



Texas State Board of Pharmacy

Annual Report FY2011

Jeanne Waggener, R.Ph.
President (9/01/10 - 8/31/11)

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.

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Board Members

Jeanne D. Waggener, R.Ph.
President
Waco
8/10/06 - 8/31/11

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

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

W. Benjamin Fry, R.Ph., FIACP, FACA
San Benito
4/14/04 - 8/31/15

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

Joyce Ann Tipton, R.Ph., MBA
Houston
1/06/10 - 8/31/15

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

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

Charles F. Wetherbee
Public Member
Boerne
1/06/10 - 8/31/15

Office of the Executive Director**Executive Director**

Gay Dodson, R.Ph.

Executive Assistant

Becky Damon

Receptionist

Debra Dukes

Administrative Services & Licensing**Division Director**

Cathy Stella, P.H.R.

Information Resources Manager

Steve Rapp

Chief Accountant

Jane Bennett

Network Specialist

Todd Hayek

Accountant II

Chantell Solomon

Licensing Administrator

Carol Willess

Accountant III

Sandra Morton

Licensing Specialists

Estella Casarez

Staff Services Officer II

Robbi Dana

Rachel Glass

Diana Ruedas

Melinda Uballe

Misty Whitcomb

Purchaser

Darlene Guthrie

Cheryl Gray

Marcie Alvarez

Professional Services**Division Director**

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

Senior Administrative Assistant

Leslie Kacer

Enforcement

Division Director

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

Assistant Director of Enforcement

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

Chief of Investigations

Robert Ebrom

Chief of Compliance

Ben Santana, R.Ph.

Enforcement Program Specialist

Janelle Nastri

Enforcement Specialists

Annette Porterfield, Ph.T.R.

Griselda Lopez, Ph.T.R.

Elaine Naivar, Ph.T.R.

Brandy Plummer

David Gomez

Darrell Montgomery, Ph.T.R.

Deb Beal

Vacant

Enforcement Officers

Barbara Jamieson, Ph.T.R.

Linda Yazdanshenas

Enforcement Technicians

Yvette Muniz

Noreen Trevino

Marianne Holden

Vacant

Senior Staff Investigator

Melissa Weeden

Investigative Case Manager

Cynthia Fazin

Enforcement Program Administrator

Robert Rivera, Ph.T.R.

Enforcement Program Officer

Nelma Sanchez, Ph.T.R.

Investigators (7)

Senior Compliance Officers

Mike Ethridge, R.Ph.

Iona Grant, R.Ph.

Compliance Specialist

Jessica Rodriguez, Ph.T.R.

Compliance Inspectors

Karen Morrison, Ph.T.R.

David Meryman, Ph.T.R.

Adrienne Bauer, Ph.T.R.

Lisa Stone, Ph.T.R.

Chris Schuttler, Ph.T.R.

Administrative Assistants

Demetria Williams

Vacant

Legal

General Counsel

Kerstin Arnold, J.D.

Litigation Counsel

Julie Hildebrand, J.D.

Staff Attorney

Caroline Hotchkiss, J.D.

Linda Townsend, J.D.

Legal Program Specialist

Sharanya Rao

Legal Assistant

Hearings Coordinator

Ann Driscoll, Ph.T.R.

Legal Assistants

Tabatha Lowden

Lisa Ake

Kelly Clark

Kate Hayden, Ph.T.R.

April Adams

Note: The organizational structure reflects the organization as of August 31, 2011.

ANNUAL REPORT FY2011

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 (FY2009-2013)

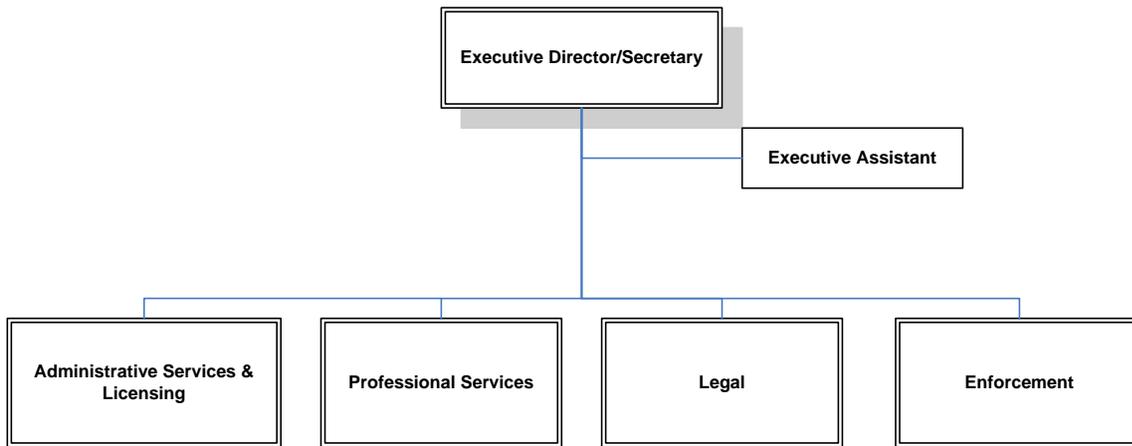
- We will establish and implement reasonable standards for pharmacist and pharmacy technician education and practice, and for the operation of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas [Texas Pharmacy Act (Occupations Code, Sec. 551-566, 568-569)].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

Board Structure

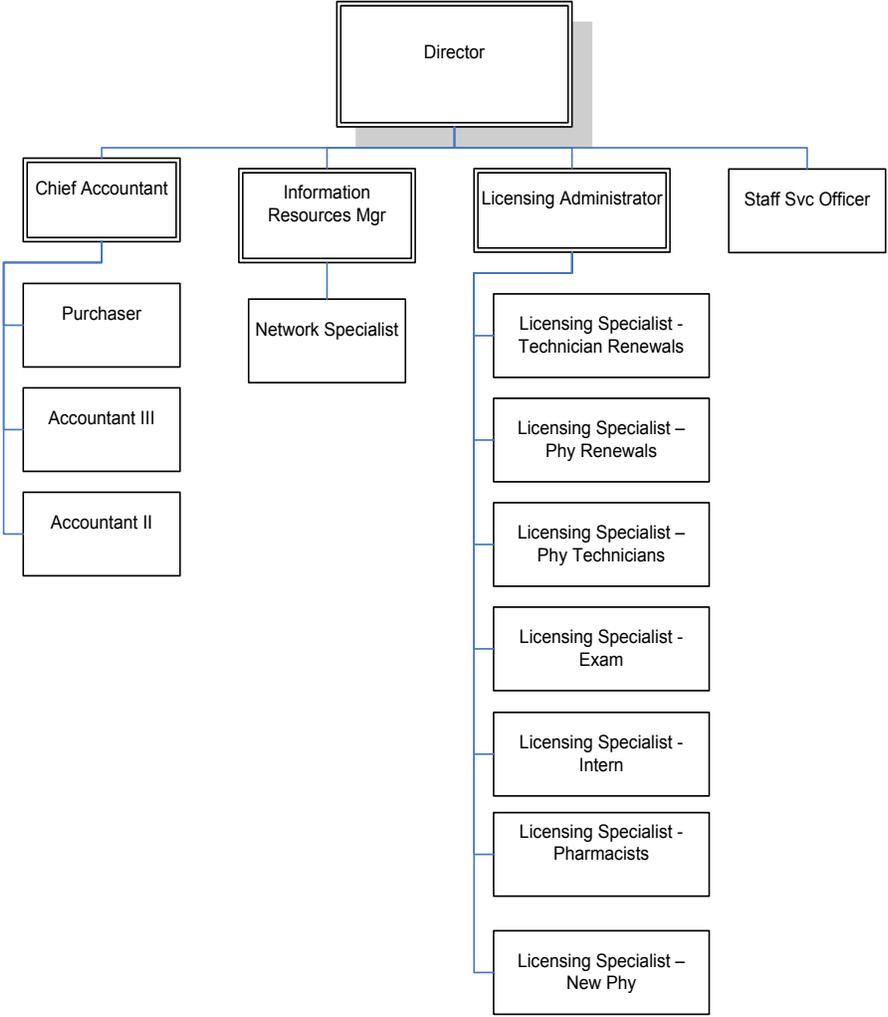
The Board's functional structure at the end of FY2011 was composed of the Office of the Executive Director and four Divisions:

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

Texas State Board of Pharmacy
Fiscal Year 2011

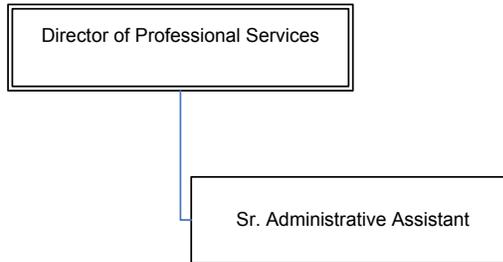


Texas State Board of Pharmacy
Administrative Services & Licensing Division
Fiscal Year 2011



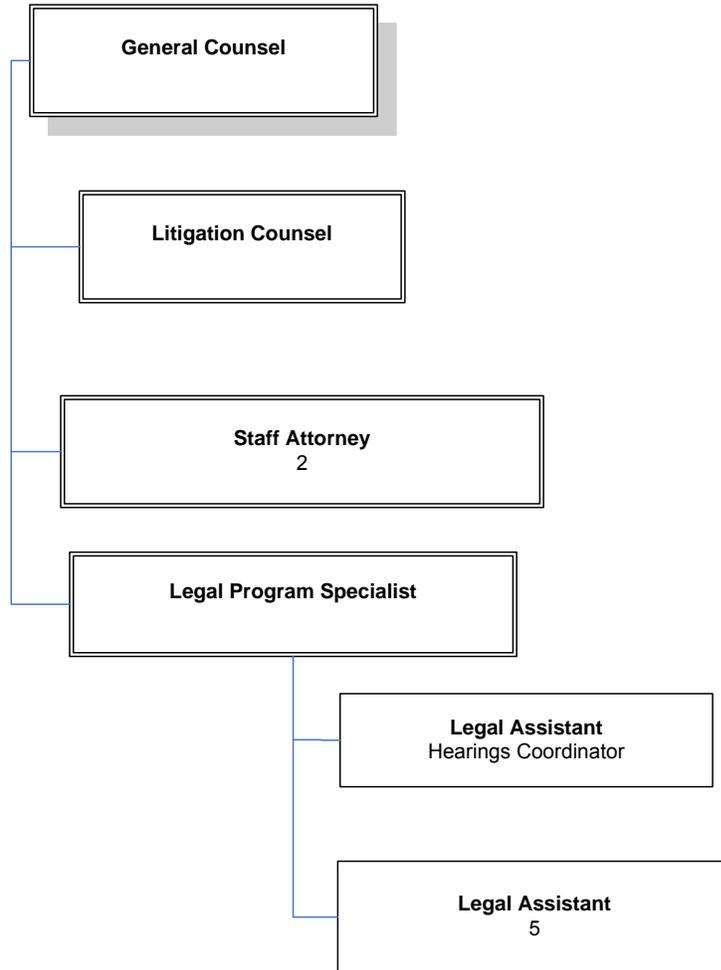
August 2011

Texas State Board of Pharmacy
Professional Services Division
Fiscal Year 2011



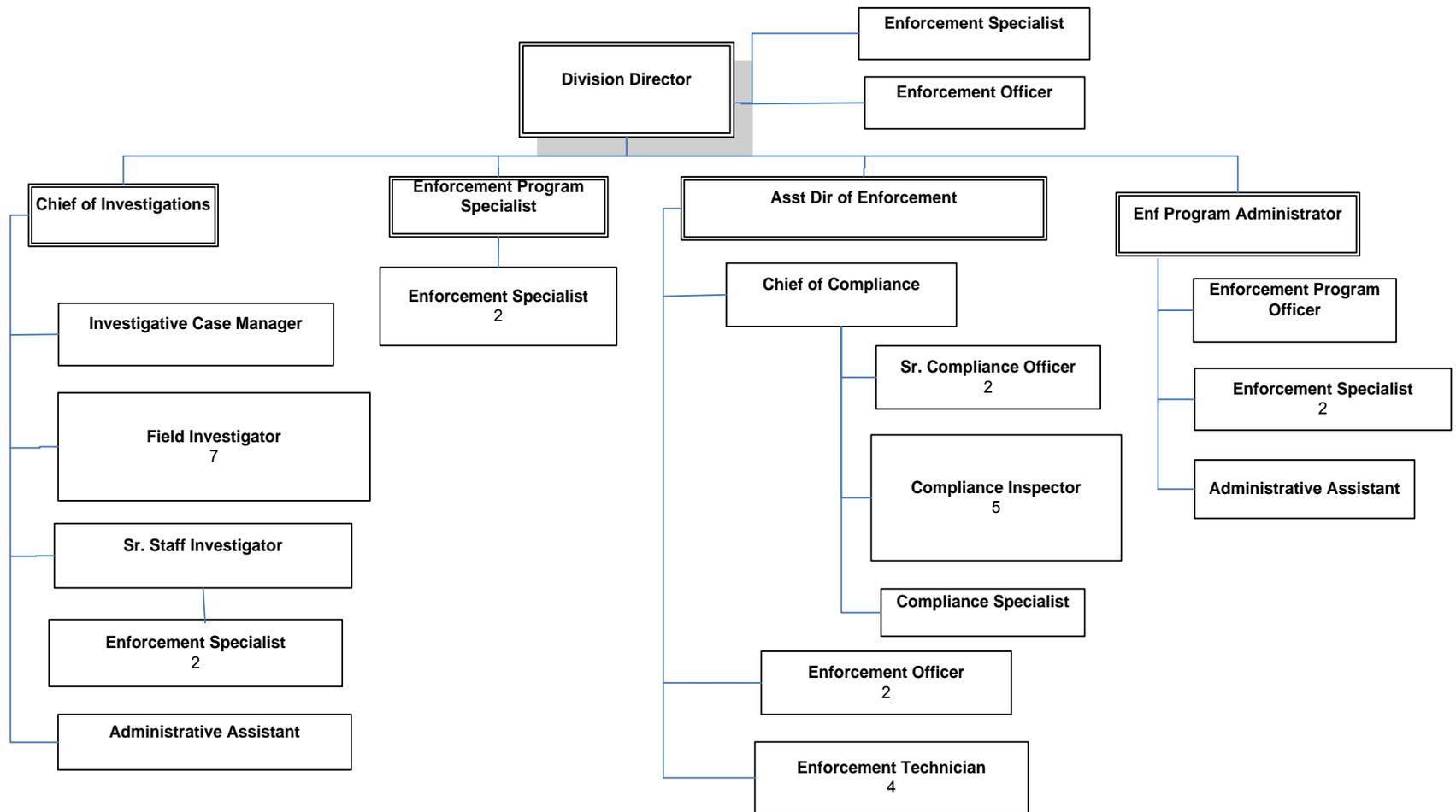
September 2010

Texas State Board of Pharmacy
Legal Division
Fiscal Year 2011



March 2011

Texas State Board of Pharmacy
Fiscal Year 2011



March 2011

FY2011 FISCAL REPORT

The attached report represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2011 (September 1, 2010 - August 31, 2011). 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 "*FY2011 Annual Financial Report.*"

As of August 31, 2011, the unexpended balance for FY2011 was approximately \$16,195 or .32% under budget.

TEXAS STATE BOARD OF PHARMACY
EXPENDITURES - Fiscal Year 2011 - 4TH Quarter Revised
as of August 2011

Code	Description	Budget	Expended	Unexpended Balance	Remaining Budget	Percent Remaining
1008	(a) Professional Fees & Svcs (Other)	36,907.61	27,754.38		9,153.23	24.80%
1010	(b) Professional Fees & Svcs (TPA)	136,719.00	136,719.00		0.00	0.00%
3002	Gas, Other Fuels & Lubricants	41,700.00	41,434.42		265.58	0.64%
3003	Vehicles - Maintenance	12,313.90	12,143.66		170.24	1.38%
3004	Consumable Supplies & Materials	37,109.70	37,109.70		0.00	0.00%
3005	Postage	52,727.00	52,622.28		104.72	0.20%
3006	Telephone	36,799.84	36,410.84		389.00	1.06%
3014	Subscriptions	13,410.50	13,096.40		314.10	2.34%
3015	Postage - Newsletter	0.00	0.00		0.00	0.00%
3018	Travel - Board Members (Service)	24,665.34	24,665.34		0.00	0.00%
3019/20	Travel - Board Mbr Conference	8,037.21	8,037.21		0.00	0.00%
3027	Travel - State Vehicle	842.08	842.08		0.00	0.00%
3028	Travel - Staff (Service)	91,492.01	89,089.57		2,402.44	2.63%
3037	Travel - Conference - State Vehicle	60.00	60.00		0.00	0.00%
3038	Travel - Staff (Conference)	6,879.11	6,879.11		0.00	0.00%
3039	Travel - Staff (Conf Out Of State)	0.00	0.00		0.00	0.00%
3516	Membership Fees & Dues	2,161.00	2,150.00		11.00	0.51%
3517	Administrative Support Service & Other	1,560.00	1,560.00		0.00	0.00%
3518	Administrative Support Service	28,040.00	27,817.14		222.86	0.79%
3518(b)	HPC Shared Regulatory Database Migration	206,321.00	206,321.00		0.00	0.00%
3521	Criminal Investigative Expense	900.00	438.19		461.81	51.31%
3534	Freight & Delivery Service	3,900.00	3,634.01		265.99	6.82%
3535	Maint & Repair - Furn & Equip	6,240.00	5,698.87		541.13	8.67%
3536	Rental of Furn & Equip	7,300.00	7,268.28		31.72	0.43%
3537	Rental of Space	2,800.00	2,755.54		44.46	1.59%
3538	Bonds & Insurance	4,742.00	4,742.00		0.00	0.00%
3539	Maint & Repair - Building	4,000.00	4,000.00		0.00	0.00%
3540	Reproduction & Printing	34,480.77	33,719.57		761.20	2.21%
3541	Printing - Newsletter	0.00	0.00		0.00	0.00%
3550	Hearing Expenses	350.00	277.16		72.84	20.81%
3570	Registration Fees	14,724.00	14,640.50		83.50	0.57%
3571	Board Member Registration	2,256.00	2,245.00		11.00	0.49%
3581	F & E - Not Capitalized or Inventoried	44,601.03	44,410.47		190.56	0.43%
3582	F & E -Under \$1000-Inventory	5,021.98	5,021.98		0.00	0.00%
3586	Cap Bdgt Project - F&E - Inventoried	51,526.15	51,526.15		0.00	0.00%
3587	Cap Bdgt Project - F&E - Capitalize	16,048.23	16,048.23		0.00	0.00%
3588	Books & Recorded Materials	1,579.96	1,509.21		70.75	4.48%
3590	Miscellaneous (HPC Transfer and Fees)	22,500.00	22,382.24		117.76	0.52%
3595	Awards	2,591.38	2,478.63		112.75	4.35%
5000	Vehicles	34,723.01	34,326.90		396.11	1.14%
7001	Exempt Salaries	106,500.00	106,500.00		0.00	0.00%
7002	Classified Salaries - Full Time	3,441,841.13	3,441,841.13		0.00	0.00%
7017	One-Time Merit	86,953.00	86,953.00		0.00	0.00%
7020	Hazardous Pay	2,850.00	2,850.00		0.00	0.00%
7021	Overtime Pay	35,413.86	35,413.86		0.00	0.00%
7022	Longevity	70,758.89	70,758.89		0.00	0.00%
7023/7047	Lump Sum Termination Payment	19,761.31	19,761.31		0.00	0.00%
7025	Compensatory Per Diem	1,770.00	1,770.00		0.00	0.00%
7219	Texas Online Fee	251,010.00	251,010.00		0.00	0.00%
7947	State Office of Risk Management	5,442.81	5,442.81		0.00	0.00%
7904	Petty Cash-Forfeiture Funds	15,000.00	0.00	15,000.00	0.00	0.00%
	Controlled Substance Forfeiture Funds UB)	64,606.62	0.00	64,606.62	0.00	0.00%
	TOTAL ADMIN, LIC & ENF	5,099,937.43	5,004,136.06	79,606.62	16,194.75	0.32%

Office of the Executive Director

This FY2011 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 disappointments/constraints in FY2011.

FY2011 SIGNIFICANT ACCOMPLISHMENTS

1. The agency accomplished or partially accomplished all (100%) of its 83 objectives, [82 accomplished (98.8%) and 1 partially accomplished (1.2%)]. In addition, the agency also met or exceeded 90% of the 10 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. (See Executive Director Ongoing Objective #1 for additional details).
2. Carol E. Fisher, R.Ph., M.P.A. received the National Association of Boards of Pharmacy John F. Atkinson Service Award at the May 2011 Annual Meeting in San Antonio. The Award recognizes Mrs. Fisher for her work in the Texas State Board of Pharmacy Board's Enforcement Division and for her work in laying the foundation for the new compliance program established in 1979.
3. After over a year of planning and work, the Versa Regulatory System began operation on May 30, 2011, with the Versa Online System beginning operation on June 3, 2011. The conversion of the majority of the data from the prior system was successful. All licensing and enforcement functions of the agency have been operational since the May 30, 2011 date. However, the implementation and ongoing use of the System has not been without challenges and disappointments (See Significant Disappointments/Constraints).
4. When comparing FY2011 to FY2010, TSBP received approximately the same number of complaints (a difference of only four complaints), but closed 328 more complaints in FY2011 than in the prior fiscal year, as reflected in the chart below: (see Enforcement Ongoing Objective #3 for further information regarding complaints that were closed by TSBP in FY2011).

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY07	5,849	+65%	4,980	+47%	85%	185 Days	-11%
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%
FY09	5,290	-8%	6,182	+15%	117%	211 Days	+8%
FY10	5,702	+8%	5,512	-11%	97%	182 Days	-14%
FY11	5,698	<-1%	5,840	+6%	102%	195 Days	+7%

OFFICE OF THE EXECUTIVE DIRECTOR

5. Approximately 96% of the disciplinary cases against pharmacists and pharmacies and 99% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders or default Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and agency expenditures.
6. The agency maintained a high level of information technologies system availability and security (nearly 100%) in a highly volatile environment.
7. Agency Staff gave 43 presentations to approximately 3,502 individuals during FY2011. (See Enforcement Ongoing Objective #7, Professional Services Ongoing Objective #4, and Executive Director Ongoing Objective #5 for more details).
8. The following TSBP Board Members and staff were appointed to offices, received honors, or received recognition in FY2011.
 - A. Board President Jeanne D. Waggener, RPh. was appointed as a member of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act.
 - B. Board Vice-President Alice G. Mendoza, R.Ph. was appointed as a member of the Subcommittee on Hospital Pharmacy of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act.
 - C. Board Treasurer Dennis F. Wiesner, R.Ph. was appointed a member of the Subcommittee on Community Pharmacy of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act.
 - D. Board member Buford T. Abeldt, Sr., R.Ph. was appointed a member of the National Association of Boards of Pharmacy's Committee on Law Enforcement and Legislation.
 - E. Board member W. Benjamin Fry, R.Ph., FIACP, FACA. was appointed to serve as chair the Subcommittee on Community Pharmacy of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act.
 - F. Board member L. Suzan Kedron was appointed as a member of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act.
 - G. Board Member Joyce A. Tipton, R.Ph., MBA was appointed as a member of the National Association of Boards of Pharmacy's Committee on Constitution and Bylaws.
 - H. Board Member Charles F. Wetherbee was appointed to the National Association of Boards of Pharmacy's Committee on Law Enforcement and Legislation.
 - I. Executive Director/Secretary Gay Dodson, R.Ph. was appointed to serve as chair of the Subcommittee on Other Pharmacy Environments of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act.

