

OVERVIEW OF AGENCY SCOPE AND FUNCTIONS

STATUTORY BASIS AND HISTORICAL PERSPECTIVE

The Texas State Board of Pharmacy is an independent state health regulatory agency, operating under the authority of its enabling legislation, the Texas Pharmacy Act (Occupations Code, Chapters 561-566) and the Texas Dangerous Drug Act (Health and Safety Code, Chapter 483).

The Pharmacy Act states:

"It is the purpose of this Act to promote, preserve, and protect the public health, safety, and welfare by and through the effective control and regulation of the practice of pharmacy and the licensing of pharmacies engaged in the sale, delivery, or distribution of prescription drugs and devices used in the diagnosis and treatment of injury, illness, and disease."

The Act goes on to say:

"The board shall enforce this Act and all laws that pertain to the practice of pharmacy and shall cooperate with other state and federal governmental agencies regarding any violations of any drug or drug-related laws."

Legislation that first recognized the need for regulation of the practice of pharmacy in Texas was passed in 1889. That year the legislature established boards of "pharmaceutical examiners" which were three-man committees in each senatorial district of the state. Pharmacists were tested and certified by these committees, although there was much inconsistency as to standards. Few records were kept and there was no central authority to coordinate the committees' activities.

To bring consistency and centralization to pharmacy practice regulation, the legislature passed the first Texas Pharmacy Act in 1907. This Act established the Texas State Board of Pharmacy as an independent state regulatory board. The first Board members took the oath of office on August 27, 1907, and in September of 1908, the agency was represented for the first time at the annual meeting of the National Association of Boards of Pharmacy (NABP). The agency joined NABP that year and thus reciprocal privileges were established with other member state boards.

Under the Texas Sunset Act, all state agencies have a limited life. The agency's life cycle is established in the Texas Pharmacy Act for a period of 12 years. As a result of 1993 amendments to the Act, the agency's existence was extended for another 12 years or until September 1, 2005.

THE KEY SERVICE POPULATION PERSPECTIVE

As identified in the agency's Mission Statement and the agency Internal and External Assessment, our key service populations are, in priority order:

- # **The Citizens of Texas** — directly, and indirectly through service to Texas Legislators who represent their constituents;
- # **Licensees** — pharmacists and pharmacy owners; pharmacy students and pharmacist interns;
- # **Executive and Judicial Officials and Other State and Federal Agencies;**
- # **The Pharmacy Education Community;** and
- # **Health-Related Corporations and Professional Associations.**

In focusing on our primary key service population, the citizens of Texas, TSBP recognizes the changing demographics of the state's population. In "A Summary of The Texas Challenge" by Dr. Steve H. Murdock, Department of Rural Sociology, Texas A & M University, the following statements are made:

"Texas will very likely enter the next century with more than 20 million persons, compared to 7.7 million in 1950 and 16.9 million in 1990. In just the first 8 years of this decade, Texas has added nearly 2.9 million persons. In the 1990s Texas has had the second largest numerical increase and the eighth largest percentage increase of any state in the nation. If current rates of growth continues, Texas will increase its population by nearly 100 percent between 1990 and 2030 and have nearly 34 million persons by 2030.

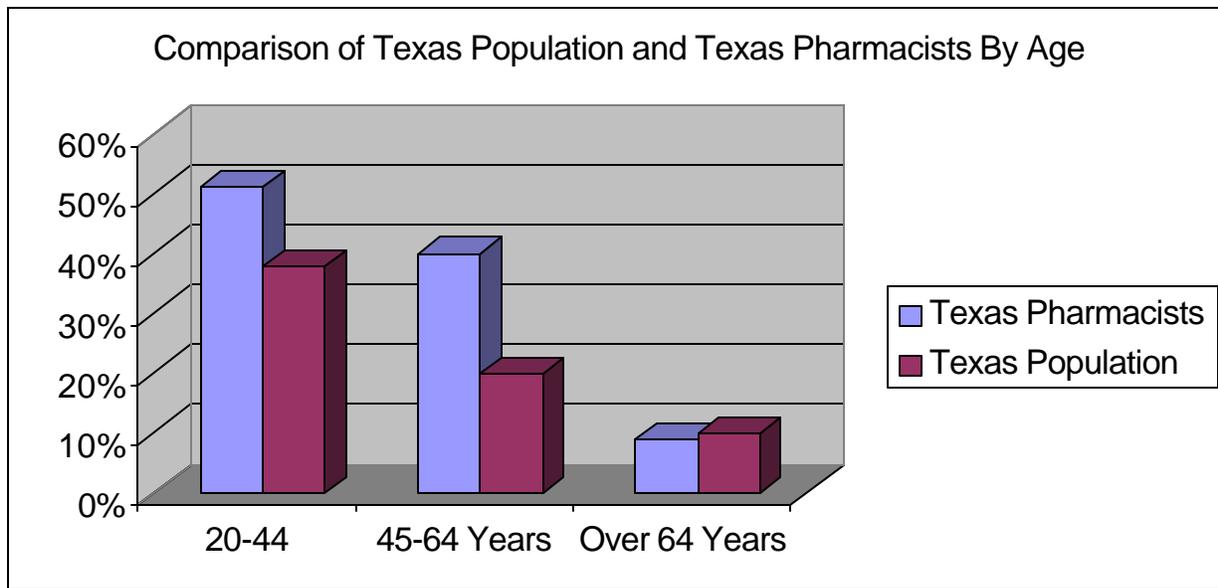
No factor is more important to Texas than the growth of its minority population. By 2008 Texas will be less than half Anglo and by 2030, the Texas State Data Center projects the State to be about 37 percent Anglo, about 9 percent African American, 46 percent Hispanic and about 8 percent of the population being from other racial/ethnic groups, primarily Asians. Roughly 87 percent of the net additions to the Texas population from 1990 to 2030 will be minority group members."

The Texas Comptroller of Public Accounts goes on to state that:

"Over the next 20 years, the number of Texans older than 65 will increase 81 percent. That means more people of retirement age and more products and services geared towards them. With an older population, there will be a growing need for alternative housing, transportation and health care."

