Other Operating		\$ 11,900	\$ 6,700	18,600
Total Item #6	\$ 140,177	\$ 134,977	\$ 275,154	
Benefits = 29.74%	\$ 38,150	\$ 38,150	\$ 76,299	
	\$ 178,327	\$ 173,127	\$ 351,453	

ITEM #7			
Lump Sum Termination Pay - Executive Director	\$ 29,545	\$ -	\$ 29,545

Items - Total	\$ 640,182	\$ 751,003	\$ 1,391,184
Total Benefits = 29.74% (unappropriated)	\$ 139,869	\$ 183,296	\$ 323,165
	\$ 780,051	\$ 934,299	\$ 1,714,349

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Board Member	Dates of Term	Hometown
Buford T. Abeldt, Sr., R.Ph.	05/09/2008 - 08/31/2019	Lufkin
Christopher M. Dembny, R.Ph.	09/26/2013 - 08/31/2017	Richardson
Benjamin Fry, R.Ph., FIACP, FACS	04/14/2004 - 08/31/2015	San Benito
L. Suzan Kedron	05/09/2008 - 08/31/2019	Dallas
Alice G. Mendoza, R.Ph.	08/10/2006 - 08/31/2017	Kingsville
Bradley A Miller, Ph.T.R	09/26/2013 - 08/31/2019	Austin
Phyllis A. Stine	08/31/2011 - 08/31/2017	Abilene
Joyce A. Tipton, R.Ph., MBA	01/06/2010 - 08/31/2015	Houston
Jeanne D. Waggener, R.Ph.	08/10/2006 - 08/31/2017	Waco
Charles F. Wetherbee	01/06/2010 - 08/31/2015	Boerne
Dennis F. Wiesner, R.Ph.	05/09/2008 - 08/31/2019	Austin

The Texas State Board of Pharmacy (TSBP) is the agency responsible for the protection of the citizens of the state through the regulation of the practice of pharmacy in Texas, including the licensing/registration of pharmacists, pharmacist-interns, pharmacy technicians and the licensing of pharmacies engaged in dispensing or distribution of prescription drugs and devices.

One key factor that continues to affect the ability of the agency to serve and protect the public interest is the increased demand for agency services in every area of its operation as indicated below.

Increase in Number of Licensees

Licensing - Since 2009, the licensee population of the agency has grown 13.95% (from 84,659 to 96,470). Historically, the majority of this growth has been in the numbers of pharmacy technicians with the average growth about 1.4%. However, over the last two years, the growth in the numbers of all licensees has increased by an average of 5.64% annually. This growth appears to be associated with the good health of the Texas economy and the availability of jobs in Texas.

Enforcement – This growth in the number of licensees has dramatically affected every division including the enforcement and legal division since the number of complaints has increased with the number of licensees. In order for the Board to continue to protect the citizens of Texas, it must have adequate funds and staff. The almost 60,000 pharmacy technicians and trainees licensed by the agency have had a dramatic effect on the agency's operations. Of particular concern to the agency is the growth in the number of disciplinary orders entered by the agency and the continuing growth in the number of complaints received. In FY2003, the fiscal year prior to the registration of pharmacy technicians, the agency received 1,893 jurisdictional complaints, closed 1,850 jurisdictional complaints, and entered 213 disciplinary orders. In FY2013, the agency received 5,891 jurisdictional complaints, closed 6,504 jurisdictional complaints, and entered 683 disciplinary orders. It has been extremely challenging for the agency to handle this phenomenal growth during the past 11 years: 211% increase in the number of jurisdictional complaints received; 252% increase in the number of jurisdictional complaints closed; and 221% increase in the number of disciplinary orders entered

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Diversion of Controlled Substances from Pharmacies

Another key factor that has affected the agency's ability to serve and protect the public interest is an increase in the diversion of controlled substances from pharmacies. This diversion is fueled by the growing abuse of prescription painkillers and other prescription drugs. In 2013, the CDC called prescription drug abuse a "growing epidemic." Nearly three of four prescription drug overdoses is caused by opioid pain medication, and more people have died in recent years from the abuse of prescription drugs than from heroin and cocaine combined. The Harris County Coroner's Office reported in 2010 that prescription drugs have killed more than 1,200 people in Harris County since 2006.

Because pharmacies are a source of these prescription drugs that are so much in demand, we are seeing an increase in the diversion of drugs from pharmacies. The two main ways drugs are diverted from pharmacies are through illegal dispensing and through the theft of drugs from pharmacies by pharmacy personnel.