OFFICE OF THE EXECUTIVE DIRECTOR

FY2011 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. As noted in the Significant Disappointments/Constraints the agency the Versa Regulatory System began operation on May 30, 2011, with the Versa Online System beginning operation on June 3, 2011. However, the implementation and ongoing use of the System has not been without challenges and disappointments. The new system has not generated the expected efficiencies thus leaving the agency with more manual processes than expected. For example, several interfaces between other agencies are not working. These interfaces are essential for verifying the certification of applicants, matching of student loan defaulters, and obtaining criminal history records.

The agency is dependent upon these automated systems to allow for the processing of licensing applications and renewals in an efficient and timely manner. Without these efficiencies, the agency is experiencing substantial workload increases and the agency will ask for more employees to deal with the workload increase during the next legislative session. In addition, the Versa Online System has had numerous problems with stability that has resulted in major problems in renewal of licenses and many customer complaints. The Project Team is working to develop a more user friendly and updated online system in the coming year.

2. Although the TSBP was successful in obtaining additional appropriations to fund six new positions, the Legislature did not restore the funds that were cut from the FY2010-2011 budget (5% and 2.5% reductions). In addition, the baseline FY2012-2013 budget was funded at a level that was 10% below the FY2010-2011 budget after the 2% and 5% cuts mentioned above. Because of these reductions, the agency was forced to reduce expenditures for the Pharmacy Recovery Network, the testing of compounded products, and merit increases to eligible employees. The Legislature also did not fund the agency to replace ageing agency vehicles or computer equipment.
3. Throughout FY2011, TSBP Compliance Field staff continued to discover numerous individuals performing technician duties without an active registration. These cases were referred to the TSBP Legal Division.

OFFICE OF THE EXECUTIVE DIRECTOR

FY2011 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 provide testimony, attend public hearings, and provide any fiscal or technical information, and to review all legislation that has an impact on the practice of pharmacy and agency operations, and monitor the process of this legislation, throughout the 82nd Texas Legislative Session.**

Status: ACCOMPLISHED

Comment:

- A. A total of 10,316 pieces of legislation were introduced in the 82nd Regular Legislative Session. The Executive Director reviewed or assigned a staff member to review each of these bills. A total of 415 bills that affected the agency or the practice of pharmacy were tracked and monitored as follows.

82nd TEXAS LEGISLATURE, REGULAR SESSION					
		Session		TSBP Monitored	
		Filed	Passed	Filed	Passed
House					
	Bills	3,865	797	263	32
	Joint Resolutions	154	3	0	
	Concurrent Resolutions	173	101	4	0
	Resolutions	2,812	2,733	0	0
	House Total	7,004	3,634	267	32
Senate					
	Bills	1,931	582	148	42
	Joint Resolutions	53	8	0	0
	Concurrent Resolutions	60	41	0	0
	Resolutions	1,268	1,262	0	0
	Senate Total	3,312	1,893	148	42
	Regular Session Total	10,316	5,527	415	74

- B. The Executive Director met or had telephone conversations with Legislators or others or testified before Legislative committees a total of 26 times as follows (Note: see also meetings related to the FY2012-2013 TSBP Legislative Appropriation Request under New Goal #2 below.

OFFICE OF THE EXECUTIVE DIRECTOR

Date	Subject, Legislator, or Committee
9/9/2010	Phone conversation with Betty in Senator Ogden's office regarding pharmacist asking patients questions about medical history
9/16/2010	Phone conversation with Representative Chuck Hopson regarding over the counter sale of dextromethorphan
9/18/2010	HB 2730 Interagency Council Meeting to discuss required report
10/25/2010	Phone conversation with Malini Ghoshal in Senator Florance Shapiro's office regarding what was needed to schedule K-2 and other synthetic cannabinoids
10/4/2010	Phone conversation with an aide in Senator Van de Putte's office regarding the different facility licenses
10/4/2011	Phone conversation with Jordon in Senator Jane Nelson's office regarding SB 646
1/12/2011	Meeting with Representative Chuck Hopson
1/14/2011	Meeting with Janis Renkin and Josh Lavine from Representative Ruth McClendon's Office regarding HB 2730 report
1/18/2011	Phone conversation with an aid in Representative Cook's office regarding HB 89
2/23/2011	Phone conversation with Lisa Smith in Senator Florence Shapiro's office regarding pre-inspection of new pharmacies
3/11/2011	Conference Call with Jay Propes of the Graydon Group regarding substitution opioids with tamper resistant technology
3/16/2011	Phone conversation with Nathan McDonald an intern in Senator Van de Putte's office regarding eligibility of public members on the Board
4/5/2011	Senate Health and Human Services Committee meeting regarding SB 546 and SB1081
4/5/2011	Senate Criminal Justice Committee Hearing regarding SB 913 and SB 1273
4/6/2011	House Public Health Committee Hearing on HB 2092
4/7/2011	Senate Finance Committee Hearing on TSBP's Legislative Appropriation Request
4/7/2011	Phone conversation with Brian of the House Public Health Committee regarding HB 3714
4/13/2011	House Public Health Committee Hearing on HB 2069 (Authority for Pharmacists to Accelerate Refills)
4/14/2011	Meeting with Senator Leticia Van de Puttee and Felicia Wright regarding HB 1081
4/20/2011	Phone conversation with Ash in Senator West's office regarding SB 1756
4/29/3011	Phone conversation with Cody Benavides in Representative Charles Schwertner regarding renewal of a pharmacist license that has expired
5/4/2011	House Public Health Committee Hearing on SB 594
5/5/2011	Meeting with Representative Lois Kolkhorst regarding HB 2092
5/5/2011	Meeting with Representative Chuck Hopson regarding HB 2092

OFFICE OF THE EXECUTIVE DIRECTOR

Date	Subject, Legislator, or Committee
5/13/2011	Phone conversation with Alisa with the House Research Organization regarding SB 544
5/18/2011	House Public Health Committee Hearing on SB 546, SB 1081, and SB 1438

C. During the 82nd Legislative Session, the following significant legislation that affected the agency or the practice of pharmacy was passed.

(1) HB 1137 by Darby/Estes (Effective Date: 9/1/2011)

(a) This bill establishes a state, "real-time electronic logging system" to track the sales of ephedrine, pseudoephedrine, or norpseudoephedrine (PSE products). The bill defines a "real-time electronic logging system" as a system intended to be used by law enforcement agencies and pharmacies or other business establishments that:

- is installed, operated, and maintained free of any charge to the business establishment or to the state. (Note: The system will be paid for by a non-profit organization established by the manufacturers of PSE);
- is able to communicate in real time with similar systems operated in other states; and
- uses a mechanism to prevent the completion of a sale of a product containing PSE products that would violate state or federal law regarding the purchase of a product containing those substances, but has an override system that:
 - may be activated by an employee of a business establishment; and
 - creates a record of each override.

(b) Pharmacies are not required to submit information on the sale of PSE products until January 1, 2012.

(2) HB 2069 by Naishtat/Lucio (Effective Date: 9/1/2011)

This bill amends the Texas Pharmacy Act to allow pharmacists to "accelerate refills" and dispense up to a 90-day supply of a dangerous drug if the:

- (a) total amount dispensed doesn't exceed the amount authorized on the Rx;
- (b) patient consents to the change;
- (c) physician is notified electronically or by phone;
- (d) physician does not specify it is medically necessary to dispense the initial quantity followed by the specified refills;
- (e) dangerous drug is not a psychotropic; and
- (d) patient is at least 18-years old.

(3) SB 158 by Williams/Fletcher (Effective Date: 9/1/2011)

This bill amends the Texas Controlled Substances Act to make it a felony:

- (a) To obtain a prescription for a controlled substance that is not medically necessary (Doctor Shopping).
- (b) For a person registered under the Controlled Substances Act or working for a registrant to knowingly take controlled substances:
 - For his/her own use; or
 - To divert for unlawful use by another person.

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- (4) SB 594 by Van de Putte/Zerwas (Effective Date: 9/1/2011)
This bill amends the Texas Controlled Substances Act to allow prescriptions for Schedule II controlled substances to be transmitted electronically from the prescriber to the pharmacy in compliance with the DEA Electronic Transfer regulations.
- (5) SB 1273 by Williams/Hamilton (Effective Date: 9/1/2011)
This bill amends the Texas Controlled Substances Act to:
(a) delete the requirement for the DPS number to be on a prescription.
(b) require pharmacies to send controlled substance prescription information to DPS no later than the 7th day after the date the prescription is completely filled.
- (6) SB 1438 by Van de Putte/Hopson (Effective Date: 6/19/2011)
This bill amends the Texas Pharmacy Act to clarify:
(a) which records are confidential in the impaired pharmacist program;
(b) when the Board may release investigate files; and
(c) the procedures for ordering a licensee to submit to a mental or physical examination.
- (7) SB 1733 by Van de Putte/Menendez (Effective Date: 6/17/11)
(a) This bill:
 - requires all agencies that issue an occupational license to adopt rules for the issuance of a license to an applicant who:
 - is the spouse of a person serving on active duty as a member of the armed forces of the United States; and
 - holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license; or
 - within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months.
 - specifies that rules adopted under this section must include provisions to allow alternative demonstrations of competency to meet the requirements for obtaining the license.

2. To direct the submission of, provide testimony for, and monitor the progress of the agency's *Legislative Appropriation Request* and corresponding performance measures for FY2012-2013.

Status: ACCOMPLISHED

Comment:

- A. The 82nd Legislature passed the FY2012-2013 Appropriations Act that provided TSBP with a budget that includes funding for six new FTE's, including:
- (1) a Network Specialist
 - (2) a Legal Assistant
 - (3) an Attorney
 - (4) two Field Investigator
 - (5) an Administrative Assistant in Professional Services

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However, the FY2012-2013 appropriations also continued reductions in the TSBP budget including the 5% and 2.5% reductions that occurred in FY2010-11, as well as an additional 10% reduction for FY2012-2013. These reductions resulted in the agency eliminating the increases to appropriations received in FY2010-2011 in the areas of the Pharmacy Recovery Network, the testing of compounded products, and merit increases to eligible employees. In addition, the FY2012-2013 did not include funding for replacement of agency vehicles and technology.

- B. Agency personnel including the Executive Director participated in the following meetings regarding the TSBP Legislative Appropriation Request.

Date	Subject, Legislator, or Committee
9/16/2010	Meeting with Legislative Budget Board analyst Rachel Niven and Emily Hoffman to Discuss 2012-2013 Legislative Appropriations Request
1/21/2011	Meeting with Legislative Budget Board analyst Rachel Niven regarding TSBP's FY2012-2013 Legislative Appropriations Request
2/16/2011	House Appropriations Regulatory Subcommittee Hearing on the TSBP FY2012-2013 Legislative Appropriation Request
2/23/2011	Senate Finance Committee Hearing on the TSBP FY2012-2013 Legislative Appropriation Request
2/28/2011	House Appropriations Regulatory Subcommittee Meeting for Mark-up on the TSBP FY2012-2013 Legislative Appropriation Request
4/7/2011	Senate Finance Committee Hearing for Mark-up on the TSBP Legislative Appropriation Request
4/21/2011	Conference Committee Recommendations passed.

3. To direct the implementation of the new licensing, enforcement, and administration database system throughout FY2011.

Status: ACCOMPLISHED

Comment:

- A. The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) with a Shared Regulatory Database System (RDB) began in FY2008. The agency with five other agencies (Texas Boards of Dental Examiners, Professional Land Surveyors, Optometry, Plumbing Examiners, and Examiners of Psychologist) asked and received funding for the new system during the 2009 Texas Legislative Session. In FY2009, a vendor was selected and implementation of the project began in FY2010.

Throughout FY2010, agency staff worked with the RDB Project Team (Health Professions Staff, Versa and VAX programmers), to identify and map data from the old system to the new system. In concert with the mapping of data, the team also worked on the design and configuration of the Versa Regulatory System and the Versa Online System.

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After over a year of planning and work, the Versa Regulatory System began operation on May 30, 2011, with the Versa Online System beginning operation on June 3, 2011. The conversion of the majority of the data from the prior system was successful. All licensing and enforcement functions of the agency have been operational since the May 30, 2011 date.

However, the implementation and ongoing use of the System has not been without challenges and disappointments. The new system has not generated the expected efficiencies thus leaving the agency with more manual processes than expected. For example, several interfaces between other agencies are not working. These interfaces are essential for verifying the certification of applicants, matching of student loan defaulters, and obtaining criminal history records.

The agency is dependent upon these automated systems to allow for the processing of licensing applications and renewals in an efficient and timely manner. Without these efficiencies, the agency is experiencing substantial workload increases and the agency will ask for additional employees to deal with the workload increase during the next legislative session. In addition, the Versa Online System has had numerous problems with stability that has resulted in major problems in renewal of licenses and many customer complaints. The RDB Project Team is working to develop a more user friendly and updated online system in the coming year.

- B. The Executive Director attended 19 meetings of the Shared Regulatory Database Project Executive/Steering Committee. These committees were charged with working with Versa management and directing the project.

Date	Activity
9/2/2010	Meeting of the Shared Regulatory Database Project Executive Committee
9/10/2010	Meeting of the Shared Regulatory Database Project Steering Committee
10/4/2010	Meeting of the Shared Regulatory Database Project Executive Committee
10/25/2010	Meeting of the Shared Regulatory Database Project Executive Committee
10/28/2010	Meeting of the Shared Regulatory Database Project Executive Committee
11/30/2010	Meeting of the Shared Regulatory Database Project Executive Committee
1/27/2011	Meeting of the Shared Regulatory Database Project Executive Committee
3/16/2011	Meeting of the Shared Regulatory Database Project Executive Committee
4/1/2011	Meeting of the Shared Regulatory Database Project Executive Committee
5/5/2011	Meeting of the Shared Regulatory Database Project Executive Committee
5/16/2011	Meeting of the Shared Regulatory Database Project Executive Committee
6/28/2011	Meeting of the Shared Regulatory Database Project Executive Committee
7/7/2011	Meeting of the Shared Regulatory Database Project Executive Committee

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Date	Activity
7/19/2011	Meeting of the Shared Regulatory Database Project Executive Committee
7/26/2011	Meeting of the Shared Regulatory Database Project Executive Committee
8/8/2011	Meeting of the Shared Regulatory Database Project Executive Committee
8/15/2011	Meeting of the Shared Regulatory Database Project Executive Committee
8/22/11	Meeting of the Shared Regulatory Database Project Executive Committee
8/29/2011	Meeting of the Shared Regulatory Database Project Executive Committee

Objectives (Ongoing)

1. To manage and monitor the agency's performance and operational efficiency throughout FY2011.

Status: ACCOMPLISHED

Comment: The agency accomplished or partially accomplished all (100%) of its 83 objectives, [82 accomplished (98.8%) and 1 partially accomplished (1.2%)]. In addition, the agency also met or exceeded 90% of the 10 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board (LBB) as indicated below.

Performance Measure	FY11 Projected Performance	FY11 Performance Attained	Projected Target Met?*
A. GOAL: MAINTAIN STANDARDS			
Outcome (Results/Impact)			
Percent of Licensees with No Recent Violations	95%	95.19%	Met
Percent of Licensees Who Renew Online	84%	93.05%	Exceeded
A.1.1. STRATEGY: LICENSING			
Output (Volume)			
Number of New Licenses Issued to Individuals	1,140	1,407	Exceeded
Number of Licenses Renewed (Individuals)	12,759	13,591	Exceeded
Explanatory			
Total Number of Business Facilities Licensed	6,615	6,964	Exceeded
B. GOAL: ENFORCE REGULATIONS			
Outcome (Results/Impact)			
Percent of Complaints Resulting in Disciplinary Action	15.0%	12.38%	Met
B.1.1. Strategy: Enforcement			
Output (Volume)			
Number of Jurisdictional Complaints Resolved	4,980	5,916	Exceeded

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Efficiencies				
	Average Time for Jurisdictional Complaint Resolution	180	195	Not Met
Explanatory				
	Number of Jurisdictional Complaints Received	5,000	5,662	Exceeded
B.1.2. Strategy: Peer Assistance				
Output (Volume)				
	Number of Licensed Individuals Participating in a Peer Assistance Program	160	181	Exceeded

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

- To coordinate the development of proposed goals and objectives and budget for FY2012 based on the *Strategic Plan* and projected budget, for submission to the Board two weeks prior to the August 2011 meeting.**

Status: ACCOMPLISHED

Comment: A proposed budget, including revenue projections, and Goals and Objectives for the agency was presented and approved at the August 9-10, 2011, Board Business Meeting.

- To direct TSBP's "*lead agency approach*" to help assure coordination of TSBP activities with those of other state and federal agencies involved in the regulation of the practice of pharmacy throughout FY2011.**

Status: ACCOMPLISHED

Comment: The agency's Enforcement, Compliance, Investigation, and Legal staffs worked extensively with federal, state, and local regulatory agencies. (See Enforcement Division's Ongoing Objective #5, Legal Division's Ongoing Objective #8, and Professional Services Division's Ongoing Objective #10 for details of these cooperative efforts.)

- To review all federal statutes, regulations, and policies that may impact the regulation of the practice of pharmacy and make timely recommendations to the Board for implementation of any required Board actions throughout FY2011.**

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.

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5. As the Executive Director of the Board, throughout FY2011, to:

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

Status: ACCOMPLISHED

Comment:

- A. The Executive Director:
 - (1) Gave 17 presentations to approximately 1,500 persons, as indicated below.

Date	Name of Association/Location of Meeting	Attendance (Approximate)
9/8/2010	Panel Presentation for the Bay Area Council on Drug and Alcohol Abuse – Galveston	50
9/22/2010	HEB Pharmacists – San Antonio	300
9/23/2010	HEB Pharmacists – San Antonio	300
10/4/2010	University of Texas College of Pharmacy Law Class -- Austin	40
10/7/2010	Fort Hood Pharmacists and Pharmacy Technicians – Fort Hood Army Base	25
10/8/2010	Texas Department of Health and Human Services Vendor Drug Pharmacists – Austin	15
10/9/2010	Austin Area Society of Health-System Pharmacists – Austin	30
10/13/2010	Texas Federation of Drug Stores Annual Meeting – Bastrop	30
10/14/2010	University of Texas College of Pharmacy Kappa Epsilon Chapter – Austin	25
10/16/2010	Central Texas Society of Health-System Pharmacists – San Antonio	40
11/15/2010	University of the Incarnate Word Feik School of Pharmacy Law Class	60
11/19/2010	University of Texas College of Pharmacy Second-year students – Austin	80
2/26/2011	West Texas Pharmaceutical Association’s Annual Meeting – Fredericksburg	50
3/21/2011	Texas Southern University College of Pharmacy Students – Houston	25

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Date	Name of Association/Location of Meeting	Attendance (Approximate)
3/22/2011	University of Texas College of Pharmacy's Phi Lambda Sigma Chapter	30
4/17/2011	Texas Society of Health-System Pharmacists Annual Seminar – San Antonio	100
6/17/11	HEB Pharmacy Conference – San Antonio	300
Total		1,500

(2) Attended 30 meetings, conferences, or phone calls representing the agency as indicated below (See also New Goal #1 and #2 for meetings with the legislature).

Date	Meeting
9/1/2010	Meeting with representatives of the Texas Department of Public Safety Controlled Substance Registration and Prescription Monitoring Programs.
9/10/2010	Phone conversation with Diane Kayser regarding DEA inspection of a nursing home and their ruling that nursing homes cannot use reverse distributors to destroy controlled substances
9/13/2010	Phone conversation with Roy Sandoval regarding destruction of controlled substances from nursing homes.
9/13/2010	Phone conversation with Lynn Batshon of the American Society of Consultant Pharmacists regarding destruction of controlled substances in nursing homes.
9/13/2010	Phone conversation with Sharnett Latimore of DEA Houston regarding destruction of drugs in nursing homes.
9/14/2010	State Office of Administrative Hearing Mediation in the Apothecure Case
9/28/2010	Conference call with representatives of Harris Hospital
10/18/2010	Conference call with representatives of the Texas Department of Public Safety Controlled Substance Registration and Prescription Monitoring Programs regarding Class F Pharmacy and Multiple Schedule II prescriptions
11/10/2010	Meeting with Stacy Baldrige and Kristi Dover with Purdue ??
11/11/2010	Meeting with Christine Michael regarding Tech-Check-Tech
11/2/2010	Meeting with e Becky Dean of the Governor's Budget, Planning, and Policy office
11/30/2010	Call from Elston Johnson of the Texas Commission on Environmental Quality regarding the TSBP rules warning patients not to flush drugs
12/3/2010	Conference Call with representatives of Omnicare regarding a pilot project
12/8/2010	Meeting with representatives of the Dallas Diversion Control office of Drug Enforcement Administration
12/20/2010	Meeting with Pharmacists Paula and Scott Sabrsula
12/21/2010	Conference with Randy Ball of Fort Worth's Harris Hospital

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Date	Meeting
1/5/2011	Conference call with representatives of Omnicare regarding a pilot project
1/7/2011	Meeting with Texas Department of State Health Services, Drug and Device Division investigator regarding counterfeit drugs
2/2/2011	Telephone meeting with Lisa Sullivan, DEA Dallas
2/2/2011	Accepted an Award for the Highest Percentage Increase in Donations from the State Employee Charitable Campaign
2/27/2011	Telephone conversation with Sam Tessen of the Texas Osteopathic Medicine Association regarding prescriptions for schedule II controlled substances
3/21/2011	Phone conversation with Mark Vane regarding SB 1756
3/22/2011	Meeting with Amber Pearce Director of U.S. Public Affairs and State Government Relations for Pfizer
4/12/2011	Conference call with Assistant Attorney General Joyce Illya regarding a case
6/3/2011	Phone conversation with Pat Crutsinger regarding possession of drugs by emergency medical services
6/10/2011	Meeting with representatives of the State Auditor's Office regarding the prescription monitoring program
5/5/2011	Conference Call with representatives from Wal-Mart
5/27/2011	Phone conversation with Drew Binns regarding requirements regarding medications in a pharmacy that was flooded
6/8/2011	Phone conversation with Joseph at NACDS regarding medication therapy management in Texas
8/16/2011	Phone conversation with Lisa Durden, Executive Director of the Georgia Board of Pharmacy regarding certification exam used by Texas

(3) Participated in 11 interviews with the Press as indicated below

Date	Activity
9/10/2010	Phone interview with Amy Davis of KPRC-TV Houston regarding pharmacy errors
9/25/2010	Phone interview with Joel Millman of the Wall Street Journal regarding information on foreign pharmacists
10/20/2010	Phone interview with Jerry Wagschal of ABC News regarding pharmacy technician schools enrolling students with criminal history
10/27/2010	Phone interview with Cinday Horswell of the Houston Chronicle regarding pain clinics
10/27/2010	Phone interview with Katheryn Eban of Fortune Magazine regarding theft of pharmaceuticals
11/12/2010	Phone interview with Cindy Horswell of the Houston Chronicle regarding pharmacy technicians

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Date	Activity
1/13/2011	Interview with Amy Davis of KPRC Houston regarding Pill Mills
1/19/2011	Phone interview with Daniel Marine with ABC in El Paso regarding a joint DEA/TSBP case
1/27/2011	Phone interview with Angela Brown of the Associated Press regarding pharmacists releasing patient information to a physician's office
3/31/2011	Phone interview with Lisa Ann Burke, New York who is doing a series of articles on pharmacy technicians in the U. S.
5/10/2011	Phone interview with Mike Beard of WOAI of San Antonio regarding drug shortage for ADHD drugs

- B. The Executive Director attended 14 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
10/1/2010	Conference call with Texas Pharmacy Association's Academy of Long-Term Care Pharmacists regarding destruction of controlled substances in nursing homes
10/13/2010	Texas Federation of Drug Stores Annual Meeting – Bastrop
10/15/2010	Meeting with Texas Pharmacy Association Director of Public Affairs, Michael Wright – Austin
10/25/2010	Pre-meeting conference call of the National Association of Boards of Pharmacy Task Force on Revision of the Controlled Substances Act, Miscellaneous Topics Expert Panel – Austin
11/1/2010	Meeting with the Texas Pharmacy Practice Coalition – Houston
10/14/2010	Meeting with the Texas Federation of Drug Stores (TFDS) board regarding TSBP suggested changes to the Pharmacy Act – Bastrop
11/2/2010	Conference Call of the National Association of Boards of Pharmacy Task Force on Revision of the Controlled Substances Act, Miscellaneous Topics Expert Panel – Austin
11/16/2011	Texas Pharmacy Association's Public Policy Council Meeting – Austin
1/20/2011	Capitol Area Pharmacists Meeting – Austin
4/14-17/2011	Texas Society of Health-System Pharmacists' Annual Meeting – San Antonio
4/25/2011	National Association of Boards of Pharmacy Webinar on the CPE Monitor Program – Austin
5/21-24/2011	National Association of Boards of Pharmacy's Annual Meeting – San Antonio
6/23-25/2011	Texas Pharmacy Association's Annual Meeting – Fort Worth
7/21/2011	Capitol Area Pharmacists Meeting – Austin

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- C. The Executive Director continued to serve as Vice-Chair of the Health Professions Council and attended 4 meetings of the Council or Council Committees as follows:

Date	Activity
9/13/2010	Health Professions Council Meeting
12/6/2010	Health Professions Council Meeting
3/15/2011	Health Professions Council Meeting regarding a fiscal note for HB 3426
6/17/2011	Health Professions Council Meeting

- D. The Executive Director attended 3 meetings of the Texas Pharmacy Congress as follows (Note: the February 2011 meeting was cancelled due to inclement weather).

