



# **Texas State Board of Pharmacy**

## **Annual Report Fiscal Year 2017**

**Jeanne Waggener, R.Ph.**  
President

**Gay Dodson, R.Ph.**  
Executive Director/Secretary

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Austin, Texas 78701  
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[www/pharmacy.texas.gov](http://www/pharmacy.texas.gov)

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## Board Members

Jeanne D. Waggener, R.Ph.  
President  
Waco  
8/10/06 - 8/31/17

Christopher M. Dembny, R.Ph.  
Vice President  
Richardson  
9/26/13 – 8/31/17

Alice G. Mendoza, R.Ph.  
Treasurer  
Kingsville  
8/10/06 - 8/31/17

Buford T. Abeldt, Sr., R.Ph.  
Lufkin  
5/9/08 - 8/31/19

L. Suzan Kedron  
Public Member  
Dallas  
5/9/08 - 8/31/19

Bradley A. Miller, Ph.T.R.  
Austin  
9/26/13 – 8/31/19

Phyllis Stine  
Public Member  
Abilene  
8/31/2011 - 8/31/2017

Chip Thornsburg  
Public Member  
San Antonio  
10/6/2015 – 8/31/2021

Suzette Tijerina, R.Ph.  
San Antonio  
10/6/2015 – 8/31/2021

Dennis F. Wiesner, R.Ph.  
Austin  
5/9/08 - 8/31/19

Jenny Yoakum, R.Ph.  
Longview  
10/6/2015 – 8/31/2021

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**Office of the Executive Director****Executive Director**

Gay Dodson, R.Ph.

**Information Resources Manager**

Brian Hurdle

**Executive Assistant**

Becky Damon

**Support Systems Specialist**

Todd Hayek

**Receptionist**

Debra Dukes

**Information Technology Security Analyst**

Matthew Hays

**Systems Administrator**

Vacant

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**Administrative Services & Licensing****Division Director**

Cathy Stella.

**Chief Accountant**

Jane Bennett

**Licensing Manager**

Misty Anderson

**Staff Services Officer II**

Robbi Dana

**Licensing Specialist**

Rachel Glass

Melinda Uballe

Lisa Ake

**Accountant III**

Sandra Morton

Marcie Tapia

Barbara Racca

Sarah Broaddus

**Accountant II**

Chantell Solomon

Tammy Baker

Sarah Moody

Audric Fowler

**Accountant I**

Taylor King

Vacant

**Staff Services Officer I**

Vacant

**Purchaser**

David Hardy

## STAFF

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### Enforcement

#### Division Director

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

#### Chief Compliance Officer

Ben Santana, R.Ph.

#### Senior Compliance Officer

Iona Grant, R.Ph.

#### Compliance Officer

Terri Burrows, R.Ph., Pharm.D.

Kathy Salinas, R.Ph.

James Clark, R.Ph.

#### Compliance Program Officer

Tera McConnell, R.Ph., Pharm.D.

Michelle McDiffett, R.Ph.

Synthia Hill, R.Ph., Pharm.D.

#### Senior Compliance Inspector

David Meryman, Ph.T.R.

Adrienne Bauer, Ph.T.R.

#### Compliance Inspector

Michelle Raibon, Ph.T.R.

Javier Ledesma, Ph.T.R.

Kimberly Miles, Ph.T.R.

Jennifer Trook, Ph.T.R.

Felicia Carrasco, Ph.T.R.

Robert Moura, Ph.T.R.

#### Senior Compliance Specialist

Jessica Rodriguez-Reyes, Ph.T.R.

#### Compliance Specialist

Gracie Lara, Ph.T.R.

#### Chief Investigator

John Hargis

#### Investigator (9)

Vacant (2)

#### Senior Staff Investigator

Melissa Weeden

#### Investigative Case Manager

Cynthia Fazin

#### Enforcement Program Manager

Robert Rivera, Ph.T.R.

#### Enforcement Program Administrator

Nelma Sanchez, Ph.T.R.

#### Enforcement Officer

Linda Yazdanshenas

Lori Gonzales, Ph.T.R.

#### Program Specialist

Debra Beall

#### Enforcement Specialist

Elaine Naivar, Ph.T.R.

Lydia Moreno

Carissa Garcia, Ph.T.R.

Misty Plant, Ph.T.R.

Marisa Sanchez, Ph.T.R.

Angela Castillo, Ph.T.R.

Heather Hernandez, Ph.T.R.

Brandy Plummer

Vacant (1)

#### Enforcement Technician

Noreen Gomez

Irene Zapata

Briana Velasquez

(Vacant 1)

#### Administrative Assistant

Demetria Manning

## STAFF

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### Professional Services

**Division Director**

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

**Education Coordinator**

Shayda Bakhshi

**Senior Administrative Assistant**

Sandra Chatham  
Margarita Zamarippa

**Prescription Monitoring Program  
Manager**

Bj Slack

**Research Specialist**

Jared Jenkins  
Sofia Bishop

**Administrative Assistant**

Mary Newman  
Veronica Guzman

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### Legal

**General Counsel**

Kerstin Arnold, J.D.

**Assistant General Counsel**

Caroline Hotchkiss, J.D.

**Staff Attorney**

Megan Holloway, J.D.  
Mary Martha Murphy, J.D.  
Jessica Lance, J.D.

**Legal Assistant Team Manager**

Ann Driscoll, C.Ph.T, Ph.T.R.

**Legal Assistant**

Tabatha Lowden  
Kelly Clark  
Amanda Debs, Ph.T.R.  
Jessica Hirn  
Amy Burt  
Christine Pavalasky  
Yvette Latin  
Vacant

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## **Board Mission**

The statutory mission of the Texas State Board of Pharmacy is to promote, preserve, and protect the public health, safety, and welfare by fostering the provision of quality pharmaceutical care to the citizens of Texas, through the regulation of: the practice of pharmacy; the operation of pharmacies; and the distribution of prescription drugs in the public interest.

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## **Board Philosophy**

The Texas State Board of Pharmacy will assume a leadership role in regulating the practice of pharmacy and act in accordance with the highest standards of ethics, accountability, efficiency, effectiveness, and open communication. We affirm that regulation of the practice of pharmacy is a public and private trust. We approach our mission with a deep sense of purpose and responsibility. The public and regulated community alike can be assured of a balanced and sensible approach to regulation.

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## **Board Strategic Goals (FY2015-2019)**

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

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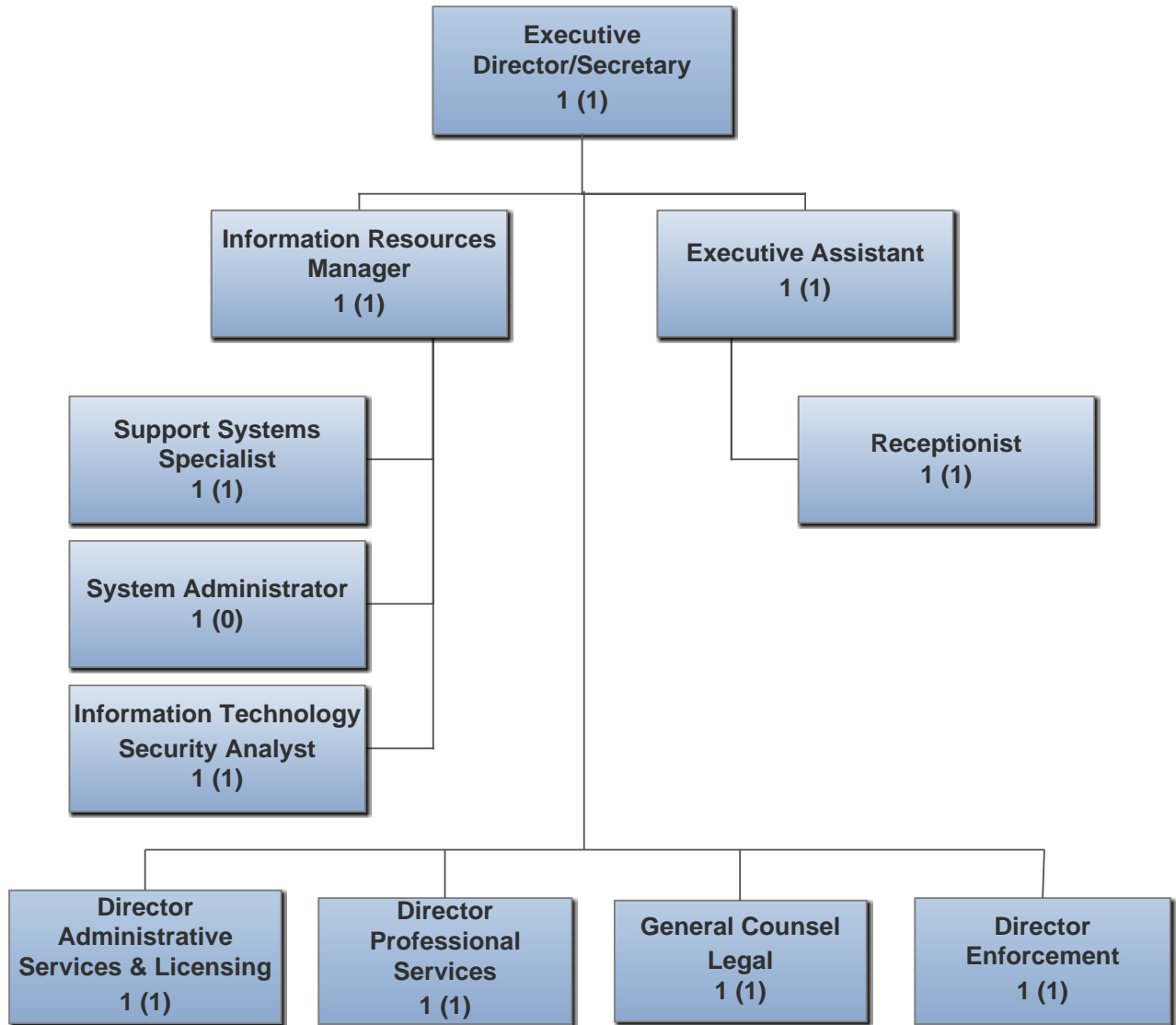
## **Board Structure**

The Board's functional structure at the end of FY2017 was composed of the Office of the Executive Director and four Divisions:

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

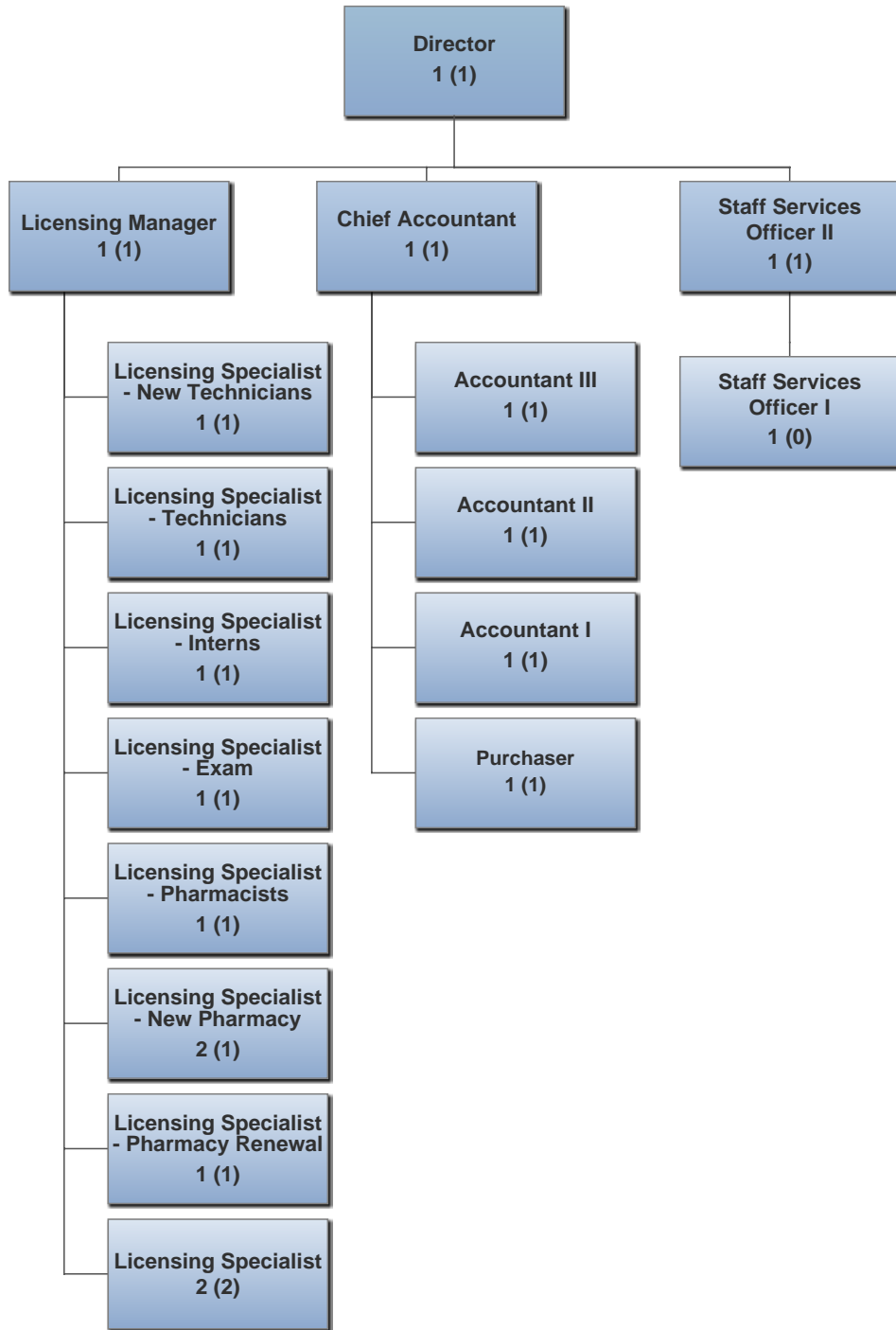
Texas State Board of Pharmacy

FY2017



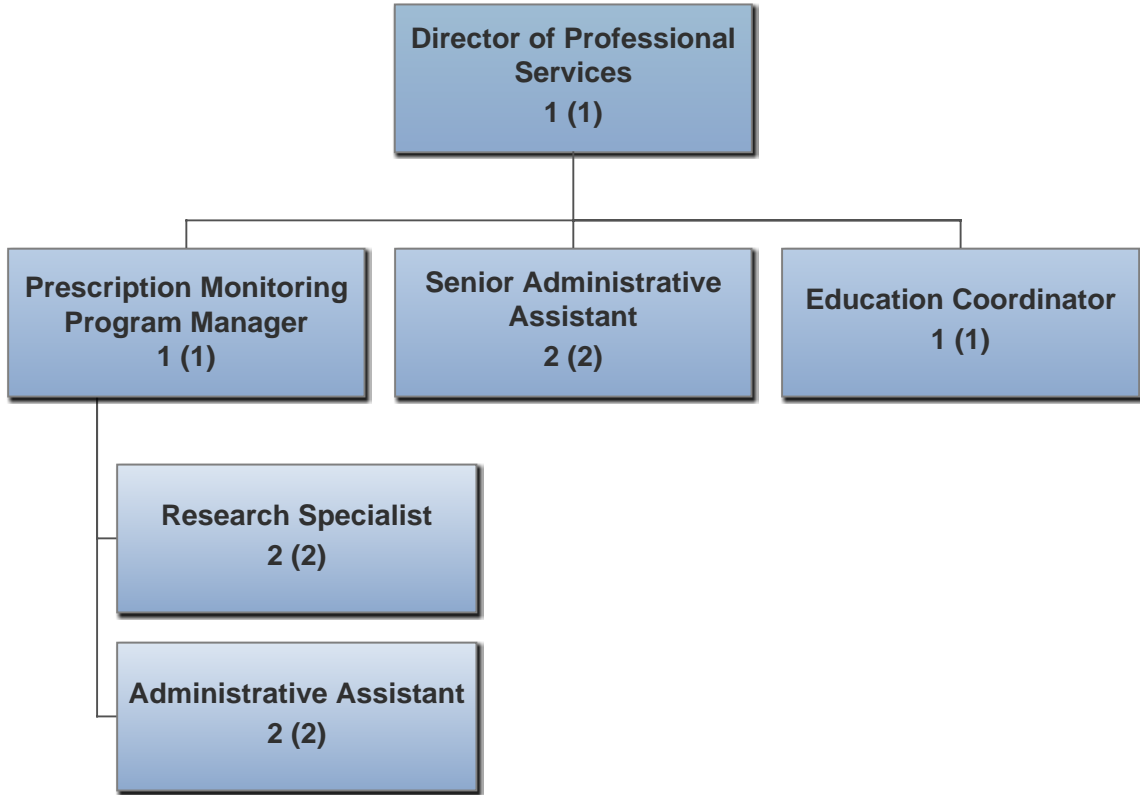
Administrative Services and Licensing Division

FY2017



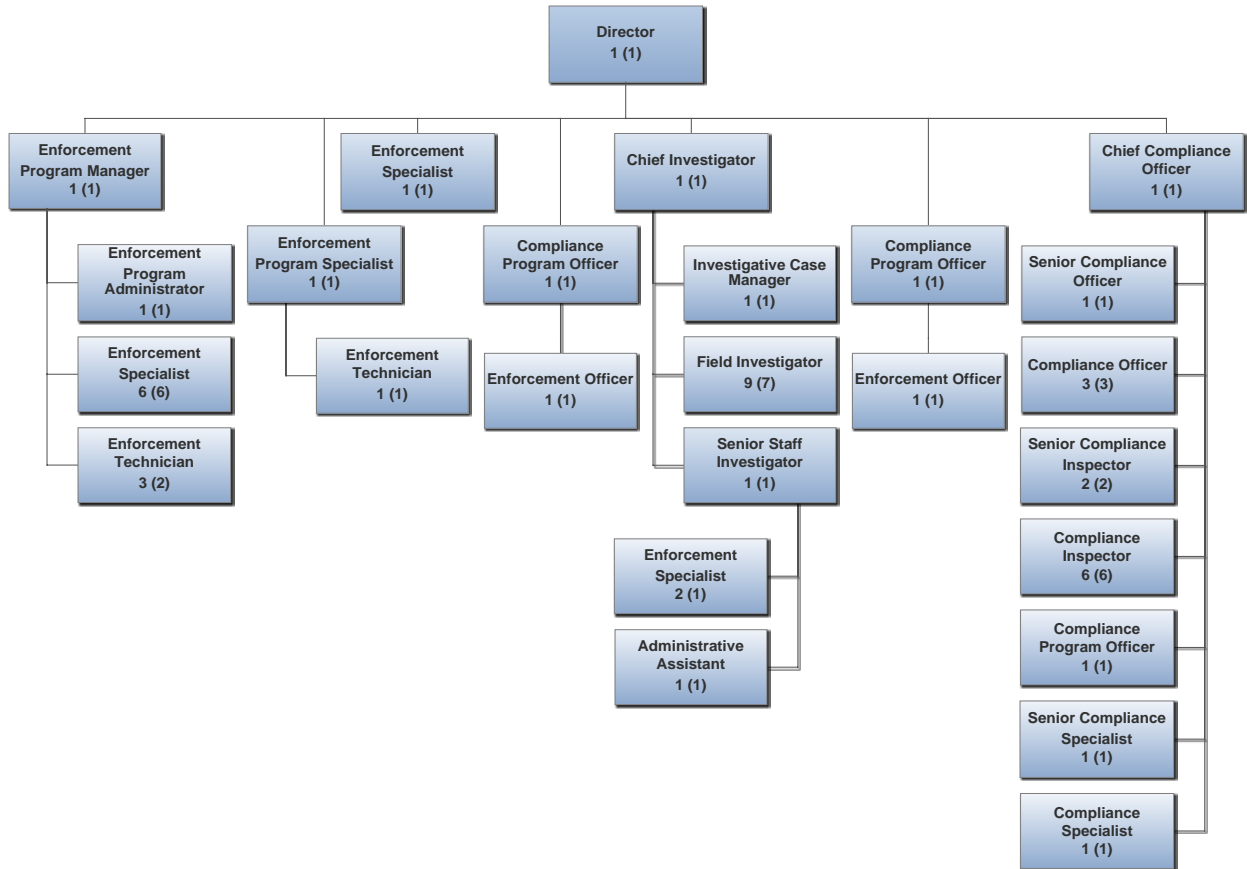
Professional Services Division

FY2017



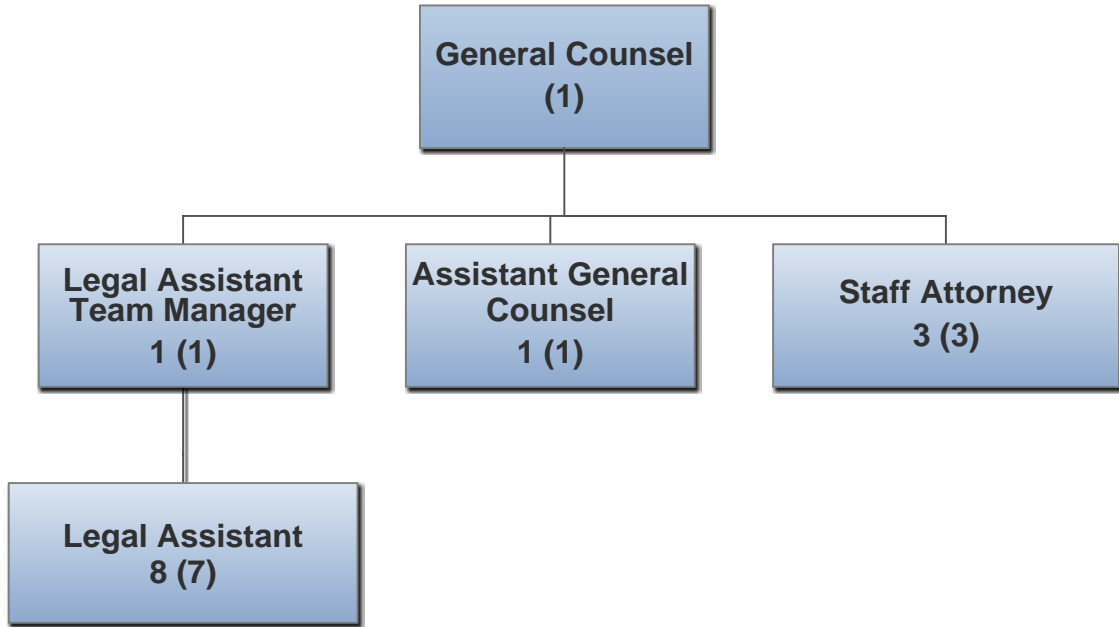
# Enforcement Division

FY2017



Legal Division

FY2017



## FY2017 FISCAL REPORT

The attached report represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2017 (September 1, 2016 - August 31, 2017). A more detailed accounting of the agency's unaudited financial report, which includes all fund types and account groups, a complete statement of revenues and expenditures, and changes in fund balance, can be found in the "*FY2017 Annual Financial Report.*"

As of August 31, 2017, the unexpended balance for FY2017 was approximately \$92,151 or .97% under budget.