Illegal Dispensing – "Pill-Mill" pharmacies – these types of pharmacies dispense prescriptions based on invalid prescriptions. Federal and state controlled substance acts specify that for a prescription for a controlled substance to be valid, a practitioner acting in the usual course of professional practice must issue it for a legitimate medical purpose. These laws also specify that pharmacists have a corresponding responsibility with the practitioner for assuring that a prescription is issued for a valid medical need. Thus pharmacists who knowingly fills an invalid prescription, as well as the person issuing it, is subject to the penalties provided for violations of the provisions of law relating to controlled substances.

Theft of Drugs from Pharmacies – TSBP receives reports of the theft/loss of controlled substances and dangerous drugs from Texas pharmacies. A large percentage of these reports involve employee pilferage by technicians. Complaints are opened on the individuals who have purportedly stolen the drugs and a field investigation is initiated. If sufficient evidence is collected, disciplinary action is instituted against the license or registration involved. In FY13 TSBP revoked the licenses/registrations of 98 individuals (20 pharmacists and 78 pharmacy technicians) most for the diversion of controlled substances from pharmacies.

As you review our exceptional item request, we ask that you consider the two key factors indicated above and recognize the huge impact they are having on this agency and on the citizens of Texas.

The members of the Board have approved the entire supplemental budget request and understand that additional revenue may need to be generated, if the exceptional items are funded. The TSBP generates all of its revenue through fees and we have the authority and mechanisms necessary to generate the revenue needed to support this request.

I. INCREASE TO EXECUTIVE DIRECTOR'S SALARY (\$115,568)

The current executive director has indicated that she will retire in December 2015. The Board will establish a plan for hiring a new executive director. The Texas Pharmacy Act requires that the executive director of TSBP be a pharmacist. The main item may make the process of finding a pharmacist to be the executive director of TSBP, is the salary paid to this position. Currently the legislature has placed the salary of the executive director in exempt group 4, which has a minimum salary of \$106,500 and a maximum salary of \$167,500 per year. However, the legislature has specified that the executive director's salary be set at \$107,565 for FY2014 and \$109,716 for FY2015.

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The current salary for the position results in the executive director is less than that paid to new pharmacists being hired straight out of college. A 2013 survey of pharmacist's salary conducted by "Drug Topics" reported the annual base salaries for staff pharmacists between \$116,000 and \$140,000 a year. The lower range of these salaries is \$6,000 more than the salary of the TSBP executive director. In addition, a survey of the salaries of the Executive Director of Oklahoma, Arkansas, and Louisiana show that the average salary for these individuals is \$140,000 or \$30,000 less than that of the Executive Director in Texas.

The Board is requesting the 2015 Legislature to raise the salary specified in the Appropriations Act to the top of the Group 4 (\$167,500 per year). With this additional appropriation, the Board will be able to set the salary of the person who is the executive director a salary at a level that is competitive to pharmacists' salaries and one that recognizes the experience of the individual.

II. RESTORE MERIT (\$436,008)

TSBP has not been able to give employees a merit increase since FY2009. The 81st Legislative Session appropriated funds to support merit increases to reward high-performing employees; however, these funds were cut during the budget cuts of FY2010. Being able to reward high performing employees is crucial to allowing the agency to keep high performing employees.

III. UNFUNDED MANDATES (\$45,474)

During the 82nd Legislative Session, the legislature passed a contingency provision that requires state agencies to contribute 1.0% of the total base wages and salaries for each employee of an agency, to the Employees Retirement System's Group Benefits Program for Payroll Contribution for Health Insurance. This provision was continued by the 83rd Legislature with an additional 0.05% payment for additional Payroll Contribution for Retirement. The agency has had to pay for these provisions from the agency's existing appropriations, primarily salaries for vacated positions and using unexpended budget authority for those lapsed positions in the next fiscal year. In the base budget of FY2016-2017, all FTE positions are filled and no amount is available or budgeted for the Payroll Contribution for Retirement.

The TSBP generates all of its revenue through fees and we have the authority and mechanisms necessary to generate the revenue needed to support this mandate. The agency must however, be given the additional appropriation authority for this mandate. Without the additional appropriation authority, the agency will be forced to absorb this increased appropriation by cutting critical staff services.

IV. RECLASSIFICATIONS AND EQUITY ADJUSTMENTS (\$289,222)

This item adjusts the salary rate of a number of classified employees to maintain a desirable salary level among agency employees and between employees of the agency and employees who hold similar positions in the relevant labor market. Consideration is given to the education, skills, work experience, length of service and job performance of agency employees in determining desirable salary relationships.

A great number of employees are represented – from accountants, to license specialists, to inspectors, to investigators and management. We have identified several classes of employees that are still paid at an entry level (basic skills) salary and some classes of employees that are paid a lower rate

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than others employees within the state of Texas, given their experience. The complexity of the pharmacy profession has simply outpaced the salary that we are paying many of our employees. This exceptional item reclasses some employee positions and awards a one-time equity increase to others (approximately 4%).