With the above trends, the agency is presented with a challenge and a demand that we explore and respond to the patient care needs of every age and ethnic group, literacy level, and income level. **Chart 1** below shows a comparison of age distribution among the overall Texas civilian labor force, and the Texas pharmacist population.

Chart 1



Data is based on 2000 Texas Population of 20,851,820 and a Texas Pharmacist Population of 15,588.

MAIN FUNCTIONS

Of paramount consideration to the agency are the vitality and health of Texas' citizens, with a particular emphasis on consumer protection. The agency is acutely aware of its overall responsibility to regulate the practice of pharmacy in the state of Texas in the public interest.

In fulfilling its statutory mandate (and mission), the agency emphasizes five primary services which are delivered to a variety of customers:

- # **Information** — the provision of information on pharmacies, pharmacists, and related laws and rules; information on consumer issues such as generic drugs, patient counseling requirements; and the concept and implementation of pharmaceutical care;
 - # **Licensing** — the licensing and review of interns, pharmacists, pharmacist preceptors, and pharmacies, to ensure uniform standards, competency, and public safety;
 - # **Enforcement**
- P** the monitoring of pharmacies, interns, and pharmacists for compliance with the laws and rules, including specialized requirements regarding the handling, safeguarding, and distribution of prescription drugs and devices; and

- P** the oversight of the complaint process and investigation of alleged violations of pharmacy laws and rules; monitoring licensees who are subject to disciplinary orders; the provision of public information regarding complaint and disciplinary actions;
- # Legal** — the prosecution of licensees found in violation of pharmacy laws and rules, and the rendering of legal advice and support to Board and staff.

The Agency Approach

The Texas Pharmacy Act gives TSBP exclusive responsibility in Licensing services, but does not give such exclusivity in its Information, Enforcement or Legal Services areas. Information Services regarding the profession are, in part, provided by the colleges of pharmacy, professional associations, and consumer advocacy groups. Enforcement and Legal Services are provided by the agency, together with other state, federal, and local agencies associated with law enforcement.

Although agencies such as the Texas Department of Health, the Department of Public Safety, the Federal Food and Drug Administration, the Drug Enforcement Administration, and local police departments have specific jurisdiction over various aspects of the practice of pharmacy in Texas. Their jurisdictions do not usurp or preclude the authority of the agency in carrying out its responsibilities. In fact, licensure of pharmacists and pharmacies by the agency is a prerequisite to other agencies' jurisdiction and regulation. As a result, and in line with the agency's statutory responsibility, the Board has historically taken a "lead agency" role in the regulation of the practice of pharmacy.

The agency has also developed excellent working relationships with the Texas State Board of Medical Examiners (TSBME), Board of Nurse Examiners (BNE), and other state health profession regulatory agencies.

This *lead agency* approach implements Section 554.001 of the Texas Pharmacy Act which states: *The Board shall "cooperate with other state and federal agencies in the enforcement of any law relating to the practice of pharmacy or any drug or drug-related law;"*

In the meantime, the agency continues (and aspires) to build ever-increasing, dynamic partnerships and coalitions in meeting the challenges that lie ahead for the agency as a whole and in the addressing of each of the Policy Issues. One of the greatest strengths the agency has in being able to form these coalitions is the fact that the agency is an independent state agency.

SUCCESS OF AGENCY IN MEETING DEMAND

Licensing Services

Pharmacy practice involves a wide range of tasks and services including accountability and record-

keeping aspects, activities related to the processing of prescriptions, distribution of prescription drugs, patient care functions, and educational activities related to patients and other health-care professionals.
In

addition, since pharmacists are held accountable for the dispensing of prescription drugs from pharmacies, there is a small, but nonetheless real, potential for pharmacists to contribute, wittingly or unwittingly, to the exacerbation of the problem of drug misuse and abuse.

In terms of the coverage of regulation, the pharmacy profession is the only regulated, licensed health profession in which the body of regulation covers three distinct but interrelated and inseparable elements.

- # Practitioners (Pharmacists) — this element of regulation includes setting standards for the education, experience, and competencies a candidate must attain to become licensed as a pharmacist in Texas. It also involves the ongoing monitoring and review of the pharmacist's practice to assure all established legal standards governing the practice of pharmacy are being adhered to in the interest of the public health and safety.
- # Facilities (Pharmacies) — this element of regulation includes the requirements necessary for the establishment and operation of a pharmacy. Ongoing monitoring of these facilities is carried out to help assure they are operating within the legal requirements set for security, prescription drug, and other record-keeping requirements relating to consumer protection.
- # Products (Prescription Drugs and Devices) — this particular element of regulation includes the requirements of state and federal law regarding prescription drug distribution and involves specific requirements regarding handling, safeguarding, and distribution of prescription drugs and devices through pharmacies by pharmacists.

Pharmacist Licensure

The licensee population continues to grow, directly resulting in increased workload in all areas of licensing (examination, internship, continuing education, pharmacists' changes of address/employment records), and licensure renewals, as well as all related telephone calls and correspondence. In order to partially address this increasing workload, the Board has implemented such initiatives as the biennial renewal of licenses, on-line renewal of pharmacist licenses, and a web-based mechanism to verify licensure status. The Board will continue to look toward implementing other initiatives, as a means to reduce workload and more efficiently serve the public.

From FY94 - FY01, the agency has experienced the following increases:

- (1) From 17,681 to 20,679 (17%) pharmacists licensed;
- (2) From 5,096 to 5,603 (10%) pharmacies licensed.

Pharmacy (Facility) Licensure

While the number of pharmacies has increased at a slower pace than pharmacist licenses, quantity issues do not reflect the complexity of regulating pharmacies. The agency licensed four different Classes of Pharmacy during FY88-91, increasing to five Classes of Pharmacy in FY92. In addition, in

FY02, the agency added a new category of pharmacy regulation - Remote Pharmacy Services using automated pharmacy systems and telepharmacy systems. Although this license will be viewed as an extension of an existing pharmacy license, it is expected that approximately 1,400 of these "satellite pharmacies" will require approval in this fiscal year. As mechanisms for providing pharmacy services to patients continue to

diversify, the agency fully expects that the number of pharmacies (and possibly the Classes of Pharmacy) will continue to increase over the next five years.