Date	Activity
11/1-2/2010	Texas Pharmacy Congress Meeting – Houston
5/26-27/2011	Texas Pharmacy Congress Meeting – Corpus Christi
7/27-28/2011	Texas Pharmacy Congress Meeting – Round Rock

- 6. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures 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 throughout FY2011.**

Status: ACCOMPLISHED

Comment: The agenda for each meeting of the Board included discussion of possible suggestions for changes to the Pharmacy Act. In addition each Division has made recommendations for improvements (see Administrative Services Ongoing Objective #14, Professional Services Ongoing Objective #13, Enforcement Ongoing Objective #13, and Legal Ongoing Objective #13).

- 7. To maintain a staff development program by encouraging Executive Office staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training and 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 FY2011.**

Status: ACCOMPLISHED

Comment: In FY2011, Division staff attended General Staff Meetings held in September 2010, December 2010, February 2011, June 2011, and August 2011. In conjunction with quarterly General Staff Meetings, Division staff participated in staff training, as listed below:

OFFICE OF THE EXECUTIVE DIRECTOR

- October 26, 20120 – Teambuilding (Bastrop, Texas)
- December 9, 2010 – Ethics/EEO Training (Austin Headquarters)

Evaluations of the Division Directors and Executive Assistant were completed in August 2011.

8. To provide the Board information necessary to conduct performance evaluation of the Executive Director by August 31, 2011.

Status: ACCOMPLISHED

Comment: A self and staff evaluation of the Executive Director were presented to the Board at its June 2011 meeting. The Board conducted the performance evaluation at this meeting.

9. To prepare a report on the accomplishments of the Office of the Executive Director and direct the preparation and submission of the agency's *FY2010 Annual Report* to be presented to the Board at the May 2011 meeting.

Status: ACCOMPLISHED

Comment: The final draft of the TSBP Annual Report for FY2010 was presented to and approved by the Board at the June 2011 Board meeting.

Administrative Services and Licensing Division

FY2011 SIGNIFICANT ACCOMPLISHMENTS

1. The Division accomplished 100% of its objectives.
2. After over a year of planning and work, the Versa Regulatory System began operation on May 30, 2011, with the Versa Online System beginning operation on June 3, 2011. The conversion of the majority of the data from the prior system was successful. All licensing and enforcement functions of the agency have been operational since the May 30, 2011 date.

However, the project wasn't without its challenges and disappointments (see *Significant Disappointments*). The significant challenges notwithstanding, the enormous amount of time, energy and effort displayed by the TSBP staff, indicate the agency's high level of commitment to this project.

3. The agency was successful in obtaining additional appropriations for a portion of the requested exceptional items during the 82nd Legislative session. These included six new FTE's, including:
 - Network Specialist
 - Legal Assistant
 - Attorney
 - Field Investigator (2)
 - Administrative Assistant Professional Services
4. The Division met or exceeded 100% of the Key Performance Measures required to be submitted to the Legislative Budget Board.
5. The agency maintained a high level of information technologies system availability (nearly 100%) and security in a highly volatile environment.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

FY2011 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. All of the Licensing Services Programs continue to grow resulting in the following increases in workload.

WORKLOAD INCREASES							
Number	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	Percent Increase since FY06
Licensed Pharmacists	23,323	23,939	24,586	25,507	26,551	27,329	17%
Licensed Pharmacies	6,201	6,315	6,424	6,516	6,762	6,964	12%
Registered Pharmacy Technicians	30,091	32,106	32,914	33,927	36,134	37,507	25%
Registered Pharmacy Tech Trainees	--	10,399	18,093	17,657	13,829	11,839	14% (since FY07)
Registered Interns	822	886	925	1,052	2,451	2,669	225%
Total Licensees	60,437	73,645	82,942	84,659	85,727	86,308	43%

2. Implementation of the Regulatory Data Base Project finally occurred on May 30, 2011, with the online portion coming up on June 3, 2011. The conversion of the majority of the data from the prior system was successful and all licensing and enforcement functions of the agency have been operational since migration to the new system. However, the project wasn't without its challenges and disappointments. The new system has not generated new efficiencies as anticipated leaving the agency with more manual processes than expected. The new system has also not been able to recreate much needed interfaces that are absolutely essential to verifying the certification of applicants, matching of student loan defaulters, and obtaining criminal history records. The agency is dependent upon these efficiencies to offset the continued growth of licensees. Without these efficiencies the agency is experiencing substantial workload issues that will be addressed during the next legislative session. In addition, the online portion has been a major disappointment with regard to user (customer) satisfaction; however, the RDB Project Team is working towards a more user friendly and updated online system in the coming year.
3. Although the TSBP was successful in obtaining additional appropriations for a portion of the requested exceptional items during the 82nd Legislative session, the state's fiscal crisis required maintaining the existing 5% and 2.5% reductions of FY2010-11, as well as an additional 10% reduction. These reductions eliminated the increases to appropriations received in FY2010-2011 in the areas of the Pharmacy Recovery Network, the testing of compounded products, and merit increases to eligible employees. The reductions also eliminated the critical replacement of agency vehicles and technology as well as numerous reductions to the majority of agency services.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

The continued increase in demand for services, together with the increase in the complex nature of modern health and pharmaceutical care, is taxing the agency's ability to respond not only to future challenges, but to maintain its current level of service.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

FY2011 ANNUAL REPORT

GOAL

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

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2011:

1. **Preparing testimony, attending public hearings, providing any fiscal or technical information, reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the process of this legislation, throughout the 82nd Texas Legislative Session;**
2. **Monitoring the progress of the agency's Legislative Appropriations Request and corresponding performance measures for FY2012-2013; and**
3. **Implementing a new licensing, enforcement, and administration database system throughout FY2011.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

1. **82nd Texas Legislature** - The Division Director reviewed and analyzed 121 pieces of legislation that had a potential impact on agency operations. Division Director and Chief Accountant also maintained constant contact with the Legislative Budget Board (LBB) and Governor's Office of Budget, Planning and Policy (GBO) to review and discuss the agency *Legislative Appropriations Request* for FY2012-2013. A total of 44 fiscal notes were researched and submitted to the LBB. Of particular note was a significant amount of time by division staff, allocated to revenue projections required for bills relating to the proposed self directed, semi-independent status of the agency.

The following public hearings were attended by the Division Director in order to provide administrative and technical support to the Executive Director:

Date	Subject, Legislator, or Committee
9/16/2010	Meeting with Legislative Budget Board analyst Rachel Niven and Emily Hoffman to Discuss 2012-2013 Legislative Appropriations Request
1/21/2011	Meeting with Legislative Budget Board analyst Rachel Niven regarding TSBP's FY2012-2013 Legislative Appropriations Request
2/16/2011	House Appropriations Regulatory Subcommittee Hearing on the TSBP FY2012-2013 Legislative Appropriation Request
2/23/2011	Senate Finance Committee Hearing on the TSBP FY2012-2013 Legislative Appropriation Request

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

Date	Subject, Legislator, or Committee
2/28/2011	House Appropriations Regulatory Subcommittee Meeting for Mark-up on the TSBP FY2012-2013 Legislative Appropriation Request
4/7/2011	Senate Finance Committee Hearing for Mark-up on the TSBP Legislative Appropriation Request
4/21/2011	Conference Committee Recommendations passed.

- 2. Legislative Appropriations Request** - A summary of legislative action affecting the agency's FY2012/2013 budget included additional appropriations to fund six new FTE's, including:

- Network Specialist
- Legal Assistant
- Attorney
- Field Investigator (2)
- Administrative Assistant Professional Services

However, the FY2012-2013 appropriations also continued reductions in the TSBP budget including the 5% and 2.5% reductions that occurred in FY2010-11, as well as an additional 10% reduction for FY2012-2013. These reductions resulted in the agency eliminating the increases to appropriations received in FY2010-2011 in the areas of the Pharmacy Recovery Network, the testing of compounded products, and merit increases to eligible employees. In addition, the FY2012-2013 did not include funding for replacement of agency vehicles and technology.

- 3. Implementation of Regulatory Database** – The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) with a Shared Regulatory Database System (RDB) began in FY2008. The agency with five other agencies (Texas Boards of Dental Examiners, Professional Land Surveyors, Optometry, Plumbing Examiners, and Psychology) asked and received funding for the new system during the 2009 Texas Legislative Session. In FY2009, a vendor was selected and implementation of the project began in FY2010.

Throughout FY2010, agency staff worked with the RDB Project Team (Health Professions Staff, Versa and VAX programmers), to identify and map data from the old system to the new system. In concert with the mapping of data the team also worked on the design and configuration of the Versa Regulatory System and the Versa Online System.

After over a year of planning and work, the Versa Regulatory System began operation on May 30, 2011, with the Versa Online System beginning operation on June 3, 2011. The conversion of the majority of the data from the prior system was successful. All licensing and enforcement functions of the agency have been operational since the May 30, 2011 date.

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DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

and obtaining criminal history records. The agency is dependent upon these automated systems to allow for the processing of licensing applications and renewals in an efficient and timely manner. Without these efficiencies, the agency is experiencing substantial workload increases and the agency will ask for more employees to deal with the workload increase during the next legislative session. In addition, the Versa Online System has had numerous problems with stability that has resulted in major problems in renewal of licenses and many customer complaints. The RDB Project Team is working to develop a more user friendly and updated online system in the coming year.

Objectives (Ongoing) – Administrative Services

- 1. To prepare a proposed budget for FY2012 for submission to the Board two weeks prior to the 2011 Annual Policy Meeting.**

Status: ACCOMPLISHED

Comment: A proposed budget, including revenue projections and fee recommendations, was presented and approved at the August 2011 Board Business Meeting. See Comments under Ongoing Objective #3 for additional information.

- 2. To prepare and submit all required accounting and fiscal reports/reconciliations in compliance with all applicable state statutes throughout FY2011.**

Status: ACCOMPLISHED

Comment: The agency submitted the Annual Financial Report (AFR) and the Annual Report of Non-Financial Data, to the Office of the Comptroller for the year ending August 31, 2011 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.

- 3. To review and recommend to the Executive Director additional sources of spendable revenue and to assess fees charged for Board services throughout FY2011.**

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.

A decrease in the fees for the initial licensure and renewal of pharmacy, pharmacist licenses, and pharmacy technician fees was previously adopted in August 2010 with an effective date of December 2011. The purpose of adopting rules this early was to provide the Comptroller of Public Accounts a Biennial Revenue Estimate (BRE) for FY2012-13 that allows fees to be as low as possible while covering the baseline budget for FY2012-13.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

4. **To assess the material needs of the agency and supervise the purchasing and supply activities in accordance with all Texas Procurement and Support Services rules and procedures throughout FY2011.**

Status: ACCOMPLISHED

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

5. **To increase the efficiency and productivity of Board office operations by managing and coordinating space needs and on-site maintenance of the Board's office facilities throughout FY2011.**

Status: ACCOMPLISHED

Comment: The agency worked with the Texas Medical Board to share the costs for painting and the installation of new tiles and stalls 6th floor bathrooms. The agencies were required to fund this project because the work was not included in the budget of the State Facilities Commission.

6. **To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2011.**

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- 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.
- C. The agency reviewed its Employee Handbook of Personnel Policies and Procedures. Two employee complaints were filed, and there were no employment discrimination or other charges initiated with the Texas Commission on Human Rights.
- D. The agency received 528 applications for employment during this fiscal year, which resulted in five new hires and five promotions. (Note: providing EEO information by applicants is strictly voluntary. 50 applicants did not provide the information thus it is not included in the chart below).
- E. The agency had four employees that terminated employment with the agency in FY2011, resulting in a turnover rate of 5.7%. This compares to the overall statewide turnover rate of the state of 17.7%.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

The following table reflects the agency's EEO profile for employees hired, promoted, or terminated during FY2011, as well as an applicant profile report.

Texas State Board of Pharmacy
EEO Data as of August 31, 2011

<u>Agency EEO Data</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND
	M	F	M	F	M	F	M	F	M	F	TOTAL
Administrators	0	5	0	0	0	0	0	0	0	5	5
Professional	5	9	0	1	2	0	0	1	7	11	18
Para-Prof	9	13	0	0	0	10	0	0	9	23	32
Admin Support	0	8	0	3	0	5	0	0	0	16	16
TOTALS	14	35	0	4	2	15	0	1	16	55	71

<u>New Hires</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND
	M	F	M	F	M	F	M	F	M	F	TOTAL
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	1	0	0	0	1	0	0	0	2	2
Admin Support	0	2	0	0	0	0	0	0	0	2	2
TOTALS	0	4	0	0	0	1	0	0	0	5	5

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

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

<u>Applications</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		Not Provided	GRAND
	M	F	M	F	M	F	M	F	M	F		TOTAL
Administrators	0	0	0	0	0	0	0	0	0	0		0
Professional	5	8	1	0	1	1	0	0	7	9	4	20
Para-Prof	40	57	11	25	17	28	2	6	70	116	22	208
Admin Support	26	107	8	36	23	62	2	12	59	217	24	300
TOTALS	71	172	20	61	41	91	4	18	136	342	50	528

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

7. **To manage the information resource needs (data processing, telecommunication, and Web site) of the agency throughout FY2011.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities.

- A. After over a year of planning and work, the Versa Regulatory System began operation on May 30, 2011, with the Versa Online System beginning operation on June 3, 2011. The conversion of the majority of the data from the prior system was successful. All licensing and enforcement functions of the agency have been operational since the May 30, 2011 date.

However, the implementation and ongoing use of the System has not been without challenges and disappointments. The new system has not generated the expected efficiencies thus leaving the agency with more manual processes than expected. For example, several interfaces between other agencies are not working. These interfaces are essential for verifying the certification of applicants, matching of student loan defaulters, and obtaining criminal history records. The agency is dependent upon these automated systems to allow for the processing of licensing applications and renewals in an efficient and timely manner. Without these efficiencies, the agency is experiencing substantial workload increases and the agency will ask for more employees to deal with the workload increase during the next legislative session. In addition, the Versa Online System has had numerous problems with stability that has resulted in major problems in renewal of licenses and many customer complaints. The RDB Project Team is working to develop a more user friendly and updated online system in the coming year.

- B. Completed the Information Resources Deployment Review and The Information Technology Detail portion of the Agency Strategic plan.
- C. The agency completed a successful DIR sponsored penetration testing of agency firewall.
- D. The availability of the system and the system security were maintained at a high level in a highly volatile environment.
- E. All critical equipment was replaced in accordance with the replacement schedule and in a timely manner.
- F. The agency tracked all IT expenditures and submitted the following reports by the due dates; Planned Procurement Schedule; Information Resources Development Review to DIR/LBB; monthly State Incident Reporting System (SIRS) reports.
- G. The agency continued imaging the licensing/registration records of pharmacists and pharmacy technicians and the pharmacy technician complaint files.
8. **To serve as the Agency Records Retention Manager to the Texas State Library, in maintaining a Records Retention Program for the economical and efficient management of agency records throughout FY2011.**

Status: ACCOMPLISHED

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

Comment: Agency staff destroyed 703.18 cubic feet of records in accordance with the TSBP records retention schedule, and 35 cubic feet of records were sent to the State Library for storage.

The agency continues to save valuable square footage by imaging files. The pharmacist, pharmacy technician and closed technician complaint imaging project continued with 113,875 images scanned into the imaging system.

The agency is at a critical point with regard to the imaging of all original, paper pharmacy (facility) historical and current files. Due to budget reductions, the agency has been unable to begin the project of imaging these files and as a result, the agency has run out of room to store these files.

- 9. To serve as the Agency Risk Manager by annually assessing areas of agency risk exposures and recommending procedures to control these exposures throughout FY2011.**

Status: ACCOMPLISHED

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, rule making, peer assistance, enforcement) and submitted the Risk Assessment Report by the due date to the SAO.

Of particular note this FY, was the successful audit of the agency’s Risk Management Program Review. Noteworthy observations by the SORM auditor included references that the overall safety culture at the agency is very strong and the Employment Handbook, Risk Management Program Manual, the Safety Manual, and the Fleet & Vehicle Guidelines, are comprehensive documents which address the needs of the agency. Suggestions were made regarding the agency’s Business Continuity Plan which is due for completion in FY2012.

- 10. To provide verbal and written information to Board staff and customers throughout FY2011 including, by the assigned due dates, the preparation of the 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.**

Status: ACCOMPLISHED

Comment: This objective was accomplished by providing reports as follows:

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

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

Report Title	Recipient(s)	Division Reporting
Retirement Contributions Reconciliation Report	Employees Retirement System	Administration
Annual Financial Report	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor	Administration
Non-Financial Annual Report	Governor's Office; Legislative Budget Board; State Auditor	Administration
Recycled Materials Expenditures	Texas Comptroller of Public Accounts	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 Comptroller of Public Accounts	Administration
EEO Information Report	Texas Workforce Commission	Administration
Minority Hiring Practices	Texas Workforce Commission	Administration
SORM 200	Office of Risk Management	Administration
Performance and Funds Mgmt. Reports	Legislative Budget Board	All
Contract Workforce Report	State Auditor; Legislative Budget Board; Governor	Administration
Open Records Online Monthly Report	Office of Attorney General	All
Fleet Management Report	Texas Comptroller of Public Accounts	Administration
FY11 Risk Assessment	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor, Sunset Advisory Commission	Administration
Veterans Workforce Summary Report	Comptroller	Administration
Space Utilization Survey	Texas Facilities Commission	Administration
SORM Report	SORM	Administration
Agency Fee/Revenue Projections	Legislative Budget Board	Administration
Professional and Consultant Services Report	Legislative Budget Board	Administration
TexFlex Reconciliation Report	Employees Retirement System	Administration
Annual Debt Report	Office of Attorney General	Administration
Procurement Plan	Comptroller	Administration
Audit Corrective Action Plan	State Auditor	Enforcement and Administration

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

11. **To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2011.**

Status: ACCOMPLISHED

Comment: Division staff participated in the following activities:

- A. Active participation in the implementation of the joint agency/HPC project to replace the TSBP database system and migrate to a Shared Regulatory Database System.
- B. Health Professions Council Annual Report - Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
- C. Continued participation in several HPC centralized services, such as the Courier Service; Shared Employee Training; Shared Information Resource Technology staff; posting of position descriptions, and use of the imaging system.

12. **To manage employees under the supervision of the Division throughout FY2011, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division Director updated and/or reviewed any revised position descriptions for compliance with all personnel statutes.
- B. Division Director conducted regular staff team meetings for division staff.
- C. Division staff participated in personal development seminars and participated in all-staff training, as listed below:
 - October 2010 – Agency wide Team Building
 - December 2010 – Agency wide biennial EEO training
 - Ongoing – Regulatory Database Training
- D. Division Director conducted the annual evaluation of Division employees in August 2011.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

13. To update the Agency Personnel Handbook and the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2011.

Status: ACCOMPLISHED

Comment: This objective was accomplished by updating various accounting policies and licensing business processes as a result of the implementation of the new regulatory database project.

14. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures 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 FY2011.

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:

- §§291.6, 295.5, 297.4 Concerning License Fees for Pharmacies, Pharmacies, Technicians and Technician Trainees
- §§281.2, 281.30, 283.4, 283.7, 283.8, 291.1 and 297.3 concerning Address of Record.

15. To prepare a report on the accomplishment of Division objectives for incorporation into the agency's *FY2010 Annual Report* and submit to the Executive Director by the due date.

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2010 *TSBP Annual Report* was submitted to the Executive Director by the due date. All Divisions' Annual Reports were compiled and subsequently presented to the Board at its meeting in June 2011.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

Objectives (Ongoing) - Licensing

16. To coordinate the collection of licensing data for *Key Performance Targets* required Under the 2010-2011 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2011.

Status: ACCOMPLISHED

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

PERFORMANCE MEASURES	TARGET FY2011	ACCOMPLISHED FY2011	Key or Non Key (K-NK)	Expectations
Percent of Licensees with No Recent Violations	95%	95.19%	K	Met
Percent of Licenses Who Renew Online	84%	93.05%	K	Exceeded
Percent of New Individual Licenses Issued Online	81%	82.66%	NK	Exceeded
Number of New Licenses issued to Individuals (Pharmacists)	1,210	1,407	K	Exceeded
Number of Licenses Renewed (Individuals – Pharmacists)	13,451	13,591	K	Exceeded
Number of New Registrations Issued to Individuals (Technician and Trainee)	9,400	10,900	NK	Exceeded
Number of Registrations Renewed (Technicians)	13,000	14,117	NK	Exceeded

Percent of New Licenses Issued within 10 days	98%	95%	NK	Met
Percent of Individual Licenses Issued within 7 days	98%	100%	NK	Exceeded
Total Number of Pharmacists Licensed	26,500	27,329	NK	Exceeded
Total Number of Facilities Licensed	6,712	6,964	K	Exceeded
Total Number of Individuals (Technicians & Trainees) Registered	52,000	49,346	NK	Met

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

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

Status: ACCOMPLISHED

Comment: At year end, a total of 2,669 interns (student interns and intern trainees) were certified within one to four days of receipt of required documents. In addition, a total of 3,718 pharmacist preceptors were initially certified or renewed their certification. At fiscal year-end, a total of 6,704 pharmacists were active preceptors.