TEXAS STATE BOARD OF PHARMACY  
EXPENDITURES – Fiscal Year 2017 – 4<sup>th</sup> Quarter  
As of August 31, 2017

Code	Description	Budget	Expended	Unexpended Balance/ Lapse/Hiring Freeze	Remaining Budget	Percent Remaining
1008	(a) Professional Fees & Svcs (Other)	713,168.62	713,168.62		0.00	0.00%
1010	(b) Professional Fees & Svcs (TPA)	186,260.00	186,260.00		0.00	0.00%
3002	Gas, Other Fuels & Lubricants	25,573.25	25,573.25		0.00	0.00%
3003	Vehicles - Maintenance	17,333.41	17,333.41		0.00	0.00%
3001/3004	Consumable Supplies & Materials	48,542.04	48,542.04		0.00	0.00%
3005	Postage	69,253.27	69,253.27		0.00	0.00%
3006	Telephone	46,150.47	46,150.47		0.00	0.00%
3014	Subscriptions	8,690.59	8,690.59		0.00	0.00%
3018	Travel - Board Members (Service)	31,566.80	31,566.80		0.00	0.00%
3019/20	Travel - Board Mbr Conference	11,472.42	11,472.42		0.00	0.00%
3027	Travel - State Vehicle	1,223.93	1,223.93		0.00	0.00%
3028	Travel - Staff (Service)	107,647.13	107,647.13		0.00	0.00%
3037/3038	Travel - Staff (Conference)	7,449.10	7,449.10		0.00	0.00%
3039	Travel - Staff (Conf Out Of State)	7,796.49	7,796.49		0.00	0.00%
3516	Membership Fees & Dues	2,753.00	2,753.00		0.00	0.00%
3517/3518	Administrative Support Service	91,019.40	91,019.40		0.00	0.00%
3518(b)	HPC Shared Regulatory Database	280,788.00	280,788.00		0.00	0.00%
3521	Criminal Investigative Expense	628.74	628.74		0.00	0.00%
3534	Freight & Delivery Service	9,817.00	9,817.00		0.00	0.00%
3535	Maint & Repair - Furn & Equip	5,093.12	5,093.12		0.00	0.00%
3536	Rental of Furn & Equip	10,028.98	10,028.98		0.00	0.00%
3537	Rental of Space	5,305.17	5,305.17		0.00	0.00%
3538	Bonds & Insurance	24,348.00	24,348.00		0.00	0.00%
3539	Maintenance and Repair-Building	34,602.59	34,602.59		0.00	0.00%
3540	Reproduction & Printing	40,326.04	40,326.04		0.00	0.00%
3540(b)	Reproduction & Printing - Prescription Pad Program	1,164,408.70	1,164,408.70		0.00	0.00%
3550	Hearing Expense	7,928.49	7,928.49		0.00	0.00%
3570	Registration Fees	33,737.50	33,737.50		0.00	0.00%
3571	Board Member Registration	7,122.00	7,122.00		0.00	0.00%
3581	F & E - Expended/Inventoried <\$5,000	26,094.42	26,094.42		0.00	0.00%
3584	Computer Software - Expense	15,637.49	15,637.49		0.00	0.00%
3586	Computer Equip - Inv/Controlled >\$500	51,710.17	51,710.17		0.00	0.00%
3587	Computer Equip Capitalized >\$5,000	33,866.24	22,881.30		10,984.94	32.44%
3588	Books & Recorded Materials	1,135.84	1,135.84		0.00	0.00%
3589	Computer Equipment - Parts	22,708.29	22,708.29		0.00	0.00%
3590	Miscellaneous (HPC Transfer and Fees)	59,727.08	59,727.08		0.00	0.00%
3595	Awards	1,052.85	1,052.85		0.00	0.00%
5001	Purchase of Vehicles	20,690.00	20,690.00		0.00	0.00%
7001	Exempt Salaries	130,462.00	130,461.96		0.04	0.00%
7002	Classified Salaries - Full Time	5,174,642.35	4,991,844.11	182,798.24	0.00	0.00%
7004	Salaries/Wages-Non-Permanent Full-Time Employees	5,496.00	5,496.00		0.00	0.00%
7006/07	Salaries/Wages-Hourly Part-time FTE	7,700.28	7,700.28		0.00	0.00%
7017	One-Time Merit Increase	199,991.00	199,991.00		0.00	0.00%
7020	Hazardous Pay	2,460.00	2,460.00		0.00	0.00%
7021	Overtime Pay	26,062.55	26,062.55		0.00	0.00%
7022	Longevity	94,760.00	94,760.00		0.00	0.00%
7023	Lump Sum Termination Payment Pay	34,154.66	34,154.66		0.00	0.00%
7033	Employees Retirement - Other	731.53	731.53		0.00	0.00%
7040	Addl Payroll Retirement Contribution	24,224.50	24,224.50		0.00	0.00%
7042	Payroll Health Insurance Contribution	50,091.80	50,091.80		0.00	0.00%
7219	Texas Online Fee	230,255.00	230,255.00		0.00	0.00%
7947	State Office of Risk Management	7,137.13	7,137.13		0.00	0.00%
	Controlled Substance Forfeiture Funds (UB)	158,012.19	0.00	158,012.19	0.00	0.00%
	Prescription Monitoring Program	81,166.35	0.00		81,166.35	100.00%
Total ADMIN, LIC & ENF		9,460,003.97	9,027,042.21	340,810.43	92,151.33	0.97%

# Office of the Executive Director

This FY2017 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 has the support of its activities by the regulated profession.

The numerous accomplishments achieved by TSBP staff are highlighted in each of the division reports. Although specific activities are highlighted under each Division Director's Objectives, TSBP experienced the following major accomplishments and disappointments/constraints in FY2017.

## FY2017 SIGNIFICANT ACCOMPLISHMENTS

1. The agency accomplished or partially accomplished 88 of the 89 objectives [87 accomplished (98%) and one partially accomplished (1%)]. The only objective not accomplished was the evaluation of the Executive Director which was not conducted in FY2017 because the Executive Director was retiring in November 2017. In addition, the agency met or exceeded eight (80%) of the 10 key performance measures listed in the Appropriations Act and reported on an annual basis to the Legislative Budget Board (LBB). (See Executive Director Ongoing Objective #1 for additional details).
2. The agency successfully launched a new version of the Prescription Monitoring Program (PMP) on September 1, 2016. This program collects and monitors prescription data for all Schedule II, III, IV, and V controlled substances dispensed by a pharmacy in Texas or to a Texas resident from a pharmacy located in another state.

<b>PRESCRIPTION MONITORING PROGRAM FY2017 STATISTICS</b>					
	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	Year Totals
Registered Users	43,227	5,494	4,773	5,148*	58,642
Number of Searches	800,041	982,602	1,113,526	1,279,436	4,175,605
Prescriptions Dispensed	10,304,073	9,370,856	9,856,895	9,346,925	39,419,516

3. TSBP received more complaints in FY2017 than the agency had received in any prior fiscal year. (For additional details regarding complaint data see Enforcement Ongoing Objective #3 and the chart below.)

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY2013	5,927	+2%	6,552	+14%	111%	187 Days	-8%
FY2014	5,561	-6%	5,606	-14%	101%	176 Days	-6%
FY2015	5,925	+7%	5,955	+6%	101%	170 Days	-3%
FY2016	6,146	+4%	6,265	+5%	102%	166 Days	-2%
FY2017	6,398	+4%	5,938	-5%	93%	153 Days	-8%

4. Throughout FY2017, Compliance Field Staff collected 91 samples of compounded preparations from 88 Texas pharmacies, which included 86 sterile preparations and five non-sterile preparations. One sample failed sterility testing. In addition, 12 of the 86 samples (14%) failed to yield acceptable potency results. (See Enforcement Ongoing Objective #3 for additional information about the sample collection program).

## Office of the Executive Director

5. Agency Staff gave 74 presentations to approximately 8,853 individuals during FY2017. (See Professional Services Ongoing Objective #4, Enforcement Ongoing Objectives #7, and Executive Director Ongoing Objective #6 for more details).
6. The Administrative Services and Licensing Division's accounting staff, under the direction of Jane Bennett and Cathy Stella, were successful in the implementation of the Centralized Accounting and Payroll/Personnel System (CAPPS). The project began in August 2016 and successfully went live in July 2017. The conversion of the previous payroll system to the new CAPPS system, required that the Division Director, Chief Accountant, Staff Services Officer and the Payroll Officer, spend approximately 1,000 hours over a period of one year, to complete the project. In addition, approximately 80 hours were spent in training all staff on the use of the new timekeeping module of the system.
7. The Texas State Board of Pharmacy hosted a very successful meeting of MALTAGON in Austin, Texas, from October 9-12, 2016, with a total of 75 attendees from 13 states.
8. The following TSBP Board Members and staff were appointed to offices, received honors, or received recognition in FY2017:
  - A. Board President Jeanne D. Waggener, R.Ph., was elected to serve as President-Elect of the National Association of Boards of Pharmacy's Executive Committee;
  - B. Board Executive Director/Secretary Gay Dodson, R.Ph., was appointed to serve as the District VI representative of the National Association of Boards of Pharmacy's Executive Committee;
  - C. Board member Dennis Wiesner, R.Ph., was appointed a member of the National Association of Boards of Pharmacy's Task Force on the Regulation of Telepharmacy Practice;
  - D. Board member Bradley Miller, Ph.T.R., was appointed a member of the National Association of Boards of Pharmacy's Task Force on the Regulation of Telepharmacy Practice;
  - E. Board member Buford Abeldt, Sr., R.Ph., was appointed as a member of the National Association of Boards of Pharmacy's Task Force on Expanding International Membership;
  - F. Board member Phyllis Stine was appointed as a member of the National Association of Boards of Pharmacy's Task Force on Expanding International Membership;
  - G. Board member Alice Mendoza, R.Ph., was appointed as a member of the National Association of Boards of Pharmacy's Task Force on Law Enforcement and Legislation;
  - H. Board member Suzan Kedron, JD, was appointed to serve as Chair of the National Association of Boards of Pharmacy Committee on Constitution and Bylaws;

## Office of the Executive Director

- I. Board member Christopher Dembny R.Ph., was appointed to serve as an alternate member of the National Association of Boards of Pharmacy Committee on Constitution and Bylaws;
  - J. Board Director of Professional Services Allison Vordenbaumen Benz, R.Ph., M.S., was appointed to serve as an alternate member of the National Association of Boards of Pharmacy Task Force on the Pharmacists Integrated Communication Skills Examination;
  - K. Board Executive Director/Secretary Gay Dodson, R.Ph., was appointed to serve as the Executive Committee Liaison to the National Association of Boards of Pharmacy's Task Force on Law Enforcement and Legislation; and
9. Hurricane Harvey made landfall on the Texas coast, August 25, 2017. Prior to the storm hitting Texas, Governor Abbott declared a state of disaster for an initial 30 counties on August 23<sup>rd</sup>. Subsequently, additional counties were added to the declaration. TSBP put notices on the website beginning August 25<sup>th</sup> and began issuing temporary licenses on August 28<sup>th</sup>. A total of 466, temporary pharmacist licenses were issued, 82 temporary pharmacy technician registrations were issued, and 19 temporary remote pharmacy locations were issued. During the disaster, TSBP implemented the following:
- License expiration dates were automatically extended for all pharmacist licensees in the affected counties by 60 days. Technicians and pharmacy registrations/licenses were extended on a case-by-case basis.
  - Delinquent fees and license replacement fees were automatically waived for all eligible licensees in the affected counties.
  - Continuing education (CE) requirements were automatically waived. All eligible licensees in the affected counties were able to renew without completing continuing education requirements.
  - Licensees in the affected area with licenses expired beyond the usual expiration limits were allowed to renew.
  - Pharmacists in Texas were authorized to dispense up to a 30-day supply of medication (other than II controlled substance) for patients affected by Hurricane Harvey.
  - An online application process was implemented for temporary pharmacists, temporary pharmacy technicians, and temporary remote pharmacies.
  - Allowed the agency to grant extensions to temporarily closed pharmacies on a case-by-case basis allowing them to be closed longer than 90 days.
  - Published a number of informational links on agency website that listed information regarding various emergency procedures for Hurricane Harvey.

**FY2017 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS**

1. On January 31, 2017, the Governor of Texas imposed a hiring freeze for state agencies, which resulted in the agency not being able to fill eight positions including four in the Enforcement Division, that were vacated between the date of the freeze and August 31, 2017, the date that the freeze was lifted. This situation contributed to the agency resolving 5% fewer complaints in FY2017, as compared to FY2016. The decrease in the closure rate for complaints when coupled with the fact that the agency received a record number of complaints in FY2017, had a negative impact on the complaint backlog. In addition, the hiring freeze also resulted in turnaround delays in the issuance of new pharmacy licenses. Also, the agency was required to monitor and calculate savings from the hiring freeze throughout the fiscal year, and lapse those funds to the state Treasury at year end.
2. All Licensing Services Programs continue to grow resulting in the following increases in workload.

<b>License</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>	<b>FY2016</b>	<b>FY2017</b>	<b>% Increase</b>
Pharmacists	28,417	29,498	30,707	31,807	33,130	34,642	22%
Pharmacies	7,185	7,350	7,656	7,914	8,074	8,084	13%
Pharmacy Technicians	39,973	41,497	41,700	41,990	41,678	42,918	07%
Pharmacy Technician Trainees	13,195	15,187	15,751	18,777	20,823	22,868	73%
Interns	2,805	2,938	2,949	3,725	4,002	4009	43%
<b>Total</b>	<b>91,575</b>	<b>96,470</b>	<b>98,763</b>	<b>104,213</b>	<b>107,707</b>	<b>112,521</b>	<b>23%</b>

3. During FY2017, TSBP received 123 reports of employee pilferage by 143 individuals resulting in the diversion of 132,872 dosage units of prescription drugs. The number of reports, the number of suspects and the number of dosage units dropped as compared to FY2016. In FY2016, TSBP received 194 reports of employee pilferage by 208 suspects, resulting in the diversion of 364,972 dosage units – i.e., comparing FY2017 to FY2016, there was a 37% decrease in the number of reports received, a 31% decrease in the number of suspects, and a 64% decrease in the number of dosage units that were reported stolen. While TSBP recognizes the decreases as a positive situation, TSBP is still concerned about the number of prescription drugs that were diverted from pharmacies.

**FY2017 ANNUAL REPORT****GOAL**

To provide policy advice to the Board, implement Board policies, and manage the organization in a manner that will accomplish the stated mission, goals, and objectives of the agency.

**Objectives (New)**

- To provide testimony, attend public hearings, and provide any fiscal or technical information, and to review all legislation that has an impact on the practice of pharmacy and agency operations, and monitor the process of this legislation and the legislation outlining the Sunset Commission's recommendations, throughout the 85th Texas Legislative Session.**

**Status:**           **ACCOMPLISHED**

**Comment:**       This objective was accomplished through the following activities:

- A total of 10,647 pieces of legislation were introduced in the 85th Regular Legislative Session (Note: The number of bills introduced in the 85<sup>th</sup> Session was 4,171 (61%) higher than those introduced during the 84<sup>th</sup> Session). The Executive Director reviewed or assigned a staff member to review each of these bills. A total of 312 bills that affected the agency or the practice of pharmacy were tracked and monitored as follows.

<b>85<sup>th</sup> Texas Legislature (2017), Regular Session</b>				
	<b>Session</b>		<b>TSBP Monitored</b>	
	<b>Filed</b>	<b>Passed</b>	<b>Filed</b>	<b>Passed</b>
<b>House</b>				
Bills	4,333	700	210	26
Resolutions	2,956	2,682	7	0
<b>House Total</b>	<b>7,289</b>	<b>3,382</b>	<b>217</b>	<b>26</b>
<b>Senate</b>				
Bills	2,298	511	95	30
Resolutions	1,060	971	0	0
<b>Senate Total</b>	<b>3,358</b>	<b>1,482</b>	<b>95</b>	<b>30</b>
<b>Regular Session Total</b>	<b>10,647</b>	<b>4,864</b>	<b>312</b>	<b>56</b>

- The Executive Director met or had telephone conversations with Legislators or others or testified before Legislative committees a total of 25 times as follows (Note: see also meetings related to the FY2018-2019 TSBP Legislative Appropriation Request under New Goal #2 below.)

<b>Date</b>	<b>Subject, Legislator/Individual, or Committee</b>
11/18/2016	Telephone Call from Milda Mora in Representative Senfronia Thompson's office regarding pharmacy license
1/6/2016	Telephone Call from Liz in Representative Ed Thompson's office regarding a physician specifying that both DEA and DPS required a physician to require a patient to sign a release and be drug screened before the physician could issue a prescription for a controlled substance.

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Date	Subject, Legislator/Individual, or Committee
12/28/2016	Telephone Call from Drew Graham in Senator Schwertner's office regarding Sunset bill.
1/17/2017	Telephone call from Preston Streufert in the Governor's Budget and Policy Office regarding pharmacy technician examinations.
1/19/2017	Telephone call from Caroline Dickerson in Senator Joan Huffman's Office regarding pharmacist dispensing insulin in an emergency.
1/30/2017	Telephone call from Becky Walker in Senator Kel Seliger's office regarding Sunset Report.
1/30/2017	Telephone Call from Dr. Waldman from the Texas Public Policy Foundation regarding HB75 (requires TSBP to use both pharmacy technician examinations).
2/7/2017	Telephone call from Marsha Jones of Hillco Partners regarding wholesalers reporting ARCOS data to TSBP.
2/17/2017	Telephone call from Carla Peredo in Representative Mary Gonzales regarding HB 1133 relating to managed care contracts under the Medicaid program.
2/21/2017	Telephone call from Ryan Taylor in Representative Van Taylor's office regarding veterinarians reporting information on herds to the Prescription Monitoring Program.
2/22/2017	Telephone call from Nicholas in Representative Garnet Coleman's office regarding a pharmacy license application.
3/8/2017	Telephone call from Mike in House Research Organization regarding the TSBP budget request for the Prescription Monitoring Program.
3/10/2017	Telephone call from Robert in Senator Perry's office regarding the Prescription Monitoring Program.
3/12/2017	Telephone call from Steven Ogle, Sunset Advisory Commission regarding the Prescription Monitoring Program.
3/15/2017	Telephone call from Ben Melson in Senator Robert's office regarding HB 3273.
3/16/2016	Telephone call from Tamara Schiff, Sunset Advisory Commission regarding Prescription Monitoring Program information.
3/17/2017	Telephone call from Steven Ogle, Sunset Advisory Commission, regarding a pharmacist's corresponding responsibility when dispensing a controlled substance.
3/17/2017	Telephone call from Mike Marshall regarding HB 2561.
3/20/2017	Telephone call from Robert in Senator Perry's office regarding the Prescription Monitoring Program.
3/24/2017	Telephone call from Preston Streufert of the Governor's Budget, Policy and Planning Office regarding HB 2389 by Representative Burkett.
3/27/2017	Telephone call from Al Carter regarding HB 2859.
3/28/2017	Telephone call from Preston Streufert of the Governor's Budget, Policy and Planning Office regarding a hiring freeze.
4/3/2017	Telephone call from Karen Regan regarding SB 1633.
4/12/2017	Telephone call from Steven Ogle regarding HB 2561.
5/1/2017	Telephone call from Melissa in Representative Jessica Farrar regarding the "Code of Ethics for Pharmacists."

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- C. During the 85th Legislative Session, the following significant legislation that affected the agency or the practice of pharmacy was passed.
- i. SB 1 – Appropriation Act  
The base appropriation for TSBP for FY2018-2019 is a slight decrease from the last biennium plus an increase in the Prescription Monitoring Program budget for implementing the tracking of purchases of controlled substances by pharmacies in Texas and some additional funding to implement sunset recommendations.
  - ii. HB 91  
The bill requires each licensing agency to review the eligibility requirement related to an applicant's criminal history and recommend whether the requirement should be retained, modified, or repealed.  
  
A report of the review, must be submitted to the Lieutenant Governor, the Speaker of the House of Representatives and each member of the legislature not later than December 1, 2018, including the agency's recommendations.
  - iii. HB 1178  
The bill Increases the punishment for burglary and theft of controlled substances to a felony of the third degree.
  - iv. HB 1290  
The bill specifies that a state agency may not adopt a rule with a fiscal note unless on or before the effective date of the proposed rule the state agency:
    1. Repeals a rule that imposes a total cost on persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; or
    2. Amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the proposed rule. The bill also specifies that a state agency must prepare a government growth impact statement for a proposed rule. This new law applies to a proposed rule filed after November 1, 2017
  - v. HB 1296  
The Bill amends the Insurance code to allow for prescription drug synchronization. applies only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2018
  - vi. HB 2561 – Sunset Bill. This bill:
    1. Adds Provisions for Tele-pharmacies in Texas. NOTE: SB 1633 ALSO ADDS THE SAME PROVISIONS.
    2. This Bill makes a number of changes to the Texas Controlled Substances Act relating to the prescription monitoring program and to the Texas Pharmacy Act as follows:
      - (a) Amends the Pharmacy Act to continue TSBP until August 31, 2029;

## Office of the Executive Director

- (b) Amend the duties of the Executive Director to specify that the Executive Director may perform the duties required by the Act or designated by the Board;
- (c) Remove the requirement that a person be of good moral character to obtain a license or registration;
- (d) Allow the Board to refuse to renew a license to practice pharmacy for a license holder who is in violation of a Board order;
- (e) Specify that TSBP must adopt rules relating to the CE required for pharmacy technicians;
- (f) Specify that to renew a pharmacy technician registration, the registrant must, before the expiration date of the registration: Pay the renewal fee; and comply with the continuing education requirements.
- (g) Specify that to renew a pharmacy technician registration after a registration has been expired for:
  - 90 days or <, the tech. must pay a renewal fee that is equal to 1½ times the renewal fee;
  - > than 90 days, but < 1 year, the tech. must pay a renewal fee that is 2 times the renewal fee; and
  - 1 year or >, the tech. may not renew.
- (h) Require the Executive Director to:
  - Create a board member training manual;
  - Distribute a copy of the manual yearly to each Board member. On receipt of the manual, each Board member must sign and submit to the Executive Director a statement acknowledging receipt of the manual.
  - Publish a copy of each signed statement on the Board's website.
- (i) Require TSBP to develop a policy to encourage the use of:
  - Negotiated rulemaking procedures for the adoption of Board rules; and
  - Appropriate alternative dispute resolution procedures to assist in the resolution of internal and external disputes under the Board's jurisdiction.
- (j) Adds a new section 551.006 to the Pharmacy Act titled "Exclusive Authority" that specifies that a pharmacist has the exclusive authority to determine whether or not to dispense a drug.
- (k) Adds a new section 551.008 to the Pharmacy Act titled: "Prohibition on Rule Violating Sincerely Held Religious Belief" that specifies:
  - All rules or policies adopted by TSBP may not violate the Religious Freedom provisions of the Texas Civil Practice and Remedies Code; and
  - A person may assert a violation of the religious freedom provisions as an affirmative defense in an administrative hearing or as a claim or defense in a judicial proceeding.

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- (l) Establishes a joint interim committee to conduct an interim study on the monitoring of the prescribing and dispensing of controlled substances in this state.

The committee must:

- Submit a report to the legislature on the results of the interim study, including any legislative recommendations for improvements to information access and controlled substance prescription monitoring, no later than January 1, 2019.

**2. To direct the submission of, provide testimony for, and monitor the progress of the agency's Legislative Appropriation Request and corresponding performance measures for FY2018-2019.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. SB 1 or the Appropriation Act was passed by the 2017 Texas Legislature – The base appropriation for TSBP for FY2018-2019 is a slight increase from the last biennium plus an increase in the Prescription Monitoring Program budget and the addition of one new position for implementing the tracking of purchases of Controlled Substances by pharmacies in Texas, and some additional funding to implement Sunset recommendations.
- B. Agency personnel including the Executive Director participated in the following meetings regarding the TSBP Legislative Appropriation Request.

Date	Subject, Legislator, or Committee
8/22/2016	Budget Presentation to the Staff of the Governor's Office and the Legislative Budget Board.
2/14/2017	Senate Finance Committee Hearing on TSBP budget request.
2/20/2017	House Appropriations Subcommittee on Articles VIII regarding TSBP budget request.
2/22/2017	House Appropriations Committee Hearing on TSBP budget request.
2/27/2017	House Appropriations Subcommittee Mark-up on TSBP budget request.
3/3/2017	House Appropriations Committee Mark-up on TSBP budget
3/15/2017	Senate Finance Committee Hearing on TSBP budget

**3. To direct the implementation of the transfer of the Texas Prescription Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy.**

**Status: ACCOMPLISHED**

**Comment:** The agency successfully launched the new version of the Prescription Monitoring Program (PMP) on September 1, 2016. This program collects and monitors prescription data for all Schedule II, III, IV, and V controlled substances dispensed by a pharmacy in Texas or to a Texas resident from a pharmacy located in another state. The PMP also provides a venue for monitoring patient prescription history for practitioners and the ordering of Schedule II Texas Official Prescription Forms. Statistics for FY2017 are included in the chart below.

Office of the Executive Director

<b>PRESCRIPTION MONITORING PROGRAM FY2017 STATISTICS</b>					
	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	Year Totals
Registered Users	43,227	5,494	4,773	5,148*	58,642
Number of Searches	800,041	982,602	1,113,526	1,279,436	4,175,605
Prescriptions Dispensed	10,304,073	9,370,856	9,856,895	9,346,925	39,419,516

**Objectives (Ongoing)****1. To manage and monitor the agency's performance and operational efficiency throughout FY2017.****Status: ACCOMPLISHED**

**Comment:** The agency accomplished or partially accomplished 88 of the 89 objectives [87 accomplished (98%) and one partially accomplished (1%)]. The only objective not accomplished was the evaluation of the Executive Director which was not conducted in FY2017 because the Executive Director was retiring in November 2017. In addition, the agency met or exceeded eight (80%) of the 10 key performance measures listed in the Appropriations Act and reported on an annual basis to the Legislative Budget Board (LBB) as indicated below.

Performance Measure		FY2017 Projected Performance	FY2017 Performance Attained	Projected Target Met?*
<b>A. GOAL: MAINTAIN STANDARDS</b>				
Outcome (Results/Impact)				
	Percent of Licensees with No Recent Violations	95.0%	96.5 %	Met
	Percent of Licensees Who Renew Online	94%	93.66%	Met
<b>A.1.1 STRATEGY: LICENSING</b>				
Output (Volume)				
	Number of New Licenses Issued to Individuals	1,500	2,151	Exceeded
	Number of Licenses Renewed (Individuals)	17,000	17,623	Exceeded
Explanatory				
	Total Number of Business Facilities Licensed	7,500	8,084	Exceeded
<b>B. GOAL: ENFORCE REGULATIONS</b>				
Outcome (Results/Impact)				
	Percent of Jurisdictional Complaints Resulting in Disciplinary Action	11.0%	9.21%	Not Met
<b>B.1.1 STRATEGY: ENFORCEMENT</b>				
Output (Volume)				
	Number of Jurisdictional Complaints Resolved	5,420	5,897	Exceeded
Efficiencies				
	Average Time for Jurisdictional Complaint Resolution	180	153	Exceeded
Explanatory				
	Number of Jurisdictional Complaints Received	5,620	6,366	Exceeded
<b>B.1.2. STRATEGY: PEER ASSISTANT</b>				
Output (Volume)				
	Number of Licensed Individuals Participating in a Peer Assistant Program	180	161	Not Met

2. **To coordinate the development of proposed goals and objectives and budget for FY2018 based on the *Strategic Plan* and projected budget, for submission to the Board two weeks prior to the August 2017 meeting.**

**Status: ACCOMPLISHED**

**Comment:** A proposed budget, including revenue projections and fee recommendations, was presented and approved at the August 2, 2017, Board Business Meeting. (See comments under Administrative Services and Licensing, Ongoing Objective #1 for additional information.)