Pharmacy Technician Registration

Patient safety and professional competence will remain a prime focus of the agency's Licensing and Enforcement efforts. The emerging issue of the registration of pharmacy technicians will play a key role in the overall patient care issue. Pharmacy technician training and regulation issues will have an impact on not only the agency, but educators and practitioners as well.

During the 76th Legislative Session, S.B. 730 was passed, which required TSBP to begin registering pharmacy technicians effective September 1, 2001. It is important to note that *no funding* was appropriated to the agency to implement this critical program during the 76th Legislative Session; therefore funding needs were identified in the agency's Legislative Appropriation Request for FY2002/2003. In preparing the budget request for the 77th Legislative Session, TSBP estimated that there are between 20,000 and 25,000 pharmacy technicians in Texas. As of September 1, 2001, there were actually 20,357 certified pharmacy technicians in Texas, which represented 21% of the nation's 97,974 certified pharmacy technicians.

Currently, the agency licenses approximately 20,000 pharmacists and 5,600 pharmacies. An additional 20,000 pharmacy technicians would have a dramatic effect on the agency's operations, since it would almost double the number of licensees. Therefore, the agency's 2002-2003 Legislative Appropriation Request included a request for additional appropriations to begin registration of pharmacy technicians. Although the Senate version of the appropriations bill funded the agency with funds and personnel to implement the pharmacy technician registration program, the House version of the appropriations bill, which contained no funding, was the version that passed. Thus, TSBP now has an unfunded mandate. TSBP will again seek funding in the FY2004-2005 Legislative Session.

TSBP remains solid in the belief that pharmacy technicians should be registered and that TSBP should have the authority to remove that registration. Regulation of pharmacy technicians is needed to ensure that individuals possess the skills and knowledge sufficient to safeguard public safety and allow the Board to discipline those individuals who violate the law. Registration will identify pharmacy technicians and their place of employment, and give authority to TSBP to remove from the profession, any pharmacy technicians deemed incompetent or dangerous to the public.

Enforcement Services

TSBP has a two-pronged approach to enforcement. One approach is based upon "prevention" because TSBP believes that 95-98% of its licensees will obey the laws and rules governing the practice of pharmacy, if the licensees are well-informed. A review of prior reports of TSBP performance measure *Percent of Licensees with No Recent Violations* proves that preventive enforcement is working well. The preventive program includes: (1) compliance inspections (of pharmacies); (2) publication of *TSBP Newsletter*, which contains information about new laws and rules; Q&A (most frequently asked

questions); Disciplinary Orders (names of licensees and brief description of allegation and sanction); and helpful articles relating to practicing pharmacy in compliance with pharmacy laws/rules; and (3) technical assistance (available by telephone, email, and via website, live presentations, and professional exhibits). In FY01, TSBP met its performance measure relating to the number of inspections conducted (approximately 2,300 inspections per year). However, TSBP would prefer to inspect pharmacies more often than it does now (which is approximately every two to three years), because a longer period of time between inspections generally results in a greater number of pharmacies being in non-compliance with the Texas Pharmacy Act and Texas Drug Laws. Currently, TSBP licenses approximately 5,600 pharmacies and employs five Compliance officers to inspect these pharmacies. If TSBP is to continue its preventive enforcement efforts through routine, unannounced inspections, additional field Compliance staff must be obtained.

TSBP's other approach to enforcement is through investigation of complaints, and if substantive evidence is obtained, the institution of disciplinary action against the applicable person. However, TSBP has limited resources to investigate complaints in a timely manner. The agency's average complaint resolution time has increased (262 days in FY01 as compared to 118 days in FY95). The large complaint backlog is the primary reason for the increased complaint resolution time. (See chart below).

Fiscal Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY97	1736		1697		98%	171 Days	
FY98	1314	-24%	1504	-11%	114%	222 Days	+30.00%
FY99	1533	+17%	1335	-11%	87%	221 Days	-0.45%
FY00	1577	+3%	1513	+13%	96%	220 Days	-0.45%
FY01	1683	+7%	1667	+10%	99%	262 Days	+19.00%

The number of complaints that are received by TSBP (and the backlog of complaints) will continue to grow, due to the following two factors:

- (1) beginning in FY00, insurers are required to report malpractice claims to TSBP; and
- (2) if the agency is funded, beginning in FY04, the addition of the registration of pharmacy technicians.

The impact of the malpractice reports is beginning to be felt by the agency. In FY2001, the agency received 55 malpractice reports and during the first 6 months of FY2002, the agency has received 150 reports. This increase has a "domino effect" (e.g., more claims mean more investigations, more

disciplinary actions, and more monitoring of compliance with disciplinary orders). The registering of pharmacy technicians is going to have a dramatic effect on enforcement services. As previously explained, this change will double the agency's licensee population, which will, more likely than not, double the workload on the agency's investigators (to investigate complaints involving technicians), as well as double the workload on the agency's attorneys (to adjudicate/discipline technicians). Accordingly, for TSBP to be able to swiftly investigate and adjudicate licensees, additional investigators will be needed.

During the past five years, TSBP has also experienced increased demands for the following enforcement-related services:

- (1) Probation/Monitoring services — For the past several years, approximately 80-90% of TSBP's disciplinary orders have required some type of monitoring. TSBP has approximately one FTE who monitors probationers.
- (2) Requests for Public Information — Since TSBP implemented its website in 1998, the Agency has experienced a decrease in requests for information, particularly verbal requests (e.g., inquirers telephoning the agency for information regarding disciplinary orders entered against a pharmacist or pharmacy). (See chart below). Nonetheless, these requests are handled by the same Enforcement staff that handle complaints.

