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## Office of the Executive Director

This FY2006 Annual Report reflects the objectives accomplished and activities conducted by the agency necessary to implement its *Strategic Plan*. The agency continued to enjoy an excellent reputation with a broad range of customers as a consumer protection advocate and also has the support of its activities by the regulated profession.

The numerous accomplishments achieved by TSBP staff are highlighted at the beginning of each division report. Although specific activities are highlighted under each Division Director's Objectives, TSBP experienced the following major accomplishments and constraints in FY2005.

### FY2006 SIGNIFICANT ACCOMPLISHMENTS

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

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

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

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

- B. S.B. 492 relating to Pharmacy Compounding – The Board reactivated the Task Force on Pharmacy Compounding to make recommendations regarding rules to implement this legislation. The Task Force met on October 11, 2005 and July 7, 2006, during FY2006 with a meeting scheduled in September 2006. The final report will be presented to the Board at the November 2006 meeting.
- C. H.B. 836 relating to Generic Substitution – Draft rules were presented to the Board at the August 2005 meeting. The rules were published in the September 5, 2005, issue of the Texas Register. The Board adopted the rules at the November 1-2, 2005, meeting, and the rules became effective on December 5, 2005. A sign with the new language was mailed to all pharmacies on November 20, 2005.
- D. S.B. 286 relating to Board Member Training – The Attorney General provided a free training video regarding open meetings and open records. Board members viewed these training videos at the August 1-2, 2006, meeting. New Board members were appointed in August 2006. The new Board members will view the videos during their orientation.
- E. H.B. 164 relating to the Over-the-Counter Sale of Pseudoephedrine – No specific action was required by the agency. However, a summary of the provisions of the bill was placed in the summer 2005 *Newsletter*. In addition, compliance staff is informing pharmacists of the provisions of the bill during inspections.
- F. S.B. 1188 relating to the Return of Prescription Drugs from Nursing Homes – The bill allowed the Board to request a waiver from the provisions of the federal Food, Drug, and Cosmetics Act. A letter requesting such a waiver was sent to Tom McGinnis of FDA on November 7, 2005. No response had been received by the end of FY2006.

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

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY02	1,836	+9%	2,137	+28%	116%	221 Days	-16%
FY03	1,935	+5%	1,887	-12%	98%	153 Days	-31%
FY04	4,475	+131%	3,018	+60%	67%	118 Days	-23%
FY05	3,086	-31%	3,327	+10%	108%	196 Days	+66%
FY06	3,550	+15%	3,387	+2%	95%	207 Days	+6%

5. 100% of the disciplinary cases against pharmacists and pharmacies and 99% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and expenditures.
6. In line with the agency's "lead agency" philosophy, TSBP investigators made an extremely large number of contacts with other law enforcement agencies (see Enforcement Ongoing Objective #4). Of significant note were two *grey market* cases (one in San Antonio and one in the Metroplex area) in which Enforcement Division staff worked with multiple federal agencies; the San Antonio case involved one pharmacy and two pharmacists, and resulted in the indictment of eight persons, while the Metroplex case involved 18 pharmacies and one pharmacist and resulted in the indictment of 15 persons. In addition, Carol Fisher, R.Ph., M.P.A., testified in two federal trials in Houston; these cases resulted in felony convictions of eight pharmacists (seven convictions involved non-therapeutic dispensing of controlled substances and one conviction involved counterfeit drugs).
7. Carol Fisher, R.Ph., M.P.A., Director of Enforcement and Ben Santana, Chief of Compliance served as preceptors to ten students from three colleges of pharmacy (see Enforcement Ongoing Objective #7 for further details).
8. The following TSBP Board Members and staff were appointed to offices, received honors, or received recognition in FY2006.
- A. Board member Oren M. Peacock, Jr., R.Ph., was elected to the office of President-Elect of the National Association of Boards of Pharmacy (NABP) at the 2006 annual meeting of NABP. As a result of this election, Mr. Peacock will serve one year as President-Elect, one-year as President, and one-year as Chairman of the Executive Committee of NABP.

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### FY2006 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

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

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#### 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.

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#### Objectives (New)

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

**Status:** **ACCOMPLISHED**

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

- A. Overall review of the *2007-2011 Strategic Plan* by the Board Members and agency staff (Internal Assessment) with a significant amount of input provided as to changes, issues, and updates that needed to be addressed; and
- B. Comments solicited from key pharmacy professional organizations, consumer advocacy groups, governmental agencies, and academic institutions.

The agency researched the trends and resulting issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years. The Board Members worked with staff to develop *Issue Statements* and approved the final *Strategic Plan* at the May 2006 Board Business Meeting. The TSBP *Strategic Plan* was published and delivered to the Governor's Office and other applicable agencies by the due date.

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

**Status:** **ACCOMPLISHED**

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

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3. **To direct the submission of the agency's FY2008-2009 Legislative Appropriation Request and corresponding performance measures by the due date.**

**Status:** **ACCOMPLISHED**

**Comment:** The *Legislative Appropriation Request* was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy (GBO) by the due date of July 28, 2006. The LAR included the items approved by the Board in May 2006, as well as a funding level at 90% of the agency's current funding. The agency's first budget hearing with the staff of the GBO and LBB was held on August 21, 2006.