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 FY2017.**

**Status: ACCOMPLISHED**

**Comment:** The Executive Director as well as the agency's Enforcement, Compliance, Investigation, Legal, and Professional Services staffs worked extensively with federal, state, and local regulatory agencies. (See Enforcement Division's Ongoing Objective #5, Legal Division's Ongoing Objective #8, and Professional Services Division's Ongoing Objective #9 for details of these cooperative efforts.)

4. **To manage the information resource needs (data processing, telecommunication, and Website) of the agency throughout FY2017 by:**

- A. **evaluating and implementing solutions for the evolving computing needs of the agency;**
- B. **providing a stable infrastructure for existing systems;**
- C. **increasing the efficiency and productivity of Board operations; and**
- D. **securing the agencies system against internal and external threats.**

**Status: ACCOMPLISHED**

**Comment:** The following were accomplished for this objective.

- A. Major accomplishments include:
  - (1) The move from three office locations within the Hobby Building (2<sup>nd</sup> and 6<sup>th</sup> floor of Tower 3 and 4<sup>th</sup> floor of Tower 1) without major interruptions of IT functions beyond scheduled maintenance.
  - (2) IT staff worked with the Enforcement Division to implement a pilot project for the testing of various computers for use during inspections of pharmacies;
  - (3) Storage of the Webpage server was moved to a new machine to increase storage and provide better security; and

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- (4) IT implemented an emergency notification system to alert staff in the event of a critical physical or electronic threat.
- B. IT staff was able to maintain a stable infrastructure for existing systems through scheduled and timely replacement of hardware/software nearing end of life status.
- C. Major accomplishments in the efficiency and productivity of Board operations include:
  - (1) IT provided agency staff access to a number of free training opportunities on various software programs;
  - (2) The email storage capacity for the agency was increased;
  - (3) Increased mobility through updated wireless access; and
  - (4) Added additional storage capacity to the agency imaging system and extended access to Board members so they are able to securely review cases prior to informal settlement conferences.
- D. Penetration tests and internal security assessments are performed regularly to identify gaps and vulnerabilities. Any gaps and vulnerabilities that were identified were then remedied by the agency IT security team. Security training was also provided regularly to agency staff.

**5. 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 FY2017.**

**Status: ACCOMPLISHED**

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

**6. As the Executive Director of the Board, throughout FY2017, to:**

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

**Status: ACCOMPLISHED**

Office of the Executive Director

**Comment:** The following were accomplished for this objective:

A. The Executive Director

(1) Made 14 presentations to approximately 1,860 persons, as indicated below:

Date	Name of Association/Location of Meeting	Attendance (Approximate)
9/24/2016	University of Texas Pharmacy Practice Seminar, Austin	500
9/28/2016	Texas Federation of Drug Stores Annual Meeting, Austin	30
10/14/2016	UT Pharmacy Students in the Professional Development Convocation	100
10/22/2016	Austin Area Society of Health-System Pharmacists, Austin	70
10/23/2016	Utilizing the Prescription Monitoring Program, Texas Pain Society's Annual Meeting, Dallas	50
10/29/2016	University of Texas College of Pharmacy Homecoming, Austin	80
2/24/2017	West Texas Pharmacy Association Meeting, Fredericksburg	100
3/25/2017	El Paso Area Society of Health-System Pharmacists, El Paso	80
4/8/2017	Texas Chapter of the American Society of Consultant Pharmacists, San Antonio	75
4/30/2017	Texas Society of Health-System Pharmacists Annual Meeting, Galveston	100
6/8/2017	American Pharmacies' 2017 Shareholder Retreat, San Antonio	100
6/9/2017	University of Texas Hospital Pharmacy Seminar, Houston	125
7/7/2017	Texas Pharmacy Association Annual Meeting, San Antonio	150
8/18/2017	University of the Incarnate Word College of Pharmacy White Coat Ceremony, San Antonio	300
<b>Total</b>		<b>1,860</b>

(2) Participated in five interviews with the press as indicated below:

Date	Interview With
9/9/2016	Interview on KSAT radio, San Antonio, regarding the Prescription Monitoring Program.
2/10/2017	Telephone interview by Steve Paulsen, reporter for "Leafy" regarding Texas cannabis laws.
2/15/2017	Telephone interview by David Marcus, reporter for Bloomberg Health, regarding pharmacy technician examinations.
3/3/2017	Telephone interview by Joey Berlin of the Texas Medical Association regarding the Prescription Monitoring Program.
5/31/2017	Telephone interview by Kate Groetzinger of KUT radio regarding the religious freedom provisions in HB 2561.

## Office of the Executive Director

B. The Executive Director attended 29 meetings, conferences, or participated in telephone calls representing the agency as indicated below:

Date	Name of Association/Location of Meeting
9/11-14. 2016	District 6, 7, & 8 Annual Meeting, Portland, Oregon
9/20-21/2016	FDA Intergovernmental Working Meeting on Pharmacy Compounding, Silver Spring, Maryland
10/4-5/2016	NABP Executive Officer Forum, Rosemont, IL
10/9-12/2016	MALTAGON Annual Meeting, Austin, Texas
10/13/2016	Biennial Legislative Communication Conference, Austin
10/20/2016	NABP Executive Committee Conference Call, Austin
11/17/2016	Texas Pharmacy Congress Meeting, Austin
11/29/2016	NABP Executive Committee Conference Call, Austin
11/30-12/1/2016	NABP Interactive Member Forum, Rosemont, IL
12/12/2016	Telephone meeting with Everett McAllister, Pharmacy Technician Certification Board, Austin
12/14/2016	Meeting with Stephen Ogle, Texas Sunset Commission
1/3/2017	2017-2018 Telicon Legislative Seminar, Austin
1/18/2017	Meeting with the David Gonzales and Audra Conwell of the Association of Independent Pharmacists, Austin
1/24-25/2017	NABP Committee on Law Enforcement and Legislation, Rosemont, IL
1/31/2017	USP 800 Task Force meeting, Austin
2/10-11/2017	NABP Executive Committee Meeting, Marco Island, FL
4/19/2017	NABP Executive Committee Conference Call, Austin
4/28-30/2017	Texas Society of Health-System Pharmacists Annual Meeting, Galveston
5/10/2017	Texas Pharmacy Congress Meeting, Austin
5/19/2017	NABP Executive Committee Pre-Convention Meeting, Orlando, FL
5/20-23/2017	NABP Annual Meeting, Orlando, FL
5/24/2017	NABP Executive Committee Post Convention Meeting, Orlando, FL
5/30/2017	Conference Call with Jay Campbell, North Carolina Board of Pharmacy, Austin
7/19-20/2017	NABP PMP Interconnect Meeting, Rosemont, IL
7/25-26/2017	Tri-Regulator Meeting, Chicago, IL
8/8/2017	Texas Pharmacy Practice Coalition Meeting, San Antonio
8/8-9/2017	Texas Pharmacy Congress Meeting, San Antonio
8/10/2017	TSBP Team Building Training, Austin
8/11/2017	Joint session for veterinarians hosted by Texas Deer Association and the Texas Veterinary Medical Association on prescribed medicine, San Antonio

Office of the Executive Director

- C. The Executive Director attended three meetings of the Health Professions Council or committees as follows:

Date	Activity
9/21/2016	Health Professions Council Meeting
2/2/2017	Health Professions Council Legislative meeting, Austin
6/5/2017	Health Professions Council Meeting

- D. The Executive Director attended three meetings of the Texas Pharmacy Congress as follows.

Date	Activity
11/16-17/2017	Texas Pharmacy Congress Meeting, Austin
5/9-10/2017	Texas Pharmacy Congress Meeting, Austin
8/8-9/2017	Texas Pharmacy Congress Meeting, Fort Worth

- 7. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** The agenda for each meeting of the Board included a discussion item listing possible suggestions for changes to the Pharmacy Act. In addition, each Division made recommendations for improvements. (See Administrative Services Ongoing Objective #13, Professional Services Ongoing Objective #12, Enforcement Ongoing Objective #17, and Legal Ongoing Objective #12).

- 8. To maintain a staff development program by encouraging Executive Office staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training and to conduct periodic reviews and annual evaluations of Division Directors and Executive Office staff and to monitor evaluations of employees in all Board Divisions throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** In FY2017, Division staff attended three General Staff Meetings and training as listed below:

- Staff Meeting - December 8-9, 2016 – which included training regarding the following three topics: EEO/Sexual Harassment; TSBP Business Continuity Plan, and Texas Public Information Act;
- Staff Meeting - February 22, 2017 – which included training presented by Alliance Work Partners (Positive Psychology in the Workplace);

Office of the Executive Director

- Staff Meeting - June 13, 2017 – which included training presented by Alliance Work Partners (Workplace Communication) and Ergonomic Self-Assessment for TSBP employees; and
- Staff Teambuilding Event - August 10, 2017 – Adapting to Change

Evaluations of the Division Directors, and Executive Assistant were completed in August 2017.

**9. To provide the Board information necessary to conduct performance evaluation of the Executive Director by August 31, 2017.**

**Status: NOT ACCOMPLISHED**

**Comment:** An evaluation of the Executive Director was not conducted in FY2017 as the Executive Director was retiring in November 2017.

**10. To prepare a report on the accomplishments of the Office of the Executive Director and direct the preparation and submission of the agency's *FY2016 Annual Report* to be presented to the Board at the August 2017 meeting.**

**Status: ACCOMPLISHED**

**Comment:** The final draft of the *TSBP FY2016 Annual Report* was presented to and approved by the Board at the August 2017 Board Business meeting.

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# Administrative Services and Licensing Division

## FY2017 SIGNIFICANT ACCOMPLISHMENTS

1. The Division accomplished 100% of its 24 objectives.
2. The Division met or exceeded 100% of the Key Performance Measures required to be submitted to the Legislative Budget Board.
3. The Division actively participated in the successful implementation of the Prescription Monitoring Program by monitoring and ensuring compliance with the Harold Rogers federal grant that allowed the agency to move forward with implementation of the Prescription Monitoring Program (PMP) and to contract with a vendor to develop and operate the PMP.
4. The Division was successful in the implementation of the Centralized Accounting and Payroll/Personnel System (CAPPS). The project began in August 2016 and successfully went live in July 2017. The conversion of the previous payroll system to the new CAPPS system, required that the Division Director, Chief Accountant, Staff Services Officer and the Payroll Officer, spend approximately 1,000 hours over a period of one year, to complete the project. In addition, approximately 80 hours were spent in training all staff on the use of the new timekeeping module of the system.
5. The agency underwent a successful Risk Program Management Review by the State Office of Risk Management (SORM). Two new recommendations were implemented to help improve the effectiveness of the TSBP risk management program.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

### FY2017 SIGNIFICANT DISAPPOINTMENTS

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

<b>Licensing</b>	<b>FY2012</b>	<b>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>	<b>FY2016</b>	<b>FY2017</b>	<b>% Increase</b>
Pharmacists	28,417	29,498	30,707	31,807	33,130	34,642	22%
Pharmacies	7,185	7,350	7,656	7,914	8,074	8,084	13%
Pharmacy Technicians	39,973	41,497	41,700	41,990	41,678	42,918	07%
Pharmacy Tech Trainees	13,195	15,187	15,751	18,777	20,823	22,868	73%
Interns	2,805	2,938	2,949	3,725	4,002	4009	43%
Total	91,575	96,470	98,763	104,213	107,707	112,521	23%

2. On January 31, 2017, the Governor of Texas imposed a hiring freeze for state agencies. The agency was required to monitor the calculation of savings from the hiring freeze throughout the fiscal year, and lapse those funds to the state Treasury at year end. A direct result of this hiring freeze was the lapsing of eight positions throughout the agency. This resulted in turnaround delays in the issuance of new pharmacy licenses, and more importantly, contributed to a reduction in the number of complaints being resolved, which had a negative impact on the number of cases being referred to the Legal Division and the agency's complaint backlog.

# ADMINISTRATIVE SERVICES AND LICENSING DIVISION

## FY2017 ANNUAL REPORT

### GOAL

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

### Objectives (New)

- To assist the Executive Director, in cooperation with other Divisions, preparing testimony, attending public hearings, providing any fiscal or technical information, reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the process of this legislation, including the Sunset Bill, throughout the 85th Texas Legislative Session.**

**Status:** Accomplished

**Comment:** Division Director reviewed and analyzed 130 pieces of legislation that had a potential impact on agency operations. Division Director and Chief Accountant also maintained constant contact with the Legislative Budget Board (LBB) and Governor's Office of Budget, Planning and Policy (GBO) to review and discuss the agency *Legislative Appropriations Request* for FY2018-2019. A total of 82 fiscal notes were researched and submitted to the LBB.

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

Date	Subject, Legislator, or Committee
2/22/2017	House Appropriations Hearing on the TSBP FY2018-2019 Legislative Appropriation Request
2/27/2017	House Subcommittee Workgroup on the TSBP FY2018-2019 Legislative Appropriation Request
2/14/2017	Senate Finance Committee Hearing on the TSBP FY2018-2019 Legislative Appropriation Request

- To assist the Executive Director, in cooperation with other Divisions, in the implementation of the transfer of the Texas Prescription Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy.**

**Status:** Accomplished

**Comment:** The Division actively participated in the successful implementation of the Prescription Monitoring Program (PMP) by monitoring and ensuring compliance with the Harold Rogers federal grant. This one-time grant allowed the agency to move forward with implementation of the PMP and to contract with a vendor to develop and operate the PMP. The Division also maintained a reconciliation of the fees paid and product delivered, for the official prescription form program.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- 3. Participate with the Comptroller of Public Accounts in implementing the Centralized Accounting and Payroll/Personnel System (CAPPS) HR/Payroll program for the Texas State Board of Pharmacy.**

**Status:** Accomplished

**Comment:** The Division was successful in the implementation of the Centralized Accounting and Payroll/Personnel System (CAPPS). The project began in August 2016 and successfully went live in July 2017. The conversion of the previous payroll system to the new CAPPS system, required that the Division Director, Chief Accountant, Staff Services Officer and the Payroll Officer, spend approximately 1,000 hours over a period of one year, to complete the project. In addition, approximately 80 hours were spent in training all staff on the use of the new timekeeping module of the system.

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### Objectives (Ongoing) – Administrative Services

- 1. To prepare a proposed budget for FY2018 for submission to the Board two weeks prior to the 2017 Annual Policy Meeting.**

**Status:** Accomplished

**Comment:** A proposed budget for FY2018 was presented and approved at the August 2017 Board Business Meeting. (See Comments under Ongoing Objective #3 for additional information).

- 2. To prepare and submit all required accounting and fiscal reports/reconciliations in compliance with all applicable state statutes throughout FY2017.**

**Status:** Accomplished

**Comment:** The agency submitted the Annual Financial Report (AFR) and the Annual Report of Non-Financial Data, to the Office of the Comptroller for the year ending August 31, 2017, by the due dates. The AFR was reviewed by the Comptroller's Office as part of the statewide annual financial report and found to be in compliance.

- 3. To review and recommend to the Executive Director additional sources of spendable revenue and to assess fees charged for Board services throughout FY2017.**

**Status:** Accomplished

**Comment:** A quarterly operating budget was presented to the Board at each of the regularly scheduled business meetings and recorded as such in the official minutes of the Board meeting. Revenue projections were presented to the Board at the August 2017 Board Business meeting and fee increases to all license types were recommended for the coming fiscal year.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

4. **To assess the material needs of the agency and supervise the purchasing and supply activities in accordance with all Texas Procurement and Support Services rules and procedures throughout FY2017.**

**Status:** Accomplished

**Comment:** The Chief Accountant continued to review all specifications, product tabulations, and purchase requisitions for compliance with agency policies and procedures and CPA rules. This oversight ensured that the appropriate procurement method was identified, the agency received the best value for the product or service purchased, and that funds were always available.

At each board meeting, the Board considered and acknowledged all material changes to the contracts for goods and services in accordance with Section 2155.088 of the Texas Government Code.

5. **To increase the efficiency and productivity of Board office operations by managing and coordinating space needs and on-site maintenance of the Board's office facilities throughout FY2017.**

**Status:** Accomplished

**Comment:** The project plan that began in FY2016 to redesign and renovate existing office space and move agency personnel from Texas Medical Board (TMB), the Texas Board of Nurses (BON), and the Texas Department of Insurance (TDI) into permanent locations throughout the WPH building was completed by November 2016.

6. **To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2017.**

**Status:** Accomplished

**Comment:** This objective was accomplished as follows:

- A. On January 31, 2017, the Governor of Texas imposed a hiring freeze for state agencies. The agency was required to monitor the calculation of savings from the hiring freeze throughout the fiscal year, and lapse those funds to the state Treasury at year end. A direct result of this hiring freeze was the lapsing of eight positions throughout the agency. This resulted in turnaround delays in the issuance of new pharmacy licenses, and more importantly, contributed to a reduction in the number of complaints being resolved, which had a negative impact on the number of cases being referred to the Legal Division and the agency's complaint backlog.
- B. All newly hired and current employees received Equal Employment Opportunity/Sexual Harassment Training and Sensitive Personal Information Training as required by state law. Other training included EAP Program Orientation, Positive Psychology in the Workplace, Workplace Communication, Leadership Training, Business Continuity Training, CAPPs training, and an all staff Teambuilding Workshop.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- C. Division directors continued to review and revise employee position descriptions.
- D. Division directors continued implementation of “team leader” quarterly meetings.
- E. One employee complaint was internally filed; however, there were no employment discrimination or other charges initiated with the Texas Commission on Human Rights.
- F. The agency posted 22 positions for employment and received 370 applications during this fiscal year, which resulted in 10 new hires and six promotions. EEO data is not available for the applicant pool because the Texas Workforce Commission’s automated system does not provide that data.
- G. Texas Government Code, Section 657.004, requires agencies to set a goal for the employment of veterans in full-time positions equal to at least 20.0 percent of the total number of agency employees effective September 1, 2015. In fiscal year 2017, the TSBP’s total percent of veterans employed was 6.79%, which is lower than the statewide average of 6.9%. This has however, increased since fiscal year 2016 (6.6%).
- H. Workforce demographics released by the Texas State Auditor’s office indicates that on average, employees at the agency were 46.1 years of age and had 8.4 years of agency length of service. Of the agency’s employees, 38.8 percent were 40 years of age or older, and 51.8 percent had fewer than 5 years of agency length of service. It is estimated that between fiscal years 2018 and 2022, 21.2 percent of the agency’s workforce will be eligible to retire.
- I. The agency had 12 employees that terminated employment with the agency in FY2017, resulting in a turnover rate of 12.9% (including interagency transfers). This compares to the overall statewide turnover rate of the state of 18.6% and 11.8% turnover rate of Article VIII agencies.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

### TSBP Compared to Travis County Workforce Composition Based on 2010 Census Data

<u>Travis County</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND
	M	F	M	F	M	F	M	F	M	F	TOTAL
Administrators	35,090	22,755	1,648	2,087	4,908	3,933	1,700	1,062	43,346	29,837	73,183
Professional	55,800	44,270	2,894	3,963	7,580	7,922	7,599	4,349	73,873	60,504	134,377
Para-Prof	13,780	14,310	2,750	3,164	9,120	11,213	1,251	1,588	26,901	30,275	57,176
Admin Support	15,635	39,810	2,735	5,705	6,114	14,289	1,222	2,578	25,706	62,382	88,088
<b>TOTALS</b>	<b>120,305</b>	<b>121,145</b>	<b>10,027</b>	<b>14,919</b>	<b>27,722</b>	<b>37,357</b>	<b>11,772</b>	<b>9,577</b>	<b>169,826</b>	<b>182,998</b>	<b>352,824</b>
Percentage	34.1%	34.3%	2.8%	4.2%	7.9%	10.6%	3.3%	2.7%	48.1%	51.9%	200.0%

<u>Agency EEO Data</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND
	M	F	M	F	M	F	M	F	M	F	TOTAL
Administrators	1	5	0	0	0	0	0	0	1	5	6
Professional	5	13	0	3	2	2	0	1	7	19	26
Para-Prof	8	23	1	2	1	13	0	0	10	38	48
Admin Support	0	1	0	2	0	7	0	0	0	10	10
<b>TOTALS</b>	<b>14</b>	<b>42</b>	<b>1</b>	<b>7</b>	<b>3</b>	<b>22</b>	<b>0</b>	<b>1</b>	<b>18</b>	<b>72</b>	<b>90</b>
Agency	15.6%	46.7%	1.1%	7.8%	3.3%	24.4%	0.0%	1.1%	20.0%	80.0%	200.0%
Travis County	34.1%	34.3%	2.8%	4.2%	7.9%	10.6%	3.3%	2.7%	48.1%	51.9%	199.9%

<u>New Hires</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND
	M	F	M	F	M	F	M	F	M	F	TOTAL
Administrators	0	0	1	0	0	0	0	0	1	0	1
Professional	0	1	0	0	0	0	0	0	0	1	1
Para-Prof	1	3	0	0	0	2	0	0	1	5	6
Admin Support	0	0	0	0	0	2	0	0	0	2	2
<b>TOTALS</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>8</b>	<b>10</b>

<u>Promotions</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND
	M	F	M	F	M	F	M	F	M	F	TOTAL
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	0	0	0	0	1	1	0	0	1	1	2
Para-Prof	0	1	0	0	0	2	0	0	0	3	3
Admin Support	0	1	0	0	0	0	0	0	0	1	1
<b>TOTALS</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>5</b>	<b>6</b>

<u>Terminations</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND
	M	F	M	F	M	F	M	F	M	F	TOTAL
Administrators	0	1	0	0	0	0	0	0	0	1	1
Professional	1	2	0	0	0	0	0	0	1	2	3
Para-Prof	1	3	0	0	1	2	0	0	2	5	7
Admin Support	0	0	0	0	0	1	0	0	0	1	1
<b>TOTALS</b>	<b>2</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>9</b>	<b>12</b>

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

7. **To serve as the Agency Records Retention Manager to the Texas State Library, in maintaining a Records Retention Program for the economical and efficient management of agency records throughout FY2017.**

**Status:** **Accomplished**

**Comment:** The agency continues to save valuable square footage by imaging files. The pharmacist, pharmacy technician and closed technician complaint imaging project continued with 325,930 images scanned into the imaging system. Agency staff destroyed 3,635.42 cubic feet of records in accordance with the TSBP records retention schedule, and 63 cubic feet of records were sent to the State Library for storage.

8. **To serve as the Agency Risk Manager by annually assessing areas of agency risk exposures and recommending procedures to control these exposures throughout FY2017.**

**Status:** **Accomplished**

**Comment:** This objective was accomplished in the following manner:

- A. The Texas Internal Audit Act requires all agencies to conduct a formal risk assessment and submit an annual Risk Assessment Report to the Office of the State Auditor (SAO). The Agency conducted an assessment of the major programs of the agency (i.e., licensing, enforcement & peer assistance, prescription monitoring, rulemaking, public information, financial operations, information technology) and submitted the Risk Assessment Report by the due date to the SAO.

A Request for Qualifications to obtain internal audit services for future years, was awarded in compliance with Texas Government Code, Chapter 2102. These audit services will begin in FY2018.

- B. The agency underwent a successful Risk Program Management Review by the State Office of Risk Management (SORM). Two new recommendations were implemented to help improve the effectiveness of the TSBP risk management program.

- C. The agency continued the Training and Exercise Plan of the agency Continuity of Operations Plan.