OPEN RECORDS REQUESTS HANDLED BY ENFORCEMENT DIVISION — FY97 through FY01

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
FY97	935	1,321	299	1,277	1,234	2,598	103	217		
FY98	1,063	1,538	452	2,730	1,515	4,268	126	356	+23%	+64%
FY99	544	841	413	4,953	957	5,794	80	483	-37%	+36%
FY00	168	177	339	2,078	507	2,255	42	188	-47%	-61%
FY01	124	125	276	3,642	400	3,767	33	314	-21%	+6

Because TSBP has no FTEs who are specifically employed to handle requests for enforcement information, persons who are assigned these duties must respond to the requests in addition to their "regular" duties. Accordingly, a heavy workload for "open records requests" has a negative effect upon the agency's average complaint resolution time.

TSBP believes that its two-pronged approach to enforcement is cost-effective. However, to ensure that the public health and safety are not compromised, TSBP needs adequate human resources to enforce the laws and rules governing the practice of pharmacy.

Telecommunication System Services

Information services, and the demand for such, arise partly out of constant and complex changes occurring in pharmacy practice and partly due to the continued rise in the population of licensed pharmacists in Texas. However, the primary demand for information services is due to the increased awareness of the public, both pharmacists and consumers, of the role of the agency.

In today's environment, every state agency is expected to do more with less. In order to address the number of inquiries being received by TSBP, particularly the licensing and enforcement divisions, TSBP established a comprehensive and user-friendly web site to improve services and accessibility to its customers. The site contains consumer information, including procedures regarding the complaint process and an on-line complaint form, new and ongoing licensing information, a reference site for pharmacy-related information, and important information regarding the agency's laws and rules. One important feature of the website (for consumers as well as licensees), is a license verification link that enables the user to verify the licensing and disciplinary status of pharmacists and pharmacies. In FY2001, this web site recorded approximately 90,000 inquiries on the main page and 56,000 inquiries on the license verification page. Although public access to this web site has reduced the number of telephone calls received by the Licensing Division, the number of electronic inquiries (e-mails) has grown dramatically, as more and more customers realize the ease and accessibility of electronic communication.

It is certain that progress cannot be made unless additional staffing is also seriously considered. Projected growth, coupled with a lack of funding, will most certainly affect the agency's ability to maintain its current (much less its desired) level of services.

HEALTH PROFESSIONS COUNCIL - A MODEL FOR REGULATION

As stated in the Texas Sunset Advisory Commission Staff Report (October 1992), efforts throughout the past 40 years to create a centralized licensing agency in Texas have received only lukewarm support. During development of legislation to implement the recommendations of the Texas Performance Review, the Sunset Commission took another approach, and questioned what result the consolidation efforts were trying to achieve, other than simply that of ending up with one large, bureaucratic organization. The Sunset staff analysis indicated that a majority of the following positive benefits can be achieved in a constructive manner:

- # coordination of overall policy;
- # economies of scale;
- # standardization of functions;
- # improved public access to services; and
- # the potential for better enforcement.

A further review indicated, however, that a majority of these measures could be achieved in a constructive manner, without consolidating regulatory agencies under one "super-agency."

With these thoughts in mind, the *Health Professions Council (Council)* was created by the 73rd Legislative Session, to be called. The purpose of the Council is to provide a means for the agencies represented to coordinate administrative and regulatory efforts. The Council is made up of representatives from the following agencies:

- # Board of Chiropractic Examiners;
- # Board of Dental Examiners;
- # Board of Medical Examiners;
- # Board of Nurse Examiners;
- # Board of Vocational Nurse Examiners;
- # Board of Occupational Therapy Examiners;
- # Texas Optometry Board;
- # Board of Pharmacy;
- # Board of Physical Therapy Examiners;
- # Board of Podiatry Examiners;
- # Board of Examiners of Psychologists;
- # Board of Veterinary Medical Examiners;
- # Department of Health, Professional Licensing and Certification Division; and
- # Office of the Governor.

The Council has provided a valuable forum for health licensing agencies to discuss and reach consensus on ways for agencies to operate together in a more effective and efficient manner, without sacrificing the independent efficiency and effectiveness of each agency.

The Council has made tremendous strides in accomplishing efficiency and effectiveness through administrative sharing and cooperative teamwork. Eleven Council committees involving approximately 40 staff members from member agencies were appointed to study and make recommendations on the functional and programmatic assignments of the priority objectives. The following is a summary of accomplishments from FY94-2002.

- # Implementation of a plan to collocate the Council agencies to the state-owned William P. Hobby Jr., Building. The accomplishment of this objective was a major success for the Council agencies during fiscal years 1994 and 1995.
- # Establishment of a "1-800" complaint system to provide assistance and referral services for persons initiating a complaint related to a health profession regulated by the state. Approximately 1,930 consumers call the toll-free complaint line each month. Of these, approximately 1511 are routed to member agencies to request complaint forms and more than 419 per month receive other assistance from the HPC administrative staff.
- # Development of a Training Manual for board and commission members.

- # Sharing of administrative functions has resulted in increased efficiency and eliminated duplications. Examples include a centralized mail center and reproduction center.
- # Use of a *"purchasing pool"* provides use of trained and certified purchasers to agencies too small to have such expertise.
- # Consolidation of library resources by centralizing audio and video staff development tapes for use by all member agencies.
- # Sharing of legal library resources through the issuance of library cards to key staff for access to the legal libraries of the Pharmacy and Medical boards.
- # Coordination of Legal Services to discuss legal issues of joint concern to Council agencies.
- # Sharing of an information technology support person allows agencies to meet technology needs at a greatly reduced cost.
- # Development of core policies and procedure statements for common areas such as travel, open records, and records retention. These statements are resources for Council agencies to use in developing individual agency manuals, saving staff time, and assuring consistent quality.
- # Sharing an electronic imaging system for data storage.
- # Completion of Complaint Study as mandated by 77th Texas Legislature.

In its December 1995 report entitled *Reforming Health Care Workforce Regulation*, the Pew Health Professions Commission cited the Health Professions Council as an innovation. The *results* of this cooperative structure have already been demonstrated by the many aspects described previously. As the Council pursues additional opportunities for improvement among member agencies, the primary goals envisioned by the legislative leadership should be met.