- 18. 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 FY2011.**

Status: ACCOMPLISHED

Comment: Staff presented intern overviews and a NAPLEX and MPJE Orientation to upcoming graduates of Texas Southern University, University of Houston, Texas Tech University, University of Texas, Texas A&M Health Science Center, Irma Lerma Rangel Colleges of Pharmacy and the University of the Incarnate Word Feik School of Pharmacy.

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

JURISPRUDENCE (MPJE)	TOTALS
Candidates Passing	1,392 (90.62%)
Candidates Failing	144 (09.38%)
TOTAL ADMINISTERED	1,536 (100%)

NAPLEX	TOTALS
Candidates Passing	846 (90.48%)
Candidates Failing	89 (09.52%)
TOTAL ADMINISTERED	935 (100%)

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

NEW PHARMACISTS LICENSED – FY2011	
Graduates of Texas Colleges of Pharmacy	550 (39.09%)
Graduates of Out-of-State Colleges of Pharmacy	690 (49.04%)
Credentialed by the Foreign Pharmacist Equivalency Committee	124 (08.81)%
Undetermined	43 (03.06%)
TOTAL	1,407 (100%)

Regarding reciprocity (license transfer) in and out of Texas, 403 candidates were licensed by reciprocity in FY2011. The National Association of Boards of Pharmacy reports that in calendar year 2011, Texas had the highest number of requests to transfer licensure into the state with 839 requests.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

- 19. To provide staff support to the *Examination Retake Committee* and any other advisory committee related to licensing issues as required in FY2011.**

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).

- 20. 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 FY2011.**

Status: ACCOMPLISHED

Comment: The agency issued 1,407 new pharmacist licenses with an average turnaround time of 4 business days from the download of the examination results.

- 21. 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 FY2011.**

Status: ACCOMPLISHED

Comment: The agency renewed 13,591 biennial pharmacist licenses during FY2011. Approximately 88% of eligible pharmacists renewed their licenses online. The average processing time to issue a renewal license from receipt of a completed application was two business days. The total population of licensed pharmacists for this fiscal year is as follows:

PHARMACISTS LICENSED FY2011	
Active Status	25,888
Inactive Status*	1,441**
TOTALS	27,329

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

**Of the above number, 518 pharmacists have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as "exempt."

- 22. 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 FY2011.**

Status: ACCOMPLISHED

Comment: A total of 56 continuing education audits were completed and either closed or referred to Enforcement. Due to increasing workload issues, the random continuing education audits were discontinued.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

- 23. To issue initial certificates to all pharmacy technician trainee candidates within an average of four working days of receipt of the required documents throughout FY2011.**

Status: ACCOMPLISHED

Comment: The agency issued 6,531 new pharmacy technician trainee registrations during FY2011, bringing the total population of active technician trainees for this fiscal year to 11,839. For the initial three quarters of the fiscal year, the average processing time to issue a new registration from receipt of a completed application, including the successful transmission of electronic verifications, was two business days. During the final quarter of the fiscal year, the agency converted to a new regulatory database. Interfaces with the Department of Public Safety regarding the electronic uploads of criminal history verifications, were not functioning during this last quarter, which resulted in manual efforts to locate this information. As a result, the final quarter turnaround time cannot be accurately determined; however, backlog data indicated a three month backlog by fiscal year end.

- 24. 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 FY2011.**

Status: ACCOMPLISHED

Comment: The agency issued 4,369 new pharmacy technician registrations, and renewed 14,117 registrations on a biennial basis during FY2011, bringing the total population of active registered technicians for this fiscal year to 37,507. Approximately 91% of eligible applicants and pharmacy technicians applied for or renewed their registrations online. The average processing time to issue a renewal registration from receipt of a completed application was two business days.

For the initial three quarters of the fiscal year, the average processing time to issue a new registration from receipt of a completed application, including the successful transmission of electronic verifications, was two business days. During the final quarter of the fiscal year, the agency converted to a new regulatory database. Interfaces with the Department of Public Safety regarding the electronic uploads of criminal history verifications, were not functioning during this last quarter, which resulted in manual efforts to locate this information. As a result, the final quarter turnaround time cannot be accurately determined; however, backlog data indicated a three month backlog by fiscal year end.

- 25. 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 FY2011.**

- 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

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

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

The average processing time to issue a license from receipt of a completed application was two working days for a pharmacy renewal and two working days for a new pharmacy license. Approximately 21% 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:

ACTIVE PHARMACIES FY2011	
Class A (Community)	4848
Class B (Nuclear)	40
Class C (Institutional)	1085
Class D (Clinic)	367
Class E (Non Resident)	590
Class F (FreeStanding Emergency Medical Centers)	34
TOTALS	6,964
Remote Pharmacies	1,435

A total of 3,751 change documents were processed as follows:

PHARMACY APPLICATIONS PROCESSED	
Pharmacy Renewals	3,045
New Licenses Issued [new opens (430) and changes of ownership (81)]	511
Closings	195
TOTAL	3,751

- 26. In cooperation with the Enforcement Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants for licensure and registration throughout FY2011, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2011.**

Status: ACCOMPLISHED

Comment: Fingerprint-based criminal background checks continued on all applicants for pharmacist-intern, pharmacy technician, and pharmacy technician trainee registrations and pharmacist licensure. Approximately 15,000 FBI histories were received and stored in the TSBP consolidated pool within the Department of Public Safety's (DPS) secured database. In addition, quarterly DPS background checks were run on all individuals, once they are licensed or registered.

During the final quarter of the fiscal year, the agency converted to a new regulatory database. Interfaces with the Department of Public Safety regarding the electronic uploads of criminal history verifications, were not functioning during this last quarter.

Professional Services Division

FY2011 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of the Division's 16 Objectives for FY2011.
2. Division Director drafted or assisted others in drafting 79 rules and preparing the rules for review by the Board. This represents a 27% increase as compared to FY2010.
3. Division staff, consisting of two individuals, prepared and mailed or emailed 1,608 pieces of information (an average of 134 per month) during FY2011.
4. Division Director gave six presentations during FY2011 to over 500 pharmacists, pharmacy students, and pharmacy technicians.

PROFESSIONAL SERVICES DIVISION

FY2011 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The continuously increasing workload presented a great challenge to the Division's two individuals, especially in meeting deadlines.

PROFESSIONAL SERVICES DIVISION

FY2011 ANNUAL REPORT

GOAL

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

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2011:

1. Preparing testimony, attending public hearings, providing any fiscal or technical information, reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the process of this legislation, throughout the 82nd Texas Legislative Session; and
2. Implementing a new licensing, enforcement, and administration database system throughout FY2011.

Status: ACCOMPLISHED

Comment:

1. This objective was accomplished through the following activities:
 - A. Attending Public Hearings –
 - (1) Division Director attended or viewed hearings related to the agency's legislative appropriation request.
 - (2) Division Director served as a resource at a Senate Committee hearing regarding S.B. 564 relating to the procedures applicable to electronic prescriptions for Schedule II controlled substances.
 - B. Reviewing Legislation –
 - (1) Division Director reviewed numerous bills filed during the 82nd Legislative Session that had an impact on the practice of pharmacy and/or agency operations including the following bills:
 - H.B. 1044 relating to categories of information presumed to be public under the public information law;
 - H.B. 1671 relating to allowing a governmental body to redact certain personal information under the public information law without the necessity of requesting a decision from the attorney general and the calculation of certain deadlines under the public information law;
 - H.B. 1850 relating to requiring legislative approval of administrative rules;
 - S.B. 375 relating to categories of information presumed to be public under the public information law;
 - S.B. 546 relating to the dispensing of certain drugs by physicians;
 - S.B. 602 relating to confidential information under the public information law and to procedures and deadlines under the public

PROFESSIONAL SERVICES DIVISION

- information law in relation to the redaction of certain confidential information by a governmental body;
- S.B. 677 relating to the enforcement of the public information law; providing for the imposition of a civil penalty;
 - S.B. 791 relating to electronic notification of certain state officials and agencies of certain rules and rulemaking filings;
 - S.B. 1537 relating to the fiscal note associated with certain proposed state agency rules;
 - S.B. 1638 relating to the exception of certain personal information from required disclosure under the public information law; and
 - S.B. 1907 relating to access to certain archaic information.
- (2) Division Director assisted in the preparation of fiscal notes for several bills regarding the potential cost to the agency if the agency was required to implement the legislation.
- C. Implementing Legislation – Division Director, with assistance from other Directors, drafted language to implement legislation passed by the 82nd Texas Legislature.
2. Division Director participated in numerous meetings regarding the implementation of the new system. Division staff participated in training sessions on the system. The new system went live on May 31, 2011.

Objectives (Ongoing)

1. **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: The Division Director spent a considerable amount of time drafting rules, assisting others in the drafting of rules, and preparing and presenting 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 30 rules and assisted others in drafting of 9 additional rules as follows:

RULES
Drafted:
§§281.2, 281.30, 283.4, 283.7, 283.8, 291.1, 297.3 regarding Address of Record
§§291.15, 291.33, 291.74, 291.76, 291.151 regarding Samples
§291.17 regarding Inventory Requirements
§291.32 regarding Duties of Pharmacy Technicians and Pharmacy Technician Trainees
§311.1 regarding Complaints Filed Against Employees
§291.33 regarding Security
§291.74 regarding Automated Medication Supply Systems
§291.91 regarding the Definition of Unit of Use
§291.133 regarding Low Volume Cytotoxic Preparations
§291.153 regarding Remote Supervision of Pharmacy Technicians and Pharmacy Technician Trainees
§291.29 regarding Partner Therapy and Pain Management Clinics
§291.32 regarding Pharmacist-in-Charge of Class A Pharmacies
§291.34 regarding Records
§291.33 regarding Partner Therapy and Returning Undelivered Medication to Stock
§291.104 regarding Generic Substitution
§3031. regarding Destruction of Dispensed Medication

PROFESSIONAL SERVICES DIVISION

RULES
§§283.7, 283.8, 283.11 regarding Examination Requirements (S.B. 867)
§291.34 regarding Accelerated Refills (H.B. 2069)
Assisted the Legal Division in Drafting:
§281.2 regarding Definition of Diversion of Dangerous Drugs
§281.9 regarding Grounds for Discipline
Assisted the Licensing Division in Drafting:
§295.8 regarding Continuing Education
§§291.6, 295.5, 297.4 regarding Fees
Assisted Enforcement Division in Drafting:
§§291.3, 291.11 regarding Ceasing to Operate a Pharmacy
§291.34 regarding Records Relating to Dispensing Errors

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

Status: ACCOMPLISHED

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

RULE SUBMISSIONS TO THE TEXAS REGISTER

During FY2011, 79 submissions to the *Texas Register* were made that proposed, adopted, reviewed, repealed, or withdrew amendments or new Texas Pharmacy rules. This represents a 27% increase in the number of submissions as compared to FY2010 (62 submissions). 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
§281.8	Amendments	FY2010	FY2010	9/10/10	10/11/10
§§281.11, 281.12	Repeal/New	FY2010	FY2010	9/10/10	10/11/10
§281.22	Amendments	FY2010	FY2010	9/10/10	10/11/10
§§281.64, 281.66	Amendments	FY2010	FY2010	9/10/10	10/11/10
§§291.6, 291.9	Amendments	FY2010	FY2010	9/10/10	10/11/10
§§291.51 – 291.55	Amendments	FY2010	FY2010	9/10/10	10/11/10
§291.121	Amendments	FY2010	FY2010	9/10/10	10/11/10
§291.151	Amendments	FY2010	FY2010	9/10/10	10/11/10
§291.153	New	FY2010	FY2010	9/10/10	10/11/10
§291.155	New	FY2010	FY2010	9/10/10	10/11/10
§295.5	Amendments	FY2010	FY2010	9/10/10	10/11/10
§297.4	Amendments	FY2010	FY2010	9/10/10	10/11/10
Chapter 281 (§§281.1 – 281.11, 281.13, 281.15, 281.17 – 281.22, 281.30 – 281.34, 281.60 – 281.66)	Rule Review	FY2010	FY2010	9/10/10	10/11/10
Chapter 311 (§§311.1 – 311.2)	Rule Review	FY2010	FY2010	9/10/10	10/11/10

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
§281.6	Amendments	10/1/2010	10/11/10	12/3/2010	1/7/11
§§281.23, 281.31	New/Amendments	10/1/2010	10/11/10	12/3/2010	1/7/11
§§281.60, 281.63, 281.64	Amendments	10/1/2010	10/11/10	12/3/2010	1/7/11
§§291.32, 291.33	Amendments	10/1/2010	10/11/10	12/3/2010	1/7/11
§§291.72, 291.73	Amendments	10/1/2010	10/11/10	12/3/2010	1/7/11
§§309.3, 309.4, 309.5	Amendments/Repeal	10/1/2010	10/11/10	12/3/2010	1/7/11
§281.2	Amendments	12/24/10	1/7/11	Withdrawn	
§281.30	Amendments	12/24/10	1/7/11	Withdrawn	
§§283.4, 283.7, 283.8	Amendments	12/24/10	1/7/11	Withdrawn	
§291.1	Amendments	12/24/10	1/7/11	Withdrawn	
§§291.3, 291.11, 291.16, 291.17	Amendments/New	12/24/10	1/7/11	3/4/11	3/28/11
§291.32	Amendments	12/24/10	1/7/11	Withdrawn	
291.33	Amendments	12/24/10	1/7/11	3/4/11	3/28/11
§§291.74, 291.76	Amendments	12/24/10	1/7/11	3/4/11	3/28/11
§291.151	Amendments	12/24/10	1/7/11	3/4/11	3/28/11
§295.8	Amendments	12/24/10	1/7/11	3/4/11	3/28/11
§297.3	Amendments	12/24/10	1/7/11	Withdrawn	
§311.1	Amendments	12/24/10	1/7/11	3/4/11	3/28/11
Chapter 291 (§§291.1-291.3, 291.5-29.11, 291.14-291.15, 291.17-291.19, 291.22-291.24, 291.27-291.29)	Rule Review	12/24/10	1/7/11	3/4/11	3/28/11
Chapter 291 (§§291.91-291.94)	Rule Review	12/24/10	1/7/11	3/4/11	3/28/11
§281.2	Amendments	3/25/11	3/28/11	Withdrawn	
§291.33	Amendments	3/25/11	3/28/11	Withdrawn	
§291.74	Amendments	3/25/11	3/28/11	7/8/11	7/12/11
§291.91	Amendments	3/25/11	3/28/11	7/8/11	7/12/11
§291.133	Amendments	3/25/11	3/28/11	7/8/11	7/12/11
§291.153	Amendments	3/25/11	3/28/11	7/8/11	7/12/11
§291.34	Amendments	April 8, 2011	3/28/11	7/8/11	7/12/11
§§281.2, 281.9	Amendments	July 8, 2011	7/12/11	FY2012	FY2012
§281.30	Amendments	July 8, 2011	7/12/11	FY2012	FY2012
§§283.4, 283.7, 283.8	Amendments	July 8, 2011	7/12/11	FY2012	FY2012
§§291.1, 291.6, 291.29	Amendments	July 8, 2011	7/12/11	FY2012	FY2012
§§291.32, 291.33	Amendments	July 8, 2011	7/12/11	FY2012	FY2012
§291.104	Amendments	July 8, 2011	7/12/11	FY2012	FY2012
§295.5	Amendments	July 8, 2011	7/12/11	FY2012	FY2012
§§297.3, 297.4	Amendments	July 8, 2011	7/12/11	FY2012	FY2012
§303.1	Amendments	July 8, 2011	7/12/11	FY2012	FY2012
Chapter 291, (§§291.101 – 291.105)	Rule Review	7/1/11	7/12/11	FY2012	FY2012
Chapter 295 (§§295.1 – 295.9, 295.11 – 295.13, 295.15)	Rule Review	7/1/11	7/12/11	FY2012	FY2012

PROFESSIONAL SERVICES DIVISION

OPEN MEETING SUBMISSIONS TO THE TEXAS REGISTER

Seventeen notices of open meetings scheduled during FY2011 were submitted by the Division to the *Texas Register* for publication. The submissions were as follows:

Type of Submission	Date Published
Open Meeting 10/25/10 – Disciplinary Panel Hearing	10/20/10
Open Meeting 11/09/10 – Board Business Meeting	10/28/10
Open Meeting 11/18/10 – Joint Agency Committee Regarding HB 2730	11/09/10
Open Meeting 2/08/11 – Board Business Meeting	1/28/11
Open Meeting 2/09/11 – Board Business Meeting	1/28/11
Open Meeting 3/25/11 – Disciplinary Panel Hearing	3/16/11
Open Meeting 4/19/11 – Disciplinary Panel Hearing	4/13/11
Open Meeting 5/09/11 – Disciplinary Panel Hearing	5/02/11
Open Meeting 5/23/11 – Disciplinary Panel Hearing	5/13/11
Open Meeting 6/07/11 – Board Business Meeting	5/24/11
Open Meeting 6/08/11 – Board Business Meeting	5/24/11
Open Meeting 6/29/11 – Task Force on Long Term Care Pharmacies	6/13/11
Open Meeting 7/14/11 – Disciplinary Panel Hearing	7/05/11
Open Meeting 8/03/11 – Disciplinary Panel Hearing	7/26/11
Open Meeting 8/09/11 – Board Business Meeting	7/27/11
Open Meeting 8/10/11 – Board Business Meeting	7/27/11
Open Meeting 8/19/11 – Disciplinary Panel Hearing	8/10/11

Division Director reviewed each issue of the *Texas Register* for items that might have an impact on the Board or profession. During FY2011, there were not any rules identified as impacting the agency or pharmacy practice.

3. To respond to open records requests throughout FY2011, in accordance with the procedures set forth in the Texas Public Information Act.

Status: ACCOMPLISHED

Comment: As indicated in the following chart, TSBP experienced a 2% increase in the number of requests for records in FY2011, as compared to FY2010.

OPEN RECORDS REQUESTS FY07 through FY11

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
FY07	94	94	856	1,780	950	1,874	79	156	+7%	+35%
FY08	205	205	948	2,398	1,153	2,603	96	217	+22%	+39%
FY09	163	163	1,452	2,466	1,615	2,629	135	219	+40%	+1%
FY10	96	111	1,441	1,979	1,537	2,090	128	174	-5%	-21%
FY11	124	131	1,445	2,115	1,569	2,246	131	187	+2%	+7%

PROFESSIONAL SERVICES DIVISION

4. 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 FY2011.

Status: ACCOMPLISHED

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

- A. During FY2011, the Division sent out 1,608 pieces of written information (an average of 134 per month) including emails, packets of information, and information regarding rules and open meetings.
- B. The Division Director gave six presentations to over 500 individuals as indicated in the following chart:

Date	Group	Attendance (Approx.)
9/9/10	Westlake High School Pharmacy Technician Program	12
10/12/10	UT College of Pharmacy 1 st year students	125
10/24/10	McKesson Healthmart Pharmacists, San Antonio	40
1/20/11	El Paso Pharmacy Association Meeting	80
4/8/11	San Jacinto College Pharmacy Technician Students, Austin	25
6/15/11	HEB Pharmacists' Conference, San Antonio	300
TOTAL		582

- C. The Division Director provided training and information to new employees and pharmacist-interns regarding the operation of the Professional Services Division.
- D. Other Activities
- The Division Director routinely answered questions from Enforcement and Licensing staff concerning the laws and rules, including their applicability to specific situations.
 - The Division Director routinely monitored the TSBP Website. Changes and/or updates were forwarded to Network Specialist Todd Hayek.
 - Facebook and Twitter continued to be useful tools to provide information. At the end of FY2011, over 1,700 individuals “liked” TSBP on Facebook and over 800 individuals “followed” TSBP on Twitter. Division Director attending the following conferences/seminars regarding social network sites;
 - 01/12/11 TRS Lunch and Learn Social Media
 - 02/27/11 DIR Social Media Seminar
 - 05/05/11 Don't Fear, Social Media is Here! Webinar
 - During FY2011, a YouTube channel was created with seven videos about the Texas State Board of Pharmacy.

PROFESSIONAL SERVICES DIVISION

5. **To publish an Internet version of the *Newsletter* during FY2011, 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: PARTIALLY ACCOMPLISHED

Comment: Although one issue of the *TSBP Newsletter* was prepared in FY2011, the issue was published on the TSBP website in Fall 2011 (FY2012).

Throughout FY2011, an email subscription to the Newsletter was available on the TSBP website. Individuals were able to subscribe to the Newsletter by providing an email address. Over 5,000 individuals have subscribed to the email notification as of the end of FY2011.

6. **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 other staff the review of 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
September 21-22, 2010	MPJE Standard Setting Workshop, Chicago, IL	Allison Benz
April 27-29, 2011	MPJE Texas Item Writing Workshop, Chicago, IL	Allison Benz
August 2011	MPJE Item Pool Review, Austin, TX	Allison Benz Kerstin Arnold

7. **To assist the Board, throughout FY2011, 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: The Division Director conducted on-site reviews of the internship records at the University of the Incarnate Word Feik School of Pharmacy (October 27, 2010), Texas Tech School of Pharmacy (November 15, 2010), University of Texas College of Pharmacy (November 16, 2010), University of Houston College of Pharmacy (November 29, 2010), Texas Southern University College of Pharmacy (November 29, 2010) and Texas A&M Health Science Center Irma Lerma Rangel College of Pharmacy (November 30, 2010). Records from all six colleges/schools were reviewed by the Division Director. The results of the review of the internship records were presented to the Board at its February 2011 meeting.

PROFESSIONAL SERVICES DIVISION

A "Questionnaire on Texas Colleges of Pharmacy Internship Programs" was sent to all six colleges/schools of pharmacy. Responses were received and reviewed by the Division Director and subsequently presented to the Board during the February 2011 board meeting, resulting in approval of the internship programs for the 2011-2012 academic year.

8. 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 FY2011.

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 reference 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:

- October 11, 2010
- January 7, 2011
- March 28, 2011
- July 12, 2011

NABPLAW Updates

Although the National Association of Boards of Pharmacy (NABP) no longer requires Boards to provide updates for NABPLAW, updates were submitted to NABP during FY2011 as follows:

- March 2, 2011

NABP Survey of Pharmacy Law Updates

The NABP publication, Survey of Pharmacy Law, is updated annually. During FY2011, the update was completed by the Division Director and returned to NABP by the due date.

9. To provide professional staff support to Board-appointed task forces and complete other special projects as assigned throughout FY2011.