9. **To provide verbal and written information to Board staff and customers throughout FY2017 including, by the assigned due dates, the preparation of the LBB Performance and Funds Management Report and other special reports as requested by LBB, legislative committees, legislators, and others, in conjunction with other Divisions as necessary.**

**Status:** **Accomplished**

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

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Report Title	Recipient(s)	Division Reporting
FTE State Employees	State Auditor	Administration
Employees Quarterly Report	Texas Workforce Commission	Administration
Employer's Quarterly Federal Tax Return	Internal Revenue Service	Administration
Annual Financial Report	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor	Administration
Non-Financial Annual Report	Governor's Office; Legislative Budget Board; State Auditor	Administration
Operating Budget	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor	Administration
ABEST Reconciliation	Legislative Budget Board	Administration
Historically Underutilized Business Progress Reports	Governor's Office; Lt. Governor; Speaker of House; Texas Building & Procurement Commission	Administration
Encumbrance Reports	State Comptroller; State Auditor; Legislative Budget Board	Administration
State Use Report	Texas Comptroller of Public Accounts	Administration
EEO Information Report	Texas Workforce Commission	Administration
Minority Hiring Practices	Texas Workforce Commission	Administration
SORM 200	Office of Risk Management	Administration
Performance and Funds Mgmt. Reports	Legislative Budget Board	All
Contract Workforce Report	State Auditor; Legislative Budget Board; Governor	Administration
Survey of Revenue/Expenditures	National Association of Boards of Pharmacy	Administration
Open Records Online Monthly Report	Office of Attorney General	Professional Services
Fleet Management Report	Texas Comptroller of Public Accounts	Administration
Risk Assessment	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor, Sunset Advisory Commission	Administration
Veterans Workforce Summary Report	Comptroller	Administration
Space Utilization Survey	Texas Facilities Commission	Administration
SORM Report	SORM	Administration
Professional and Consultant Services Report	Legislative Budget Board	Administration
LBB Collected Revenue Report	Legislative Budget Board	Administration

**ADMINISTRATIVE SERVICES AND LICENSING DIVISION**

<b>Report Title</b>	<b>Recipient(s)</b>	<b>Division Reporting</b>
TexFlex Reconciliation Report	Employees Retirement System	Administration
Annual Debt Report	Office of Attorney General	Administration
Procurement Plan	Comptroller	Administration
Audit Corrective Action Plan	State Auditor	Enforcement and Administration
HPC Annual Report	HPC	All
CAPPS/HR Conversion documentation	Comptroller's Office	Administration
Continuity of Operations Plan	SORM	Administration
Fiscal Notes 85 <sup>th</sup> Texas Legislature	Legislative Budget Board	Administration

**10. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2017.**

**Status: Accomplished**

**Comment:** Division staff participated in the following activities:

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

**11. To manage employees under the supervision of the Division throughout FY2017, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

**Status: Accomplished**

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

**Comment:** This objective was accomplished through the following activities:

- A. Division Director, in cooperation and conjunction with General Counsel, managed the new hire process for the upcoming vacancy of Executive Director/Secretary. The position description was updated and all necessary application and interview criteria were reviewed for compliance with applicable policy and applicable state and federal personnel statutes. Interviews were conducted by a Board Panel and an offer of employment was made by the full Board, to become effective in FY2018.
- B. Division Director participated in the hiring of the Manager of Information Services.
- C. Division Director conducted regular staff team meetings for division staff and in-house training sessions.
- D. Division staff participated in personal development seminars and participated in all-staff training, as listed in Objective #6.
- E. Division Director conducted the annual evaluation of Division employees in August 2017.

**12. To update the Agency Personnel Handbook and the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2017.**

**Status: Accomplished**

**Comment:** A Tobacco Free Workplace policy was introduced to all staff and included in the Agency Personnel Handbook. In addition, the Licensing Policies and Procedures were updated on an ongoing basis.

**13. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2017.**

**Status: Accomplished**

**Comment:** Rules and procedures regarding licensing and registration of pharmacists, pharmacies, interns, and pharmacy technicians, are reviewed on a regular basis and recommendations are made as necessary.

**14. To prepare a report on the accomplishment of Division objectives for incorporation into the agency's *FY2016 Annual Report* and submit to the Executive Director by the due date.**

**Status: Accomplished**

**Comment:** The Division's first draft of the FY2016 *Annual Report* was submitted to the Executive Director by the due date. All Divisions' Annual Reports were compiled and subsequently presented to the Board at its meeting in August 2017.

**ADMINISTRATIVE SERVICES AND LICENSING DIVISION**

**Objectives (Ongoing) – Licensing**

15. To coordinate the collection of licensing data for *Key Performance Targets* required under the 2016-2017 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2017.

**Status:** Accomplished

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

LICENSING RELATED PERFORMANCE MEASURES	FY2017 Projected Performance	FY2017 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
Number of New Licenses issued to Individuals (Pharmacists)	1,500	2,151	K	Exceeded
Number of Licenses Renewed (Individuals – Pharmacists)	17,000	17,623	K	Exceeded
Number of New Registrations Issued to Individuals (Technician and Trainee)	13,000	17,381	NK	Exceeded
Number of Registrations Renewed (Technicians)	16,000	16,413	NK	Exceeded
Percent of New Licenses Issued within 10 days	95%	85%	NK	Not Met
Percent of Individual Licenses Issued within 7 days	99%	100%	NK	Exceeded
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	95.00%	96.50%	K	Exceeded
Total Number of Pharmacists Licensed	32,157	34,642	NK	Exceeded
Total Number of Facilities Licensed	7,500	8,084	K	Exceeded
Total Number of Individuals (Technicians & Trainees) Registered	57,000	65,786	NK	Exceeded
Percent of Licenses Who Renew Online	94.00%	93.66%	K	Met
Percent of New Individual Licenses Issued Online	96.00%	97.02%	NK	Exceeded

**ADMINISTRATIVE SERVICES AND LICENSING DIVISION**

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

**Status: Accomplished**

**Comment:** At year end, a total of 1,897 interns (student interns, intern trainees and extended interns) were certified within one to four days of receipt of required documents. In addition, a total of 6,155 pharmacist preceptors were initially certified or renewed their certification. At fiscal year-end, a total of 11,053 pharmacists were active preceptors.

- 17. To determine the eligibility of all pharmacist applicants applying to take the NAPLEX and Texas Pharmacy Jurisprudence Examination for initial licensing or licensing by reciprocity throughout FY2017.**

**Status: Accomplished**

**Comment:** Staff presented intern overviews and a NAPLEX and MPJE Orientation to upcoming graduates of Texas Southern University, University of Houston, Texas Tech University, University of Texas, Texas A&M Health Science Center/Irma Lerma Rangel Colleges of Pharmacy, the University of the Incarnate Word Feik School of Pharmacy, and University of North Texas. These overviews were presented via a web-based instruction.

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

<b>JURISPRUDENCE (MPJE)</b>	<b>TOTAL</b>
Candidates Passing	1765
Candidates Failing	222
TOTAL ADMINISTERED	1987

<b>NAPLEX</b>	<b>TOTAL</b>
Candidates Passing	858
Candidates Failing	125
TOTAL ADMINISTERED	983

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

<b>NEW PHARMACISTS LICENSED</b>	
Graduates of Texas Colleges of Pharmacy	668 (31.06%)
Graduates of Out-of-State Colleges of Pharmacy	1362 (63.32%)
Credentialed by the Foreign Pharmacist Equivalency Committee	121 (5.62%)
TOTAL	2151

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Regarding reciprocity (license transfer) in and out of Texas, 957 candidates were licensed by reciprocity. The National Association of Boards of Pharmacy reports that “As in 2016, Texas had the highest number of request to transfer licensure to the state, with a total of 1,292 requests submitted in 2017. However, this figure represents a 29% decrease compared to the 1,819 requests to transfer a license to Texas made in 2016”.

- 18. To provide staff support to the *Examination Retake Committee* and any other advisory committee related to licensing issues as required in FY2017.**

**Status: Accomplished**

**Comment:** Division Director continued to inform applicants who failed the Board licensing examination(s) five times of the committee recommendations to complete college coursework prior to retaking the examination(s).

- 19. To issue a pharmacist license by examination, score transfer, or reciprocity within an average of ten working days after the date the agency receives the examination results throughout FY2017.**

**Status: Accomplished**

**Comment:** The agency issued 2,151 new pharmacist licenses with an average turnaround time of seven business days from the download of the examination results.

- 20. To issue renewal certificates to all pharmacist candidates within an average of five working days of receipt of the required fee and all required documents throughout FY2017.**

**Status: Accomplished**

**Comment:** The agency renewed 17,623 biennial pharmacist licenses during FY2017. Approximately 94% of eligible pharmacists renewed their licenses online. The average processing time to issue a renewal license from receipt of a completed application was one business day and 100% of licenses were issued within seven business days.

The total population of licensed pharmacists for this fiscal year is as follows:

<b>PHARMACISTS LICENSED</b>	
Active Status	32,610
Inactive Status*	**2,932
<b>TOTALS</b>	<b>34,642</b>

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

\*\*Of the above number, 877 pharmacists have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as “exempt.”

According to the NABP 2017 Survey of Pharmacy Law Census Data, Texas is one of the states with the highest number of licensed pharmacists.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

21. To issue initial certificates to all pharmacy technician trainee candidates within an average of five working days of receipt of the required documents throughout FY2017.

**Status:** Accomplished

**Comment:** The agency issued 12,596 new pharmacy technician trainee registrations bringing the total population of active registered pharmacy technician trainees for this fiscal year to 22,868. Approximately 98% of trainees applied for their registrations online. The average processing time to issue a pharmacy technician trainee registration from receipt of a completed application was one business day and 100% of certificates were mailed within five working days or less.

22. To issue initial and/or renewal certificates to all pharmacy technician candidates on receipt of the required fees and all required documents according to the following guidelines throughout FY2017.

- A. initial certificates to pharmacy technician applicants within an average of 10 working days; and
- B. renewal certificates to pharmacy technician applicants within five working days.

**Status:** Accomplished

**Comment:** The agency issued 4,785 new pharmacy technician registrations and renewed 16,413 registrations on a biennial basis, bringing the total population of active registered technicians for this fiscal year to 42,918. Approximately 99% of eligible applicants and pharmacy technicians applied for or renewed their registrations online.

The average processing time to issue a renewal registration from receipt of a completed application was one business day and 100% of certificates were mailed within 10 working days or less.

The average processing time to issue an initial registration from receipt of a completed application was one business day and 100% of certificates were mailed within 10 working days or less.

23. To issue an initial and/or renewal certificate to all pharmacy license applicants on receipt of the required fees and all required documents according to the following guidelines throughout FY2017.

- A. initial certificates to pharmacy license applicants within an average of 21 working days; and
- B. renewal certificates to pharmacy license applicants within five working days.

**Status:** Accomplished

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

**Comment:** The agency issued 406 new pharmacy licenses and 143 changes of ownership, which resulted in 549 new licenses issued. 3,493 licenses were renewed on a biennial basis, bringing the total population of active registered pharmacies for this fiscal year to 8,084. Approximately 14% of eligible pharmacies renewed their licenses online.

The average processing time to issue a renewal license from receipt of a completed application was six business days and 60% of licenses were mailed within five working days or less.

Although a small percentage of pharmacies continue to use the online payment system for the renewal of their licenses, it should be noted that the inefficiencies of the computer system as well as the lack of automated processes, have necessitated that all pharmacy applications be received and processed in paper format only.

The average processing time to issue an initial license from receipt of a completed application, inspection, and enforcement review was one business day, and 100% of applications were licensed within 21 working days or less.

The following chart represents the total number of pharmacy licenses (business or facilities) issued by the agency, and includes 11 classes of pharmacy licenses.

<b>ACTIVE PHARMACIES</b>	
Class A (Community)	5,025
Class A-S (Community Pharmacy Engaged Compounding Sterile Preparations)	302
Class B (Nuclear)	35
Class C (Institutional)	778
Class C-S (Institutional Pharmacy Engaged In Compounding Sterile Preparations)	436
Class D (Clinic)	445
Class E (Non-Resident)	565
Class E-S (Non-Resident Pharmacy Engaged In Compounding Sterile Preparations)	121
Class F (Free Standing Emergency Medical Care Facilities)	345
Class G (Central Processing)	31
Class H (Limited Prescription Delivery)	01
<b>TOTALS</b>	<b>8,084</b>
Remote Pharmacies	1,697

A total of 5,216 change documents were processed as follows:

<b>PHARMACY APPLICATIONS PROCESSED</b>	
Pharmacy Renewals	3,493
New Licenses Issued [new opens (406) and changes of ownership (143)]	549
Closings	429
Remote Pharmacies	354
Changes of Name	150
Changes of Location	190
Changes of Classification	52
<b>TOTAL</b>	<b>5,216</b>

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- 24. In cooperation with the Enforcement Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants for licensure and registration throughout FY2017, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2017.**

**Status:** Accomplished

**Comment:** Fingerprint-based criminal background checks continued on all applicants for pharmacist-intern, pharmacy technician, and pharmacy technician trainee registrations and pharmacist licensure. In addition, quarterly DPS background checks were run on all individuals, once they are licensed or registered.

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# Professional Services Division

## FY2017 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 16 of the Division's Objectives and partially accomplished one of the Division's Objectives for FY2017.
2. Division Director drafted or assisted others in drafting 30 rules and preparing the rules for review by the Board.
3. Division Director gave 35 presentations/webcasts during FY2017 to over 3,800 pharmacists, pharmacy students, and pharmacy technicians.

## **PROFESSIONAL SERVICES DIVISION**

### **FY2017 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS**

1. Division Director spent a great deal of time overseeing the operation of the Prescription Monitoring Program.
2. A newsletter was not published in FY2017. However, the agency used Facebook, Twitter, YouTube, and Mail Chimp to provide information to licensees, registrants, and interested parties.

# PROFESSIONAL SERVICES DIVISION

## FY2017 ANNUAL REPORT

### GOAL

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

### Objectives (New)

- To assist the Executive Director, in cooperation with other Divisions, preparing testimony, attending public hearings, providing any fiscal or technical information, reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the process of this legislation, including the Sunset Bill, throughout the 85th Texas Legislative Session.**

**Status:** ACCOMPLISHED

**Comment:** Division Director reviewed and analyzed proposed legislation that had a potential impact on pharmacy practice and on agency operations. At the request of and in the absence of the Executive Director, Division Director attended legislative hearings regarding agency budget and operation and any pharmacy practice-related issues. Division Director attended numerous meetings with legislative staff to provide information regarding proposed legislation.

- To assist the Executive Director, in cooperation with other Divisions, in the implementation of the transfer of the Texas Prescription Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy.**

**Status:** ACCOMPLISHED

**Comment:** Division Director assisted the Executive Director, in cooperation with other Division Directors and agency staff, in implementing the transfer of the Prescription Monitoring Program to the Texas State Board of Pharmacy on September 1, 2016. This program collects and monitors prescription data for all Schedule II, III, IV and V controlled substances dispensed by a pharmacy in Texas or to a Texas resident from a pharmacy located in another state. Division Director and program staff participated in weekly status meetings. Division Director worked closely with other Division Directors, agency staff, and the program administrator to develop and implement optimal program specifications. Statistics for FY2017 are included in the chart below.

PRESCRIPTION MONITORING PROGRAM FY2017 STATISTICS					
	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	Year Totals
Registered Users	43,227	5,494	4,773	5,148	58,642
Number of Searches	800,041	982,602	1,113,526	1,279,436	4,175,605
Prescriptions Dispensed	10,123,585	10,092,111	9,856,895	9,346,925	39,419,516

## PROFESSIONAL SERVICES DIVISION

### Objectives (Ongoing)

1. **To develop rules for consideration by the Board relating to professional issues and to assist other Divisions with the development of rules pertaining to Board operations throughout FY2017.**

**Status:**       **ACCOMPLISHED**

**Comment:**    The Division Director spent a considerable amount of time drafting rules, assisting others in the drafting of rules, and preparing and presenting the rules for review by the Board. Changes required by the Board were made quickly to allow final review by the Board in a timely manner, usually during the same Board meeting. The Division Director drafted and assisted other in drafting 30 rules during FY2017.

2. **To act as agency liaison to the Texas Register, coordinate and monitor all submissions to the Texas Register, to review and monitor the Texas Register for activities of other agencies that would impact TSBP or pharmacy practice, and to provide periodic notice of publications to Board Members, staff, and other interested parties throughout FY2017.**

**Status:**       **ACCOMPLISHED**

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

#### **RULE SUBMISSIONS TO THE *TEXAS REGISTER***

During FY2017, 57 submissions to the *Texas Register* were made that proposed, adopted, reviewed, repealed, or withdrew amendments or new Texas Pharmacy rules. Rule reviews were published according to the Board's established review schedule. Division staff met all deadlines for submissions to the *Texas Register*; monitored the submissions for action, and notified Board Members, TSBP staff, and other interested parties of the status of rules as follows:

Rules	Type of Action	Published in TxReg as Proposed	Published in TxReg as Adopted
§281.8	Amendment	FY2016	09/02/2016
§281.31	Amendment	FY2016	09/02/2016
§281.66	Amendment	FY2016	09/02/2016
§283.12	Amendment	FY2016	09/02/2016
§291.33	Amendment	FY2016	09/02/2016
§291.76	Amendment	FY2016	09/02/2016
§291.104	Amendment	FY2016	09/02/2016
§291.133	Amendment	FY2016	09/02/2016
§291.151	Amendment	FY2016	09/02/2016
§§291.1, 291.17	Amendment	FY2016	09/02/2016
Chapter 303	Rule Review	FY2016	09/09/2016
Chapter 291	Rule Review	FY2016	09/09/2016
§295.16	Amendment	09/23/2016	12/16/2016
§291.34	Amendment	09/23/2016	12/16/2016

**PROFESSIONAL SERVICES DIVISION**

<b>Rules</b>	<b>Type of Action</b>	<b>Published in TxReg as Proposed</b>	<b>Published in TxReg as Adopted</b>
§291.74	Amendment	09/23/2016	12/16/2016
§291.155	Amendment	09/23/2016	12/16/2016
§295.14	Amendment	09/23/2016	12/16/2016
§281.65	Amendment	09/23/2016	12/16/2016
§295.14	Amendment	09/23/2016	12/16/2016
§295.16	Amendment	09/23/2016	12/16/2016
§291.155	Amendment	09/23/2016	12/16/2016
§281.65	Amendment/Withdrawn	12/30/2016	03/10/2017
§291.93	Amendment	12/30/2016	03/10/2017
§291.106	Amendment	12/30/2016	03/10/2017
§297.3	Amendment	12/30/2016	03/10/2017
Chapter 291	Rule Review	12/30/2016	03/10/2017
Chapter 291	Rule Review	12/30/2016	03/10/2017
Chapter 297	Rule Review	12/30/2016	03/10/2017
§281.61	Amendment	03/10/2017	06/02/2017
§291.3	Amendment	03/10/2017	06/02/2017
§291.52	Amendment	03/10/2017	06/02/2017
§315.3	Amendment	03/10/2017	06/02/2017
§281.65	Amendment	03/10/2017	06/02/2017
§291.93	Amendment	06/16/2017	FY2017
§§291.76, 291.77	Amendment	06/16/2017	FY2017
§§291.32, 291.33, 291.34	Amendment	06/16/2017	FY2017

**OPEN MEETING SUBMISSIONS TO THE TEXAS REGISTER**

Twenty notices of open meetings scheduled during FY2017 were submitted by the Division to the *Texas Register* for publication. The submissions were as follows:

<b>Type of Submission</b>	<b>Date Published</b>
Interagency Prescription Monitoring Work Group Meeting – 10/3/16	9/20/16
Temporary Suspension Hearing – 10/7/16	9/29/16
Task Force on Pharmacy Technician Qualification and Duties – 11/7/16	10/14/16
Board Business Meeting – 11/1/16	10/21/16
Interagency Prescription Monitoring Program Work Group Meeting – 1/30/17	1/3/17
Task Force on Implementation of Rules – 1/31/17	1/3/17
Executive Committee Meeting – 2/7/17	1/10/17
Temporary Suspension Hearing – 1/20/17	1/10/17
Health Professional Council Board – 2/7/17	1/24/17
Executive Committee Meeting – 2/7/17	1/24/17
Health Professional Council Board – 2/7/17	1/27/17
Temporary Suspension Hearing – 3/24/17	3/8/17
Interagency Prescription Monitoring Program Work Group Meeting – 4/24/17	4/3/17
Board Business Meeting – 5/2/17	4/19/17
Executive Committee Meeting – 6/21/17	6/5/17
Interagency Prescription Monitoring Program Work Group Meeting – 7/24/17	6/16/17
Sterile Compounding Stakeholders Meeting – 8/22/17	6/21/17

**PROFESSIONAL SERVICES DIVISION**

Type of Submission	Date Published
Texas Pharmacy Law Update and Board Forum – 7/7/17	6/27/17
Temporary Suspension Hearing – 7/12/17	6/30/17
Board Business Meeting – 8/1/17	7/18/17

- 3. To respond to open records requests throughout FY2017, in accordance with the procedures set forth in the Texas Public Information Act and to notify various state and federal agencies regarding disciplinary orders entered by the Board.**

**Status: ACCOMPLISHED**

**Comment:** As indicated in the following chart, TSBP experienced a 10% decrease in the number of requests for records in FY2017, as compared to FY2016.

**OPEN RECORDS REQUESTS FY2013 through FY2017**

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
FY2013	199	239	1,173	2,301	1,372	2,540	114	212	<-1%	+7%
FY2014	230	243	1,490	1,863	1,720	2,106	143	176	25%	-17%
FY2015	514	570	1,998	2,434	2,512	3,004	209	250	46%	43%
FY2016	364	386	2,265	2,402	2,629	2,788	219	232	5%	-7%
FY2017	182	205	2,165	2,346	2,347	2,551	196	213	-10%	-8%

- 4. To provide information to Board staff and customers, including responses to surveys and questionnaires, oral and written communication, display of the TSBP exhibit at meetings, and public speaking engagements, as needed and required throughout FY2017.**

**Status: ACCOMPLISHED**

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

- A. The Division Director gave seventeen live presentations to over 2,400 individuals as indicated in the following chart:

Date	Group	Attendance (Approx.)
9/16/16	Texas Prescription Monitoring Program, San Antonio Medical Group, San Antonio	20
9/24/16	University of Texas Pharmacy Practice Seminar, Austin	500
10/5/16	Texas Prescription Monitoring Program, Galveston County Medical Society, Texas City	60
10/11/16	TSBP: Emphasis on Education, MALTAGON, Austin	70

## PROFESSIONAL SERVICES DIVISION

Date	Group	Attendance (Approx.)
10/12/16	Texas Pharmacy Law Update, HEB Pharmacists' Conference	400
10/23/16	Using the Prescription Monitoring Program, Opioid Abuse Epidemic Seminar, Austin	100
10/24/16	Texas Pharmacy Law Update, DADS Pharmacy Directors' Meeting	40
10/25/16	Texas Pharmacy Laws Update, TSBP Staff,	20
10/27/16	Sterile Compounding/Texas Law Update Workshop, Fort Worth	186
12/1/16	Regulating Pharmacy Technicians, Virginia College, Austin	10
12/3/16	Using the Prescription Monitoring Program, Texas Medical Association, Austin	200
2/3/17	Prescription Drug Abuse Summit Panel, Austin	250
3/6/17	Regulating Pharmacy Practice in the Public's Interest, University of Houston College of Pharmacy, Houston	130
4/6/17	Sterile Compounding/Texas Law Update Workshop, Dallas	100
4/26/17	Using the Prescription Monitoring Program, Texas Pharmacy Association, Austin	100
7/26/17	Pain Management in Nursing Homes: What Prescribers Need to Know, Austin	190
8/23/17	Texas Pharmacy Law Update, Gulf Coast Society of Health-System Pharmacists, Houston	30
<b>TOTAL</b>		<b>2,406</b>

- B. The Division Director provided training and information to new employees and pharmacist-interns regarding the operation of the Professional Services Division.
- C. The Division Director developed an education display that was exhibited at the following meetings:
- HEB Pharmacists' Conference
  - Texas Society of Health-System Pharmacists Annual Seminar
  - Texas Pharmacy Association Annual Meeting
- D. Other Activities
- The Division Director routinely answered questions from Enforcement and Licensing staff concerning the laws and rules, including their applicability to specific situations
  - The Division Director routinely monitored the TSBP Website. Changes and/or updates were forwarded to Network Specialist Todd Hayek
  - The Division sent out 32 fifty-year certificates to eligible pharmacists.

## PROFESSIONAL SERVICES DIVISION

5. To educate licensees/registrants and promote voluntary compliance with the laws and rules by providing information about responsibilities under current regulations and to provide information consistent with the responsibilities of the Board through the publication of an Internet version of the Newsletter; online webcasts; live presentations; and social media including Facebook, Twitter, and You Tube.

**Status:** PARTIALLY ACCOMPLISHED

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

- A. During FY2017, the Division continued to use Mail Chimp, an online email system to manage email addresses and send email notices. The use of Mail Chimp improved agency efficiency by using less paper and postage. The number of subscriptions to the account steadily increased with over 10,700 subscribers at the end of the FY2017 (approximately 12.6% increase as compared to FY2016).
- B. The Division provided 18 online presentations to 1,405 individuals as indicated in the following chart:

Date	Program	Attendance (Approx.)
9/1/2016	Webinar - Laws and Rules Update	64
9/14/2016	Webinar - Class C PIC Training	22
10/6/2016	Webinar - Laws and Rules Update	85
10/18/2016	Webinar - Sterile Compounding	48
11/17/2016	Webinar - Laws and Rules Update	101
12/1/2016	Webinar - Laws and Rules Update	71
12/13/2016	Webinar - Top 10 Things to Know About Running a Pharmacy	16
1/19/2017	Webinar - Laws and Rules Update	83
2/23/2017	Webinar - Laws and Rules Update	129
3/7/2017	Webinar - Laws and Rules Update	85
4/4/2017	Webinar - Laws and Rules Update	116
5/23/2017	Webinar - Laws and Rules Update	176
6/14/2017	Webinar - Laws and Rules Update	97
6/28/2017	Interagency PMP Training	5
7/13/2017	Webinar - Laws and Rules Update	115
7/26/2017	Interagency PMP Training	49
8/17/2017	Interagency PMP Training	12
8/22/2017	Webinar - Laws and Rules Update	131
<b>TOTAL</b>		<b>1,405</b>

## PROFESSIONAL SERVICES DIVISION

- C. Nine educational videos were produced and posted on You Tube during FY2017, including four tutorial videos regarding license/registration applications, two multilingual videos, and one video regarding the Prescription Monitoring Program. The videos posted in FY2016 had over 3,700 views.
- D. Facebook, Twitter, and YouTube continued to be useful tools to provide information. At the end of FY2017, over 4,500 individuals “liked” TSBP on Facebook and over 1,900 individuals “followed” TSBP on Twitter. There were 97 posts on Facebook/Twitter.