STATEWIDE BENCHMARKING

Michael Spendolini defines *"Benchmarking"* as *"the continuous systematic process of evaluating the products, services, or work processes of organizations that are recognized as representing best practices for the purposes of organizational improvement"* (Benchmarking Book, 1992). In January 1995, the Governor's Executive Development Program (Class XIII) published a Task Force Report entitled *Benchmarking and Customer Service Satisfaction as Measures of Governmental Effectiveness*, in which *"Benchmarking"* was defined as *"a system of internal and external comparison, coupled with identification of best practices toward which agencies should strive to achieve."* This Task Force Report also quoted the International Benchmarking Clearinghouse's definition of *"benchmarking"* as *"the practice of being*

humble enough to admit that someone else is better at something and being wise enough to try to learn how to match and even surpass them at it.”

TSBP supports the concept of benchmarking and procedural changes which would improve the agency's work processes. The desired end result would be meaningful change. In fact, in November 1999, TSBP contracted with the Management Advisory Services (MAS) of the State Auditor's office to evaluate TSBP's workflow processes relating to the resolution of a complaint. This particular work study was chosen because TSBP determined that improving (speeding up) the resolution of complaints would provide optimal value to complainants, as well as subjects of complaints (primarily licensees). The MAS study pointed out areas of improvement to streamline administrative functions. Many of these recommendations have been implemented. The impact of the changes are being monitored by the agency to determine if these changes will reduce TSBP's average complaint resolution time.

Description of Agency Benchmarking Process

In an attempt to compare its performance with another agency or organization, TSBP reviewed the following sources for information:

- # **National Level** — TSBP contacted the National Association of Boards of Pharmacy (NABP) to determine if national standards exist for any of the performance measures reported on a regular basis to the Legislative Budget Board (LBB) and Governor's Office (GO). NABP collects information from other state boards of pharmacy, but does not have data with regard to performance measures.
- # **Private Sector** — The process of licensing and enforcing the laws and rules governing the practice of pharmacy are not carried out by the private sector. Accordingly, TSBP was unable to review similar service providers in the private sector.
- # **Other Agencies in Texas** — TSBP conducts services similar to other health licensing boards in Texas, which are required to collect and report data to LBB and GO with regard to performance. TSBP is a member of the Health Professions Council (HPC), as are all other Texas health licensing agencies. HPC publishes an annual report each year which includes the following information for each member agency: number of licensees, number of complaints resolved, average complaint resolution time, and number of disciplinary orders. When reviewing HPC Annual Reports and comparing statistics between HPC member agencies, TSBP appears to be either “best in class” or near to it when comparing TSBP to agencies having a similar size licensee population and/or similar workload (e.g., number of complaints received).

In addition, in an attempt to identify “best practices,” TSBP personnel continue to review applicable

literature [e.g., *Governing* (monthly publication)] and attend training sessions (e.g., *Managing for Results*).

THE ORGANIZATIONAL PERSPECTIVE

Board Structure

The policy-making body of the agency is a nine-member Board appointed by the Governor, with concurrence of the Senate, for overlapping six-year terms. Six members must have been registered pharmacists in Texas for five years immediately preceding appointment, be in good standing with the Board, and continue to actively practice pharmacy while serving. In addition, the Board must have representation for licensed pharmacists who are primarily employed in Community and Institutional pharmacies. Three members of the Board must be representatives of the general public (i.e., non-pharmacist, consumer representatives).

An ongoing significant part of the policy-making structure of the agency is the Board's use of professional ad hoc task forces in its pre-rulemaking process. These ad hoc task forces are composed of individuals who possess expertise helpful to the Board, both in the initial development and modification of agency rules. The result is that the rules governing pharmacy practice are formulated in the best interest of the public and, at the same time, represent an appropriate level of regulation.

The Executive Director/Secretary serves as the executive officer of the agency, and as such is an ex-officio member of the Board. The Executive Director/Secretary is responsible for advising the Board on policy matters, implementing Board policy, and managing the agency on a day-to-day basis.

Agency Divisions and Staff Management

The agency's office headquarters is located at 333 Guadalupe Street, Suite 3-600, Austin, Texas, in the central quadrant of the city. Agency staff totals 47 positions, consisting of five management, 23 professionals, and 19 administrative support staff. Five of the seven Compliance Officers, and five of the six Investigators operate in field areas outside the main office and function under the supervision of their respective Division Directors.

Pharmacy practice regulation is unique since it regulates individuals (pharmacists), facilities (pharmacies), and products (prescription drugs). Therefore, interaction and coordination between the Divisions of the agency and their staff members are crucial and integral parts of the effectiveness of our efforts.

The agency licenses approximately 21,000 pharmacists and 5,600 pharmacies over a land area of approximately 270,000 square miles. Limited Compliance and Investigative staff are challenged in the regular monitoring of these licensees by travel distances. All geographic regions are served by the agency. The field staff of five Compliance Officers and five Investigators are assigned regions which encompass the entire state, including the Texas border regions. In addition, medically under-served areas present specific challenges for comprehensive inspection/investigative efforts. These areas are defined as locales where medical care and, specifically, pharmacy services may be inaccessible due to distance and lack of transportation, and lack of (or inadequate) insurance coverage. Such situations

may occur in rural, sparsely populated areas of the state and, conversely, in some densely populated urban areas of Texas.

The agency operates under a modified system of Management-By-Objectives (MBO). Goals and objectives are reviewed and approved annually by the Board members. These objectives are directly tied to the agency's *Strategic Plan* and "operationalize" the *Strategic Plan*. The Executive Director manages the staff to accomplish the adopted objectives.

Regarding management structure, the Director of Administrative Services and Licensing is responsible for overall supervision of the Licensing and Administrative Services programs. The Directors of Enforcement and Professional Services, and Legal Support are responsible for their respective programs and personnel. Information program services are shared among the Divisions of the agency. An organizational chart of the agency can be found in *Appendix B*.

Human Resource Investments

Human resource investments are crucial to the continued efficiency and effectiveness of agency operations. In Texas government, as in the private sector, we must pay adequate wages if we expect to attract and retain quality employees. ***Our employees are our most valuable resource and Texas cannot afford to have less than the best.*** In addition to the initial investment of hiring qualified staff, the meeting of each employee's ongoing professional development and training needs is also crucial to the success of agency operations.