V. TECHNOLOGY REQUEST (\$116,917)

Information Resource Technologies Replacement: Aged and obsolete technology must be replaced. The agency replacement schedule complies with DIR's life cycle guidelines. Technology that is not replaced at the end of its life cycle becomes a liability to the agency due to frequent down time, increased support requirements and compatibility issues. New ventures also include devices to allow for mobile inspections by the field inspectors.

Scanning of Records: The agency needs additional funding to continue our project to image agency documents. If the agency is unable to image its anticipated documents, additional off-site file and/or storage space will become necessary.

VI. ADDITIONAL STAFF TO MAINTAIN SERVICES (\$275,154)

This exceptional item will fund the following two positions:

Network Specialist IV: A full time position is required to support the additional workload created by the new Versa system, increased reporting requirements, increase security efforts and an increasingly mobile staff. The position would perform the network administration duties allowing the Director to focus on the Versa system needs, Business Continuity, Project management and reporting requirements. This position will also allow the existing network administrator to focus on network security and the support of our remote users.

Litigation Managing Attorney: The Legal Division has seen a significant increase in the number of cases requiring litigation at the State Office of Administrative Hearings (SOAH). Between FY2012 and FY2013, the number of case filed at SOAH increased by 25% and an increasing backlog of cases requiring litigation resulted. Previously, three attorneys contributed to the drafting of Preliminary Notice Letters. However, based on the SOAH workload, an additional attorney was reassigned to handling SOAH cases along with the Assistant General Counsel. One Staff Attorney is needed in relation to this increased workload to work on cases at the informal conference level and fill in with SOAH cases as needed.

VII. LUMP SUM TERMINATION PAY – EXECUTIVE DIRECTOR (\$29,544)

The current executive director has indicated that she will retire in December 2015. This amount represents the amount of accrued annual leave that must be paid upon termination of employment.

Health Professions Council (HPC)

The TSBP is a member of the Health Professions Council and transfers funds through appropriations made to the TSBP, through interagency contract to HPC for a prorated share of HPC's operating budget. Please refer to the HPC LAR for the funding request necessary for Information Technology

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improvements as well as any other increases to the TSBP prorated share shown in Rider Sec 3, Special Provisions Relating to All Regulatory Agencies. The TSBP supports the HPC request assuming additional appropriations are made to the TSBP for any increases.

Criminal History Background Checks

TSBP has the authority to conduct criminal history background checks under the following statutes: Code of Criminal Procedure, Art. 60.061; Gov't Code, 411.122; and Gov't Code 411.084 - 411.087. TSBP conducts a Department of Public Safety criminal history background check on all new owners of pharmacy licenses, and an FBI fingerprint check on all individual applicants for new licenses/registrations. In addition, a DPS criminal history check is conducted on a quarterly basis for all individual applicants for renewal of licenses/registrations.

Centralized Accounting and Payroll/Personnel System (CAPPS) TSBP will begin the transition to this system in July 2017 and we do not estimate any additional support costs at this time. The Comptroller of Public Accounts will fund the transition and deployment costs.

10% REDUCTION IMPACT

If the Legislature cuts the TSBP budget by 10%, the agency will be forced to make the following cuts.

- 7 FTE's (Licensing, Legal, Enforcement, Accounting)
- All Board and staff training, education and non-service travel will be eliminated
- An additional 10% cut to the funding for the Peer Assistance Program
- Vehicle replacement will be cut
- All Board Per Diem will be eliminated

The impact of a 10% budget cut in the above areas is outlined in detail in the Percent Biennial Base Reduction Options Schedule. In summary, the agency anticipates:

1. Approximately 400 fewer pharmacies would be inspected, which in turn, would lengthen the time between inspections and prevent the agency of achieving the goal of inspecting compounding pharmacies every two years;
2. Approximately 200 fewer complaints will be resolved which would increase the backlog of pending complaints, which in turn, would increase the average complaint resolution time to an estimated 250 days;
3. Approximately 100 fewer disciplinary orders would be entered by the Board, which in turn, would ultimately create a backlog of cases and lengthen the time required to resolve a disciplinary case;
4. Critical slowdowns and backlog in the issuing and renewing of licenses/registrations;
5. Reduction of the ability of Professional Recovery Network to provide the level and quality of monitoring needed to assure the public safety; and
6. Elimination of critical staff training and education; and

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7. If field vehicles are not replaced in a timely manner, either: (1) significant repairs will be required or (2) the vehicle will simply not be operable (resulting in personnel assigned to the vehicle not being able to perform primary job duties).