- 6. To work with the National Association of Boards of Pharmacy (NABP) in the ongoing development of the Multi-State Pharmacy Jurisprudence Examination (MPJE); coordinate with other staff the review of MPJE item pools on an agreed timetable with NABP to determine appropriate questions for the Texas exam; and to provide new questions for the MPJE as appropriate or requested by NABP throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** The Division accomplished this goal with the cooperation of agency personnel who assisted in the review of the MPJE item pool and item writing for the Texas pool.

- 7. To audit the pharmacists' and pharmacy technicians' compliance with continuing education and to initiate complaints on pharmacists and pharmacy technicians who are not in compliance with the rules regarding mandatory continuing education for renewal, in cooperation with the Enforcement Division, throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** During FY2017, continuing education audits were conducted on 151 pharmacists and pharmacy technicians. Complaints were initiated on 32 licensees/registrants for non-compliance.

- 8. In cooperation with the Executive Director and other Divisions, to provide internship experience to student pharmacist-interns upon requests from the Texas Colleges of Pharmacy, throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** Division Director assisted in providing orientation to pharmacist-interns from the Texas Colleges of Pharmacy.

- 9. To provide professional staff support to Board-appointed task forces and complete other special projects as assigned throughout FY2017.**

**Status: ACCOMPLISHED**

## PROFESSIONAL SERVICES DIVISION

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

- A. The Division's staff provided professional staff support for the following meetings:
  - Task Force on Pharmacy Technician Qualifications and Duties – 11/7/16
  - Task Force on Implementation of Rules relating to USP General Chapter 800 – Hazardous Drug – 1/31/17, 3/27/17
  - CETA Stakeholder Meeting – 1/18/17, 8/22/17
- B. The Division staff provided professional staff support for four meetings of the Interagency Prescription Monitoring Program Work Group.
- C. The Division staff provided 722 continuing education certificates to individuals for programs presented by TSBP staff.

**10. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** Division Director attended HPC meeting as necessary for Executive Director.

**11. To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2017.**

**Status: ACCOMPLISHED**

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

- A. Division staff maintained close contact with *Texas Register* staff as needed to prepare and publish rules in the *Texas Register*.
- B. Division Director maintained contact with numerous state and federal agencies and other state boards of pharmacy.

**12. To manage employees under the supervision of the Division throughout FY2016, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

**Status: ACCOMPLISHED**

## PROFESSIONAL SERVICES DIVISION

**Comment:** This objective was accomplished through the following activities:

- A. Annual performance reviews for Division staff were conducted in August 2017.
- B. In FY2017, Division staff attended general staff meetings and in-house training sessions. In conjunction with General Staff Meetings, Division staff participated in all-staff trainings.
- C. The Division Director served as co-chair on the agency's Wellness Committee in conjunction with the General Counsel. Division Director assisted with and participated in numerous wellness planning meetings and program activities including the following programs:
  - (1) Maintain No Gain;
  - (2) Farm-to-Work;
  - (3) Provision of flu shots;
  - (4) Weekly yoga classes; and
  - (5) Lose and Win and other nutrition presentations.
- D. Division staff participated in Wellness events and seminars and numerous Helping Hands activities.

**13. To destroy records in accordance with the agency's record retention plan throughout FY2017; and to update the Division's Policy and Procedure Manual as needed and submit any substantive revisions to the Executive Director/Secretary for approval throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** During FY2017, the Division accomplished this goal as follows:

- A. Records Management

Records in the possession of the Division scheduled for destruction during FY2017 under the approved Record Retention Schedule were identified and destroyed.

- B. Policies and Procedures

The policies and procedures regarding the operation of the Prescription Monitoring Program continued to be developed during FY2017. In addition, policies and procedures for handling Open Records Requests, submitting information to the *Texas Register*, and destroying records according to the Record Retention Schedule were reviewed in FY2017.

**14. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2017.**

**Status: ACCOMPLISHED**

## PROFESSIONAL SERVICES DIVISION

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

**15. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's FY2016 Annual Report and submit to the Executive Director by the due date.**

**Status: ACCOMPLISHED**

**Comment:** The Division's first draft of the FY2016 *Annual Report* was submitted to the Executive Director by the due date. All Divisions' Annual Reports were compiled and subsequently presented to the Board at its meeting in August 2017.

## FY2017 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished 100% of the Division's Objectives for FY2017.
2. TSBP met or exceeded, within a 5% variance, five of the six key enforcement-related performance measures for FY2017 (83%). (See Ongoing Objective #1 for more information regarding key and non-key performance measures).
3. TSBP received more complaints in FY2017 than the agency had received in any prior fiscal year. See the chart below for details regarding complaint data. (See Ongoing Objective #3 for additional details regarding complaint data).

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY2013	5,927	+2%	6,552	+14%	111%	187 Days	-8%
FY2014	5,561	-6%	5,606	-14%	101%	176 Days	-6%
FY2015	5,925	+7%	5,955	+6%	101%	170 Days	-3%
FY2016	6,146	+4%	6,265	+5%	102%	166 Days	-2%
FY2017	6,398	+4%	5,938	-5%	93%	153 Days	-8%

4. During FY2017, TSBP Compliance Field Staff accomplished their goal by conducting 3,227 inspections of pharmacies located in Texas. They continued to do an excellent job inspecting pharmacies that compound sterile preparations prior to the pharmacies' expiration dates, in order to implement TSBP rules which require this type of pharmacy to be inspected during its renewal period. (See Ongoing Objective #2 regarding inspection data).
5. Throughout FY2017, Compliance Field Staff collected 91 samples of compounded preparations from 88 Texas pharmacies, which included 86 sterile preparations and five non-sterile preparations. One sample failed sterility testing. In addition, 12 of the 86 samples (14%) failed to yield acceptable potency results. (See Ongoing Objective #3 for additional information about the sample collection program).
6. Throughout FY2017, Division staff continued to spend significant time and effort to monitor the inspections of Non-Resident pharmacies by vendors who were authorized to conduct these inspections on behalf of TSBP. During FY2017, vendor inspectors conducted 74 inspections of Class E-S Pharmacies and collected 76 samples of compounded sterile preparations. No sample failed sterility testing, but nine samples (12%) failed to yield acceptable potency results.
7. Throughout FY2017, Division staff spent a significant amount of time providing verbal information and assistance to the Board's internal and external customers. Specific examples include: Division staff responded verbally to 22,517 telephone calls received via the Compliance Queue Phone Line; made 25 presentations to an estimated 3,182 individuals; and maintained liaison with law enforcement agencies across the state, totaling over 633 contacts with 145 agencies. (See Ongoing Objectives #9 and #11 for additional information).

## ENFORCEMENT DIVISION

### FY2017 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. On January 31, 2017, the Governor of Texas imposed a hiring freeze, which resulted in the Enforcement Division not being able to fill four positions that were vacated between the date of the freeze and August 31, 2017, the date that the freeze was lifted. This situation contributed to the Enforcement Division resolving 5% fewer complaints in FY2017 as compared to FY2016. The decreased closure rate, coupled with the fact that the agency received a record number of complaints in FY2017, had a negative impact on the complaint backlog.
2. The Enforcement Division is understaffed. During the 85<sup>th</sup> Texas Legislative Session, the Division's request to add 10 new FTEs was denied. In fact, the agency's budget was cut 4% which will have a significant impact on the Division's operation during FY2018 and FY2019.
3. During FY2017, the Division experienced 15 staff changes, which included three losses due to retirement, two losses due to resignations, and five new hires. As a result, Division staff spent significant time and efforts to replace vacant positions (e.g., reviewing applications, conducting interviews, preparing orientation schedules and conducting orientation/training for all new employees). (See Ongoing Objective #15 for further details regarding personnel changes).
4. Division staff spent significant time monitoring compliance of 450 disciplinary orders entered in FY2017 (or 86% of the 525 disciplinary orders entered in FY2017) that required some type of monitoring by Division staff. (See Ongoing Objective #10 for details).
5. During FY2017, TSBP received 123 reports of employee pilferage by 143 individuals resulting in the diversion of 132,872 dosage units of prescription drugs. The number of reports, the number of suspects and the number of dosage units dropped as compared to FY2016. In FY2016, TSBP received 194 reports of employee pilferage by 208 suspects, resulting in the diversion of 364,972 dosage units – i.e., comparing FY2017 to FY2016, there was a 37% decrease in the number of reports received, a 31% decrease in the number of suspects, and a 64% decrease in the number of dosage units that were reported stolen. While TSBP recognizes the decreases as a positive situation, TSBP is still concerned about the number of prescription drugs that were diverted from pharmacies.
6. During FY2017, TSBP experienced an increase in the number of complaints that were filed by insurance companies/pharmacy benefit managers (PBMs). Specifically, TSBP received 69 reports from insurance companies/ PBMs in FY2017, which represented a 92% increase when compared to the 36 complaints filed by insurance companies/PBMs in FY2016. In addition, TSBP experienced an increase in the number of reports regarding disciplinary orders taken against Texas licensees by other state pharmacy boards. Specifically, TSBP opened 359 complaints in FY2017 regarding out-of-state disciplinary orders, which represented a 21% increase when compared to the 296 complaints that were opened in FY2016.

## ENFORCEMENT DIVISION

### FY2017 ANNUAL REPORT

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#### GOAL

To promote voluntary compliance with pharmacy laws and rules. To monitor compliance with pharmacy laws and rules. To enforce pharmacy laws and rules through inspections and investigations of pharmacists and pharmacies. To monitor the complaint process and transfer complaints involving substantive allegations to the TSBP Legal Division for review and potential prosecution. To monitor compliance with Disciplinary Orders. To provide enforcement information and information regarding pharmacy laws and rules to agency customers.

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#### Objectives (New)

- 1. To assist the Executive Director, in cooperation with other Divisions, preparing testimony, attending public hearings, providing any fiscal or technical information, reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the process of this legislation, including legislation outlining the Sunset Commission's recommendations, throughout the 85th Texas Legislative Session.**

**Status: ACCOMPLISHED**

**Comment:** Division Director attended budget hearings before the House Subcommittee on Article 8 agencies (on February 14, 2017) and Senate Finance Committee (on February 22, 2017). In addition, Division Director also reviewed bills for fiscal impact to agency and Division operations, when requested by the Executive Director.

- 2. To assist the Executive Director, in cooperation with other Divisions, in the implementation of the transfer of the Texas Prescription Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy.**

**Status: ACCOMPLISHED**

**Comment:** Division staff assisted the Prescription Monitoring Program (PMP) staff, when needed, and worked with PMP staff to coordinate the types of issues that would result in the opening of a complaint and the types of telephone calls that should be handled by the staff of the Enforcement Division and the PMP.

## ENFORCEMENT DIVISION

### Objectives (Ongoing)

- To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2016-2017 Appropriations Act to Executive Director by specified due dates throughout FY2017; to assist in the preparation of applicable reports to the Legislative Budget Board and Governor's Budget Office regarding performance measures.**

**Status:**           **ACCOMPLISHED**

**Comment:** Throughout FY2017, Division staff collected data relating to enforcement and peer assistance performance measures. The data was certified and submitted to the Legislative Budget Board (LBB) and Governor's Office of Budget, Planning & Policy (GBO) by the prescribed due dates, in conjunction with licensing-related performance measures. Statistics regarding three enforcement-related performance measures (Number of Jurisdictional Complaints Resolved, Average Complaint Resolution Time, and Number of Individuals Participating in a Peer Assistance Program) were reported to the LBB and GBO on a quarterly basis throughout FY2017. The other eight measures were reported to the LBB and GBO at year-end (annual basis).

TSBP met or exceeded, within a 5% variance, 9 of the 11 enforcement-related performance measures (82%) and five of the six key performance measures (83%), as indicated in the chart below:

Enforcement-Related Performance Measure	FY2017 Projected Performance	FY2017 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
<b>Outputs:</b>				
Inspections	2,800	3,227	NK	Exceeded
Jurisdictional Complaints Resolved	5,420	5,897	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	180	161	K	Not Met
<b>Efficiency:</b>				
Average Time for Jurisdictional Complaint Resolution	180	153	K	Exceeded
<b>Outcomes:</b>				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	11.0%	9.2%	K	Met
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	95.0%	96.5 %	K	Met
Recidivism Rate of Those Receiving Disciplinary Action	4.0%	2.5%	NK	Met
Percent of Jurisdictional Complaints Resolved within Six Months	65.0%	69.2%	NK	Exceeded
Recidivism Rate for Participants in Peer Assistance Program	20.0%	27.8%	NK	Not Met
One-Year Completion Rate for Participants in Peer Assistance Program	85.0%	81.0%	NK	Met
<b>Explanatory:</b>				
Jurisdictional Complaints Received	5,620	6,356	K	Exceeded

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

## ENFORCEMENT DIVISION

2. To conduct 3,000 inspections of all classes of pharmacies located in Texas, throughout FY2017, including pre-inspections, partial inspections, attempted inspections, inspection-visits, and/or follow-up inspections to "Warning Notices." To conduct inspections of pharmacies located in Texas, according to the following priorities, throughout FY2017:
- A. Pre-inspections of pharmacies who are applying for a new pharmacy license;
  - B. Pharmacists and pharmacies who are the subject of a complaint received by TSBP or a disciplinary order entered by TSBP;
  - C. Pharmacies that compound sterile preparations;
  - D. New pharmacies or pharmacies with a recent change of ownership;
  - E. Pharmacies that have received a "Warning Notice" (follow-up inspections);
  - F. Pharmacies that have experienced a theft of loss of prescription drugs; and
  - G. Routine inspections.

**Status:** ACCOMPLISHED

**Comment:** During FY2017, TSBP Compliance Field Staff conducted 3,231 inspections of pharmacies located in Texas. This number represented fewer inspections as compared to the 3,640 inspections that were conducted in FY2016. This 11% decrease was due to hiring and training of two new inspectors (two positions were vacant for 1.5 months and training activities covered a six-month period).

The term "inspections" includes inspections, pre-inspections, partial-inspections, and inspection-visits. These terms are described below:

- A. Inspections are full inspections of licensed facilities in which Compliance field staff check the facilities for compliance with each of the items on the inspection report form.
- B. Pre-Inspections are partial inspections that occur prior to TSBP issuing the pharmacy license. The Compliance field staff determines if the pharmacy has the necessary items to open and operate a pharmacy in compliance with the laws and rules governing the practice of pharmacy. A pharmacy license is not issued to the facility unless the facility can pass the pre-inspection process.
- C. Partial-Inspections are inspections of licensed facilities in which Compliance field staff check the facility for compliance with a portion of the items on the inspection report form. In addition, partial inspections include follow-up inspections of pharmacies that received a "Warning Notice" to determine if the pharmacies have corrected the discrepancies listed on the "Warning Notice." Follow-up inspections are conducted within approximately six to eight months after the pharmacy has notified the Board in writing that the discrepancies have been corrected.

## ENFORCEMENT DIVISION

- D. Inspection-Visits are inspections in which Compliance field staff generally do not complete an inspection report form. Inspection-visits include inspections of non-licensed facilities that are operating a pharmacy, visits made to pharmacies that have closed (and did not notify the Board), and visits to “new” pharmacies that have not opened for business. The last two situations are discovered by Compliance field staff after arriving at the addresses listed in TSBP records.

Statistics regarding these inspections are set forth below:

<b>Total Inspections by Type</b>	<b>FY2015</b>	<b>FY2016</b>	<b>FY2017</b>	<b>% of FY2017</b>	<b>3-Year Average</b>	<b>% of 3-Yr. Average</b>
Inspections	2,537	3,159	2,784	86%	2,827	86%
Pre-Inspections	156	130	160	5%	149	5%
Partial-Inspections	164	195	147	5%	169	5%
Inspection-Visits	25	21	17	1%	21	1%
Attempted Inspections	100	125	110	3%	112	3%
Other	9	10	9	N/A	9	N/A
<b>Total</b>	<b>2,991*</b>	<b>3,640</b>	<b>3,227</b>	<b>100%</b>	<b>3,286</b>	<b>100%</b>

\* This number does not include the Class E-S inspection conducted by TSBP Compliance Officer

N/A – not applicable, value less than 0.01

<b>Number of Inspections/Visits by Class</b>	<b>FY2015</b>	<b>FY2016</b>	<b>FY2017</b>	<b>% of FY2017</b>	<b>3-Year Average</b>	<b>% of 3-Yr. Average</b>
Class A Pharmacies	2,275	2,460	2,238	69%	2,324	71%
Class A-S Pharmacies	144	208	199	6%	184	6%
Class B Pharmacies	5	20	16	N/A	14	N/A
Class C Pharmacies	268	386	257	8%	304	9%
Class C-S Pharmacies	128	212	241	7%	194	6%
Class D Pharmacies	95	198	120	4%	138	4%
Class F Pharmacies	61	138	141	4%	113	3%
Class G Pharmacies	15	18	15	N/A	16	N/A
<b>Total</b>	<b>2,991*</b>	<b>3,640</b>	<b>3,227</b>	<b>100%</b>	<b>3,286</b>	<b>100%</b>

\* During FY2015, two TSBP Compliance Officers inspected one Class E-S Pharmacy (out-of-state compounding pharmacy) over the course of two days. In addition, authorized vendors (on behalf of TSBP) conducted 65 inspections of Class E-S pharmacies.

N/A – not applicable, value less than 0.01

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Number of Warning Notices Issued by Class*	FY2015	FY2016	FY2017	% of FY2017**	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	992	917	796	66%	902	71%
Class A-S Pharmacies	84	124	129	11%	112	9%
Class B Pharmacies	2	13	9	1%	8	1%
Class C Pharmacies	80	83	52	4%	72	6%
Class C-S Pharmacies	87	146	177	15%	137	11%
Class D Pharmacies	31	30	19	2%	27	2%
Class F Pharmacies	17	14	14	1%	15	1%
Class G Pharmacies	0	1	4	N/A	2	N/A
<b>Total</b>	<b>1,293</b>	<b>1,328</b>	<b>1,200</b>	<b>100%</b>	<b>1,274</b>	<b>100%</b>

\* A pharmacy may be issued a "Warning Notice" for non-compliance with more than one condition.

\*\* This figure is the number and percentage of pharmacies receiving a "Warning Notice" during an inspection/visit and is based on the number of inspections/partial-inspections/visits conducted for the particular class of pharmacy.

N/A – not applicable, value less than 0.01

Conditions Receiving "Warning Notices" FY2017						
Percentages are based on the total number of "Warning Notices" issued to Pharmacies in FY2017. Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.						
Type of Violation	FY2015	FY2016	FY2017	3-Year Average	% FY2017	% 3-Year Average
<b>Equipment</b>	<b>117</b>	<b>164</b>	<b>115</b>	<b>132</b>	<b>3%</b>	<b>3%</b>
Balance Failed Inspection	80	97	69	82		
Equipment Inspection Due (Not Balance)	35	65	44	48		
Insufficient Equipment	2	2	2	2		
<b>Pharmacy Technicians</b>	<b>564</b>	<b>465</b>	<b>405</b>	<b>478</b>	<b>9%</b>	<b>11%</b>
No/Incomplete Training	510	394	336	413		
No/Improper Supervision	19	23	32	25		
Improper Registration	29	41	32	34		
No Name Tags	6	7	5	6		
<b>Inadequate Library</b>	<b>200</b>	<b>119</b>	<b>91</b>	<b>137</b>	<b>2%</b>	<b>3%</b>
<b>Counseling Area</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>N/A</b>	<b>N/A</b>
<b>Licenses</b>	<b>68</b>	<b>58</b>	<b>85</b>	<b>70</b>	<b>2%</b>	<b>2%</b>
Licenses Not Posted	63	58	85	69		
Delinquent Licenses	5	0	0	2		
<b>Prescriptions</b>	<b>335</b>	<b>377</b>	<b>269</b>	<b>327</b>	<b>6%</b>	<b>8%</b>
Lack Proper Information	159	170	133	154		
Prescription Label Incorrect	136	174	96	135		
Triplicate Non-Compliance	40	33	39	37		
Non-Emergency CII	0	0	1	N/A		

## ENFORCEMENT DIVISION

Conditions Receiving "Warning Notices" FY2017 Continued								
Type of Violation	FY2015	FY2016	FY2017	3 Year Average	% FY2017	% 3-Year Average		
<b>Drug Stock/Environment</b>	<b>421</b>	<b>355</b>	<b>242</b>	<b>339</b>	<b>6%</b>	<b>8%</b>		
Improper Environment	137	110	67	105				
Out-of-Date Drug Stock	158	105	68	110				
Security	65	84	60	70				
Unsanitary	32	23	33	29				
Improper Drug Storage	20	23	6	16				
Area for Non-Sterile Compounding	7	6	4	6				
Violation of Limited Formulary	2	3	3	3				
Prohibited Drugs (Class D)	0	1	1	1				
<b>Inventory</b>	<b>319</b>	<b>218</b>	<b>170</b>	<b>236</b>			<b>4%</b>	<b>6%</b>
No Annual Inventory	84	83	55	74				
No Change of Ownership Inventory	5	11	6	7				
No Change of PIC Inventory	35	40	30	35				
Incomplete Inventory	194	80	77	117				
No Perpetual inventory (Class C)	0	3	1	1				
Improper Drug Destruction	1	1	1	1				
<b>Improper Prepackaging Procedures</b>	<b>69</b>	<b>54</b>	<b>45</b>	<b>56</b>	<b>1%</b>	<b>1%</b>		
<b>Computer Systems</b>	<b>193</b>	<b>144</b>	<b>108</b>	<b>148</b>	<b>3%</b>	<b>3%</b>		
Computer Records Incomplete	193	143	107	148				
Computer Records Non-Compliance	0	1	1	1				
<b>Records</b>	<b>731</b>	<b>569</b>	<b>431</b>	<b>577</b>	<b>10%</b>	<b>14%</b>		
Records Not Available	314	219	191	241				
DEA Order Forms Incomplete	0	0	0	N/A				
Absence of R.Ph. Record	66	53	7	42				
Rx Not Separated	17	4	13	11				
Rx Records not Numerical Order	25	27	18	23				
Improper Transfer of RX copies	3	9	7	6				
Invoices Not Separated/Retrievable	122	92	59	91				
Records for Non-Sterile Compounds	169	132	107	136				
No Written Information on Prescription	10	23	28	20				
Improper Refill Documentation	5	10	1	5				
<b>OBRA Violations</b>	<b>118</b>	<b>65</b>	<b>106</b>	<b>96</b>			<b>2%</b>	<b>2%</b>
Written Information Not Provided	61	17	46	41				
No Patient Counseling	49	42	56	49				
PMR Absent or Incomplete	8	6	4	6				

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Conditions Receiving "Warning Notices" FY2017 <i>Continued</i>						
Type of Violation	FY2015	FY2016	FY2017	3 Year Average	% FY2017	% 3-Year Average
<b>Sterile Pharmaceutical Violations</b>	<b>647</b>	<b>1,280</b>	<b>1,782</b>	<b>1,236</b>	<b>41%</b>	<b>29%</b>
No/Incomplete QA/QC	99	73	116	96		
No/Incomplete P&P Manual	237	152	128	172		
No/Inadequate Preparation Area	165	19	6	63		
IV Preparation	131	12	2	48		
No DUR	13	11	10	11		
Absence of R.Ph. Pick-Up-Records	0	0	0	N/A		
Cytotoxic/Bio Procedures	2	0	0	1		
Anteroom air is NOT ISO 8	*	8	19	9		
Buffer area is NOT ISO 7	*	9	17	9		
No Separate buffer room for high-risk CSPs	*	2	2	1		
Buffer area not free of water source	*	0	1	N/A		
Improper design for hands free access	*	13	14	9		
Clean room not clean/well-lit/particle free	*	34	73	36		
Clean room not solely used for CSP	*	5	8	4		
Improper floor covering in clean room	*	2	9	4		
Surfaces not smooth/impervious/crevice-free	*	92	131	74		
Anteroom sink not hands free/hot&cold/closed system of soap	*	21	21	14		
Improper room temperature in clean room	*	31	79	37		
Drugs/supplies stored on floor of clean room	*	6	7	4		
Clean room contains inappropriate supplies	*	15	19	11		
PEC does not maintain ISO 5	*	2	6	3		
Untimely certification of PEC	*	7	9	5		
Improper procedures for PEC prefilters	*	0	3	1		
Improper pressure differential for PEC	*	6	5	4		
No pressure gauge in clean room	*	29	21	17		
Improper documentation of pressure monitoring	*	45	33	26		
Insufficient training for RPH	*	41	55	32		
Insufficient training for TECH	*	33	42	25		
Improper testing prior to compounding	*	110	106	72		
Untimely evaluation/testing	*	39	99	46		
Inadequate Library: Injectables	*	4	10	5		