Board members are dedicated to their role as policy-makers, and the staff to their role as implementers of this policy. Through these complementary roles, the Board and staff form an efficient team, achieving consistently effective agency performance.

Human resource investments, such as provision of up-to-date technology and ongoing training for agency staff, help position the agency as public and private sector employers compete for the same workforce pool. The agency has a distinct advantage in that it has a highly educated and qualified staff who carry out their responsibilities in an efficient and effective, customer-service oriented manner. This proactive, progressive work environment, along with the general reputation of the agency, has definitely been an asset when recruiting staff. However, the fact that state salaries are not competitive with those in the private sector continues to impact agency operations. This impact is most keenly evidenced by the agency staff turnover rate and by the hours of staff overtime required to cope with the work overload of the agency.

Staffing Pattern and Profile

Agency employee turnover increased from 15% in FY96-97 to 20% in FY98-99 and dropped to 18% for the FY00-01 biennium. The pharmacist turnover rate for FY2001 was an alarming 53.33%. Even more dramatic are the number of pharmacist service years that were lost in one year - a total of 32 1/5 years of experience, with one pharmacist taking nearly 26 years of agency experience with him.

Because of the inequity between pharmacists' salaries in state government and the private sector, it took eight months for the agency to fill its West Texas Region. This was in spite of two direct mailings to area pharmacists. Still, the TSBP had only nine applicants for this position.

This loss of pharmacists staff is especially disturbing since the pharmacist staff are a part of the secession for the Executive Director position since the Executive Director is required to be a pharmacist.

In addition, during the last two years, the agency lost its Director of Investigations, three of its four field investigators, and one in-house investigator. These investigators had an average of 16.19 years of Pharmacy Board experience.

The reason for the high turnover rate in both the pharmacist and investigator job classes can be directly attributed to retirement, salary dissatisfaction, increased workload as a result of legislative initiatives, and lack of any intrinsic rewards. Employees are continually asked to do more with less. In order to accomplish our mission to protect the citizens of Texas, the field compliance officers and field investigators travel four days out of the week.

The growth in Texas' minority populations may have significant ramifications for the agency's workforce, specifically in the pharmacist (Compliance/Enforcement Officer) category. Attempts to recruit qualified minority pharmacists have been difficult due to the significant differences in salaries compared to private sector employment, and to the pool of licensed pharmacists who are minorities. The agency has, however, recently succeeded in employing minority pharmacists. **Table 1** shows a comparison of race distribution among the overall Texas civilian labor force, the Texas pharmacist population, and the agency non-manager pharmacist positions for FY01.

Table 1

Race	Texas Population Race Distribution	Texas Pharmacists Population Race Distribution	TSBP Non-Manager Pharmacists Population Race Distribution
Anglo	52.4%	68%	66%
Hispanic	32.0%	09%	17%
Black	11.5%	11%	17%
Other	4.1%	12%	0%

The agency's overall workforce profile, as shown in **Table 2**, indicates that the agency needs to increase its efforts to recruit and retain qualified minority applicants at all levels of job categories.

Table 2

Total Agency Employees	WHITE		BLACK		HISPANIC		OTHER		TOTAL		
	M	F	M	F	M	F	M	F	M	F	Tot

ADMINISTRATORS	1	4	0	0	0	0	0	0	1	4	5
PROFESSIONALS	10	9	0	1	2	1	0	0	12	11	23
PARA-PROFESSIONALS	0	7	0	3	0	2	0	1	0	13	13
ADMIN SUPPORT	0	1	0	1	0	2	0	0	0	4	4
TOTALS	11	21	0	5	2	5	0	1	13	32	45

*Data reflects actual staff as of 8/31/01. Unfilled positions are not reflected.

Historically Underutilized Businesses

It is the intent of the Legislature that each state agency receiving appropriations shall, in acquiring, constructing, or equipping new or existing facilities, and in the operational implementation of each strategy funded, make a good-faith effort to include historically underutilized businesses (HUB) in the following categories:

Category	Actual FY01	Agency Goal for FY03
Professional Service Contracts	0.0%	18.1%
Other Services Contracts	5.5%	33.0%
Commodities Contracts	7.3%	11.5%

The agency attempts to use every HUB listing in bidding for delegated services. The agency must also satisfy requirements listed in the overall bid process for delegated services. Other constraints in implementing the overall goals are expenditures that are proprietary in nature and must be awarded to a single vendor. For example, the agency contracts with the Northrup Grumman Technical Services for computer services. The contract with Northrup Grumman Technical Services compliments the original Statement of Work, Terms and Conditions between the Department of Information Resources and the Northrup Grumman Technical Services. If payment for these expenditures was excluded from the FY01 HUB Report - Other Services Contracts, the actual percent spent with HUB would equal 8%.

The agency has made a dedicated effort to satisfy the requirement for soliciting at least one HUB-certified minority and one women-owned business in the three bids solicited for each delegated spot purchase. The above constraints notwithstanding, the agency will increase its good-faith efforts by developing and using an agency HUB Policy as the basis for obtaining the HUB participation goals.

Capital Improvement Needs

The agency projects one-time expenditures in the area of renovations of building and other facilities due to the projected increase of in-house staff from 47 FTE's to 56 FTE's in FY2004-05. The current office space will not accommodate these additional staff members. In addition, the agency's information resources budget for the next biennium will include capital budget items relating to the replacement of existing hardware/software and new hardware/software due to the addition of new personnel. A complete discussion of the agency's Information Resources needs can be found in *Appendix G*.

Information Resources Management Strategic Planning

The agency Strategic Plan for Information Resources, as well as the Agency Biennial Operating Plan, outlines any additional or updated information resources necessary to continue to regulate effectively in the coming years. This document is referenced under *Appendix G*.