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

**Status:** **ACCOMPLISHED**

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

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

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

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

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

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**Status:** PARTIALLY ACCOMPLISHED

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

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

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

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

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

**Status: ACCOMPLISHED**

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

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

**Status: ACCOMPLISHED**

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

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### Objectives (Ongoing)

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

**Status: ACCOMPLISHED**

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



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

Performance Measure		FY06 Projected Performance	FY06 Performance Attained	Projected Target Met?*
<b>A. Goal: Maintain Standards</b> - To establish and implement reasonable standards for pharmacist education and practice, and for the operations of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas.				
	<b>Outcome (Results/Impact)</b>			
	Percent of Licensees with No Recent Violations	99%	96.57%	Met
	Percent of Licensees Who Renew Online	75%	84.48%	Exceeded
	Percent of New Individual Licenses Issued Online	75%	80.17%	Exceeded
	<b>A.1.1. Strategy: Licensing</b> - To operate a timely, cost-effective application and renewal licensure system for pharmacies and pharmacists.			
	<b>Output (Volume)</b>			
	Number of New Licenses Issued to Individuals	870	1,091	Exceeded
	Number of Licenses Renewed (Individuals)	11,058	11,657	Exceeded
	<b>Efficiencies</b>			
	Average Licensing Cost Per Individual License Issued	\$10.44	\$11.89	Not Met
	Average Licensing Cost Per Facility License Issued	\$35.12	\$41.09	Not Met
	<b>Explanatory</b>			
	Total Number of Business Facilities Licensed	5,950	6,201	Exceeded
<b>B. Goal: Enforce Regulations</b> - To assertively and swiftly enforce all laws relating to the practice of pharmacy to ensure that the public health and safety is protected from the following: incompetent pharmacists; unprofessional conduct; fraud; and misrepresentation by licensees; and diversion of prescription drugs from pharmacies; and to promote positive patient outcomes through the following: reduction of medication errors by encouraging or requiring licensees to implement self-assessment programs and continuous quality improvement programs, including peer review processes; and enforcement of rules relating to patient counseling and drug regimen review, including prevention of misuse and abuse of prescription drugs.				
	<b>Outcome (Results/Impact)</b>			
	Percent of Jurisdictional Complaints Resulting in Disciplinary Action	10%	15.04%	Exceeded
<b>B.1.1. Strategy: Enforcement</b> - Emphasize preventative enforcement by conducting compliance inspections of pharmacies; providing technical assistance, licensee information, and educational programs; receiving, investigating, and resolving complaints; and monitoring compliance with disciplinary orders resulting from board adjudication.				
	<b>Output (Volume)</b>			
	Number of Jurisdictional Complaints Resolved	1,980	3,338	Exceeded
	<b>Efficiencies</b>			
	Average Time for Jurisdictional Complaint Resolution	120	208	Not Met
	<b>Explanatory</b>			
	Number of Jurisdictional Complaints Received	2,500	3,501	Exceeded
<b>B.1.2. Strategy: Peer Assistance</b> - Operate a peer assistance program.				
	<b>Output (Volume)</b>			
	Number of Licensed Individuals Participating in a Peer Assistance Program	175	149	Exceeded

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

**Status:** ACCOMPLISHED

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

3. To direct TSBP's "*lead agency approach*" to help assure coordination of TSBP activities with those of other state and federal agencies involved in the regulation of the practice of pharmacy throughout FY2006.

**Status:** ACCOMPLISHED

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

4. To review all federal statutes, regulations, and policies that may impact the regulation of the practice of pharmacy and make timely recommendations to the Board for implementation of any required Board actions throughout FY2006.

**Status:** ACCOMPLISHED

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

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

**Status:** ACCOMPLISHED

**Comment:**

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

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

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

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

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

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

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

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

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Date	Meeting
8/15/06	Meeting with representatives of compounding pharmacy
8/15/06	Meeting with Robert Nash, DSHS regarding disaster preparedness
8/21/06	LBB/GB0 Joint Budget Hearing on TSBP FY2008-2009 budget request
8/24/06	Technician Informal Disciplinary Hearings

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

**Status:**        **ACCOMPLISHED**

**Comment:**    The Executive Director attended 11 meetings of professional associations and committees of the associations to serve as a liaison for the Board as follows.

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

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

**Status:**        **ACCOMPLISHED**

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

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

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

**Status:** ACCOMPLISHED

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

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

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

**Status:** ACCOMPLISHED

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

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

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

**Status: ACCOMPLISHED**

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

- 11. To recommend changes to the Texas Pharmacy Act and rules, which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Board for consideration for action throughout FY2006.**

**Status: ACCOMPLISHED**

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

Amend the Texas Pharmacy Act to:

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



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

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

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

**12. To maintain a staff development program by encouraging Executive Office staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2006.**

**Status:** ACCOMPLISHED

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

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

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

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

- 13. To conduct periodic reviews and annual evaluations of Division Directors and Executive Office staff and to monitor evaluations of employees in all Board Divisions throughout FY2006.**

**Status: NOT ACCOMPLISHED**

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

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

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

**Status: ACCOMPLISHED**

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