Status: ACCOMPLISHED

Comment: The Division's staff provided professional staff support including communicating with task force members regarding meetings and setting up the meetings. There were two task force meetings supported by the Division staff during FY2011 as follows:

PROFESSIONAL SERVICES DIVISION

November 18, 2010
June 29, 2011

Interagency Council Regarding HB 2730
Task Force on Long Term Care Pharmacies

- 10. To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2011.**

Status: ACCOMPLISHED

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

- A. Division Director assisted the Texas Department of Public Safety (DPS) in the review and approval of plans from fifteen Texas pharmacies to dispense prescriptions for Schedule II controlled substances issued by out-of-state practitioners.
- B. Division staff maintained close contact with *Texas Register* staff as needed to prepare and publish rules in the *Texas Register*.
- C. Division Director maintained contact with numerous state and federal agencies and other state boards of pharmacy.
- D. Division Director served as liaison to the federal Healthcare Integrity and Protection Data Bank (HIPDB). With assistance from Enforcement staff, 490 Adverse Action Reports were submitted to HIPDB during FY2011, as required by federal law.

- 11. To manage employees under the supervision of the Division throughout FY2011, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

Status: ACCOMPLISHED

Comment: A performance review for Senior Administrative Assistant Leslie Kacer was conducted on August 3, 2011.

In FY2011, Division staff attended general staff meetings and in-house training sessions. General Staff Meetings were held in September 2010, December 2010, February 2011, June 2011, and August. In conjunction with General Staff Meetings, Division staff participated in all-staff training, as listed below:

- 10/26/10 All Staff Team Building seminar
- 12/09/10 EEO/Ethics Training

Division Director and Senior Administrative Assistant Leslie Kacer attended the Office of the Attorney General Open Government Conference November 22 – 23, 2010.

PROFESSIONAL SERVICES DIVISION

The Division Director served as co-chair on the agency's Wellness Committee in conjunction with the General Counsel. The TSBP Wellness Program applied for and received a grant of \$2,000 to be used for wellness programs from the Statewide Wellness Agency. Wellness t-shirts were provided to all employees.

Division Director assisted with and participated in numerous wellness planning meetings and program activities including the following:

	11/2010 – 01/2011	Maintain No Gain Challenge	
	11/18/2010	Great American Smoke-out	
participants)	Spring 2011	Everybody Everyday Challenge	(52
participants)	Summer 2011	"8 – 5" A Day Challenge	(20
	August 2011	Flu Shot Clinic (paid for with Wellness Grant)	

Division staff participated in Wellness events and seminars and Helping Hands activities.

- 12. To destroy records in accordance with the agency's record retention plan throughout FY2011; and to update the Division's Policy and Procedure Manual as needed and submit any substantive revisions to the Executive Director/Secretary for approval throughout FY2011.**

Status: ACCOMPLISHED

Comment: During FY2011, the Division accomplished this goal as follows:

- A. Records Management

Records in the possession of the Division scheduled for destruction during FY2011 under the approved Record Retention Schedule were identified and destroyed.

- B. Policies and Procedures

The policies and procedures for handling Open Records Requests, submitting information to the *Texas Register*, and destroying records according to the Record Retention Schedule were reviewed in FY2011.

- 13. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures 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 FY2011.**

Status: ACCOMPLISHED

Comment: Division Director made numerous recommendations to update the Board rules. Division Director also made recommendations to keep the TSBP website current and easier to use.

PROFESSIONAL SERVICES DIVISION

14. To prepare a report on the accomplishment of Division objectives, for incorporation in the agency's 2010 Annual Report, and submit to the Executive Director by the due date.

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2010 *Annual Report* was submitted to the Executive Director by the due date. All Divisions' Annual Reports were compiled and subsequently presented to the Board at its meeting in June 2011.

FY2011 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 100% of its 16 Objectives for FY2011 (15 Objectives were accomplished and one Objective was partially accomplished).
2. TSBP met or exceeded 91% of the 11 enforcement-related performance measures for FY2011 (see Ongoing Objective #1 for further information regarding measures).
3. When comparing FY2011 to FY2010, TSBP received approximately the same number of complaints (a difference of only four complaints), but closed 328 more complaints in FY2011 than in the prior fiscal year, 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
FY07	5,849	+65%	4,980	+47%	85%	185 Days	-11%
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%
FY09	5,290	-8%	6,182	+15%	117%	211 Days	+8%
FY10	5,702	+8%	5,512	-11%	97%	182 Days	-14%
FY11	5,698	<-1%	5,840	+6%	102%	195 Days	+7%

4. Field Compliance staff conducted 2,492 pharmacy inspections, thereby exceeding the inspection goal for FY2011 (see Ongoing Objective #2 for further details regarding compliance inspections). This number of inspections included 195 pre-inspections of new pharmacies, a process to ensure that TSBP is issuing licenses to valid facilities (a 23% increase in the number of pre-inspections when compared to FY2010).
5. During FY2011, Division staff responded to 23,095 telephone calls received via the Compliance Queue Phone Line and made 20 presentations to approximately 1,202 individuals. Field investigators also made 787 contacts with 241 law enforcement agencies (see Ongoing Objectives #5 and #7 for further details). In addition, Assistant Division Director served as preceptor to 7 students from four Colleges of Pharmacy (see Ongoing Objective #8 for further details).
6. Division staff continued to implement the program to convert paper complaint files to imaged records. Approximately 1,386 complaint files were scanned during FY2011.
7. Chief of Investigation Robert Ebrum worked with Executive Director, Director of Administrative Services, and Legal Counsel, to enter into an agreement with the Drug Enforcement Administration (DEA) to assign one of the TSBP Field Investigators to a Special Task Force in Houston to curb the diversion of controlled substances.
8. The National Association of Boards of Pharmacy awarded the John F. Atkinson Service Award to Division Director.

ENFORCEMENT DIVISION

FY2011 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Division staff continued to experience problems due to lack of adequate work space.
2. Division staff resolved (closed) more complaints in FY2011 than in FY2010. However, the average complaint resolution time increased by 13 days (an increase of 7% when compared to FY2010).
3. Division staff spent significant time and efforts to ensure the smooth transition to the agency's new computer system. See New Objective #2 for further details.
4. Division staff continued to spend significant time and efforts monitoring compliance with the terms of disciplinary orders that were entered by TSBP in FY2011. Almost all of the disciplinary orders entered in FY2011 required some type of monitoring by Division staff; specifically, 605 Orders (or 86% of the 706 disciplinary Orders that TSBP entered during FY2011, required some type of monitoring (see Ongoing Objective #6 for further details).
5. Division staff continued to collect samples of compounded preparations during FY2011. Although all tested sterile preparations (100%) sterile and free of endotoxins, test results show that 8 of the 37 samples tested (22%) failed to yield the acceptable potency results (see Ongoing Objective #2 for additional information regarding testing results).
6. The Division began FY2011 with one vacancy (Investigative Case Manager); this position was quickly filled. However, the Division experienced an additional 10 staffing changes during FY2011, due to loss of three employees (two resignations and one internal transfer to the Legal Division) and four vacancies that were created due to internal promotions within the Division (i.e., existing employees filling the new positions or positions vacated by persons who resigned). See Ongoing Objective #11 for further details regarding personnel changes.
7. Throughout FY2011, TSBP Compliance Field staff continued to discover numerous individuals performing technician duties without an active registration. These cases were referred to the TSBP Legal Division.
8. TSBP received 214 theft/loss reports of employee pilferage by 255 individuals resulting in the diversion of 574,827 dosage units of controlled substances. Although this quantity is a large amount, the total is 48% less than reported in FY2010. See Ongoing Objective #3 for further details.

ENFORCEMENT DIVISION

FY2011 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)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2011:

1. Preparing testimony, attending public hearings, providing any fiscal or technical information, reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the process of this legislation, throughout the 82nd Texas Legislative Session; and
2. Implementing a new licensing, enforcement, and administration database system throughout FY2011.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. 82nd Texas Legislative Session – Division Director attended the agency's budget hearings, as a resource person, on February 16, 2011 (House Appropriations Subcommittee on Regulatory Agencies) and February 23, 2011 (Senate Finance Committee). When requested by the Executive Director, Division Director reviewed bills regarding fiscal impact on the agency and Assistant Division Director attended hearings as a resource person.
- B. New Regulatory Database System (RDB) – Division staff spent significant time during FY2011 to help ensure the smooth transition from the agency's VAX computer system to the new RDB system. Three Division staff (Division Director, Janelle Dooley and Robert Rivera) were primarily responsible for the testing and validation of the modules relating to Enforcement, which included 14 formal User Acceptance Sessions covering 23 days of work time. After problems were identified, these three staff documented the problems in written issue statements. In addition, these staff attended numerous meetings relating to the mapping of data, required reports, and other migration/conversion issues, with staff of other TSBP Divisions, staff of the Health Professions Council and members of the RDB Project Team. Division Director and Janelle Dooley also spent significant time reviewing/updating VAX data, prior to migration on May 30, 2011, in order to reduce the number of migration problems. Following migration, Janelle Dooley and Robert Rivera were primarily responsible for training other Division staff on how to use the new system.

ENFORCEMENT DIVISION

Objectives (Ongoing)

- To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2012-2013 Appropriations Act to Executive Director by specified due dates throughout FY2011; 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 FY2011, Division staff collected data relating to enforcement and peer assistance performance measures. The 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 licensing-related performance measures. Statistics regarding three enforcement-related performance measures (Number of Jurisdictional Complaints Resolved, Average Complaint Resolution Time, and Number of Individuals Participating in a Peer Assistance Program) were reported to the LBB and GBO on a quarterly basis throughout FY2011. The other eight measures were reported to the LBB and GBO at year-end (annual basis).

TSBP met or exceeded, within a 5% variance, 10 of the 11 enforcement-related performance measures (91%), which included six key performance measures and five non-key performance measures, as indicated in the chart below:

Enforcement-Related Performance Measure	FY11 Projected Performance	FY11 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
Outputs:				
Inspections	1,800	2,492	NK	Exceeded
Jurisdictional Complaints Resolved	4,980	5,816	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	160	181	K	Exceeded
Efficiency:				
Average Time for Jurisdictional Complaint Resolution	180	195	K	Not Met
Outcomes:				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	15.0%	12.38%	K	Met
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	95.0%	95.19%	K	Met
Recidivism Rate of Those Receiving Disciplinary Action	6.0%	4.4%	NK	Met
Percent of Jurisdictional Complaints Resolved within Six Months	50.0%	64.08%	NK	Exceeded
Recidivism Rate for Participants in Peer Assistance Program	30.0%	30.30%	NK	Met
One-Year Completion Rate for Participants in Peer Assistance Program	75.0%	92.20%	NK	Exceeded
Explanatory:				
Jurisdictional Complaints Received	5,000	5,662	K	Exceeded

* Within a 5% variance, TSBP's actual performance was either: equivalent to projected performance ("Met") or better than projected performance ("Exceeded").

ENFORCEMENT DIVISION

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 FY2011. To inspect pharmacies and monitor pharmacists' practice throughout FY2011, 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 2,440 inspections during FY2011. The term "inspections" includes inspections, pre-inspections, partial-inspections, and inspection-visits. These terms are described below:

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

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Statistics regarding these inspections are set forth below:

Total Inspections by Type	FY2009	FY2010	FY2011	% of FY11	3-Year Average	% of 3-Yr. Average
Inspections	1,688	2,033	1,806	74%	1,842	80%
Pre-Inspections	92	158	195	8%	148	6%
Partial-Inspections	124	196	308	13%	209	9%
Inspection-Visits	14	55	15	<1%	28	1%
Attempted Inspections	90	0	74	3%	55	2%
Other	8	7	42	2%	19	<1%
Total	2,016	2,449	2,440	100%	2,302	100%

Number of Inspections/Visits by Class	FY2009	FY2010	FY2011	% of FY11	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	1,604	2,056	1,909	78%	1,856	81%
Class B Pharmacies	1	4	3	<1%	3	0%
Class C Pharmacies	273	235	377	15%	295	13%
Class D Pharmacies	138	154	147	6%	146	6%
Class F Pharmacies	0	0	4	<1%	1	0%
Total	2,016	2,449	2,440	100%	2,302	100%

Number of Warning Notices Issued by Class*	FY2009	FY2010	FY2011	% of FY11**	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	411	604	459	81%	491	84%
Class B Pharmacies	0	0	0	0%	0	0%
Class C Pharmacies	65	60	84	15%	70	12%
Class D Pharmacies	15	26	23	4%	21	4%
Class F Pharmacies	0	0	0	0%	0	0%
Total	491	690	566	100%	582	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.

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Conditions Receiving "Warning Notices" FY2011						
Percentages are based on the total number of "Warning Notices" issued to Pharmacies in FY2011. Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.						
Type of Violation	FY2009	FY2010	FY2011	3-Year Average	% FY2011	% 3-Year Average
Equipment	54	64	47	55	4%	4%
Balance Failed Inspection	43	46	34	41		
Equipment Inspection Due (Not Balance)	11	17	13	14		
Insufficient Equipment	0	1	0	0		
Pharmacy Technicians	178	313	182	224	14%	17%
No/Incomplete Training	150	262	148	187		
No/Improper Supervision	20	28	21	23		
Improper Registration	6	13	12	10		
No Name Tags	2	10	1	4		
Inadequate Library	57	85	52	65	4%	5%
Counseling Area	0	0	1	0	0%	0%
Licenses	133	251	127	170	10%	13%
Licenses Not Posted	130	235	118	161		
Delinquent Licenses	3	16	9	9		
Prescriptions	28	75	154	86	12%	6%
Lack Proper Information	17	53	58	43		
Prescription Label Incorrect	5	15	90	37		
Triplicate Non-Compliance	6	7	6	6		
Drug Stock/Environment	113	205	115	144	9%	11%
Improper Environment	36	80	38	51		
Out-of-Date Drug Stock	47	84	37	56		
Security	10	19	19	16		
Unsanitary	13	13	14	13		
Improper Drug Storage	3	8	2	4		
Area for Non-Sterile Compounding	3	1	0	1		
Violation of Limited Formulary	1	0	4	2		
Prohibited Drugs (Class D)	0	0	1	0		
Inventory	66	103	84	84	7%	6%
No Annual Inventory	43	68	44	52		
No Change of Ownership Inventory	0	3	2	2		
No Change of PIC Inventory	9	16	18	14		
Incomplete Inventory	14	16	17	16		
No Perpetual inventory (Class C)	0	0	3	1		
Improper Drug Destruction	0	0	0	0		
Improper Prepackaging Procedures	38	45	45	43	4%	3%

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Conditions Receiving "Warning Notices" FY2011 <i>Continued</i>						
Type of Violation	FY2009	FY2010	FY2011	3 Year Average	% FY2011	% 3-Year Average
Computer Systems	58	125	100	94	8%	7%
Computer Records Incomplete	52	123	81	85		
Computer Records Non-Compliance	6	2	19	9		
Records	67	100	90	86	7%	6%
Records Not Available	16	20	28	21		
DEA Order Forms Incomplete	0	0	0	0		
Absence of R.Ph. Record	0	2	15	6		
Rx Not Separated	10	3	1	5		
Rx Records not Numerical Order	11	20	16	16		
Improper Transfer of RX copies	0	1	0	0		
Invoices Not Separated/Retrievable	5	15	14	11		
Records for Non-Sterile Compounds	18	34	12	21		
No Written Information on Prescription	7	5	4	5		
Improper Refill Documentation	0	0	0	0		
OBRA Violations	67	51	69	62		
Written Information Not Provided	0	5	4	3		
No Patient Counseling	63	43	63	56		
PMR Absent or Incomplete	4	3	2	3		
Sterile Pharmaceutical Violations	87	148	87	107	7%	8%
No/Incomplete QA/QC	9	6	6	7		
No/Incomplete P&P Manual	20	67	42	43		
No/Inadequate Preparation Area	44	57	30	44		
IV Preparation	7	12	5	8		
No DUR	5	3	3	4		
Absence of R.Ph. Pick-Up-Records	2	2	1	2		
Cytotoxic/Bio Procedures	0	1	0	0		
No/Incomplete Non-Sterile Cpd Records	18	34	12	21	1%	2%
Improper Distribution	2	6	11	6	1%	0%
No PIC	5	21	17	14	1%	1%
Dispensing	29	49	54	44	4%	3%
Improper Dispensing	7	17	31	18		
Aiding and Abetting	2	7	0	3		
Illegal Dispensing	2	2	0	1		
Substitution Non-Compliance	0	0	0	0		
Out-of-State Rxs for Controlled Substances	0	0	0	0		
Improper Emergency Room Dispensing	0	0	1	0		
Improper Automated Dispensing Procedures	18	20	19	19		
Improper Provision	0	3	3	2		
Improper Advertising	9	14	0	8		

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Conditions Receiving "Warning Notices" FY2011 <i>Continued</i>						
Type of Violation	FY2009	FY2010	FY2011	3 Year Average	% FY2011	% 3-Year Average
Notification Violation	24	33	23	27	2%	2%
Theft & Loss of C/S Not Reported	7	4	10	7	1%	0%
Gray Market diversion	0	1	0	0	0%	0%
Improper Closing/Change of Ownership	0	0	0	0	0%	0%
Improper Inpatient Procedures (Class C)	2	0	0	1	0%	0%

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

Purpose of Inspection (In Order of Priority)	FY2009	FY2010	FY2011	% of FY11	3-Yr. Avg.	% of 3-Yr. Avg.
Complaint	123	137	128	5%	129	6%
Follow-up to Disciplinary Order	4	8	12	0%	8	0%
Pre-Inspection New	97	162	204	8%	154	7%
New Pharmacies	95	95	112	5%	101	4%
Change of Ownership	14	9	11	0%	11	0%
Preceptor	278	311	189	8%	259	11%
Follow-up to "Warning Notice"	72	119	231	9%	141	6%
Routine Inspections	1,205	1,538	1,442	59%	1,395	61%
Attempted Inspection	90	52	0	0%	47	2%
Other	38	18	111	5%	56	2%
Total	2,016	2,449	2,440	100%	2,302	100%

SUMMARY OF PROGRAM TO SAMPLE AND TEST COMPOUNDED PREPARATIONS

During Fiscal Year 2011, TSBP submitted for testing 37 compounded preparations from 31 different pharmacies. All of the preparations tested contained a single active pharmaceutical ingredient. Test results revealed that eight of the 37 samples (21.6%) were not within acceptable limits for potency. These results are consistent with results from previous years.

(1) Non-sterile Preparations -

Of the 37 tested preparations, 27 (73%) were non-sterile preparations. Potency problems were determined in 4 (14.8%) of the non-sterile preparations. Three of the tested samples yielded sub-potent results; one revealed a supra-potent result.

(2) Sterile Preparations -

Of the 37 tested samples, 10 (37%) were sterile preparations. All sterile preparations were found to be sterile and free of endotoxins. Potency problems were obtained in 4 (40%) of the sterile preparations tested. Sub-potent results were obtained for 2 sterile preparations; supra-potent results were obtained for 2 other sterile preparations.

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3. To coordinate and monitor throughout FY2011, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants. To investigate complaints throughout FY2011, according to the following priorities:
- A. Continuing threats to the public welfare requiring a temporary suspension;
 - B. Complaints filed against licensees/registrants who have a chemical, mental, or physical impairment;
 - C. Complaints involving the diversion of prescription drugs, through the following illegal means:
 - theft of drugs;
 - delivering prescription drugs without a prescription;
 - dispensing prescription drugs pursuant to an invalid prescription, such as forged or fraudulent prescriptions, prescriptions dispensed following an Internet consultation, and unauthorized refills; and
 - failing to keep and maintain accurate records of purchases and disposals of prescription drugs (i.e., audit shortages);
 - D. Complaints against licensees/registrants who have been convicted of a felony involving offenses that involved drug laws or occurred while engaged in pharmacy practice;
 - E. Complaints against licensees/registrants who are registered sex offenders;
 - F. Complaints against licensees/registrants who have been convicted of a felony involving offenses not occurring while engaged in pharmacy practice;
 - G. Complaints involving applicants for licensure or registration (not including applications for reinstatement);
 - H. Complaints involving dispensing errors and malpractice reports;
 - I. Complaints involving violations of rules relating to patient counseling or drug regimen review;
 - J. Complaints involving 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;
 - K. Complaints against licensees/registrants who have been convicted of a misdemeanor that involved drug laws or occurred while engaged in pharmacy practice;
 - L. Applications involving reinstatement of revoked licenses and registrations;
 - M. Complaints involving other violations of the laws and rules relating to the practice of pharmacy (e.g., CE audit shortages; falsification of renewal applications; possession of samples or misbranded/adulterated drugs;

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working with an expired license or registration; and falsification of response to warning notices);

- N. Complaints against licensees/registrants who have been convicted of a misdemeanor involving offenses not occurring while engaged in pharmacy practice; and
- O. Complaints against licensees/registrants who have been subject to a disciplinary action by another state board of pharmacy.