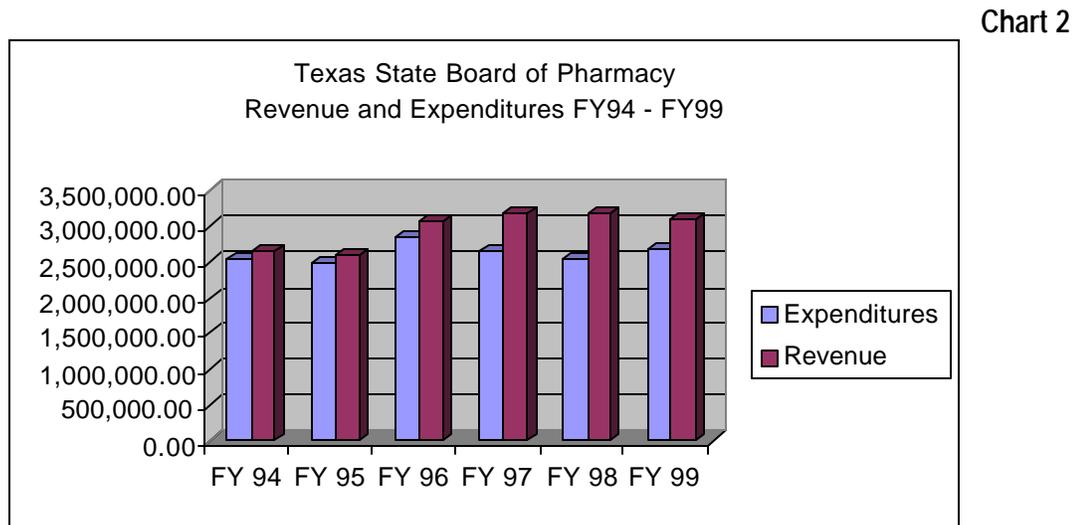
THE FISCAL PERSPECTIVE

Current Funding

The agency's operating budget for fiscal year 2002 is approximately \$3.2 million, which includes all Legislative appropriations. In addition, other direct and indirect costs of approximately \$742,234 are charged to the agency. The indirect costs include such items as the agency's payroll-related costs, bond debt service payments, and indirect costs relating to the Statewide Cost Allocation Plan.

The agency is totally self-supporting, in that the operations of the agency are supported primarily from statutory fees related to licensing, reciprocity, and examinations. The general operating fund of the Board is considered a special revenue fund account within the State Treasury.

Chart 2 analyzes the agency's revenues and expenditures for a six-year period (FY96 - FY01).



The agency also maintains a Fines Account for fines collected by the agency which are deposited in the State's General Revenue Fund. From FY96 through FY01, the agency collected and deposited \$444,084 of fine revenue into the General Revenue Fund.

Future Funding

One key factor that continues to affect the ability of the agency to serve and protect the public interest is the increased demand for agency services in every area of its operation. Dramatic increases in the demand for licensing, enforcement, and information services are well-documented throughout this *Strategic Plan* and in the agency's budget requests. This 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.

The agency has the authority and mechanisms necessary to generate the revenue needed to support its *Strategic Plan* and Budget Requests. However, in the past, Legislative appropriations have represented a level of funding that is hampering the agency's ability to maintain an acceptable level of performance. A major funding issue that must be addressed is the lack of funding for the registration of pharmacy technicians.

S.B. 730, as passed by the 76th Texas Legislature, requires the agency to begin registering pharmacy technicians September 1, 2001. *No additional funding* was included in this bill, nor was funding approved by the 77th Texas Legislature. TSBP will again seek funding in the FY2004-2005 Legislative Session.

Approximately 20,000 pharmacy technicians currently practice in Texas. The impact of this population as registrants would significantly increase the agency's current population of licensees (*20,000 pharmacists and 5,600 pharmacies*). A dramatic and substantial amount of resources will be required to implement this registration program. The Licensing Division will be immediately impacted, followed closely by an unprecedented escalation of services required in the Enforcement areas of the agency both at initial certification, addressing continued competency of pharmacy technicians, and most importantly, ensuring that the public health and safety are not compromised.

If the agency is to accomplish its mission and be *proactive* rather than *reactive* in its mission to protect the public health, it must be funded at an adequate level. Failure to receive this funding over the past two bienniums has severely impacted the agency's ability to provide quality customer service, information, and protection to the citizens of Texas.

Degree to Which Current Funding Meets Current and Expected Needs

The Agency currently has an unfunded mandate with regard to the registration of pharmacy technicians. Funding for this appropriation will require a new pharmacy technician fee, which will be outlined in the agency's Legislative Appropriations Request. Failure to provide increased funding for this new mandate will negatively impact the health care of the citizens of Texas by continuing to allow pharmacy technicians to be unregulated.

In addition to this unfunded mandate, the agency received mixed results from the 77th Texas Legislature. Contingency appropriations were assigned to the agency and are contained in Sec. 10.52 of the General Appropriations Act for Senate Bill 98 in the amount of \$125,216 for FY2002 and \$81,039 in FY2003. The fiscal note submitted by TSBP for this bill was based on the hiring of one additional field inspector to conduct inspections of the remote facilities that would provide pharmacy services using an automated pharmacy system or a telepharmacy system. The 77th Texas Legislature did not however, give the agency the authority to hire the one additional FTE.

The inspection and regulation of a possible 1,200 facilities cannot be done with current staffing levels. The agency currently licenses approximately 5,600 pharmacy locations in Texas, and employs five inspectors to conduct routine inspections of these facilities. Our goal is to inspect every location

approximately every two years. With five field inspectors, we were able to inspect approximately 2,500 locations in FY01. It is imperative that we hire this additional field inspector so that these new locations may be inspected.

The Agency requested an exemption to the FTE cap, which was subsequently denied by the Legislative Budget Board or Governor's Budget Office. A second request has been submitted.