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<b>Conditions Receiving "Warning Notices" FY2017 <i>Continued</i></b>						
Type of Violation	FY2015	FY2016	FY2017	3 Year Average	% FY2017	% 3-Year Average
Inadequate Library – Specialty References	*	0	1	N/A		
Inadequate Library : USP	*	21	34	18		
Dispensing commercially available	*	2	3	2		
No written agreement with DR	*	5	2	2		
QC Procedures no followed		0	1	N/A		
RPH not available at all times	*	1	3	1		
No thermometer in refrigerator	*	5	4	3		
Inadequate supplies for aseptic mixing	*	47	29	25		
Inadequate cleaning solutions	*	10	16	9		
Inadequate handwashing agents	*	1	0	N/A		
No lint-free wipes	*	12	7	6		
Inadequate gowns/garb	*	6	6	4		
Improper calibration of automated cpd device	*	2	5	2		
Improper SOP: Prep Recall	*	3	0	1		
Personnel: Cosmetics	*	9	12	7		
Personnel: Jewelry	*	13	23	12		
Personnel: Artificial nails	*	8	8	5		
Personnel: Shoe covers	*	19	36	18		
Hygeine of nails	*	28	33	20		
Improper hand washing	*	9	23	11		
Improper gowning	*	4	12	5		
Improper drying	*	17	12	10		
Failure to use alcohol-based scrub	*	71	63	45		
Failure to use sterile alcohol	*	13	5	6		
Failure to conduct accuracy checks	*	20	47	22		
Improper label: Generic name	*	0	1	N/A		
Improper label: CSP statement	*	1	2	1		
Improper Labeling: Lot #	*	1	1	1		
Improper Labeling: Qty	*	0	1	N/A		
Improper Labeling: Ancillary	*	0	1	N/A		
Improper BUD	*	3	2	2		
Improper cleaning: Start of day	*	5	13	6		
Improper mopping	*	11	23	11		
Improper Cleaning: walls/ceiling	*	15	28	14		
Improper Cleaning: Supplies	*	5	5	3		
Improper doc of cleaning	*	34	47	27		
Cleaning by untrained personnel	*	9	17	9		
High Risk: Improper testing of batches	*	2	1	1		
High Risk: Improper cleaning	*	3	3	2		
High Risk: Improper sterilization	*	0	1	N/A		

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<b>Conditions Receiving "Warning Notices" FY2017 <i>Continued</i></b>						
Type of Violation	FY2015	FY2016	FY2017	3 Year Average	% FY2017	% 3-Year Average
High Risk: Improper pre-sterilization	*	2	5	2		
Hazardous Prep: Improper disposal	*	1	0	N/A		
Hazardous Prep: Improper hood	*	1	5	2		
Hazardous Prep: Improper pressure	*	1	4	2		
Hazardous Prep: Improper pressure monitor	*	0	2	1		
Hazardous Prep: Low volume noncompliance	*	0	1	N/A		
Hazardous Prep: Improper storage	*	0	1	N/A		
Failed to keep records	*	8	13	7		
Improper Record: Date	*	3	12	5		
Improper Record: Formula	*	0	12	4		
Improper Record: Compounder initials	*	3	17	7		
Improper Record: Initials of final checker	*	3	23	9		
Improper Record: Container used	*	0	16	5		
Improper Record: Qty	*	1	11	4		
Improper Record: BUD	*	2	20	7		
Improper Record: QC	*	2	17	6		
Incomplete master worksheets	*	2	10	4		
Worksheet not approved by RPh	*	3	5	3		
Inappropriate sampling plan	*	0	1	N/A		
Air environment evaluation by untrained staff	*	2	5	2		
Untimely air sampling	*	10	20	10		
<b>No/Incomplete Non-Sterile Cpd Records</b>	<b>0</b>	<b>132</b>	<b>105</b>	<b>79</b>	<b>2%</b>	<b>2%</b>
<b>Improper Distribution</b>	<b>35</b>	<b>30</b>	<b>32</b>	<b>32</b>	<b>1%</b>	<b>1%</b>
<b>No PIC</b>	<b>27</b>	<b>42</b>	<b>23</b>	<b>31</b>	<b>1%</b>	<b>1%</b>
<b>Dispensing</b>	<b>114</b>	<b>138</b>	<b>110</b>	<b>121</b>	<b>3%</b>	<b>3%</b>
Improper Dispensing	66	91	62	73		
Aiding and Abetting	13	5	5	8		
Illegal Dispensing	4	4	6	5		
Substitution Non-Compliance	0	5	2	2		
Out-of-State Rx's for Controlled Substances	0	0	0	N/A		
Improper Emergency Room Dispensing	0	0	2	1		
Improper Automated Dispensing Procedures	31	28	31	30		
Improper Provision	0	5	2	2		
<b>Improper Advertising</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

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Conditions Receiving "Warning Notices" FY2017 <i>Continued</i>						
Type of Violation	FY2015	FY2016	FY2017	3 Year Average	% FY2017	% 3-Year Average
<b>Notification Violation</b>	<b>120</b>	<b>133</b>	<b>149</b>	<b>134</b>	<b>3%</b>	<b>3%</b>
<b>Theft &amp; Loss of C/S Not Reported</b>	<b>34</b>	<b>23</b>	<b>25</b>	<b>27</b>	<b>1%</b>	<b>1%</b>
<b>Gray Market diversion</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
<b>Improper Closing/Change of Ownership</b>	<b>4</b>	<b>3</b>	<b>1</b>	<b>3</b>	<b>N/A</b>	<b>N/A</b>
<b>Improper Inpatient Procedures (Class C)</b>	<b>20</b>	<b>14</b>	<b>7</b>	<b>14</b>	<b>N/A</b>	<b>N/A</b>

\* Conditions added in FY2016

N/A – not applicable, value less than 0.01

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

Purpose of Inspection (In Order of Priority)	FY2015	FY2016	FY2017	% of FY2017	3-Yr. Avg.	% of 3-Yr. Avg.
Complaint	35	64	34	1%	44	1%
Follow-up to Disciplinary Order	8	16	5	N/A	10	N/A
Pre-Inspection	157	127	160	5%	148	6%
New Pharmacies	164	233	176	5%	191	5%
Change of Ownership	10	77	75	2%	54	2%
Preceptor	3	1	3	N/A	2	N/A
Follow-up to "Warning Notice"	105	132	80	2%	106	3%
Routine Inspections	2,275	2,654	2,451	76%	2,460	75%
Rank Change *	6	19	11	N/A	12	N/A
Reverse Rank Change	N/A	1	2	N/A	1	N/A
Licensee Request *	5	26	24	1%	18	1%
Sterile Compounding (High Risk)	***	16	19	1%	12	NA
Follow-up to Theft/Loss	12	50	8	N/A	23	1%
Other **	214	226	179	6%	206	6%
<b>Total</b>	<b>2,991</b>	<b>3,640</b>	<b>3,227</b>	<b>100%</b>	<b>3,286</b>	<b>100%</b>

\* New Purpose added in late FY2015

\*\* Most of these inspections were for the purpose of Rank Change

\*\*\* New purpose added in FY2016

N/A – not applicable, value less than 0.01

- 3. On a random basis, throughout FY2017, to collect samples of preparations that are compounded by pharmacies located in Texas, including sterile and non-sterile preparations; to monitor the analysis of these samples regarding potency, sterility, fungal and endotoxin testing results; and in cooperation with the TSBP Accounting Department, to monitor the budget and expenditures resulting from the sampling program.**

**Status: ACCOMPLISHED**

**Comment:** During FY2017, TSBP Compliance Field Staff collected 86 samples of sterile compounded preparations and five samples of non-sterile compounded preparations, as indicated in the charts below:

**ENFORCEMENT DIVISION**

**SUMMARY OF PROGRAM TO SAMPLE AND TEST COMPOUNDED PREPARATIONS IN TEXAS PHARMACIES**

During Fiscal Year 2017, TSBP submitted for testing 91 compounded preparations from 88 pharmacies located in Texas (Class A-S and Class C-S Pharmacies). Test results revealed that 12 of the 91 samples (13%) were not within acceptable limits for potency.

(1) Non-sterile Preparations

Of the 91 tested preparations, 5 (5%) were non-sterile preparations. There were no potency problems with any of the non-sterile preparations.

(2) Sterile Preparations

Of the 91 tested samples, 86 (95%) were sterile preparations. Potency problems were determined in 12 (14%) of the sterile preparations tested. One sample failed sterility testing.

**SUMMARY OF RANDOM COMPOUNDED SAMPLE TESTING PROGRAM IN TEXAS PHARMACIES**

	FY2013	FY2014	FY2015	FY2016	FY2017	5-YR AVG
Number of Samples Tested	58	124	121	134	91	165
Number of Non-Sterile Samples	9	7	24	14	5	12
Number of Potency Failures	1	2	5	4	0	2
Number of Sterile Samples	49	117	97	120	86	94
Number of Potency Failures	2	9	19	14	12	11
Number of Sterility Failures	0	0	0	0	1	N/A
Number of Fungal Failures	0	0	0	0	0	0
Number of Endotoxin Failures	0	0	0	0	0	0

\* Nasal preparation.

N/A – not applicable, value less than 0.01

- 4. Throughout FY2017, to conduct inspections of pharmacies that compound sterile preparations prior to initial licensure and prior to pharmacy’s expiration date. To conduct inspections of pharmacies that do not compound sterile preparations approximately every four years.**

**Status: PARTIALLY ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. All new pharmacies that applied for a Class A-S, Class B, Class C-S and Class E-S Pharmacy license were inspected prior to initial licensure. All licensed Class A-S, Class B, Class C-S, and Class E-S Pharmacies were inspected during the pharmacy’s licensure renewal period (prior to the pharmacy’s expiration date).

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- B. As of August 31, 2017, there were approximately 150 Texas pharmacies licensed for more than four years that had not been inspected during the past four years. Although 150 pharmacies only represents a very small percentage of the total number of pharmacies licensed in Texas (2%), this status of this objective is considered "Partially Accomplished" in that not all Texas pharmacies (licensed for more than four years) have been inspected during the past four years.
5. **Throughout FY2017, to monitor the inspections of Class E-S Pharmacies (Non-Resident Pharmacies that compound sterile preparations) that are conducted by authorized vendors, on behalf of TSBP; to monitor the analysis of samples of compounded preparations that are collected by authorized vendors; to provide training to authorized inspectors, as needed, regarding Texas laws/rules and inspection policies/procedures; and in cooperation with the TSBP Accounting Department, to monitor authorized vendors' compliance with their contractual obligations, including the review of activity reports that authorized vendors submit to TSBP on a monthly basis.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

### **SUMMARY OF PROGRAM TO SAMPLE AND TEST STERILE COMPOUNDED PREPARATIONS IN NON-RESIDENT PHARMACIES**

Throughout FY2017, Division staff continued to monitor the inspections of Class E-S Pharmacies by authorized vendors who conducted these inspections on behalf of TSBP, which included the following activities:

- Reviewing inspection reports submitted by vendor inspectors;
- following up on unsatisfactory conditions that were noted during these inspections;
- monitoring the analysis of samples of compounded sterile preparations that were collected by vendor inspectors;
- reviewing monthly activity reports submitted by each vendor; and
- serving as a liaison with the vendors and vendor inspectors.

In August 2017, Division staff conducted webinars with vendor inspectors to help ensure that they were properly trained to inspect Class E-S Pharmacies in accordance with TSBP Rules.

During FY2017, vendor inspectors conducted 75 inspections of Class E-S Pharmacies. In addition, these inspectors collected and submitted for testing 76 samples of sterile compounded preparations from 74 different Class E-S Pharmacies. Test results revealed that nine of the 76 samples (12%) were not within acceptable limits for potency, as indicated in the chart below:

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### SUMMARY OF RANDOM COMPOUNDED SAMPLE TESTING PROGRAM IN NON-RESIDENT PHARMACIES

	FY2013	FY2014	FY2015	FY2016	FY2017	5-YR AVG
Number of Sterile Samples Tested	*	*	69	63	76	42
Number of Potency Failures	*	*	7	6	9	7
Number of Sterility Failures	*	*	0	1	0	N/A
Number of Fungal Failures	*	*	0	0	0	N/A
Number of Endotoxin Failures	*	*	0	0	0	N/A

\* Vendor inspections on Class E-S pharmacies began in FY2015

*N/A – not applicable, value less than 0.01*

- 6. To coordinate and monitor throughout FY2017, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants. To investigate complaints throughout FY2017, according to the following priorities:**
- A. Continuing threats to the public welfare requiring a temporary suspension;**
  - B. Complaints filed against licensees/registrants who have a chemical, mental, or physical impairment;**
  - C. Complaints involving the diversion of prescription drugs, through various illegal means, such as:
 
    - theft of drugs;
    - delivering prescription drugs without a prescription;
    - dispensing prescription drugs pursuant to an invalid prescription, such as forged or fraudulent prescriptions, prescriptions dispensed following an Internet consultation, prescriptions dispensed originating from a pill mill operation, and unauthorized refills; and
    - failing to keep and maintain accurate records of purchases and disposals of prescription drugs (i.e., audit shortages);**
  - D. Complaints against licensees/registrants who have been convicted of or received deferred adjudication for a felony that involved drug laws or occurred while engaged in pharmacy practice;**
  - E. Complaints against licensees/registrants who are registered sex offenders;**
  - F. Complaints against licensees/registrants who have been convicted of or received deferred adjudication for a felony relating to offenses not involving drug laws or not occurring while engaged in pharmacy practice;**
  - G. Complaints involving applicants for licensure or registration (not including applications for reinstatement);**
  - H. Complaints involving dispensing errors and malpractice reports;**
  - I. Complaints involving violations of rules relating to patient counseling or drug regimen review;**

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- J. Complaints involving health-care fraud or fraud, deceit, and misrepresentation in the practice of pharmacy, including aiding and abetting a non-licensed individual in the practice of pharmacy;**
- K. Complaints against licensees/registrants who have been convicted of or received deferred adjudication for a misdemeanor that involved drug laws or occurred while engaged in pharmacy practice;**
- L. Applications involving reinstatement of revoked licenses and registrations;**
- M. Complaints involving other violations of the laws and rules relating to the practice of pharmacy (e.g., CE audit shortages; falsification of renewal applications; possession of samples or misbranded/adulterated drugs; working with an expired license or registration; and falsification of response to warning notices);**
- N. Complaints against licensees/registrants who have been convicted of or received deferred adjudication for a misdemeanor relating to offenses not involving drug laws or not occurring while engaged in pharmacy practice; and**
- O. Complaints against licensees/registrants who have been subject to a disciplinary action by another state board of pharmacy.**

**Status: ACCOMPLISHED**

**Comment:** As reflected in the chart below, TSBP received 252 more complaints (4% increase), but closed 327 fewer complaints (5% decrease) in FY2017 than in the prior fiscal year. In addition, the average complaint resolution time decreased by fourteen days (8% decrease), which is a significant accomplishment.

<b>Year</b>	<b>Complaints Received</b>	<b>% Change Complaints Received Previous Year</b>	<b>Complaints Closed</b>	<b>% Change Complaints Closed Previous Year</b>	<b>% Complaints Closed</b>	<b>Resolution Time (Agency Average)</b>	<b>% Change Time</b>
FY2013	5,927	+2%	6,552	+14%	111%	187 Days	-8%
FY2014	5,561	-6%	5,606	-14%	101%	176 Days	-6%
FY2015	5,925	+7%	5,955	+6%	101%	170 Days	-3%
FY2016	6,146	+4%	6,265	+5%	102%	166 Days	-2%
FY2017	6,398	+4%	5,938	-5%	93%	152 Days	-8%

## ENFORCEMENT DIVISION

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

### DATA ON DISPENSING ERROR COMPLAINTS CLOSED FY2013– FY2017

Type of Dispensing Error	FY2013	FY2014	FY2015	FY2016	FY2017	5-Year Avg.
Wrong Drug/Strength or Wrong Directions for Use	104	174	189	194	168	166
Mislabeling	18	5	11	17	11	12
Dispensed Wrong Quantity	78	35	40	57	42	50
Dispensed Outdated Drug	7	1	11	4	6	6
Packaging/Delivery Error	23	16	18	24	13	19
Error + No Counseling	6	0	5	0	2	3
Total # Dispensing Error Complaints	236	231	274	296	242	256
Total # Complaints Closed	6,552	5,606	5,955	6,265	5,938	6,063
% Dispensing Error Complaints	4%	4%	5%	5%	4%	4%

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

### DATA ON FORM OF COMPLAINTS CLOSED FY2015 – FY2017

Form of Complaints	FY2015	FY2016	FY2017	% of FY2017	3-Yr. Avg.	% of 3-Yr. Avg.
Telephone	25	23	16	N/A	21	N/A
Letter	120	125	168	3%	138	2%
TSBP Complaint Form	113	148	109	2%	123	2%
HPC 800 #	29	18	8	N/A	18	N/A
Fax	37	46	44	1%	42	1%
Visit	0	0	0	N/A	N/A	N/A
Agency Report	1	2	1	N/A	1	N/A
Inspection	134	140	95	2%	123	2%
Interoffice Referral	4	38	42	1%	28	N/A
Licensure Application	2,337	2,414	2,371	40%	2,374	39%
Data Bank	7	29	107	1%	48	N/A
Theft/Loss Report	979	1,255	1,099	19%	1,111	18%
Investigation	596	538	506	9%	547	9%
Intra-Agency Referral	15	33	20	N/A	23	N/A
Malpractice Report	4	9	4	N/A	6	N/A
Press Clip	0	5	1	N/A	2	N/A
Email *	135	145	152	3%	144	2%
Internet *	485	488	520	9%	498	8%
Background Checks **	932	809	675	11%	805	13%
Other	2	0	0	N/A	1	N/A
<b>TOTAL</b>	<b>5,955</b>	<b>6,265</b>	<b>5,938</b>	<b>100%</b>	<b>6,053</b>	<b>100%</b>

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

\*\* Category includes daily and quarterly reports.

N/A – not applicable, value less than 0.01

## ENFORCEMENT DIVISION

### DATA ON SOURCE OF COMPLAINTS CLOSED FY2015 – FY2017

Source of Complaints	FY2015	FY2016	FY2017	% of FY2017	3-Yr. Avg.	% of 3-Yr. Avg.
Consumer	526	589	547	9%	554	9%
Government Agency	967	868	726	12%	854	14%
Pharmacist	50	51	65	1%	55	1%
Pharmacist (Self)	66	77	70	1%	71	1%
Pharmacist Applicant	108	208	235	4%	184	3%
Technician	5	7	14	N/A	9	N/A
Technician (Self)	57	65	67	1%	63	1%
Tech Applicant	139	121	119	2%	126	2%
Technician Trainee	1	0	3	N/A	1	N/A
Tech Trainee (Self)	3	1	0	N/A	1	N/A
Tech Trainee Applicant	817	730	754	13%	767	13%
Intern	2	5	4	N/A	4	N/A
Intern Applicant	83	122	59	1%	88	1%
TSBP	1,649	1,575	1,408	24%	1,544	26%
Doctor	65	42	45	1%	51	1%
Other Health Professional	12	19	43	1%	25	N/A
NABP	7	37	115	2%	53	N/A
PIC, Pharmacy Manager, or Supervisor	1,199	1,534	1,433	24%	1,389	23%
Pharmacy Self-Report*	-	-	0	N/A	N/A	N/A
Out of State Pharmacy Self-Report*	-	-	1	N/A	N/A	N/A
Employee/Ex-Employee –RPH*	-	-	0	N/A	N/A	N/A
Employee/Ex-Employee TCH/TNT*	-	-	0	N/A	N/A	N/A
Loss Prevention Officer (Corporate)	0	2	1	N/A	1	N/A
Manufacturing Rep.	14	6	1	N/A	7	N/A
Professional Recovery Network (PRN)	19	14	13	N/A	15	N/A
Insurance Company	8	36	69	1%	38	N/A
Attorney	4	10	5	N/A	6	N/A
Employee/Ex-Employee	12	42	17	N/A	24	N/A
Media	0	3	0	N/A	1	N/A
Drug Screening Co.	136	98	123	2%	119	2%
Other	6	3	1	N/A	3	N/A
<b>TOTAL</b>	<b>5,955</b>	<b>6,265</b>	<b>5,938</b>	<b>100%</b>	<b>6,053</b>	<b>100%</b>

\*. new source in fy2017

N/A – not applicable, value less than 0.01

**ENFORCEMENT DIVISION**

**DATA ON SUBJECT OF COMPLAINTS CLOSED FY2015 – FY2017**

<b>Subjects of Complaints</b>	<b>FY2015</b>	<b>FY2016</b>	<b>FY2017</b>	<b>3-Yr. Average</b>
<b>Licenseses (RPh/Pharmacy)</b>	<b>2,313 (39%)</b>	<b>2,750 (44%)</b>	<b>2,683 (45%)</b>	<b>2,582 (43%)</b>
Pharmacist	569	552	576	566
In-State Pharmacy	1,665	2,043	1,872	1,860
Out-of-State Pharmacy	79	155	235	156
<b>Registrants (Intern/Tech)</b>	<b>1,338 (22%)</b>	<b>1,211 (19%)</b>	<b>1,047 (18%)</b>	<b>1,199 (20%)</b>
Intern	24	18	26	23
Technician	903	808	680	797
Technician Trainee	411	385	341	379
<b>Applicants (Lic &amp; Reg)</b>	<b>2,264 (38%)</b>	<b>2,265 (36%)</b>	<b>2,167 (36%)</b>	<b>2,232 (38%)</b>
Pharmacist	124	222	248	198
Pharmacy	171	186	138	165
Intern	85	122	59	89
Technician	305	249	245	266
Technician Trainee	1,579	1,486	1,477	1,514
<b>Non-Licenseses</b>	<b>40 (1%)</b>	<b>39 (1%)</b>	<b>41 (1%)</b>	<b>40 (1%)</b>
Doctor	9	2	12	8
Manufacturer	0	0	0	N/A
Wholesaler	0	0	0	N/A
Non-Licensed Facility or Person	26	30	23	26
Insurance Company/ PBM	2	4	5	4
Out-of-State Facility	1	3	1	2
Other	2	0	0	1
<b>TOTAL</b>	<b>5,955</b>	<b>6,265</b>	<b>5,938</b>	<b>6,053</b>

## ENFORCEMENT DIVISION

### NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2015 – FY2017

Alleged Violation	FY2015	FY2016	FY2017	3-Yr. Avg.	% of 3-Yr. Avg.
<b>Diversion</b>	<b>4</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>N/A</b>
Controlled Substances (C/S)	2	4	2	3	N/A
Dangerous Drugs (D/D)	1	0	1	1	N/A
Both (C/S & D/D)	1	0	0	N/A	N/A
Internet Rxs	0	1	2	1	N/A
<b>Unauthorized Dispensing</b>	<b>24</b>	<b>7</b>	<b>5</b>	<b>12</b>	<b>N/A</b>
Controlled Substances	9	1	0	3	N/A
Dangerous Drugs	14	5	3	7	N/A
Both (C/S & D/D)	1	1	2	1	N/A
<b>Illegal Delivery</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>
Controlled Substances	0	0	0	0	N/A
Dangerous Drugs	0	0	0	0	N/A
Both (C/S & D/D)	0	0	0	0	N/A
<b>Illegal Possession</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>N/A</b>
Controlled Substances	0	0	1	N/A	N/A
Dangerous Drugs	1	0	0	N/A	N/A
Both (C/S & D/D)	1	0	0	N/A	N/A
<b>Convictions/Criminal Offenses</b>	<b>1,619</b>	<b>1,532</b>	<b>1,479</b>	<b>1,543</b>	<b>25%</b>
Felony	27	24	34	28	N/A
Misdemeanor	149	109	94	117	2%
DWI/PI	431	436	378	415	7%
Deferred Adjudication	298	249	197	248	4%
Offense on Application	714	714	776	735	12%
<b>Dispensing Error</b>	<b>274</b>	<b>296</b>	<b>244</b>	<b>271</b>	<b>4%</b>
Wrong Drug/Strength	189	194	168	184	3%
Mislabeling	11	17	11	13	N/A
Wrong Quantity	40	57	43	47	1%
Outdated Drug	11	4	7	7	N/A
Packaging/Delivery	18	24	13	18	N/A
Dispensing Error and No or Improper Patient Counseling	5	0	2	2	N/A
No or Improper Patient Counseling	63	73	55	64	1%
No or Improper Drug Regimen Review	28	16	12	19	N/A
Theft/Loss of C/S and/or D/D	954	1,226	1,074	1,085	18%
Non-Therapeutic Dispensing	67	61	24	51	1%
Action by Other Board	141	296	359	265	4%
Non-Compliance with Substitution Rules	10	15	16	14	N/A
Non-Compliance with Disciplinary Order	425	295	331	350	6%
Non-Compliance with PRN Contract	15	6	11	11	N/A
Interference with Doctor/Patient Relationship	101	92	91	95	2%
Confidentiality	8	16	16	13	N/A
Failed to Keep Records	5	1	3	3	N/A
Negligence	0	0	0	0	N/A
Unsafe Practice	2	0	0	1	N/A
Compounding	35	36	28	33	1%
Unprofessional Conduct	0	0	2	1	N/A
Gross Immorality	2	2	0	1	N/A
<b>Fraud</b>	<b>1,036</b>	<b>1,016</b>	<b>1,017</b>	<b>1,023</b>	<b>17%</b>
Fraud, Deceit & Misrepresentation	1	2	6	3	N/A
Falsified Response to Warning Notice	0	0	0	N/A	N/A
Falsified Application	1,013	1,002	985	1,000	17%
Filled/Passed Forged Prescription	14	6	17	12	N/A
Insurance Fraud	7	2	5	5	N/A
Medicare Fraud	1	4	4	3	N/A