Status: ACCOMPLISHED

Comment: When comparing FY2011 to FY2010, TSBP received approximately the same number of complaints (a difference of only four complaints), but closed 328 more complaints in FY2011 than in the prior fiscal year. However, the average complaint resolution time increased 13 days, 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
FY07	5,849	+65%	4,980	+47%	85%	185 Days	-11%
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%
FY09	5,290	-8%	6,182	+15%	116%	211 Days	+8%
FY10	5,702	-8%	5,512	-11%	97%	182 Days	-14%
FY11	5,698	<-1%	5,840	+6%	102%	195 Days	+7%

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

DATA ON DISPENSING ERROR COMPLAINTS CLOSED FY07– FY11

Type of Dispensing Error	FY07	FY08	FY09	FY10	FY11	5-Year Avg.
Wrong Drug/Strength or Wrong Directions for Use	152	86	115	100	288	148
Mislabeled	15	13	11	8	14	12
Dispensed Wrong Quantity	58	41	125	60	70	71
Dispensed Outdated Drug	10	4	3	3	3	5
Packaging/Delivery Error	32	25	24	17	23	24
Error + No Counseling	10	2	3	5	5	5
Total # Dispensing Error Complaints	277	171	281	193	403	265
Total # Complaints Closed	4,980	5,360	6,182	5,512	5,840	5,575
% Dispensing Error Complaints	6%	3%	5%	4%	7%	5%

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

DATA ON COMPLAINTS CLOSED FY2009 – FY2011

Form of Complaints	FY09	FY10	FY11	% of FY11	3-Yr. Avg.	% of 3-Yr. Avg.
Telephone	68	53	44	<1%	55	<1%
Letter	219	181	141	2%	180	3%
TSBP Complaint Form	209	150	234	4%	198	3%
HPC 800 #	31	21	42	<1%	31	<1%
Fax	63	60	53	1%	59	1%
Visit	6	4	5	<1%	5	<1%
Agency Report	228	25	8	<1%	87	1%
Inspection	71	98	120	2%	96	2%
Interoffice Referral	19	16	11	<1%	15	<1%
Licensure Application	2,802	2,511	2,475	42%	2,596	44%
Data Bank	9	8	6	<1%	8	<1%
Theft/Loss Report	636	447	676	12%	586	10%
Investigation	281	330	283	5%	298	5%
Intra-Agency Referral	9	10	7	<1%	9	<1%
Malpractice Report	4	3	11	<1%	6	<1%
Press Clip	14	0	2	<1%	5	<1%
Email *	105	148	249	4%	167	3%
Internet *	583	406	635	11%	541	9%
DPS/quarterly **	823	1040	836	14%	890	15%
Other	2	1	2	<1%	2	<1%
TOTAL	6,182	5,512	5,840	100%	5,845	100%

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

** New code created in FY2009, category includes Quarterly Reports and daily RAP arrest reports.

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DATA ON COMPLAINTS CLOSED FY2009 – FY2011

Source of Complaints	FY09	FY10	FY11	% of FY11	3-Yr. Avg.	% of 3-Yr. Avg.
Consumer	876	565	750	13%	730	12%
Government Agency	1,088	1,090	894	15%	1024	18%
Pharmacist	48	45	55	1%	49	<1%
Pharmacist (Self)	88	79	58	1%	75	1%
Applicant (R.Ph. Self)	168	213	204	3%	195	3%
Technician	17	29	21	<1%	22	<1%
Technician (Self)	119	84	58	1%	87	1%
Applicant (Tech Self)	295	257	253	4%	268	5%
Technician Trainee	2	6	0	0%	3	<1%
Tech Trainee (Self)	1	8	4	<1%	4	<1%
Applicant (Tech Trainee Self)	1,475	1,086	1,002	17%	1,188	20%
TSBP	1,031	1,254	1,299	22%	1,195	20%
Doctor	64	54	62	1%	60	1%
Other Health Professional	27	21	29	<1%	26	<1%
NABP	10	8	8	<1%	9	<1%
PIC, Pharmacy Manager, or Supervisor	678	499	778	13%	652	11%
Loss Prevention Officer (Corporate)	7	8	14	<1%	10	<1%
Manufacturing Rep.	2	2	1	<1%	2	<1%
Professional Recovery Network (PRN)	12	24	8	<1%	15	<1%
Insurance Company	1	2	9	<1%	4	<1%
Attorney	8	6	12	<1%	9	<1%
Employee/Ex-Employee	18	21	23	<1%	21	<1%
Media	13	1	4	<1%	6	<1%
Drug Screening Co.	111	117	241	4%	156	3%
Other	23	33	53	<1%	36	<1%
TOTAL	6,182	5,512	5,840	100%	5,846	100%

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DATA ON CLOSED FY2009 – FY2011 COMPLAINTS

Subjects of Complaints *	FY2009	FY2010	FY2011	3-Yr. Average
Licensees (RPh/Pharmacy)	1,990 (32%)	1,546 (28%)	2,080 (36%)	1,872 (32%)
Pharmacist	762	678	588	676
In-State Pharmacy	1,173	832	1,462	1,156
Out-of-State Pharmacy	55	36	30	40
Registrants (Intern/Tech)	1,444 (23%)	1,457 (26%)	1,232 (21%)	1,378 (24%)
Intern	27	23	16	22
Technician	930	853	748	844
Technician Trainee	487	581	468	512
Applicants (Lic & Reg)	2,671 (43%)	2,444 (44%)	2,478 (42%)	2,531 (43%)
Pharmacist	106	130	152	129
Pharmacy	20	65	107	64
Intern	85	113	91	96
Technician	408	465	444	439
Technician Trainee	2,052	1,671	1,684	1,802
Non-Licensees	77 (1%)	65 (1%)	50 (<1%)	64 (1%)
Doctor	42	29	6	26
Manufacturer	0	2	0	1
Wholesaler	0	2	0	1
Non-Licensed Facility or Person	23	15	25	21
Insurance Company/ PBM	5	8	9	7
Out-of-State Facility	6	7	6	6
Other	1	2	4	2
TOTAL	6,182	5,512	5,840	5,845

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

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

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NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2009 – FY2011

Alleged Violation	FY09	FY10	FY11	3-Yr. Avg.	% of 3-Yr. Avg.
Diversion	21	28	29	26	<1%
Controlled Substances (C/S)	12	17	18	16	<1%
Dangerous Drugs (D/D)	0	1	1	<1	0%
Both (C/S & D/D)	0	2	5	2	0%
Internet Rxs	9	8	5	7	<1%
Unauthorized Dispensing	27	16	16	20	<1%
Controlled Substances	6	4	8	6	<1%
Dangerous Drugs	9	10	8	9	<1%
Both (C/S & D/D)	12	2	0	5	<1%
Illegal Delivery	1	5	3	3	0%
Controlled Substances	1	4	3	3	0%
Dangerous Drugs	0	1	0	<1	0%
Both (C/S & D/D)	0	0	0	0	0%
Illegal Possession	4	17	28	16	<1%
Controlled Substances	0	14	24	13	<1%
Dangerous Drugs	0	2	2	1	0%
Both (C/S & D/D)	4	1	2	2	0%
Convictions/Criminal Offenses	2,480	2,160	1,910	2,183	37%
Felony	83	62	47	64	1%
Misdemeanor	363	332	250	315	5%
DWI/PI	501	560	484	515	9%
Deferred Adjudication	625	541	352	506	9%
Offense on Application	908	665	777	783	13%
Dispensing Error	281	193	403	292	5%
Wrong Drug/Strength	115	100	288	168	3%
Mislabeled	11	8	14	11	<1%
Wrong Quantity	125	60	70	85	1%
Outdated Drug	3	3	3	3	<1%
Packaging/Delivery	24	17	23	21	<1%
Dispensing Error and No or Improper Patient Counseling	3	5	5	4	<1%
No or Improper Patient Counseling	19	27	30	25	<1%
No or Improper Drug Regimen Review	18	18	26	21	<1%
Theft/Loss of C/S and/or D/D	620	416	664	567	10%
Aiding & Abetting	79	116	131	109	2%
Action by Other Board	65	66	78	70	1%
Non-Compliance with Substitution Rules	57	40	36	44	<1%
Non-Compliance with Disciplinary Order	257	329	364	317	5%
Non-Compliance with PRN Contract	3	9	4	5	<1%
Interference with Doctor/Patient Relationship	105	53	52	70	1%
Confidentiality	24	11	25	20	<1%
Failed to Keep Records	0	1	5	2	0%
Negligence	0	0	2	<1	0%
Unsafe Practice	2	0	1	1	<1%
Compounding	6	3	7	5	<1%
Unprofessional Conduct	4	4	0	3	<1%
Gross Immorality	7	6	5	6	<1%
Fraud	779	838	922	846	14%
Fraud, Deceit & Misrepresentation	3	3	0	2	<1%
Falsified Response to Warning Notice	0	1	0	<1	0%
Falsified Application	759	815	901	825	14%
Filled/Passed Forged Prescription	12	10	19	14	<1%
Insurance Fraud	3	5	2	3	<1%
Medicare Fraud	2	4	0	2	<1%

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Alleged Violation	FY09	FY10	FY11	3-Yr. Avg.	% of 3-Yr. Avg.
Impairment	31	27	39	32	<1%
Probable Cause	7	2	14	8	<1%
Drug & Alcohol	5	4	7	5	<1%
Drug	12	13	9	11	<1%
Alcohol	7	6	4	6	<1%
Physical	0	0	0	0	0%
Mental	0	2	5	2	0%
Changed Prescription	26	22	37	28	<1%
Non-Therapeutic Dispensing	7	13	40	20	<1%
Non-Therapeutic Prescribing (Doctor)	8	8	3	6	<1%
Excessive Purchases of Controlled Substances	5	0	0	2	<1%
Anabolic Steroids	0	0	0	0	0%
Grey Market Diversion	0	0	0	0	0%
Samples	0	2	0	<1	0%
Technician Violation	7	6	10	8	<1%
Improper Security	1	1	4	2	<1%
Problem with OTC Drug	6	6	7	6	<1%
Closed Pharmacy Improperly	3	0	4	2	0%
Operating Pharmacy without License	4	4	4	4	<1%
Working Conditions	10	3	10	8	<1%
Delinquent License	17	20	13	17	<1%
Kickbacks	1	0	1	<1	0%
No PIC	0	2	3	2	0%
Recordkeeping Error	85	60	55	67	1%
Notification Violation	0	0	0	0	0%
No Annual/PIC/DEA Inventory	3	0	1	1	0%
C-II Rx	3	1	0	1	<1%
Improper Rx's Issued by Doctors	0	0	0	0	0%
Advertising	9	4	2	5	<1%
Overcharging	0	1	0	<1	0%
Billing Dispute	99	62	40	67	1%
Customer Service	92	53	38	61	1%
Hot Check	10	0	0	3	0%
Accountability Audit Discrepancies (shortages/overages)	25	19	13	19	<1%
CE Audit	1	5	7	4	<1%
Default on Student Loans	0	1	0	<1	0%
Other Allegations	761	711	672	715	12%
Texas Pharmacy Act	31	23	23	26	1%
Texas Dangerous Drug Act	5	1	6	4	<1%
Texas Controlled Substances Act	73	92	92	86	1%
Food Drug & Cosmetic Act	7	8	6	7	<1%
TSBP Rule	113	118	185	139	2%
Other Laws/Rules	533	469	360	454	8%
Request Disciplinary Action	80	92	65	79	1%
Reinstatement	6	7	11	8	<1%
Modification	22	26	20	23	<1%
TOTAL	6,182	5,512	5,840	5,845	100%

** New violation code created in FY2009.

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ACTION TAKEN BY TSBP TO CLOSE COMPLAINTS FY2009 – FY2011

	FY2009	FY2010	FY2011	3-Yr. Avg.	% of 3-Yr. Avg.
Investigations Not Resulting in Disciplinary Action:	4,581	4,050	4,714	4,448	76%
Investigate + Dismissal (Warning) Letter	1,420	1,277	1,417	1,371	23%
Investigate + Complaint Closed with Verbal Warning	508	328	390	409	7%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	1,499	1,318	1,449	1,422	24%
Investigate + Lost Jurisdiction (registration expired)	210	162	198	190	3%
Inspections	53	53	108	71	1%
Inspection + Warning Notice or Dismissal Letter	13	11	23	16	<1%
Application Withdrawn	122	78	335	178	3%
Other *	756	823	794	791	14%
Investigations Resulting in Disciplinary Action:	1,203	1,164	814	1,060	18%
Agreed Board Order	620	664	664	649	11%
Board Order	103	137	113	118	2%
Preliminary Notice Letter + Dismissal (Warning) Ltr.	0	1	2	1	0%
PNL + Application Withdrawn (with or without Informal Conference)	462	351	2	272	5%
PNL + Informal Conference + Dismissal Letter	2	0	16	6	<1%
PNL + Informal Conference + Case Dismissed	13	6	11	10	<1%
PNL + Case Dismissed	3	5	6	5	<1%
Referrals To:	112	97	46	85	1%
Medical Board	5	6	3	5	<1%
PRN Program	0	0	0	0	0%
Supervisor	21	13	4	13	<1%
Other Agency	86	78	39	68	1%
No Action Because:	286	201	266	251	4%
No Violation	11	12	21	15	<1%
No Jurisdiction	137	97	67	100	2%
Insufficient Information	10	11	14	12	<1%
Other **	128	81	164	124	2%
TOTAL	6,182	5,512	5,840	5,845	100%

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

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

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During FY2011, TSBP received 214 reports indicating that pharmacies experienced theft of 574,827 dosage units of controlled substances by 255 individuals. See chart below for additional details employee pilferage reports. The chart below is followed by two additional charts which provide a statistical comparison over the past three fiscal years, with regard to the number of number of suspects identified and the number of dosage units pilfered.

Reports Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2011 (9/1/2010 – 8/31/2011)

CLASSIFICATION OF EMPLOYEE	Class "A"	Class "C"	Hospital Floor Stock	Total	%	DU	%
Registered Pharmacist	15	3	0	18	7%	41,106	7%
Pharmacist Intern	0	0	0	0	0%	0	0%
Registered Pharmacy Technician	62	4	0	66	26%	324,475	56%
Pharmacy Technician Trainee	10	0	0	10	4%	44,166	8%
Physician	0	0	0	0	0%	0	0%
Registered Nurse	0	40	0	40	16%	7,339	1%
Certified Registered Nurse Anesthetist	0	0	0	0	0%	0	0%
Licensed Vocational Nurse	0	11	0	11	4%	712	<1%
Delivery – In or Out of Pharmacy	2	0	0	2	1%	765	<1%
Pharmacy Cashier – Pharmacy Clerk	6	0	0	6	2%	14,703	3%
Pharmacy Staff – Unidentified	39	0	0	39	15%	101,752	18%
Hospital Staff – Unidentified	0	13	0	13	5%	3,223	<1%
Hospital Staff – Pharmacy Staff	0	1	0	1	<1%	1	<1%
Miscellaneous*	41	8	0	49	19%	36,585	6%
TOTALS	175	80	0	255 **	100%	574,827	100%

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

** A total of 214 DEA Reports involving 255 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 FY2009 - FY2011 (by Individuals)

CLASSIFICATION OF EMPLOYEE	FY 2009		FY 2010		FY2011		% Change FY10-FY11
	Total # of Individuals	%	Total # of Individuals	%	Total # of Individuals	%	
Registered Pharmacist	11	5%	20	8%	18	7%	-10%
Pharmacist Intern	0	0%	2	<1%	0	0%	-1%
Registered Pharmacy Technician	53	24%	41	17%	66	26%	+61%
Pharmacy Technician-in-Training	29	13%	16	6%	10	4%	-38%
Physician	0	0%	0	0%	0	0%	N/A
Registered Nurse	50	23%	37	15%	40	16%	+9%
Certified Registered Nurse Anesthetist	0	0%	0	0%	0	0%	N/A
Licensed Vocational Nurse	4	2%	6	2%	11	4%	+83%
Delivery – In or Out of Pharmacy	0	0%	0	0%	2	<1%	N/A
Pharmacy Cashier – Pharmacy Clerk	4	2%	7	3%	6	2%	-14%
Pharmacy Staff – Unidentified	34	15%	60	24%	39	15%	-35%
Hospital Staff – Unidentified	24	11%	20	8%	13	5%	-35%
Hospital Staff – Pharmacy Staff	2	1%	7	3%	1	<1%	-86%
Miscellaneous *	9	4%	33	13%	49	19%	+48%
TOTALS	220	100%	249	100%	255	100%	+2%

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

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Reports Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2009 - FY2011 (by Dosage Units)

CLASSIFICATION OF EMPLOYEE	FY 2009		FY 2010		FY 2011		% Change FY10-FY11
	Total # of Dosage Units	%	Total # of Dosage Units	%	Total # of Dosage Units	%	
Registered Pharmacist	13,408	2%	55,630	5%	41,106	7%	-26%
Pharmacist Intern	0	0%	613	<1%	0	0%	N/A
Registered Pharmacy Technician	304,283	54%	860,262	77%	324,475	56%	-62%
Pharmacy Technician-in-Training	159,078	28%	22,465	2%	44,166	8%	+97%
Physician	0	0%	0	0%	0	0%	N/A
Registered Nurse	2,968	<1%	4,357	<1%	7,339	1%	+68%
Certified Registered Nurse Anesthetist	0	0%	0	0%	0	0%	N/A
Licensed Vocational Nurse	468	<1%	193	<1%	712	<1%	+269%
Delivery – In or Out of Pharmacy	0	0%	0	0%	765	<1%	N/A
Pharmacy Cashier – Pharmacy Clerk	14,901	3%	14,359	1%	14,703	3%	+2%
Pharmacy Staff – Unidentified	64,840	12%	63,640	6%	101,752	18%	+60%
Hospital Staff – Unidentified	711	<1%	402	<1%	3,223	<1%	+702%
Hospital Staff – Pharmacy Staff	200	<1%	1,114	<1%	1	<1%	-100%
Miscellaneous *	1,608	<1%	91,340	8%	36,585	6%	-60%
TOTALS	562,465	100%	1,114,375	100%	574,827	100%	-48%

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

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4. **In cooperation with the Licensing Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants for licensure and registration throughout FY2011, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2011.**

Status: ACCOMPLISHED

Comments: Throughout FY2011, Division staff performed background checks, as follows:

- A. reviewed fingerprint-based criminal background information on all individuals referred by the Licensing Division staff; these individuals included all applicants for a pharmacist license (including applicants for re-licensure and reinstatement) and all applicants for registration (i.e., technician, technician trainee and intern);
- B. opened new complaints when TSBP received a report regarding arrest(s) on individuals who had been previously fingerprinted; during FY2011, TSBP received 457 such reports (as compared to FY2010 when TSBP received 219 such reports – a 109% increase);
- C. conducted quarterly background checks on pharmacists, interns, and technicians/tech trainees; during FY2011, the agency opened 460 complaints due to the criminal history information provided on the quarterly reports (as compared to FY2010 when TSBP received 763 such reports – a 40% decrease).

Considering (B) and (C) together, the agency received 917 reports in FY2011, as compared to FY2010 when the agency received 982 reports (7% decrease).

5. **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 FY2011.**

Status: ACCOMPLISHED

Comment: TSBP continued to provide assistance to other agencies, when requested, throughout FY2011. TSBP Field Investigators maintained liaison with law enforcement agencies across the State, totaling over 787 contacts with 241 agencies. In-house investigative staff made hundreds of contacts with courts and law enforcement agencies both in Texas and out of state while conducting criminal background checks.

6. **To monitor compliance with all Board Orders and Agreed Board Orders, including rehabilitation Orders relating to impaired or recovering pharmacists, throughout FY2011.**

Status: ACCOMPLISHED

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Comment: Almost all of the disciplinary orders entered in FY2011 required some type of monitoring by Division staff (i.e., 605 orders or 86% of the 706 disciplinary orders that TSBP entered during FY2011 required some type of monitoring). Monitoring included the following types of actions/activities:

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

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

The following charts indicate the types of Orders entered in FY2011, which required the Division to monitor the licensee’s compliance with the Order, in some manner:

Total Number of Orders Entered by TSBP That Required Monitoring on Licensees (Pharmacists and Pharmacies), Interns, and Technicians (FY11)		
	FY11	% of FY11
Total Number of Orders on Licensees Requiring Monitoring	314	44%
Total Number of Orders on Technicians Requiring Monitoring	291	41%
Total Number of Orders Requiring Monitoring	605	86%
Total Number of Orders Not Requiring Monitoring	101	14%
Total Number of Orders Entered by TSBP in FY11	706	100%

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Types of TSBP Disciplinary Orders Entered on Licensees (Pharmacists and Pharmacies) and Interns That Required Monitoring (FY09-FY11)						
Sanction	FY09 Orders	FY10 Orders	FY11 Orders	% of FY11	3-Yr. Avg.	% of 3-Yr. Avg.
Revoke / Retire	25	15	14	4%	18	5%
Suspension	23	27	36	11%	29	9%
Restricted	6	7	3	<1%	4	1%
Rehabilitation Orders*	19	19	25	7%	21	6%
Reinstatement	0	3	3	<1%	2	<1%
Fines or Probation Fees Only	84	107	94	27%	95	28%
Continuing Education, Texas Jurisprudence Exam, and/or Pharmacy Law Course (could also include fines and/or probation fees)	48	49	48	14%	48	14%
Continuous Quality Improvement Program, Self Assessments, Policies/ Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	96	97	89	26%	94	28%
Public Orders Requiring Drug Screens	3	1	2	<1%	4	1%
TOTAL NUMBER OF ORDERS ON LICENSEES REQUIRING MONITORING	304	325	314	92%	314	92%
TOTAL NUMBER OF ORDERS NOT REQUIRING MONITORING	30	19	28	8%	26	8%
TOTAL ORDERS	334	344	342	100%	340	100%

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

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Types of TSBP Disciplinary Orders Entered on Technicians That Required Monitoring (FY09 – FY11)						
Sanction	FY09 Orders	FY10 Orders	FY11 Orders	% of FY11	3-Year Average	% of 3-Year Average
Revoke	149	133	83	23%	122	30%
Suspension	18	28	26	7%	24	6%
Restriction	0	0	0	0%	0	0%
Fines Only	112	162	140	38%	138	34%
Other *	50	50	42	12%	47	11%
TOTAL NUMBER OF ORDERS ON TECHNICIANS REQUIRING MONITORING	329	373	291	80%	331	81%
TOTAL NUMBER OF ORDERS ON TECHNICIANS NOT REQUIRING MONITORING	74	91	73	20%	79	19%
TOTAL NUMBER OF ORDERS ON TECHNICIANS	403	464	364	100%	410	100%

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

During FY2011, TSBP entered 53 confidential disciplinary Orders (45 orders were entered on pharmacists, 1 order on a pharmacy, and 7 orders were entered on applicants pharmacist/Interns). These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below:

Confidential Disciplinary Orders On Pharmacists and Interns Entered by TSBP (FY09 – FY11)						
Nature of Violation	FY09	FY10	FY11	% of FY11	3-Yr. Avg.	% of 3-Yr. Avg.
Non-Compliance with ABO	17	8	10	19%	12	21%
Non-Compliance with PRN	4	0	0	0%	1	2%
Action by Other Boards	4	4	1	2%	3	5%
Audit Shortages	1	2	0	0%	1	2%
Alcohol-Related Conviction	2	1	6	11%	3	5%
Theft of Prescription Drugs	5	8	10	19%	8	14%
Created Fraudulent Rx or Obtained C/S by Fraud	0	1	2	4%	1	2%
Convictions	1	3	0	0%	1	2%
Deferred Adjudication	3	8	6	11%	6	11%
Illegal Possession of Controlled Substances	0	0	3	6%	1	2%
Unauthorized Refills of Controlled Substances	0	0	0	0%	0	0%
Probable Cause/Dependency	6	9	3	6%	6	11%
Mental Impairment	0	0	0	0%	0	0%
Request for Modification of Previously Entered ABO	9	5	6	11%	7	12%
Request for Retirement or Revocation	3	7	4	8%	5	9%
Request for Reinstatement	0	3	2	4%	2	4%
TOTAL	55	59	53	100%	57	100%

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Of the 52 confidential *pharmacist/intern* Orders entered in FY2011, there were 32 Orders resulting in an impaired/recovering pharmacist or intern being added to the number who were being monitored at the end of FY2011, as reflected in the chart below. However, 17 pharmacists were deleted from the list as a result of early termination of probation, successful completion of probation, death, revocation or retirement of license, license expired, or application withdrawn subsequent to entry of order. Accordingly, as of August 31, 2011, a total of 133 impaired/recovering pharmacists or interns were being monitored by TSBP. The number of individuals being monitored at year-end, as compared to the year-end of previous fiscal years, is depicted in the following chart:

Impaired/Recovering Pharmacists Monitored by Enforcement Division (FY07 – FY11)			
Fiscal Year	Total Orders*	Total New Orders**	Total Being Monitored***
FY07	60	27	97
FY08	57	27	102
FY09	55	24	103
FY10	59	32	118
FY11	52	32	133

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

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

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

On September 1, 2010, TSBP was monitoring 76 technicians or tech-trainees who were on a probation as a result of a disciplinary order and required to undergo random drug screens. During FY2011, TSBP entered 52 new disciplinary orders on a technician or tech-trainee which imposed a probation with drug screens. However, 48 technicians/tech-trainees were deleted from the list as a result of early termination of probation, successful completion of probation, death, revocation or retirement of the registration, registration expired, or application denied subsequent to entry of the Order. Accordingly, as of August 31, 2011, a total of 80 technicians/tech-trainees were being monitored by TSBP, as depicted in the chart below:

Technicians / Technicians-in-Training Monitored (with probation under conditions, including random drug screens) by Enforcement Division (FY2010 – FY2011)			
Fiscal Year	Total Orders Added	Total Orders Deleted	Total Being Monitored
FY2010 *			76
FY2011	52	48	80

* Beginning FY2011, the Enforcement Division began tracking technicians and technician-trainees who were subject of a disciplinary order that imposed a probation period with drug screens.