AGENCY SELF-EVALUATION

Key Agency Events/Areas of Change And Impact Since The Last Update of the Strategic Plan

Since the publication of the 2000 agency *Strategic Plan*, the following events and changes have had a major impact on the strategic and operational planning of the agency, and are referenced (where applicable) to areas within this *Strategic Plan* where they are specifically addressed:

- # The legislative assessment of across-the-board mandates/recommendations such as the FTE cap and reductions in travel and travel restrictions, continue to limit the ability of the agency management staff to effectively manage the agency.
- # New unfunded mandate to register pharmacy technicians. Establishment of a task force of Stakeholders to discuss and develop consensus for the 78th Legislative Session.
- # The commitment of the Board and staff to implement out-come based regulation through the use of tools such as the Pharmacy Peer Review Guidelines to assist pharmacists in detecting and preventing dispensing errors before they occur.
- # The passing of amendments to the Pharmacy Act in 2001, specifically as the amendments relate to its provisions for:
 - P continuing education for pharmacist renewal increased to 30 hours every two years;
 - P authorization of an additional School of Pharmacy at Texas A & M in Kingsville;
 - P remote pharmacy services, using automated pharmacy systems, telepharmacy systems and emergency medication kits; and
 - P use of the Internet by pharmacies.
- # Bioterrorism and the role of pharmacists with regard to the delivery of prescription drugs

during national crisis.

- # Implementation of an electronic system for on-line renewal of pharmacists licenses and profile information for pharmacists and pharmacies.
- # Pasing of legislation that requires the agency to have an internal auditor.
- # The success of the Health Professions Council in accomplishing efficiency and effectiveness through administrative sharing and cooperative teamwork.
- # Continued development of a comprehensive and user-friendly web site to improve services and accessibility to its customers. The site contains consumer information, including procedures regarding the complaint process, an on-line complaint form, new and ongoing licensing information, a reference site for pharmacy-related information, and important information regarding the agency's laws and rules. A significant addition to the web site is a license verification link that enables the public to verify the licensing and disciplinary status of TSBP licensees.

Evaluation Process

As covered in the section titled *The Organizational Perspective*, the agency continually operates by implementing and measuring performance against strategic and operational Goals and Objectives and through customer feedback. Therefore, the agency is continually self-evaluating, through each Division and every employee. In addition to this continuous process, and in preparation for this *Strategic Plan*, the agency sought the input of Board Members, staff, officials of national and state pharmacy organizations, pharmacy academicians, and officials of state consumer advocacy groups. The list of the recipients of the survey letters is included in **Appendix A** with a list of the questions asked of these "interested parties."

The strategy for the continued success of the agency consists of three distinct but interrelated elements:

- # **Leadership** — The creative process comes from the ability of the organization and all its members to learn, improve, and innovate. The Board and management staff must establish a climate that allows the creative process to continue.
- # **Feedback from Employees** — The *Survey of Organizational Excellence (Appendix F)* (Survey), administered by the School of Social Work at The University of Texas at Austin provides a uniform benchmark for all Texas government to compare employees' perceptions of organizational achievement from agency to agency and over time. Survey results suggest that areas of substantial strength for TSBP include:
 - P the degree to which quality principles, such as customer service and continuous improvement are a part of the organizational culture;

- P the ability of the organization to quickly relate its mission and goals to environmental changes and demands;
- P the availability and utility of information;
- P an assessment of the priority given to employees' personal and job growth; and

- P organization external communication.

The one area of concern included employees perception of fair pay. This area will require the agency to make a more complete determination for the causes of low fair pay scores.

- # **Feedback from External Customers** — The agency has developed customer service standards and has surveyed its external customers to determine customer satisfaction.

Customer satisfaction can also be measured by the agency's progress in establishing credibility and recognition. The Board of Pharmacy has been recognized for its efficiency and effectiveness within Texas through:

- P Monetary exception-free financial audit by the State Comptroller and continuous exception-free audits by the General Services Commission on the Delegated Service Certification Program;
- P Unqualified certification of the agency's performance measures, conducted by the State Auditor; and
- P Comments from external customer organizations, both national and statewide, were solicited in the strategic plan external assessment. The comments received were not only instructive, but extremely positive and complimentary to the agency.

The agency has also been an innovator in the field of proactive health regulation. This is well-documented in that the Texas State Board of Pharmacy was the first board of pharmacy in the nation to:

- # In 2001, pass laws which allowed for the remote provision of pharmacy services using automated dispensing systems and telepharmacy systems;

- # In 1999, pass legislation to establish peer review committees that may be used to suggest improvements in pharmacy systems to enhance patient care, assess system failures, and make recommendations for continuous quality improvement processes. Guidelines for Establishing Pharmacy Peer Review Committees were adopted by the Board in FY 2000;

- # Use ad hoc task forces in its pre-rule-making process (The agency began using these task forces in 1981);
- # Publish a *Newsletter* which is distributed to all licensees and other interested customers (The *Newsletter* has been continuously published since 1977 and is directed at educating pharmacists about the laws and rules relating to the practice of pharmacy; it also discloses the names of all pharmacists and pharmacies disciplined by the Board);
- # Implement a preventive enforcement program which encourages pharmacists' voluntary compliance with governing laws and rules, through a combination of routine inspections and education efforts (the Compliance program began in 1977);
- # Develop and implement a strategic plan (the first agency *Strategic Plan* was developed in 1986);
- # Work with the regulated community to pass legislation to establish drug therapy management and immunizations by pharmacists, in 2001, and establish procedures to implement confidential peer review committees; and
- # Hold full membership in the National Council on Patient Information and Education, a national, non-profit, consumer health advocacy organization in Washington, D.C.

The Texas State Board of Pharmacy is in a unique position to be able to impact the delivery of pharmaceutical care to the citizens of Texas. We constantly strive to improve on our performance and responsiveness to our customers. In order to fulfill that goal, we hope to see advancement in expanding and enhancing our capabilities for encouraging the delivery of pharmaceutical care to improve the quality of life for Texas consumers.

The agency's opportunities in these areas are virtually boundless. It is an exciting and demanding era, because of the uncertainty in the environment due to health care reform and quickly changing market conditions. Never before in the nation's — or profession's history — have we been presented with such an opportunity to positively impact the health care of the citizens of Texas and the promotion of pharmaceutical care through proactive regulatory initiatives.

The agency has built credibility, momentum, and innovation in the advancement of patient care. Organizations don't stand still — they either progress or regress. For the agency to take advantage of its momentum, it must have the necessary resources.