## ENFORCEMENT DIVISION

Alleged Violation	FY2015	FY2016	FY2017	3-Yr. Avg.	% of 3-Yr. Avg.
<b>Impairment</b>	<b>28</b>	<b>27</b>	<b>18</b>	<b>24</b>	<b>N/A</b>
Probable Cause	16	10	11	12	N/A
Drug & Alcohol	2	6	2	3	N/A
Drug	2	5	2	3	N/A
Alcohol	8	6	3	6	N/A
Physical	0	0	0	0	N/A
Mental	0	0	0	0	N/A
Changed Prescription	25	14	9	16	N/A
Aiding and Abetting	9	18	9	12	N/A
Technician working with No/Del Registration	42	44	42	43	1%
Non-Therapeutic Prescribing (Doctor)	13	1	7	7	N/A
Excessive Purchases of Controlled Substances	1	0	0	0	N/A
Anabolic Steroids	0	0	0	0	N/A
Grey Market Diversion	0	0	0	0	N/A
Samples	0	0	2	1	N/A
Technician Violation	7	4	4	5	N/A
Improper Security	1	0	1	1	N/A
Problem with OTC Drug	3	3	4	3	N/A
Closed Pharmacy Improperly	0	2	1	1	N/A
Operating Pharmacy without License	2	1	3	2	N/A
Working Conditions	2	0	3	2	N/A
Delinquent License	0	2	0	1	N/A
Kickbacks	3	6	1	3	N/A
No PIC	1	2	9	4	N/A
Recordkeeping Error	54	53	87	65	1%
Notification Violation	0	0	1	0	N/A
No Annual/PIC/DEA Inventory	4	4	1	3	N/A
C-II Rx	0	3	3	2	N/A
Improper Rx's Issued by Doctors	0	1	0	0	N/A
Advertising	0	2	1	1	N/A
Overcharging	0	0	0	0	N/A
Billing Dispute	17	24	34	25	N/A
Customer Service	19	20	23	21	N/A
Hot Check	0	0	0	0	N/A
Accountability Audit Discrepancies (shortages/overages)	7	13	4	8	N/A
CE Audit	4	37	39	27	N/A
Default on Student Loans	1	0	0	0	N/A
Shipping to Other States without a License	12	18	17	16	N/A
<b>Other Allegations</b>	<b>811</b>	<b>871</b>	<b>772</b>	<b>818</b>	<b>14%</b>
Texas Pharmacy Act	8	14	11	11	N/A
Texas Dangerous Drug Act	0	2	1	1	N/A
Texas Controlled Substances Act	8	7	13	9	N/A
Food Drug & Cosmetic Act	1	4	14	6	N/A
TSBP Rule	176	228	205	203	3%
Other Laws/Rules	618	616	528	587	10%
Request Disciplinary Action	47	65	33	48	1%
Reinstatement	6	11	7	8	N/A
Modification	21	28	30	26	N/A
<b>TOTAL</b>	<b>5,955</b>	<b>6,265</b>	<b>5,938</b>	<b>6,052</b>	<b>100%</b>

N/A – not applicable, value less than 0.01

## ENFORCEMENT DIVISION

### ACTION TAKEN BY TSBP TO CLOSE COMPLAINTS FY2015 – FY2017

	FY2015	FY2016	FY2017	3-Yr. Avg.	% of 3-Yr. Avg.
<b>Investigations Not Resulting in Disciplinary Action:</b>	<b>4,866</b>	<b>5,199</b>	<b>4,995</b>	<b>5,020</b>	<b>83%</b>
Investigate + Dismissal (Warning) Letter	1,129	1,166	1,166	1,153	19%
Investigate + Complaint Closed with Verbal Warning	87	121	112	107	2%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	2,128	2,368	2,410	2,302	38%
Investigate + Lost Jurisdiction (registration expired)	184	170	155	170	3%
Inspections	44	68	21	44	1%
Inspection + Warning Notice or Dismissal Letter	57	63	29	50	1%
Application Withdrawn	219	242	154	205	3%
Pharmacy Closed	42	48	71	54	1%
Other *	976	953	877	935	15%
<b>Investigations Resulting in Disciplinary Action:</b>	<b>811</b>	<b>787</b>	<b>715</b>	<b>771</b>	<b>13%</b>
Agreed Board Order	559	563	485	536	9%
Board Order	115	74	75	88	1%
Preliminary Notice Letter + Dismissal (Warning) Ltr.	0	2	1	1	N/A
PNL + Application Withdrawn (with or without Informal Conference)	80	94	114	96	2%
PNL + Informal Conference + Dismissal Letter	3	5	6	5	N/A
PNL + Informal Conference + Case Dismissed	11	20	11	14	N/A
PNL + Case Dismissed or Other	17	7	12	12	N/A
PNL + Remedial Plan	26	19	11	19	N/A
Temporary Suspension Hearing + Case Dismissed	***	3	0	1	N/A
<b>Referrals To:</b>	<b>33</b>	<b>47</b>	<b>41</b>	<b>40</b>	<b>1%</b>
Medical Board	14	2	8	8	N/A
PRN Program	0	0	0	N/A	N/A
Supervisor	2	8	3	4	N/A
Other Agency	17	37	30	28	N/A
<b>No Action Because:</b>	<b>245</b>	<b>232</b>	<b>187</b>	<b>221</b>	<b>4%</b>
No Violation	111	34	4	50	1%
No Jurisdiction	12	22	17	17	1%
Insufficient Information	5	8	4	6	N/A
Other **	117	168	162	149	2%
<b>TOTAL</b>	<b>5,955</b>	<b>6,265</b>	<b>5,938</b>	<b>6,052</b>	<b>100%</b>

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

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

\*\*\* New Code in FY2016

N/A = Not Applicable, value is below 0.01

## ENFORCEMENT DIVISION

7. Throughout FY2017, to investigate reports from pharmacies that involve the pilferage of controlled substances by employees; to prepare an annual report regarding the number of individuals who have pilfered controlled substances and the number of dosage units of controlled substances that have been pilfered during FY2017.

**Status:** ACCOMPLISHED

**Comment:** During FY2017, TSBP received 123 reports indicating that pharmacies experienced theft of 132,873 dosage units of controlled substances by 143 individuals. See chart below for additional details employee pilferage reports. The chart below is followed by two additional charts which provide a statistical comparison over the past three fiscal years, with regard to the number of number of suspects identified and the number of dosage units pilfered.

### Reports Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2017

CLASSIFICATION OF EMPLOYEE	Class "A"	Class "C"	Hospital Floor Stock	Total	%	DU	%
Registered Pharmacist	9	0	0	9	6%	24,431	18%
Pharmacist Intern	0	0	0	0	N/A	0	0
Registered Pharmacy Technician	32	1	0	33	23%	55,089	41%
Pharmacy Technician Trainee	14	0	0	14	10%	27,103	20%
Physician	0	0	1	1	1%	0	0
Registered Nurse	0	1	64	65	45%	2,814	2%
Certified Registered Nurse Anesthetist	0	0	2	2	1%	56	N/A
Licensed Vocational Nurse	0	0	2	2	1%	15	N/A
Pharmacy Cashier – Pharmacy Clerk	7	0	0	7	5%	4,569	3%
Pharmacy Staff – Unidentified	0	0	0	0	N/A	0	0%
Hospital Staff – Unidentified	0	0	1	1	1%	10	N/A
Hospital Staff – Pharmacy Staff	0	0	1	1	1%	1	N/A
Miscellaneous*	7	0	1	8	6%	18,784	14%
<b>TOTALS</b>	<b>69</b>	<b>2</b>	<b>72</b>	<b>**143</b>	<b>100%</b>	<b>132,872</b>	<b>100%</b>

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

\*\* A total of 123 DEA Reports involving 143 individuals.

N/A = Not Applicable, value is below 0.01

## ENFORCEMENT DIVISION

### Reports Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2015 - FY2017 (by Individuals)

CLASSIFICATION OF EMPLOYEE	FY2015		FY 2016		FY2017		% Change FY2016-FY2017
	Total # of Individuals	%	Total # of Individuals	%	Total # of Individuals	%	
Registered Pharmacist	14	6%	14	7%	9	6%	-36%
Pharmacist Intern	1	N/A	0	N/A	0	N/A	N/A
Registered Pharmacy Technician	56	23%	47	23%	33	23%	-30%
Pharmacy Technician-in-Training	13	5%	14	7%	14	10%	N/A
Physician	1	N/A	2	1%	1	1%	-50%
Registered Nurse	114	47%	115	55%	65	45%	-43%
Certified Registered Nurse Anesthetist	3	1%	3	1%	2	1%	-33%
Licensed Vocational Nurse	1	N/A	6	3%	2	1%	-66%
Pharmacy Cashier – Pharmacy Clerk	7	3%	4	2%	7	5%	+75%
Pharmacy Staff – Unidentified	5	2%	0	N/A	0	N/A	N/A
Hospital Staff – Unidentified	13	5%	3	1%	1	1%	-66%
Hospital Staff – Pharmacy Staff	4	2%	0	N/A	1	1%	N/A
Miscellaneous *	10	4%	0	N/A	8	6%	N/A
<b>TOTALS</b>	<b>242</b>	<b>100%</b>	<b>208</b>	<b>100%</b>	<b>143</b>	<b>100%</b>	<b>-31%</b>

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

N/A = Not Applicable, value is below 0.01

## ENFORCEMENT DIVISION

### Reports Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2015 - FY2017 (by Dosage Units)

CLASSIFICATION OF EMPLOYEE	FY2015		FY2016		FY2017		% Change FY2016-FY2017
	Total # of Dosage Units	%	Total # of Dosage Units	%	Total # of Dosage Units	%	
Registered Pharmacist	60,147	15%	34,674	10%	24,431	18%	-30%
Pharmacist Intern	130	N/A	0	N/A	0	N/A	N/A
Registered Pharmacy Technician	236,386	58%	291,539	80%	55,089	41%	-81%
Pharmacy Technician-in-Training	57,949	14%	27,341	7%	27,103	20%	-1%
Physician	3	N/A	30	N/A	0	N/A	N/A
Registered Nurse	6,805	2%	8,337	2%	2,814	2%	-66%
Certified Registered Nurse Anesthetist	170	N/A	73	N/A	56	N/A	-23%
Licensed Vocational Nurse	7	N/A	131	N/A	15	N/A	-89%
Pharmacy Cashier – Pharmacy Clerk	5,572	1%	2,358	1%	4,569	3%	+94%
Pharmacy Staff – Unidentified	37,669	9%	0	N/A	0	N/A	N/A
Hospital Staff – Unidentified	582	N/A	489	N/A	10	N/A	-98%
Hospital Staff – Pharmacy Staff	253	N/A	0	N/A	1	N/A	N/A
Miscellaneous *	1,939	N/A	0	N/A	18,784	14%	14%
<b>TOTALS</b>	<b>407,612</b>	<b>100%</b>	<b>364,972</b>	<b>100%</b>	<b>132,872</b>	<b>100%</b>	<b>-64%</b>

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

N/A = Not Applicable, value is below 0.01.

- 8. In cooperation with the Licensing Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants for licensure and registration throughout FY2017, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** Throughout FY2017, Division staff performed background checks, as follows:

- A. Reviewed fingerprint-based criminal background information on all individuals referred by the Licensing Division staff; these individuals included all applicants for a pharmacist license (including applicants for re-licensure and reinstatement) and all applicants for registration (i.e., technician, technician trainee and intern).
- B. Opened new complaints when TSBP received a report regarding arrest(s) on individuals who had been previously fingerprinted; during FY2017, TSBP received 590 such reports, as compared to FY2016 when TSBP received 605 such reports (2% decrease).

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- C. Conducted background checks on pharmacists, interns, and technicians/tech trainees who had not been previously fingerprinted; during FY2017, the agency opened 148 complaints due to the criminal history information provided on the quarterly reports, as compared to FY2016 when TSBP received 143 such reports (3% increase).

Considering (B) and (C) together, the agency received 738 reports in FY2017, as compared to FY2016 when the agency received 748 reports (1% decrease).

The trend has been decreasing over the past five fiscal years, as indicated in the chart below:

	FY2013	FY2014	FY2015	FY2016	FY2017
Daily Reports	607	556	592	605	590
Quarterly Reports	402	375	211	143	148
Total	1,009	931	803	748	738

- 9. To provide technical assistance, maintain liaison, and coordinate joint investigations of pharmacists, interns, pharmacy technicians, and pharmacies, in line with the “lead agency approach,” with federal, state, and local law enforcement agencies, including health regulatory or administrative agencies, throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** TSBP continued to provide assistance to other agencies, when requested, throughout FY2017. TSBP Field Investigators maintained liaison with law enforcement agencies across the State, totaling over 633 contacts with 145 agencies. In-house investigative staff made hundreds of contacts with courts and law enforcement agencies both in Texas and out of state while conducting criminal background checks.

- 10. To monitor compliance with all Board Orders and Agreed Board Orders, including rehabilitation Orders relating to impaired or recovering pharmacists, throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** Almost all of the disciplinary orders entered in FY2017 required some type of monitoring by Division staff (i.e., 450 orders or 86% of the 525 disciplinary orders that TSBP entered during FY2017 required some type of monitoring). Monitoring included the following types of actions/activities:

- A. Licensure documents – Division staff monitored the receipt of licensure documents that were required to be submitted to TSBP (e.g., wall certificate of a revoked pharmacist license) and returned these documents as required (e.g., upon reinstatement of the license or completion of the suspension period).
- B. Fines & Fees – Division staff, in conjunction with Accounting staff, ensured that Administrative Penalties (fines) and probation fees were paid.

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- C. Reinstatement – Division staff monitored the status of reinstatement applicants [e.g., whether applicant completed Law Exam, Internship, and required CE within the required time period; reviewing reports from supervising pharmacist(s)].
- D. Rehabilitation Orders – These types of Orders are extremely labor-intensive, including monitoring of random drug screens and the review/evaluation of approximately 12 reports per year per Order [reports from probationer, supervising pharmacist(s), and mental health professional(s)].
- E. Other – Division staff monitored the submission of other documents (e.g., required continuing education and policy/procedures manuals; quarterly reports from a consulting/auditing pharmacist on a pharmacy’s operation).

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

The following charts indicate the types of Orders entered in FY2017, which required the Division to monitor the licensee’s compliance with the Order, in some manner:

<b>Total Number of Orders Entered by TSBP That Required Monitoring on Licensees (Pharmacists and Pharmacies), Interns, and Technicians (FY2017)</b>		
	<b>FY2017</b>	<b>% of FY2017</b>
Total Number of Orders on Licensees Requiring Monitoring	276	53%
Total Number of Orders on Technicians Requiring Monitoring	174	33%
Total Number of Orders Requiring Monitoring	450	86%
Total Number of Orders Not Requiring Monitoring	75	14%
<b>Total Number of Orders Entered by TSBP in FY2017</b>	<b>525</b>	<b>100%</b>

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<b>Types of TSBP Disciplinary Orders Entered on Licensees (Pharmacists and Pharmacies) and Interns That Required Monitoring (FY2015-FY2017)</b>						
Sanction	FY2015 Orders	FY2016 Orders	FY2017 Orders	% of FY2017	3-Yr. Avg.	% of 3-Yr. Avg.
Revoke / Retire	18	17	24	7%	20	6%
Suspension	29	17	27	8%	24	8%
Restricted	10	6	4	1%	7	2%
Rehabilitation Orders*	12	7	12	4%	10	3%
Reinstatement	3	8	5	2%	5	2%
Fines or Probation Fees Only	105	126	122	38%	118	37%
Continuing Education, Texas Jurisprudence Exam, and/or Pharmacy Law Course (could also include fines and/or probation fees)	23	26	19	6%	23	7%
Continuous Quality Improvement Program, Self Assessments, Policies/ Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	74	83	63	19%	73	23%
Public Orders Requiring Drug Screens	1	0	0	N/A	N/A	N/A
<b>Total number of orders on licensees requiring monitoring</b>	275	290	276	85%	280	88%
<b>Total number of orders not requiring monitoring</b>	30	39	48	15%	39	12%
<b>Total orders</b>	305	329	324	100%	319	100%

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

N/A = Not Applicable, value is below 0.01.

<b>Types of TSBP Disciplinary Orders Entered on Technicians That Required Monitoring (FY2015 – FY2017)</b>						
Sanction	FY2015 Orders	FY2016 Orders	FY2017 Orders	% of FY2017	3-Year Average	% of 3-Year Average
Revoke *	77	73	48	24%	66	25%
Suspension	18	35	33	16%	29	11%
Restriction	0	0	0	N/A	0	N/A
Fines Only	120	89	64	32%	91	34%
Other **	53	37	29	14%	40	15%
<b>Total number of orders on technicians requiring monitoring</b>	268	234	174	87%	225	85%
<b>Total number of orders on technicians not requiring monitoring</b>	54	37	27	13%	39	15%
<b>Total number of orders on technicians</b>	322	271	201	100%	264	100%

\* Disciplinary Orders that TSBP enters on Technicians and Technician Trainees contain language that will suspend a registration for non-compliance of conditions, and ultimately revoke a registration for continued non-compliance. During FY2017, TSBP revoked the registrations of 65 Technicians due to non-compliance.

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

N/A = Not Applicable, value is below 0.01.

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During FY2017, TSBP entered 54 confidential disciplinary Orders on individuals (46 orders were entered on pharmacists, four orders on pharmacist applicants, one order on pharmacist reinstatement applicants, and three orders on interns). These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below:

<b>Confidential Disciplinary Orders On Pharmacists and Interns Entered by TSBP (FY2015 – FY2017)</b>						
Nature of Violation	FY2015	FY2016	FY2017	% of FY2017	3-Yr. Avg.	% of 3-Yr. Avg.
Non-Compliance with ABO	21	5	6	11%	11	23%
Non-Compliance with PRN	6	1	5	9%	4	8%
Action by Other Boards	1	3	5	9%	3	6%
Audit Shortages	0	1	0	N/A	N/A	N/A
Alcohol-Related Conviction	1	0	1	N/A	1	N/A
Theft of Prescription Drugs	3	3	5	9%	4	8%
Created Fraudulent Rx or Obtained C/S by Fraud	0	0	0	N/A	N/A	N/A
Convictions	3	3	1	2%	2	4%
Deferred Adjudication	4	2	3	6%	3	6%
Illegal Possession of Controlled Substances	0	0	0	N/A	N/A	N/A
Unauthorized Refills of Controlled Substances	0	0	0	N/A	N/A	N/A
Probable Cause/Dependency	3	3	5	9%	4	8%
Mental Impairment	0	0	0	N/A	N/A	N/A
Request for Modification of Previously Entered ABO	6	9	12	22%	9	19%
Request for Retirement or Revocation	5	3	10	19%	6	13%
Request for Reinstatement	1	3	1	2%	2	4%
<b>TOTAL</b>	<b>54</b>	<b>36</b>	<b>54</b>	<b>100%</b>	<b>48</b>	<b>100%</b>

*N/A = Not Applicable, value is below 0.01.*

Of the 55 confidential pharmacist/intern Orders entered in FY2017, there were 23 Orders resulting in an impaired/recovering pharmacist or intern being added to the number who were being monitored at the end of FY2017, as reflected in the chart below. However, 30 pharmacists were deleted from the list as a result of early termination of probation, successful completion of probation, death, revocation or retirement of license, license expired, or application withdrawn subsequent to entry of order. Accordingly, as of August 31, 2017, a total of 99 impaired/recovering pharmacists or interns were being monitored by TSBP. The number of individuals being monitored at year-end, as compared to the year-end of previous fiscal years, is depicted in the following chart:

<b>Impaired/Recovering Pharmacists Monitored by Enforcement Division (FY2013 – FY2017)</b>			
Fiscal Year	Total Orders*	Total New Orders**	Total Being Monitored***
FY2013	74	31	129
FY2014	52	18	115
FY2015	54	19	108
FY2016	36	18	106
FY2017	55	23	99

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

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

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

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During FY2017, TSBP entered 44 Orders on pharmacy technicians or pharmacy technician trainees who were subject to probation periods with random drug screening. Of the 44 Orders, there were 39 Orders resulting in a pharmacy technician or pharmacy technician in training being added to the number who were being monitored at the end of FY2017, as reflected in the chart below. However, 43 technicians/tech-trainees were deleted from the list as a result of early termination of probation, successful completion of probation, death, revocation or retirement of the registration, registration expired, or application denied subsequent to entry of the Order. Accordingly, as of August 31, 2017, a total of 62 pharmacy technicians and pharmacy technician trainees were being monitored by TSBP, as depicted in the chart below:

<b>Pharmacy Technicians / Pharmacy Technician Trainees Monitored (with probation under conditions, including random drug screens) by Enforcement Division (FY2016 – FY2017)</b>			
<b>Fiscal Year</b>	<b>Total Orders</b>	<b>Total New Orders</b>	<b>Total Being Monitored</b>
FY2016	54	50	66
FY2017	44	39	62

- 11. To provide verbal and written information to Board staff and customers as needed or required throughout FY2017, to include providing technical assistance to other Divisions and responding to surveys and questionnaires.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

**A. COMPLIANCE INSPECTIONS**

Compliance Field Staff provided information during compliance inspections. The Division conducted 3,227 inspections of pharmacies located in Texas. (See Ongoing Objective #2).

**B. TELEPHONE CALLS**

Division staff provided technical assistance and answered questions regarding laws and rules governing the practice of pharmacy from approximately 22,517 callers who were routed through the Compliance Queue telephone line.

<b>Number of Telephone Calls Handled via Compliance Queue (FY2013 – FY2017)</b>		<b>% Change</b>
FY2013	21,323	- 17%
FY2014	22,333	+ 5%
FY2015	22,985	+ 3%
FY2016	23,853	+4%
FY2017	22,517	-6%
<b>Total:</b>	<b>113,011</b>	(5-year average = 22,602 call)

## ENFORCEMENT DIVISION

### C. COMPLAINT FORMS

During FY2017, TSBP mailed 342 complaint forms to individuals who requested a complaint form. As indicated in the chart below, 123 complaint forms (36% of total) were mailed to individuals who had requested a form by calling the HPC toll-free complaint hotline and 219 complaint forms (64% of total) were mailed to individuals who called the TSBP voice mail complaint line. The number of requests for complaint forms during the past five fiscal years is depicted in the following chart:

Complaint Forms Mailed to Potential Complainants (FY2013 – FY2017)						
Fiscal Year	Requests for Complaint Forms via HPC 800#	% Change	Requests for Complaint Forms via TSBP Voice Mail	% Change	Total Requests	% Change
FY2013	284	33%	207	-28%	491	-2%
FY2014	200	-30%	324	57%	524	+7%
FY2015	226	13%	275	-15%	501	-4%
FY2016	150	-34%	313	14%	463	-8%
FY2017	123	-18%	219	-30%	342	-26%

### D. CUSTOMER SERVICE SURVEYS

During FY2017, Division staff mailed 216 customer service surveys to TSBP customers.

Number of Customer Surveys Mailed (FY2013 – FY2017)		% Change
FY2013	456	-30%
FY2014	236	-48%
FY2015	200	-15%
FY2016	374	+87%
FY2017	216	-42%

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

DATE	PRESENTATIONS Name of Association/Presentation and Location of Meeting	STAFF PERSON	ATTENDANCE (Approx.)
10/06/16	Texas Association of Independent Pharmacies Organization (TAIPO)	Iona Grant	25
10/10/16	MALTA-GON Annual Conference - Austin	Terri Burrows	60
10/12/16	North Houston Area Pharmacy Association – Houston	Iona Grant	44
10/12/16	HEB Pharmacy Conference Law Updates – San Antonio	James Clark	1500
10/15/16	Texas Southern University College of Pharmacy Fall Preceptor's Conference - Houston	Iona Grant	100
10/17/16	Bexar County Pharmacy Association Law Update – San Antonio	James Clark	50
10/27/16	TSBP Sterile Compounding Workshop – The Inspection Process for Pharmacies Compounding Sterile Preparations – Fort Worth	Terri Burrows	200
10/27/16	TSBP Sterile Compounding Workshop – The Inspection Process for Pharmacies Compounding Sterile Preparations – Fort Worth	Adrienne Bauer	200
10/30/16	8 <sup>th</sup> Annual Scientific Meeting Texas Pain Society – Texas Prescription Monitoring Program – Dallas	Terri Burrows	75
11/08/16	The Regulation of Sterile Compounding in Texas for P3 Students enrolled In Basic Intravenous Admixtures Lecture Course – Austin	Ben Santana	40

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11/11/16	Lone Star College – Tomball	Iona Grant	60
01/24/17	Lake Houston Pharmacy Association	Iona Grant	83
01/24/17	Tenet Texas Directors of Pharmacy – Texas Pharmacy Law Updates – Dallas	Terri Burrows	24
01/26/17	Houston Area Pharmacy Association – Houston	Iona Grant	41
02/25/17	Texas Association of Independent Pharmacies Organization	Iona Grant	100
03/11/17	Texas Southern University College of Pharmacy Spring Preceptor’s Conference – Houston	Iona Grant	100
04/06/17	TSBP Sterile Compounding Workshop – The Inspection Process for Pharmacies Compounding Sterile Preparations – Dallas	Terri Burrows	100
04/06/17	TSBP Sterile Compounding Workshop – The Inspection Process for Pharmacies Compounding Sterile Preparations – Dallas	Kathy Salinas	100
04/11/17	Kroger Pharmacy Managers – Houston	Kathy Salinas	126
05/16/17	TSBP Sterile Compounding/Law Workshop – Houston	Iona Grant	95
05/16/17	TSBP Sterile Compounding/Law Workshop – Houston	Kathy Salinas	95
06/06/17	West Texas Society of Health System Pharmacists – Texas Pharmacy Law Update – Rowena	Terri Burrows	15
06/07/17	Texas Pharmacy Law Update – Hendrick Medical Center - Abilene	Terri Burrows	37
06/22/17	Gulf Coast Pharmacy Association - Beaumont	Kathy Salinas	29
07/29/17	Nigerian Pharmacist Organization – Houston	Iona Grant	150
08/16/17	Update on Inspecting Non-Resident Pharmacies Compounding Sterile Preparations (Class E-S) – Austin	Terri Burrows	13
08/16/17	Inspecting Non-Resident Pharmacies Compounding Sterile Preparations (Class E-S) – Austin	Terri Burrows	15
08/16/17	Inspecting Non –Resident Pharmacies Compounding Sterile Preparations (Class E-S) – Austin	Ben Santana	13
08/16/17	Inspecting Non-Resident Pharmacies Compounding Sterile Preparations (Class E-S) – Austin	David Meryman	13
08/17/17	UNTHSC College of Pharmacy – TSBP and the Role of the Student Intern – Fort Worth	Terri Burrows	100
		<b>Total</b>	<b>3,182</b>

### F. WRITTEN INFORMATION

During FY2017, Division staff responded to 854 emails submitted from the TSBP website to the email address: rxlaw@pharmacy.texas.gov.