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7. To provide verbal and written information to Board staff and customers as needed or required throughout FY2011, 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

Compliance Field Staff provided information during compliance inspections. The Division conducted 2,492 inspections in FY2011 (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 23,095 callers who were routed through the Compliance Queue telephone line.

Number of Telephone Calls Handled via Compliance Queue (FY07 – FY11)		% Change
FY07	11,498	10%
FY08	14,326	25%
FY09	15,466	8%
FY10	18,794	22%
FY11	23,095	23%

C. COMPLAINT FORMS

During FY2011, TSBP mailed 543 complaint forms to individuals who requested a complaint form. As indicated in the chart below, 260 complaint forms (48% of total) were mailed to individuals who had requested a form by calling the HPC toll-free complaint hotline and 283 complaint forms (52% of total) were mailed to individuals who called the TSBP voice mail complaint line. The number of requests for complaint forms during the past five fiscal years is depicted in the following chart:

Complaint Forms Mailed to Potential Complainants (FY07 – FY11)						
Fiscal Year	Requests for Complaint Forms via HPC 800#	% Change	Requests for Complaint Forms via TSBP Voice Mail	% Change	Total Request	% Change
FY07	564	+12%	585	+18%	1,149	+15%
FY08	398	-29%	406	-30%	804	-30%
FY09	304	-24%	403	-1%	707	-12%
FY10	265	-13%	328	-19%	593	-16%
FY11	260	-2%	283	-14%	543	-8%

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D. CUSTOMER SERVICE SURVEYS

During FY2011, Division staff mailed 835 customer service surveys to TSBP customers.

E. WRITTEN INFORMATION

During FY2011, Division staff mailed 58 information packets to TSBP customers.

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

DATE	PRESENTATIONS Name of Association/Presentation and Location of Meeting	STAFF PERSON	ATTENDAN CE (Approx.)
09-11-10	Texas Southern University College of Pharmacy Fall Preceptor's Conference – Houston	Iona Grant, R.Ph	75
09-16-10	Pharmacy Diversion Class (Kelsey-Seybold-PICs) Houston	Shawn Clark	25
10-08-10	Pharmacy Diversion Class (CVS PICs) - Houston	Shawn Clark	25
10-30-10	Texas Southern University College of Pharmacy Alumni Association Meeting – Houston	Iona Grant, R.Ph.	50
11-05-10	Pharmacy Diversion Class (University of Houston students) - Houston	Shawn Clark	100
11-29-10	The University of Texas at Austin IV Admixtures Class (PHR183F)/TSBP and CSPs - Austin	Paul Holder, Pharm. D.	60
01-25-11	Lake Houston Pharmacy Association – Humble	Iona Grant, R.Ph.	40
02-02-11	Health Care Fraud Task Force Class – San Antonio	Robert Ebrom	25
02-25-11	East San Antonio Community Pharmacy Group – San Antonio	Mike Ethridge R.Ph.	12
03-01-11	Texas Dept of Insurance Fraud Conference - Austin	Robert Ebrom	90
03-24-11	Texas Association of Chain Drug Stores, Diversion Class – Houston	Robert Ebrom	35
03-25-11	University of Houston PRN Seminar/TSBP and PRN – Houston	Paul Holder, Pharm.D.	120
04-07-11	Texas A&M University College of Pharmacy/Law and Rules Update – Kingsville	Paul Holder, Pharm.D.	95
04-16-11	Texas Society of Health System Pharmacists/TSBP Review for Technicians – San Antonio	Paul Holder, Pharm.D.	80
04-19-11	Texas A&M University College of Pharmacy/TSBP: Public Safety/Patient Safety, and Mandatory Counseling: an Overview - Kingsville	Paul Holder, Pharm.D.	115
04-29-11	Texas A&M University College of Pharmacy/TSBP and Patient Safety Failures - Kingsville	Paul Holder, Pharm.D.	105
05-21-11	Annual ABHP Minority Health Conference and Meeting – Houston	Iona Grant, R.Ph.	50
06-28-11	Pharmacy Diversion Class (Montgomery County Law Enforcement)	Shawn Clark	50
07-08-11	Pharmacy Diversion Class (Walgreen's Interns) – Houston	Shawn Clark	25
07-15-11	Walgreens Interns & District Managers – Houston	Iona Grant, R.Ph.	25
		Total	1,202

In addition, Division Director and Assistant Director of Enforcement, with the assistance of Allison Benz, TSBP Director of Professional Services, presented a Poster Session at the 107th Annual Meeting of the National Association of Boards of Pharmacy in San Antonio, Texas, with respect to TSBP's program of sampling compounded preparations.

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G. ASSISTANCE TO BOARD MEMBERS AND EXECUTIVE DIRECTOR

- (1) Division Director assisted in the development of the proposed Goals and Objectives for FY2011, which were presented to/approved by the Board at its meeting held in August 2010;
- (2) At all Board meetings held in FY2011, Division Director made presentations regarding the number of acting/pending complaints and the number of dismissed complaints, and Assistant Division Director made a report regarding the Peer Assistance Performance Measures;
- (3) Division Director assisted in the review/edit of the drafts of minutes of four Board meetings;
- (4) Division Director, along with the Directors of the other Divisions, assisted the Executive Director in conducting orientation of agency operation to representatives of the Governor's Office (11/12/10);
- (5) In the absence or at the request of the Executive Director, Division Director responded to inquiries from the media; and

H. TECHNICAL ASSISTANCE TO BOARD STAFF

(1) Legal Division

- (a) Disciplinary Proceedings – At the request of TSBP General Counsel, Division Director reviewed approximately 110 drafts of Preliminary Notice Letters prior to these documents being finalized and mailed; Division staff also assisted Legal staff with pharmacy practice-related questions relating to disciplinary cases,
- (b) Informal Conferences involving pharmacists and pharmacies, and pharmacy technicians – Division staff attended numerous conferences;
- (c) Formal Hearings – Division Director testified in three hearings conducted by the State Office of Administrative Hearings (9/17/10 and 4/15/11); Division Director also testified in Travis County District Court on 9/13/11; and
- (d) Orientation of New Employees – Division staff conducted orientation sessions for Attorney Linda Townsend (November 2010) and Legal Assistant April Adams (March 2011) with respect to the operation of the Enforcement Division.

(2) Division of Professional Services

- (a) TSBP *Newsletter* – Division staff assisted with each issue of the Newsletter (e.g., wrote articles such as Compliance Reminders and Complaint Corner and provided applicable information regarding disciplinary orders entered by the Board);

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- (b) Open Records Requests – Division Director provided assistance when needed; and
 - (c) Health Integrity and Protection Data Bank (HIPDB) – Division staff provided administrative assistance in the data entry of information regarding disciplinary orders entered by the agency in FY2011.
- (3) Administrative Services and Licensing Division
- (a) Division Director assisted with the preparation of the agency's Internal Risk Assessment Report; and
 - (b) Review Applications for Licensure/Registration – Division staff assisted in the review of applications for a Class B or D Pharmacy license, as indicated in the chart below:

Activity	FY2009	FY2010	FY2011	3-Year Average
New Class D (Clinic) Pharmacy Applications	19	27	45	30
New Class B (Nuclear) Pharmacy Applications	0	5	1	2
Petitions for Expanded Formularies for Class D (Clinic) Pharmacies	43	44	53	47
Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies	55	41	27	41
Notifications of Temporary Locations for Class D (Clinic) Pharmacies	9	7	16	11
Standard Class D Formularies Reviewed	21	29	12	21

I. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS

- (1) Division staff notified various agencies regarding disciplinary orders entered by the Board (e.g., DEA, DPS, MHMR, HHS, NABP, HIP-DB, and Deans of the Texas Colleges of Pharmacy);
- (2) Division Investigative and Compliance Staff assisted the Texas Department of Health and Human Services with a case involving counterfeit drugs;
- (3) Division Director and Chief of Investigation responded to questions from the federal Government Accounting Office (GAO) regarding an assessment the GAO was conducted on a federal agency;
- (4) Division Director responded to a lengthy survey from the National Association of Boards of Pharmacy regarding armed robberies that had been reported to TSBP over the past four years; and
- (5) Division Director and Chief of Investigations assisted an Assistant US Attorney in the Valley with the successful prosecution of a case involving Medicaid Fraud.
- (6) See Ongoing Objective #4.

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8. **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 FY2011.**

Status: ACCOMPLISHED

Comment: During FY2011, Division Director, Assistant Director, and Chief of Compliance served as preceptors to seven students from four different Schools/Colleges of Pharmacy, as listed below:

FY2011

- September 27, 2010 – November 5, 2010
 - Robert Vitek – The University of Texas at Austin
- January 3, 2011 – February 11, 2011
 - Jenna Miller – The University of Texas at Austin
- February 14, 2011 – March 25, 2011
 - Phan-An (Andy) Tong – Texas A&M University
- April 4, 2011 – May 13, 2011
 - Jill Gray – Texas Tech University
- May 16, 2011 – June 24, 2011
 - Nori Fujinami-Dinh – Texas Tech University
- July 4, 2011 – August 12, 2011
 - Audrey Valencia – University of the Incarnate Word

FY2011 - 2012

- August 15, 2011 – September 23, 2011
 - Ryan Martin – The University of Texas at Austin

On November 11, 2011, Division Director participated in an “open house” at the University of Texas College of Pharmacy to discuss intern opportunities at TSBP.

9. **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 FY2011.**

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 FY2011;
- B. The TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY2011;
- 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 January 19, 2011, and the results of the audit were reported to the Board at its meeting held on June 6 -7, 2011;

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- D. Throughout FY2011, Division staff reviewed quarterly activity reports submitted to TSBP by TX-PRN Director;
- E. Division staff attended two TX-PRN State Advisory Committee meetings held on October 16, 2010; and June 18, 2011.
- F. Throughout FY2011, Enforcement Program Specialist Janelle Dooley worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

10. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2011.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- (1) HPC Annual Report – Division Director submitted agency Enforcement performance data to be incorporated in the HPC Annual Report.
- (2) 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 FY2011, TSBP mailed 260 complaint forms to individuals requesting forms on the HPC complaint hotline.

11. To manage employees under the supervision of the Division throughout FY2011, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the job training, cross-training, and attendance at professional seminars.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Staff Development – During FY2011, Division staff attended General Staff Meetings and Rule Reviews which were held in December 2010, February 2011, June 2011, and August 2011. Division staff also participated in all-staff training, as listed below:
 - October 26, 20120 – Teambuilding (Bastrop, Texas)
 - December 9, 2010 – Ethics/EEO Training (Austin Headquarters)

In addition, individual Division staff attended professional development seminars and training with regard to the new computer system. In May 2011, Division Director Carol Fisher, R.Ph., M.P.A., attended the 107th Annual Meeting of the National Association of Boards of Pharmacy in San Antonio, Texas, where she was presented the John F. Atkinson Service Award.

ENFORCEMENT DIVISION

- B. Performance Evaluations – Formal performance reviews were conducted for all Division employees in FY2011, except for three employees who were hired in May 2011.
- C. Other Activities – The Division began FY2011 with one vacancy (Investigative Case Manager); this position was quickly filled. However, the Division experienced an additional 10 staffing changes during FY2011, due to two resignations; four internal promotions; and loss of one employee due to an internal transfer to the Legal Division.

September 2010	Cynthia Fazin was promoted from Enforcement Officer to Investigative Case Manager.
December 2010	Enforcement Officer Kate Hayden was promoted to Legal Assistant and transferred to the TSBP Legal Division.
March 2011	Enforcement Specialist George Redmond resigned. Enforcement Technician Griselda Lopez was promoted into this position.
March 2011	Enforcement Technician Barbara Jamieson was promoted into the Enforcement Officer position vacated by Kate Hayden.
May 2011	Three individuals (Cathy Shannon, Laura Duty, and Amy Burt) were hired to fill the positions vacated by Cynthia Fazin, Griselda Lopez, and Barbara Jamieson (all three vacancies were due to internal promotions within the Enforcement Division).
July 2011	Compliance Inspector for Dallas (Karen Guenther) resigned. Enforcement Specialist Darrell Montgomery was promoted into the Compliance Inspector position.
August 2011	Lindsay Cruthers was selected to fill the vacancy created as a result of Darrell Montgomery's promotion.

As a result of the staffing changes described above, Division staff were busy in FY2011 with the following activities: reviewing applications; conducting interviews; and conducting in-depth orientations for new Division Staff.

12. **To maintain Division records throughout FY2011, including the following: to image records and destroy records in accordance with the agency's record retention plan; to update the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval.**

Status: PARTIALLY ACCOMPLISHED

ENFORCEMENT DIVISION

Comment: The following activities relate to this objective:

A. Records Management

During FY2011, Division staff destroyed 183.38 cubic feet of records, in accordance with the TSBP record retention schedule. The quantity of Division records destroyed in the past five years is depicted in the chart below:

Fiscal Year (FY07 – FY11)	# of Cubic Feet of Records Destroyed	% Change
FY2007	7.02	-80%
FY2008	27.88	+297%
FY2009	99.19	+256%
FY2010	252.84	+155%
FY2011	183.38	-27%

B. Policies and Procedures were not updated during FY2011.

13. **To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures 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 FY2011.**

Status: ACCOMPLISHED

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

A. Recommendations regarding the Texas Pharmacy Act and TSBP Rules:

- (1) Division Director recommended that TSBP Rule 311.1 be amended to incorporate a reference to the provisions of Section 614.023 of the Government Code relating to complaints filed against TSBP employees who are also commissioned peace officers. In addition, Division Director recommended that TSBP Rule 311.1 be amended to clarify that an complaint filed by e-mail will not be considered a valid complaint for the purposes of the rule.
- (2) Division Director recommended that TSBP Rule 291.32(a) regarding requirements relating to a pharmacist-in-charge (PIC) of a Class A Pharmacy be amended to prohibit a pharmacist from serving as the PIC of two Class A Pharmacies that are open simultaneously.
- (3). Division Director recommended that TSBP Rules be clarified with respect to the recall of compounded preparations.
- (4). Division Director recommended that the Texas Pharmacy Act be amended to require a pharmacy applicant to post a bond which would be refunded upon the closure of the pharmacy, provided the pharmacy had complied with the laws and rules relating to the closure of a pharmacy and properly notified TSBP of the closure of the pharmacy, including the disposition of the records and drug inventory belonging to the pharmacy.

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- (5) Assistant Division Director recommended that TSBP Rule 291.33(c) be amended to require verbal patient counseling on prescription refills when there is a change from one generic manufacturer to another.
- (6) Assistant Division Director recommended that the Texas Pharmacy Act be amended to allow a Class C Pharmacy to compound preparations for a Class F Pharmacy.
- (7) Division staff recommended the Texas Pharmacy Act be amended to establish qualifications for a Class E (Non-Resident) Pharmacy to stipulate that the applicant would not be eligible for a Texas license if the applicant held a license in another state that was currently on probation, suspended, or restricted, or if the applicant had previously held a license in another state that had been revoked, surrendered, or suspended.

B. Recommendations regarding Agency Operations:

- (1) Division Director recommended that TSBP letterhead be revised to include the agency's website address.
- (2) Chief of Investigation developed internal policies and procedures relating to the Asset Forfeiture Program in compliance with the laws and rules relating to State and Federal Seizure Funds.
- (3) Chief of Investigation filed applications to obtain a percentage of seized assets in cases during which TSBP Investigators had assisted federal agents.
- (4) Chief of Investigations filed the necessary forms with Homeland Security Officials to obtain security clearance for Field Investigators.
- (5) Division staff recommended that all registered technicians who had not been previously fingerprinted be required to submit to a fingerprint process.
- (6) Division staff made numerous recommendations to improve and enhance the information provided on the TSBP webpage.
- (7) Division staff made numerous recommendations to internal forms and procedures to improve day-to-day operations, including procedural changes relating to the temporary suspension hearings.
- (8) Division staff implemented new forms and procedures following the agency's conversion to a new computer system.

14. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2010 Annual Report* and submit to the Executive Director by the due date.

Status: ACCOMPLISHED

Comment: The Division's first draft of the *FY2010 Annual Report* was submitted to the Executive Director by the due date. All Divisions' Annual Reports were compiled and subsequently presented to the Board at its meeting in June 2011.

FY2011 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished all of the Division's objectives for FY2011.
2. During FY2011, the agency continued to handle a large number of ongoing disciplinary issues for pharmacy technicians. The Division initiated 398 disciplinary actions by mailing a Preliminary Notice Letter and entered 346 orders against pharmacy technicians and pharmacy technician trainees during the fiscal year. During the same time, 92 applicants for registration as a pharmacy technician or pharmacy technician trainee were subject to mandatory withdrawal, indicating that although the Division initiated disciplinary action, the applicant did not complete the process.
3. Approximately 96% of the disciplinary cases against pharmacists and pharmacies and 99% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders or default Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and agency expenditures.
4. The Division resolved 17 respondent 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 12 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.
5. Administrative hearings were conducted against 6 respondents at SOAH. These hearings involved preparing motions for summary judgment and numerous discovery documents (including interrogatories and requests for admission), preparing for trial and for witness examination, and conducting the hearings. Following the hearings, exceptions were filed and drafts of proposed orders were prepared. The extensive preparation for the hearings and the presentations to the Board required a considerable amount of time, and the Division was able to maintain a fairly consistent number of cases resolved.
6. In order to more effectively deal with the proliferation of pill mills in the Houston area, the Legal Division began a new procedure to evaluate cases of non-therapeutic dispensing in terms of whether the continued operation of the associated pharmacies posed a continuing threat. If such a threat could be established, a panel was convened to hear the cases for potential temporary suspension. Petitions for Temporary Suspension were filed and Temporary Suspension Hearings were conducted before a Board panel against 19 respondents in FY2011. Thirteen respondents were temporarily suspended and six respondents' petitions were denied.
7. General Counsel and Division staff participated in the Board's Strategic Planning process by preparing for the process, developing a detailed approach, and preparing for role as facilitator at the Board meeting. This project also required the preparation of extensive documentation, development of focus areas, and compilation of material submitted by Board members, staff and the public.

LEGAL DIVISION

8. Statistics for disciplinary actions entered in FY2011 are as follows:

PHARMACISTS/PHARMACIES

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF DEFAULT ORDERS ENTERED BY BOARD	NUMBER OF AGREED Board of Pharmacy ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% CHANGE IN DISCIPLINARY ORDERS	% ABOs OR DEFAULT OF TOTAL ORDERS
FY07	10	5	285	300	45%	97%
FY08	4	5	244	253	-16%	98%
FY09	7	10	317	334	32%	98%
FY10	8	2	334	344	3%	98%
FY11	15	2	325	342	<-1%	96%
TOTAL	44	24	1505	1573		

PHARMACY TECHNICIANS/PHARMACY TECHNICIAN TRAINEES

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF DEFAULT BOARD ORDERS (BOs)	NUMBER OF AGREED BOARD ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% INCREASE IN DISCIPLINARY ORDERS	% ABOs OR DEFAULT OF TOTAL ORDERS
FY07	1	51	296	348	30%	100%
FY08	3	57	250	310	-11%	99%
FY09	0	74	329	403	30%	100%
FY10	1	108	355	464	15%	100%
FY11	2	78	284	364	-22%	99%
TOTAL	7	368	1514	1889		

LEGAL DIVISION

FY2011 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

The caseload has continued to increase in FY2011. In addition, the cases against pharmacy technicians and pharmacy technician trainees continued to become more complicated and time-consuming as the cases began to involve not merely adjudicated criminal offenses, but also cases involving investigations by TSBP of thefts at pharmacies, which leads to a longer resolution time in the Legal Division due to the longer amount of time to draft and prepare the cases. However, the number of cases referred on pharmacy technician and pharmacy technician trainees has declined over the past fiscal year, likely due to the registration fee imposed on pharmacy technician trainees and the additional fee for both types of registration for conducting the criminal history background check via fingerprint identification.

LEGAL DIVISION

FY2011 ANNUAL REPORT

GOAL

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

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2011:

- 1. Preparing testimony, attending public hearings, providing any fiscal or technical information, reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the process of this legislation, throughout the 82nd Texas Legislative Session; and**
- 2. Implementing a new licensing, enforcement, and administration database system throughout FY2011.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

1. General Counsel reviewed numerous bills filed and bill drafts for impact on the agency. General Counsel also assisted with drafting of SB 1438, which provided for numerous procedural changes in the Texas Pharmacy Act, primarily concerning impaired pharmacists. In addition, General Counsel attended legislative hearings as requested by the Executive Director on various bills and regarding the agency's budget (i.e. House Appropriations Committee and Senate Finance Committee).
2. Division staff participated extensively in during each phase of the implementation of the new regulatory database system, including User Acceptance Testing, conversion, mapping of data, and report requirements. General Counsel and Division staff attended numerous meetings of the regulatory database system implementation team. In addition, Division staff successfully planned for the conversion to the new database system and conducted training of other staff for proper use of the system. This process included an in-depth review and update of the Division's current tracking system procedures to correlate with the new database system.

LEGAL DIVISION

Objectives (Ongoing)

1. **To coordinate and monitor throughout FY2011 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, assess workload allocation, and determine the most effective strategies to complete cases in a timely and efficient manner. The Legal Assistant Team Leader also met with the Legal Assistants on a monthly basis to address common issues and monitor progress.

- B. Division staff maintained a database system to track the current status of all cases, thereby increasing efficiency in monitoring cases. In addition, Division staff continued to maintain an electronic log, tracking dates for mailing of Preliminary Notice Letters, scheduling of Informal Conferences, mailing and receiving of Agreed Board Orders, and other due dates previously recorded on paper to enhance accessibility by all Division staff and improve more efficient and immediate information sharing.

- C. TSBP entered a total of 706 disciplinary orders in FY2011, 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	13	2	2	77	195	53	342
Pharmacy Technicians	0	2	78	187	97	0	364
Total	13	4	80	264	292	53	706

The Division staff prepared for the presentation of Agreed Board Orders and Board Orders for approval at the four regularly scheduled Board meetings throughout the year. The presentation of proposed disciplinary actions to the Board at Board meetings was converted to use the electronic notebooks, which includes presenting a summary chart along with the orders linked to the chart.

Information regarding the disciplinary cases entered in FY2011 is set forth in the following charts:

LEGAL DIVISION

TEXAS STATE BOARD OF PHARMACY SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON PHARMACISTS, PHARMACIES, INTERNS, AND APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2011)

			Pharmacist	Pharmacy	Total
Licenses Removed	14	(4%)			
Revoke			9	3	12
Retire			2	0	2
Suspensions	84	(25%)			
Suspension			14	6	20
Suspension w/Conditions			19	1	20
Suspension/Fine/Conditions			1	0	1
Suspension/Probation			1	1	2
Suspension/Probation w/Conditions			19	3	22
Suspension/Probation/Fine			1	4	5
Suspension/Probation/Fine w/Conditions			4	10	14
Restricted	3	(1%)	3	0	3
Other	201	(59%)			
Fine			50	13	63
Fine with Conditions			2	36	38
Fine and Reprimand			3	1	4
Fine, Reprimand with Conditions			23	29	52
Reprimand			16	2	18
Reprimand with Conditions			16	10	26
Issuance License/Regist.	26	(8%)			
Grant with Suspension			0	0	0
Grant with Restrictions			0	0	0
Grant with Probation			1	0	1
Grant with Probation/Fine/Conditions			1	1	2
Grant with Probation and Conditions			8	0	8
Grant with Reprimand and Fine			1	0	1
Grant with Reprimand			1	0	1
Grant with Fine			5	8	13
Deny			0	0	0
Reinstatements	3	(1%)			
Grant			0	0	0
Grant with Probation/Conditions			2	0	2
Deny			1	0	1
Modifications	5	(1%)			
Grant			10	0	10
Deny			0	0	0
TOTAL FY2011:	342	(99%)*	213	129	342

FY10 Orders Entered Against Pharmacist Licenses	213	62%
FY10 Orders Entered Against Pharmacy Licenses	129	38%
FY10 Total Disciplinary Orders on Pharmacist/Pharmacy	342	100%

* Due to rounding.

LEGAL DIVISION

TEXAS STATE BOARD OF PHARMACY DISCIPLINARY ORDERS ON PHARMACISTS, INTERNS, AND APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2011) NATURE OF VIOLATIONS*

	RPh	Phcy	Total	Total %
Diversion	23	11	34	10%
Illegal Delivery	1	0	1	
Illegal Possession of Rx Drugs	0	0	0	
Unauthorized Dispensing	2	1	3	
Theft	10	0	10	
Obtained C/S by Fraud	0	0	0	
No Valid Dr-Pt Relationship (InternetRXs)	0	0	0	
Non-Therapeutic Dispensing	10	10	20	
Convictions/Defer Adj	21	2	23	7%
Felony	6	0	11	
Misdemeanor	1	0	1	
Deferred Adjudication, Felony	5	2	11	
Deferred Adjudication, Misdemeanor	3	0	9	
Alcohol-Related	6	0	1	
Audit Discrepancies	8	14	22	6%
Drug	7	14	21	
Continuing Education	1	0	1	
Practice Deficiencies	59	60	119	35%
Dispensing Errors	27	19	46	
Dispensing Errors & No Counsel and/or No Drug Regimen Review	22	32	54	
No Counsel and/or DRR	10	9	19	
Unprofessional Conduct	68	36	104	30%
Aiding and Abetting	1	1	2	
Allow Tech to Work with Expired or No Registration	30	24	54	
Falsified Application for Licensure	11	9	20	
Sterile Compounding w/o Proper Training	0	0	0	
Operating with Delinquent License	0	0	0	
Impairment	3	0	3	
Action by Other Boards	11	1	12	
Non-Compliance with Previously Entered Order	12	1	13	
Non-Compliance with PRN Program	0	0	0	
Violation of Board Rules	0	0	0	
Other				
Modification	10	0	10	3%
Reinstatement	3	0	3	1%
Request for Revocation/Retirement	0	0	0	0%
Other	21	6	27	8%
TOTAL FY2011:	213	129	342	100%

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

LEGAL DIVISION

TEXAS STATE BOARD OF PHARMACY SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS, TECHNICIAN TRAINEES, AND APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2011)

		Total	Percent
Licenses Removed		83	(23%)
Revoke	83		
Retire	0		
Suspensions		46	(13%)
Suspension	2		
Suspension w/Conditions	22		
Suspension/Fine/Conditions	1		
Suspension/Fine	0		
Suspension/Fine w/Conditions	1		
Suspension/Probation	3		
Suspension/Probation with Conditions	17		
Suspension/Probation/Fine	0		
Restricted	0	0	(0%)
Other		93	(26%)
Fine	66		
Fine with Conditions	0		
Fine/Reprimand	4		
Fine/Reprimand with Conditions	0		
Reprimand	23		
Reprimand with Conditions	0		
Issuance Registration		140	(38%)
Grant with Suspension	2		
Grant with Suspension/Fine	0		
Grant with Probation	20		
Grant with Probation/Conditions	19		
Grant with Probation/Conditions and Fine	2		
Grant with Probation and Fine	4		
Grant with Fine	43		
Grant with Fine and Reprimand	2		
Grant with Reprimand	48		
Deny	0		
Reinstatements		1	(0.5%)
Grant	1		
Modifications	1	1	(0.5%)
TOTAL FY2011:		364	(101%)*

* Due to rounding.

LEGAL DIVISION

TEXAS STATE BOARD OF PHARMACY DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS, TECHNICIAN TRAINEES, AND APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2011) NATURE OF VIOLATIONS

		Total	Percent
Diversion		12	(3%)
Theft	12		
Forged Rx	0		
Convictions/Deferred Adjudications		194	(53%)
Felony	11		
with Falsified Application	5		
Misdemeanor	40		
with Falsified Application	3		
Deferred Adjudication/Felony	43		
with Falsified Application	6		
Deferred Adjudication/Misdemeanor	75		
with Falsified Application	8		
Alcohol-Related (e.g., DWI)	3		
with Falsified Application	0		
Chemical Impairment		3	(1%)
Drug or Alcohol Dependency	3		
with Falsified Application	0		
Falsified Applications		38	(10%)
Other Violations		71	(20%)
Gross Immorality	0		
Non-Compliance w/Previously Entered Order	39		
Performed Tech Duties w/Expired Registration	2		
Performed Pharmacist Duties	1		
Performed Tech Duties without Registration	22		
Other	7		
Request for Revocation/Retirement		46	(13%)
Reinstatement		0	(0%)
TOTAL FY2011:		364	(100%)

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 FY2011.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. During FY2011, Division staff participated in 18 case and/or complaint review meetings. These meetings were held approximately twice per month with participation by the Executive Director and Legal and Enforcement Division staff.
- B. During FY2011, Division staff received 932 complaints and resolved 910 complaints, which were 22 less than received during the same period.
- C. Division staff mailed 809 Preliminary Notice Letters in FY2011, in accordance with the priorities established for the Division, which was comparable, although slightly less, than in FY2010, when the Division mailed 855 PNLs. Of these PNLs, 411 PNLs were mailed to pharmacists and pharmacies, and 398 PNLs were mailed to pharmacy technicians and pharmacy technician trainees.
- D. The number of days to mail PNLs after the case review date in FY2011 was 86 days which is a decrease from the FY2010 number of 102 days. The number of days for PNLs to be sent to pharmacists and pharmacies averaged 96 days as compared to 94 days in FY2010. PNLs to pharmacy technicians were sent in an average of 76 days from receipt of the case, as compared to 107 days in FY2010.
- E. Total resolution time for cases in FY2011 was 182 days from receipt of the case in the Legal Division to the entry of an Agreed Board Order, which has slightly increased from last year's number of 177 days. Case resolution for pharmacists and pharmacies averaged 216 days and for pharmacy technicians averaged 147 days.
- F. The Division filed petitions to conduct a Temporary Suspension hearing for nineteen cases involving pharmacists and pharmacies in FY2011. Thirteen temporary suspension petitions were granted, and six denied. Following the temporary suspensions, the cases were settled with disciplinary actions against the pharmacists' and/or pharmacies' licenses.

3. To plan and conduct a minimum of 24 days of informal conference sessions in FY2011 to adjudicate violators of pharmacy laws/rules.

Status: ACCOMPLISHED

Comment: During FY2011, the Division prepared for and conducted 35 days of Informal Conferences for 451 licensees/registrants, as indicated in the following charts. The number of licensees/registrants slightly increased in FY2011, from 446 licensees/registrants in FY2010.

LEGAL DIVISION

Informal Conferences for Pharmacies and Pharmacists

Dates of Informal Conferences	# of Days	# of Phy/RPh Licensees	# of Techs	# of Cases	# of Licensees Dismissed
9/7-9/2010	3	21	1	17	0
9/23/2010	½	1	0	1	0
10/12-14/2010	3	40	0	26	4
10/19/2010	½	3	0	3	0
11/30-12/1/2010	1 ½	22	0	14	2
12/14/2010	½	1	0	1	0
1/12-14/2011	2 ½	17	0	14	2
1/28/2011	½	1	0	1	0
3/-10/2011	2 ½	17	0	12	3
4/5-7/2011	3	28	0	19	3
5/10-12/2011	1 ½	36	0	25	5
5/17/2011	½	2	0	1	0
6/21/2011	½	1	0	1	0
7/5-7/2011	3	32	2	27	3
TOTAL FY2011	23	222	3	162	22

Informal Conferences for Technicians/Technician Trainees

Dates of Informal Conferences	# of Days	# of Cases	Applicants	Registrants	No-shows	Defaults
9/23/2010	1	21	9	12	4	9
10/19/2010	1	21	8	13	1	10
11/16/2010	1	20	8	12	4	4
12/14/2010	1	17	8	9	3	3
1/18/2011	1	13	2	11	2	8
2/17/2011	1	22	10	12	3	6
3/24/2011	1	16	7	9	1	5
4/21/2011	1	17	8	9	2	5
5/17/2011	1	26	10	16	2	7
6/21/2011	1	13	10	3	1	6
7/21/2011	1	23	12	11	5	9
8/23/2011	1	20	13	7	2	3
TOTAL FY2011	12	229	105	124	30	75

Division staff used electronic notebooks for all informal conferences, thus allowing the informal conference panel to access the allegations and evidence on computer laptops rather than in the hard-copy format previously used. This recommendation reduced copying cost and staff time to prepare the informal conference notebooks.

4. **To refer disciplinary cases to the State Office of Administrative Hearings (SOAH) throughout FY2011, and file a complaint with SOAH within an average of 150 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 FY2011, seven respondent cases were ongoing following the filing of a complaint at the State Office of Administrative Hearings in FY2010 and pending a resolution. The Division filed formal Complaints at SOAH, within an average of 150 days from the date the case failed to settle with an Agreed Board Order, for 23 additional respondent cases in FY2011, up significantly from 16 in FY2010.
 - B. Seventeen respondent cases were resolved prior to a full contested administrative hearing being conducted at SOAH. Three of these cases were resolved through a Mediated Settlement Conference and 14 through negotiations. This resolution was beneficial in saving the agency both considerable time and effort in the alternative of preparing for and presenting a full contested case hearing. However, considerable preparation was required for several of the cases because they were not resolved until shortly before the scheduled hearing date.
 - C. Administrative hearings were conducted against 6 respondents in FY2011. Proposals for Decision (PFD) were issued by the Administrative Law Judges against 6 respondents during FY2011. Nine respondent cases were pending a hearing at the end of FY2011.
 - D. SOAH performed 196.1 hours of work on 18 cases for the TSBP in FY2011, totaling approximately \$24,242 in direct hearings expenses and \$27,878 in total case expenses. These SOAH hours are significantly decreased from the 411 hours of work on 20 cases in FY2010, primarily due to the large number of cases that were resolved through negotiation and mediation following the filing of the case at SOAH
- 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 contract to provide licensing and disciplinary database system between the database vendor and both HPC and TSBP to determine compliance issues.
 - (2) General Counsel served as Fraud Coordinator for the agency.
 - (3) General Counsel participated in meetings regarding Risk Assessment and provided recommendations in the development of the agency's Risk Management plan.

LEGAL DIVISION

- (4) General Counsel reviewed contracts with NABP for provision of the NAPLEX and MPJE examinations for pharmacist licensure and for release of NAPLEX scores via secure internet access.
- (5) General Counsel reviewed Memorandum of Understanding with DEA regarding participation of a TSBP investigator on a tactical diversion task force.
- (6) General Counsel participated in the planning and development of agency teambuilding program, including reviewing the Memorandum of Understanding with the training facility.
- (7) General Counsel and Division staff provided legal advice and consultation on numerous personnel issues during FY2011, including:
 - (a) assisted with issues in various hiring/disciplinary processes and complaints against agency employees;
 - (b) advised regarding sick leave pool requests;
 - (c) provided legal advice regarding outside employment for agency staff;
 - (d) developed and reviewed performance plans and/or probation;
 - (e) interviewed applicants for new positions;
 - (f) assisted with resolution of complaints against agency employees; and
 - (g) reviewed policies in TSBP Employee Handbook.
- (8) General Counsel continued to serve as the agency's Ethics Advisor and continued to assist Board Members and staff with legal and ethical issues.
- (9) General Counsel consulted with other Division Directors regarding the evaluation of results of the Survey of Employee Engagement completed by agency staff.
- (10) General Counsel and Division staff participated in numerous meetings to develop and implement the new licensing and enforcement system.

B. Technical Assistance to Enforcement Activities

- (1) Division staff researched numerous issues, including the determination of crimes of moral turpitude and various forms of disposition for criminal cases.
- (2) General Counsel attended staff meetings, as requested, to provide legal guidance on inspection and investigative issues including obtaining evidence and issuing subpoenas.

LEGAL DIVISION

- (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 FY2011. Presentations included information about proposed Agreed Board Orders and proposed Board Orders following SOAH proceedings.
- (7) General Counsel assisted in the review and preparation of minutes of four regularly-scheduled Board meetings.
- (8) Division staff informed the Enforcement staff of disciplinary actions to be taken by the Board prior to entry of the orders, to ensure the correct information is immediately available on the computer system.
- (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 and with the contractor providing alcohol/drug screening for Board-ordered participants.
- (10) Division staff drafted ineligibility letters for pharmacist applicants who did not qualify for licensure under the Texas Pharmacy Act.
- (11) Division staff redacted numerous files to comply with orders of expunction regarding criminal offenses.
- (12) General Counsel submitted a letter and brief to the Open Records Division of the Attorney General's office regarding a city police department attempting to withhold information from the Board on criminal history.
- (13) General Counsel drafted a survey of Class D pharmacies for use by Enforcement.

C. Legal Services for Professional Services

- (1) 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 FY2011.
- (2) General Counsel assisted the Division of Professional Services with requests for public information in clarifying requests and requesting assistance from the OAG.

LEGAL DIVISION

- (3) General Counsel and Division staff assisted with the design and production of a video for the TSBP website on requirements for ownership of a pharmacy.

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 reviewed requests for accommodation under the ADA for legal compliance.

E. Other Legal Services regarding Pharmacy Issues

- (1) General Counsel participated in meetings and teleconferences regarding any pending pharmacy issues as required.
- (2) General Counsel and Division staff participated in the review of the question pool for the Multistate Jurisprudence Examination to ensure the validity of the questions in the pool.
- (3) General Counsel participated in teleconference meetings of committees to review requests for pilot projects and assisted with development of rules on related issues, including long term care pharmacies.
- (4) General Counsel participated and provided legal analysis for task force meetings, including the Long Term Care Pharmacy Task Force.

- 6. To review and monitor the Texas Register for Attorney General opinions; to draft requests for Attorney General Opinions throughout FY2011; 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 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 FY2011. John Langley resigned as the Assistant Attorney General assigned to TSBP from the OAG Administrative Law Division and was replaced by Ted Ross.
 - (2) Appeals; Injunctions; Civil Litigation

LEGAL DIVISION

- (a) General Counsel consulted with an attorney at OAG, Consumer Protection, regarding TDSHS case against a pharmacy also licensed as a wholesaler.
- (b) General Counsel coordinated representation regarding mandamus action involving release of confidential investigative information from the Professional Recovery Network.
- (c) Division staff coordinated representation with OAG attorneys regarding expunction of criminal matters also relevant to agency disciplinary actions.

(3) Requests for AG Opinions

Two requests for open records decisions were pending appeal by the OAG at the outset of FY2011. Division staff coordinated the legal representation regarding these cases.

(4) General Assistance

General Counsel answered questions from OAG attorneys regarding various pharmacy and/or agency issues.

7. To assist with open records requests throughout FY2011, 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. General Counsel reviewed written responses to open records requests, prepared by the Professional Services Division, for legal compliance with the Public Information Act in FY2011. In addition, the General Counsel assisted with clarifying certain open records requests requiring telephonic clarification, when legal issues were involved.
- B. Division staff handled requests for open records decisions for those open records requests that related to confidential information requiring a ruling from the OAG.

8. To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2011; 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 FY2011.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

LEGAL DIVISION

A. Surveys/Questionnaires and Other Correspondence

General Counsel and/or Division staff responded to following surveys:

- (1) Annual survey from the State Office of Administrative Hearings; and
- (2) Client survey from the OAG.

B. Technical Assistance to Other Agencies and Organizations

- (1) General Counsel and Division staff attended meeting with new Director of the Professional Recovery network to develop policies and procedures for handling of cases involving impaired pharmacists and pharmacy technicians.
- (2) Division staff attended Public Service Career Day at the University of Texas School of Law.
- (3) Division staff assisted the Texas Workforce Commission and the Texas Department of Licensing and Regulation with hearings on pharmacy technicians.
- (4) Division staff assisted the Iowa Board of Pharmacy with the prosecution of a case against a pharmacy licensed in both states.
- (5) General Counsel attended Texas Medical Board stakeholder meetings regarding modifications to licensing and enforcement rules. Division staff coordinated with the Texas Medical Board regarding the prosecution of pill mill cases.
- (6) Division staff provided information to Louisiana Board of Pharmacy regarding a pharmacist licensed in both states.
- (7) Division staff met with the contractor providing the agency's drug/alcohol screening program for pharmacists and pharmacy technicians to discuss program requirements.
- (8) General Counsel assisted and coordinated with the Harris County District Attorney's office and the Montgomery County District Attorney's office regarding prosecution of pharmacists.
- (9) General Counsel provided information to the Texas Department of Public Safety regarding requirements for patient identification for delivery of dangerous drugs.
- (10) Division staff assisted the Texas Board of Veterinary Medicine by providing information about requirement for dispensing by a veterinarian.
- (11) General Counsel assisted the Department of Motor Vehicles with survey on signature authority.

LEGAL DIVISION

- (12) General Counsel responded to an inquiry from the Texas Psychology Board regarding reporting requirements for HIPDB.
- (13) General Counsel participated in training session with new liaison from Governor's office.
- (14) General Counsel attended meetings of the Interagency Council for the implementation of HB 2730 with the Department of Public Safety and the Texas Medical Board regarding the prescription drug monitoring program and the controlled substance registration.
- (15) General Counsel participated in a planning meeting with DEA and the Texas Medical Board regarding enforcement of laws against pill mills in the Dallas area.
- (16) General Counsel assisted PTCB with requests for information in addition to disciplinary actions on pharmacy technicians certified by PTCB.
- (17) General Counsel provided information to UT Pharmacy School regarding SSN requirement on intern applications.

D. Technical Assistance to the Legislature

General Counsel and/or Division staff responded to questions from Legislators/legislative staff and Governor's staff regarding proposed and filed legislation and regarding pharmacy and/or agency issues.

E. Technical Assistance to the Press and the Public

- (1) Division staff answered numerous telephone calls from pharmacist and pharmacy technician applicants and licensees/registrants regarding the application process and the associated disciplinary process, including providing information about denial of registration and options for Informal Conference.
- (2) Division staff answered numerous questions from licensees, attorneys, and other members of the public regarding legal issues, including:
 - (a) licensing eligibility and requirements;
 - (b) effect of convictions and deferred adjudications and/or probation for various crimes on registration and licensure;
 - (c) applicability of pharmacy laws and rules; and
 - (d) schedules for resolution of pending cases.
- (3) Division staff participated as judge in a mock trial competition at the University of Texas School of Law.
- (4) General Counsel met with representatives of long term care pharmacies regarding interpretation of pharmacy laws and rules.

LEGAL DIVISION

- (5) General Counsel assisted with the Board's booth at the annual meeting of the National Association of Boards of Pharmacy in San Antonio.

9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2011.

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.
- B. General Counsel and Division staff assisted HPC staff with the development and implementation of the regulatory database system.
- C. General Counsel assisted HPC staff with review of the contract for provision of the regulatory database system.

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 FY2011.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

In FY2011, Division staff attended general staff meetings and in-house training sessions. In addition, Division attorneys attended required continuing legal education, and Division staff attended various programs, seminars, and events. Division staff also developed and planned for the staff training program on team building.

11. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2011.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division staff was evaluated on an annual basis, as required by agency policy.
- B. General Counsel conducted team meetings approximately once a month with Division staff.
- C. The Division hired a new staff attorney and two new legal assistants and trained these new employees to handle disciplinary cases against licensees and registrants.
- D. The Division interviewed for and had one legal intern in the fall of 2010 and two law clerks during the summer of 2011 to provide assistance with the preparation of legal cases.

LEGAL DIVISION

- E. General Counsel prepared and conducted orientations of all new TSBP employees and interns during FY2011 regarding the Legal Division, the legal process, ethics, and Public Information and Open Meetings Acts.

12. To destroy records in accordance with the agency's record retention plan throughout FY2011; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2011.

Status: ACCOMPLISHED

Comment: This objective was partially accomplished as follows:

A. Records Management

During FY2011, 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. In addition, Division staff devised and implemented a new shared directory structure for use by the Legal Division to simplify access to files.

B. Policies and Procedures

- (1) Division staff updated and maintained Disciplinary Notebooks containing all Board Orders and Agreed Board Orders.
- (2) Division staff updated notebook of samples of preliminary notice letters for pharmacist and pharmacy disciplinary actions and forms for various pharmacy technician and technician trainee PNLs and ABOs.
- (3) Division staff drafted and/or updated written policies and procedures for handling of cases to provide reference and training material for the Division positions.
- (4) General Counsel and Division staff reviewed and updated performance expectations to streamline associated workflow processes.

13. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures 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 FY2011.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- A. Division staff continued to improve on the presentation of informal conference material on the electronic board notebooks, which has resulted in increased accessibility of information and reduction of preparation efforts to create the paper notebooks.

LEGAL DIVISION

- B. Division staff continued to develop and improve on new processes for presentation of proposed disciplinary actions to the Board at Board meetings through the use of the electronic notebooks.
- C. Division staff continued the process of scanning and archiving all prior disciplinary actions in PDF files on shared drive for easy access by other divisions and began planning for the on-line access of these actions by the public.
- D. General Counsel served as co-chair on the agency's Wellness Committee, and coordinated the Maintain No Gain and developed other fitness challenge programs, including "Everybody! Everyday!" and "8 to 5 Summer Challenge." General Counsel also designed agency's wellness t-shirt with logo. In addition, General Counsel conducted agency survey regarding utilization of the program. The agency staff responded positively to the survey, and the results were used in the development of new programs.
- E. Division staff developed Calendar of Events for FY2011 for informal conferences and reserved conference rooms accordingly.
- F. General Counsel reviewed expenditures of seizure money for compliance with laws and policies.
- G. Division staff updated automatically generated letterhead which resulted in significantly reduced printing costs.
- H. Division staff participated extensively in development and transition to new licensing and disciplinary database system.
- I. General Counsel liaised with the Texas Real Estate Commission regarding combining efforts to address issues identified with the new regulatory database system.
- J. Division staff developed new procedure to have investigators collect written statements rather than sworn affidavits to address comments about potential bias by SOAH judge.
- K. Texas Pharmacy Act

General Counsel submitted numerous changes to the Pharmacy Act for approval by the TSBP regarding disciplinary and legal proceedings for the legislative session.
- L. Board Rules
 - (1) General Counsel drafted rule changes to disciplinary guidelines and disciplinary sanctions for all licensees, and reviewed and recommended modifications for rules changes presented to the Board.
 - (2) Division staff suggested new rules regarding the diversion of prescription drugs and the confidentiality of addresses.
 - (3) General Counsel implemented new rules for criminal history evaluation letters by developing a process and the associated forms.

LEGAL DIVISION

14. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2010 *Annual Report* to be presented to the Board by its May 2011 Board meeting.

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2010 *Annual Report* was submitted to the Executive Director by the due date. All Divisions' Annual Reports were compiled and subsequently presented to the Board at its meeting June 2011.