### G. ASSISTANCE TO BOARD MEMBERS AND EXECUTIVE DIRECTOR

- (1) Division Director and three Enforcement Division staff assisted the Executive Director in making presentations at the MALTAGON Conference which was held in Austin, Texas, on October 9-12, 2016;
- (2) Division Director assisted in the development of the proposed Goals and Objectives for FY2018, which were presented to/approved by the Board at its meeting held in August 2017;
- (3) At all Board meetings held in FY2017, Division staff made presentations regarding complaint data (e.g., number of open complaints and number of dismissed complaints) and data regarding peer assistance performance measures;

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- (4) Division Director assisted in the review/edit of the drafts of minutes of four Board meetings; and
- (5) In the absence of or at the request of the Executive Director, Division Director responded to inquiries from the media and legislators' offices.

## H. TECHNICAL ASSISTANCE TO BOARD STAFF

### (1) Legal Division

- a. Disciplinary Proceedings – Division staff assisted Legal staff with pharmacy practice-related questions relating to disciplinary cases; in addition, Division Director served as an expert witness in one formal disciplinary hearing (held on October 18-20, 2017); Division staff testified at several Temporary Suspension Hearings; Division staff also prepared case summary notes for all cases referred to the Legal Division;
- b. Division staff prepared statistical charts relating to the number of disciplinary orders entered by the Board, including information regarding the violations upon which the orders were based and the sanctions that were imposed;
- c. Informal Conferences involving pharmacists, pharmacies, and pharmacy technicians – Division staff attended numerous conferences and when applicable, conducted interviews with licensees and registrants to explain the terms and conditions of proposed disciplinary orders; and
- d. Orientation of New Employees – Division staff conducted orientation sessions with two new employees and three legal interns.

### (2) Professional Services Division

- a. Open Records Requests – Division Director provided assistance, when needed;
- b. Multi-State Jurisprudence Examination – Division staff assisted with the review of law questions in the item pool and developed new questions for exam;
- c. Orientation of New Employees – Division staff conducted orientation sessions with one new employee (Prescription Monitoring Program); and
- d. Proposed Rules – Division Director reviewed drafts of proposed rules, when needed.

### (3) Administrative Services and Licensing Division

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- a. Division Director assisted with the preparation of the agency's Internal Risk Assessment Report;
- b. Division staff continued to answer thousands of telephone received via the Compliance Queue line regarding the license application process, particularly from technician applicants; and
- c. Division staff assisted in the review of applications for a Class B or D Pharmacy license, as indicated in the chart below:

Activity	FY2015	FY2016	FY2017	3-Year Average
New Class D (Clinic) Pharmacy Applications	20	47	25	31
New Class B (Nuclear) Pharmacy Applications	2	2	0	1
Petitions for Expanded Formularies for Class D (Clinic) Pharmacies	72	63	88	74
Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies	15	122	49	62
Notifications of Temporary Locations for Class D (Clinic) Pharmacies	12	8	13	11
Standard Class D Formularies Reviewed	13	89	11	38

(4) Information Technology Division

- a. Division staff conducted orientation sessions with new Information Resources Manager.

I. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS

- (1) Division staff worked with the Consumer Product Safety Commission to check for non-compliance issues during TSBP inspections;
- (2) Division staff submitted required annual report to Office of Attorney General regarding disciplinary actions taken by TSBP with respect to confidentiality violations (required by HB 300); and
- (3) Division staff provided assistance to numerous Boards of Pharmacy located in other states; regulatory agencies in this state; federal prosecutors and federal agencies (e.g., DEA, FDA, and OIG).

**12. In cooperation with the Executive Director and other Divisions, to provide internship experience to student pharmacist-interns upon requests from the Texas colleges of pharmacy, throughout FY2017.**

## ENFORCEMENT DIVISION

**Status:** ACCOMPLISHED

**Comment:** During FY2017, TSBP offered internship experience to six students from five different Colleges/Schools of Pharmacy, as listed below:

- August 15, 2016 – September 23, 2016
  - Salma Maknojia – Texas Southern University
- November 7 2016 – December 16, 2016
  - Brandon Casarez – University of Houston
- January 9, 2017 – February 17, 2017
  - Meskerem Dugnathehew – University of Incarnate Word
- February 20, 2017 – March 31, 2017
  - Andrew Tran – Texas A&M University
- May 22, 2017 – June 30, 2017
  - Tiffany Liu – Texas Tech University
- August 14, 2017 (FY 2017) – September 22, 2107 (FY 2018)
  - Uyen Bui – Texas Southern University

**13. To serve as liaison for the Board to the Professional Recovery Network (PRN) of the Texas Pharmacy Association and to assist in monitoring non-financial contractual obligations of PRN throughout FY2017.**

**Status:** ACCOMPLISHED

**Comment:** This objective was accomplished through the following activities:

- A. Board Member Christopher Dembny, R.Ph., served as an ex-officio member of the TX-PRN State Committee throughout FY2017;
- B. Throughout FY2017, Division staff reviewed quarterly activity reports submitted to TSBP by TX-PRN Director; the TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY2017;
- C. TSBP requested an independent audit be conducted on the data provided to TSBP (financial data and performance measure data). This audit was completed on October 6, 2016, and the results of the audit were reported to the Board at its meeting held on November 1, 2016;
- D. Division staff attended two TX-PRN State Advisory Committee meetings held on October 22, 2016, and May 17, 2017; and

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- E. Throughout FY2017, Enforcement Program Specialist Janelle Dooley (1<sup>st</sup> Quarter), and Enforcement Program Manager Robert Rivera (2<sup>nd</sup> – 4<sup>th</sup> Quarters) worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

**14. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. HPC Annual Report – Division Director submitted agency Enforcement performance data to be incorporated in the HPC Annual Report.
- B. HPC Toll-Free Complaint Hotline – HPC member agencies are billed for hotline calls received by the respective agency. When complainants call the hotline, they may leave a message advising the agency of the complainant's name, address, and telephone number, or they may "zero out" and speak to an HPC staff member for clarification of procedures. During FY2017, TSBP mailed 123 complaint forms to individuals requesting forms on the HPC complaint hotline.

**15. To manage employees under the supervision of the Division throughout FY2017, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. Staff Development – The following activities are applicable:
- Division staff attended quarterly General All-Staff Meetings which were held on the following dates:
    - December 8-9, 2016 – which included training regarding the following three topics: EEO/Sexual Harassment; TSBP Business Continuity Plan, and Texas Public Information Act;
    - February 22, 2017 – which included training presented by Alliance Work Partners (*Positive Psychology in the Workplace*);
    - June 13, 2017 – which included training presented by Alliance Work Partners (*Workplace Communication*) and Ergonomic Self-Assessment for TSBP employees; and
    - August 10, 2016 – Adapting to Change (teambuilding event);

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- In conjunction with quarterly staff meetings, Division Director or designee conducted reviews of newly adopted rules with Division staff;
  - Division Team Leaders attended and participated in three Division Team Leader Meetings and two supervisory training sessions, including training on the Texas Public Information Act on October 27, 2016, and training by Alliance Work Partners (*Effective Leadership*) on July 10, 2017;
  - Division Director conducted four Division meetings to update in-house Division staff regarding agency activities; and
  - Various Division staff attended professional development seminars (such as Webinars and the annual meetings of the National Association of Boards of Pharmacy, MALTAGON, Texas Pharmacy Association, and the Texas Society of Health-System Pharmacists).
- B. Performance Evaluations – Formal performance reviews were conducted for all Division employees in FY2017, with the exception of new hires.
- C. Other Activities – The Division began FY2017 with four vacancies and ended FY2017 with four vacancies (two Field Investigators and two in-house Enforcement staff). In the interim, the Division experienced 15 staffing changes, as a result of the following:
- 3 losses due to retirement (Dooley, Muniz, and W.J.)  
2 losses due to resignations (Bishop, S.C.)  
5 Internal promotions within the Division  
(Garcia, Castillo, Rivera, Sanchez, Plummer)  
5 new hires (Carrasco, Moura, A.B., Hernandez, Velasquez)
- |               |     |  |
|---------------|-----|--|
| October 2016  | (1) | Felicia Carrasco was hired to fill the Central Texas Compliance Inspector position (vacated July 2016).  |
|               | (2) | Robert Moura was hired to fill the Fort Worth Compliance Inspector position (vacated July 2016).   |
| November 2016 | (3) | Janelle Dooley, Enforcement Program Specialist, retired.   |
|               | (4) | Christina Bishop, Enforcement Specialist, resigned   |
|               | (5) | Carissa Garcia was promoted to fill the Enforcement Specialist position that was vacated In August 2016 as a result of Mary Newman’s transfer to the Professional Services Division. |
|               | (6) | Angela Castillo was promoted to fill the Enforcement Specialist position that was vacated in November 2016 by Christina Bishop.  |
| December 2016 | (7) | S.C., Field Investigator, resigned.  |

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- (8) Robert Rivera was promoted to Enforcement Program Administrator to replace Janelle Dooley's position.
- (9) Nelma Sanchez was promoted to fill the position that was vacated as a result of Robert Rivera's promotion.
- January 2017 (10) A.B. was hired to fill the Dallas/Fort Worth Field Investigator position (vacated in December 2015).
- February 2017 (11) Yvette Muniz, Enforcement Technician, retired.
- (12) Brandy Plummer was promoted to fill the position that was vacated as a result of Nelma Sanchez's promotion.

## HIRING FREEZE IMPLEMENTED BY GOVERNOR OF TEXAS

- (13) Prior to the Governor's hiring freeze, Heather Hernandez was hired to fill the Enforcement Specialist position that was vacated (in November 2016) as a result of Angela Castillo's promotion.
- (14) Prior to the Governor's hiring freeze, Briana Velasquez was hired to fill the Enforcement Technician position that was vacated (in November 2016) as a result of Carissa Garcia's promotion.
- April 2017 (15) W.J., Field Investigator, retired.

The activities relating to new hires took significant time and effort, including posting/advertising the positions, evaluating applications, conducting interviews, preparing orientation schedules and conducting intensive orientation/training sessions. In addition, the Division Director developed, revised or updated 14 job descriptions, primarily involving job descriptions relating to vacant positions, prior to posting the positions.

- 16. To maintain Division records throughout FY2017, including the following: to image records and destroy records in accordance with the agency's record retention plan; to review the Division's *Policies and Procedures Manual* on an on-going basis and update as needed, and to submit any substantive revisions to the Executive Director for approval.**

**Status: ACCOMPLISHED**

**Comment:** The following activities relate to this objective:

## ENFORCEMENT DIVISION

A. Records Management (Record Retention)

During FY2017, Division staff destroyed 19.5 cubic feet of records, in accordance with the TSBP record retention schedule, which represented a 57% decrease when compared to FY2016. The quantity of Division records destroyed in the past five years is depicted in the chart below:

Fiscal Year	# of Cubic Feet of Records Destroyed	% Change
FY2013	61.69	-55%
FY2014	54	-17%
FY2015	34.33	-36%
FY2016	45.5	+33%
FY2017	19.5	-57%

B. Records Management (Imaging)

Division staff continued to implement the program to convert paper complaint files to imaged records. Approximately 2,181 complaint files were scanned during FY2017, which represented a 57% decrease from FY2016, when approximately 5,072 complaint files were imaged.

C. Enforcement Division Policies/Procedures

- Division Director updated policies and procedures relating to the processing of complaints.
- Chief Compliance Officer Ben Santana, R.Ph., with the assistance of other Division staff, updated policies and procedures relating to inspections of Class E-S Pharmacies.
- Chief Investigator John Hargis, with the assistance of Division Director, updated policies and procedures relating to investigations.

17. **To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2017.**

**Status: ACCOMPLISHED**

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

A. Recommendations regarding Texas Pharmacy Act and TSBP Rules

- (1) Linda Yazdanshenas, Enforcement Officer, recommended that TSBP Rules be amended to require additional documentation regarding verbal prescriptions – i.e., name of the person calling a prescription order to the pharmacy and name/initials of the pharmacist who transcribed the verbal prescription order. The Board agreed with this recommendation and the rule amendment was adopted at the August 2017 Board meeting.

## ENFORCEMENT DIVISION

- (2) Division Staff participated in Task Force meetings regarding USP Chapter 800 (Hazardous Drugs) and made recommendations for implementation.
- (3) Division Staff recommended amendments to TSBP Rule 291.133 regarding the compounding of sterile preparations – e.g., requirements regarding HEPA filters; periodic end product testing of compounded sterile preparations; and clarification of certification of primary engineering control devices.

### B. Recommendations regarding Agency Operations

- (1) Division staff made numerous recommendations to internal forms and procedures to improve day-to-day operations; and
- (2) Division staff assisted in the development and implementation of an enhanced Accessibility Policy to address policies and procedures for persons who wish to file a complaint on a licensee or registrant but are unable to do so because of disability or illiteracy.

**18. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2016 Annual Report* and submit to the Executive Director by the due date.**

**Status: ACCOMPLISHED**

**Comment:** Although the Division's first draft of the *FY2016 Annual Report* was not submitted to the Executive Director by the due date that was initially scheduled, the report was submitted by the approved extension to the due date. Drafts of all Divisions were compiled into one Annual Report and subsequently presented to and approved by the Board at its meeting in August 2017.

### FY2017 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 100% of the Division's 13 objectives for FY2017.
2. During FY2017, the Division continued to handle ongoing disciplinary issues for pharmacy technicians. The Division initiated 237 disciplinary actions by mailing a Preliminary Notice Letter and entered 201 orders against pharmacy technicians and pharmacy technician trainees during the fiscal year. During the fiscal year, 96 applicants for registration as a pharmacy technician or pharmacy technician trainee were subject to mandatory withdrawal, indicating that although the Division initiated disciplinary action, the applicant did not complete the process.
3. Approximately 98% of the disciplinary cases against pharmacists and pharmacies and 99% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders or default Board Orders, and 2% were settled with the entry of Remedial Plans, which resulted in significant efficiencies both in terms of complaint resolution time and agency expenditures.
4. The Division resolved 10 respondent cases that were filed for administrative hearings at the State Office of Administrative Hearings (SOAH) prior to proceeding to hearing. The cases were resolved through alternative means, such as Agreed Board Orders (ABO) through negotiations with the licensees or their attorneys and through the SOAH Mediation process. Four respondent cases were resolved through mediation. These resolutions saved the agency considerable resources both in time and expenditures.
5. Administrative hearings were conducted against three respondents at SOAH. These hearings involved preparing motions for summary judgment and numerous discovery documents (including interrogatories and requests for admissions), preparing for trial and for witness examination, depositions, and conducting the hearings. Following the hearings, exceptions were filed and drafts of proposed orders were prepared. The extensive preparation for the hearings and the presentations to the Board required a considerable amount of time, and the Division was able to maintain a fairly consistent number of cases resolved.
6. In order to effectively deal with continuing threat to the public health and safety, the Legal Division continued to evaluate cases, and if such a threat could be established, a panel was convened to hear the cases for potential temporary suspension. Petitions for Temporary Suspension were filed, and Temporary Suspension Hearings were conducted before a Board panel against nine respondents in FY2017.  
  
Requests for Show Cause Orders were filed against two pharmacists. One respondent complied with the Show Cause Request and one Show Cause hearing was conducted before a Board panel against the other respondent in FY2017. The request was granted by the panel and one Show Cause Order was entered in FY2017.
7. Division staff continued to enhance the legal analysis of nontherapeutic dispensing cases from Enforcement and continued to develop an in-depth and extensive method of preparing and analyzing the cases via Excel and detailed reports for submission for expert pharmacist opinion regarding pill mill activities.

## LEGAL DIVISION

8. Statistics for disciplinary actions entered in FY2017 are as follows:

### PHARMACISTS/PHARMACIES

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF DEFAULT ORDERS ENTERED BY BOARD	NUMBER OF AGREED Board of Pharmacy ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% CHANGE IN DISCIPLINARY ORDERS	% ABOs OR DEFAULT OF TOTAL ORDERS
FY2013	2	3	358	363	-6%	99%
FY2014	4	9	276	289	-21%	99%
FY2015	27	3	275	305	6%	97%
FY2016	10	3	316	329	7%	97%
FY2017	1	3	320	324	-2%	99%
<b>TOTAL</b>	<b>48</b>	<b>21</b>	<b>1603</b>	<b>1672</b>	<b>-0.2%</b>	<b>98%</b>

### PHARMACY TECHNICIANS/PHARMACY TECHNICIAN TRAINEES

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF DEFAULT BOARD ORDERS (BOs)	NUMBER OF AGREED BOARD ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% INCREASE IN DISCIPLINARY ORDERS	% ABOs OR DEFAULT OF TOTAL ORDERS
FY2013	0	70	250	320	-20%	100%
FY2014	1	73	245	319	<-1%	100%
FY2015	1	70	252	323	1%	100%
FY2016	6	52	213	271	-16%	98%
FY2017	0	52	149	201	-26%	100%
<b>TOTAL</b>	<b>9</b>	<b>335</b>	<b>1295</b>	<b>1639</b>	<b>-6%</b>	<b>100%</b>

9. Division staff significantly increased transparency of public information by making accessible the information about disciplinary actions taken against licensees and registrants and posting the scanned version of prior actions on the agency's website.
10. General Counsel participated in planning the agency's response to issues arising from Hurricane Harvey and provided recommendations and assisted in the implementation of the agency's emergency procedures to assist individuals and businesses affected by the disaster.

## LEGAL DIVISION

### FY2017 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The cases against pharmacy technicians and pharmacy technician trainees are more complicated and time-consuming as the cases do not merely involve adjudicated criminal offenses, but also involve investigations by TSBP of thefts at pharmacies which lead to longer resolution times in the Legal Division due to the additional time needed to analyze, draft, and prepare the cases to be heard at an informal conference.
2. The Division experienced a significant decrease in the number of pharmacy technician and pharmacy technician trainee cases due to an 18% reduction in the number of cases referred to the Legal Division from 287 cases in FY2016 to 235 cases in FY2017.
3. The Division experienced significant turnover during the fiscal year with three employees terminating employment with the Division (including the key position of one staff attorney) and two new employees starting with the Division. This situation resulted in significant expenditure of time and effort in hiring and training of new employees. . Additionally, due to budget cuts, the Division was required to eliminate one Legal Assistant position.

**LEGAL DIVISION**  
**FY2017 ANNUAL REPORT**

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**GOAL**

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

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**Objectives (New)**

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2017:

- 1. Preparing testimony, attending public hearings, providing any fiscal or technical information, reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the process of this legislation, including the Sunset Bill, throughout the 85th Texas Legislative Session.**

**Status: ACCOMPLISHED**

**Comment:** General Counsel reviewed and analyzed proposed legislation that had a potential impact on pharmacy practice and on agency operations. At the request of and in the absence of the Executive Director, General Counsel attended legislative hearings regarding agency budget and operation and any pharmacy practice-related issues. General Counsel attended numerous meetings with legislative staff to provide information regarding proposed legislation.

- 2. Assisting the Executive Director, in cooperation with other Divisions, in the implementation of the transfer of the Texas Prescription Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy.**

**Status: ACCOMPLISHED**

**Comment:** General Counsel assisted the Executive Director, in cooperation with other Division Directors and agency staff, in implementing the transfer of the Prescription Monitoring Program to the Texas State Board of Pharmacy on September 1, 2016. Progress was facilitated via weekly status meetings, and General Counsel worked closely with other Division Directors, agency staff, and the program administrator to develop and implement optimal program specifications.

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**Objectives (Ongoing)**

- 1. To coordinate and monitor throughout FY2017 the receipt, assignment, and resolution of all cases accepted by the Division.**

**Status: ACCOMPLISHED**

## LEGAL DIVISION

**Comment:** This objective was accomplished through the following activities:

- A. Division staff met approximately once a month to discuss the status of pending cases, assess workload allocation, and determine the most effective strategies to complete cases in a timely and efficient manner. The Legal Assistant Team Manager also met with the Legal Assistants on a monthly basis to address common issues and monitor progress.
- B. General Counsel and other senior Division staff conducted regular monthly meetings to review the status of cases and the statistical data on the completion of cases to ensure efficient processing of disciplinary cases. As a result, the Division often reallocated resources to most effectively process the cases in a timely manner.
- C. Division staff maintained a database system to track the current status of all cases, thereby increasing efficiency in monitoring cases. In addition, Division staff continued to maintain electronic logs to track dates for mailing of Preliminary Notice Letters, scheduling of Informal Conferences, mailing and receiving of Agreed Board Orders, and other due dates previously recorded on paper to enhance accessibility by all Division staff and improve more efficient and immediate information sharing.
- D. TSBP entered a total of 11 Remedial Plans in FY2017, as reflected in the chart below.

Remedial Plans	Pharmacists	Pharmacies	Total
<b>FY2014</b>	1	0	1
<b>FY2015</b>	28	1	29
<b>FY2016</b>	19	0	19
<b>FY2017</b>	10	1	11
<b>TOTAL</b>	48	1	49

- E. TSBP entered a total of 525 disciplinary orders and one non-disciplinary Show Cause Orders in FY2017, as reflected in the charts below.

Type of Order	Summary Suspensions	SOAH Board Orders	Default Board Orders	ABOs Entered by ED	ABOs Public	ABOs Confidential	Total Number of Orders
<b>Pharmacists and Pharmacies</b>	10*	1	3	60	218	54	329*
<b>Pharmacy Technicians</b>	0	0	52	85	62	0	201
<b>Total</b>	10*	1	55	198	293	54	526*

\* Number includes Show Cause Order entered

## **LEGAL DIVISION**

The Division staff prepared for the presentation of Agreed Board Orders, Board Orders, and Remedial Plans for approval at the four regularly-scheduled Board meetings throughout the year. The presentation of proposed disciplinary actions to the Board at Board meetings involves creating an electronic summary chart along with the orders linked to the chart.

Information regarding the disciplinary cases entered in FY2017 is set forth in the following charts:

## LEGAL DIVISION

### SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON PHARMACISTS, PHARMACIES, INTERNS, AND APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2017)

			Pharmacist	Pharmacy	Total
<b>Licenses Removed</b>	<b>24</b>	<b>(7%)</b>			
Revoke			12	7	19
Retire			5	0	5
<b>Suspensions</b>	<b>60</b>	<b>(19%)</b>			
Suspension			8	3	11
Suspension w/Conditions			15	0	15
Suspension w/ Fine			0	0	0
Suspension/Fine/Conditions			0	0	0
Probation			2	0	2
Probation w/Conditions			10	2	12
Probation/Fine			3	2	5
Probation/Fine/Conditions			4	11	15
<b>Restricted</b>	<b>4</b>	<b>(1%)</b>	4	0	4
<b>Other</b>	<b>183</b>	<b>(56%)</b>			
Fine			53	31	84
Fine with Conditions			2	20	22
Fine and Reprimand			6	6	12
Fine, Reprimand with Conditions			7	16	23
Reprimand with Conditions			4	12	16
Reprimand			16	10	26
Require MHP Evaluation			0	0	0
<b>Issuance License/Regist.</b>	<b>33</b>	<b>(10%)</b>			
Grant with Suspension			2	0	2
Grant with Restrictions			0	0	0
Grant with Probation			1	10	11
Grant with Probation and Fine			1	0	1
Grant with Probation/Fine/Conditions			0	0	0
Grant with Probation and Conditions			3	1	4
Grant with Reprimand and Fine			1	0	1
Grant with Fine			2	4	6
Grant with Fine/Conditions			0	1	1
Grant with Reprimand			6	1	7
<b>Reinstatements</b>	<b>5</b>	<b>(2%)</b>			
Grant			0	0	0
Grant with Probation/Conditions			5	0	5
Deny			0	0	0
<b>Modifications</b>	<b>15</b>	<b>(5%)</b>			
Grant			14	1	15
Deny			0	0	0
<b>TOTAL FY2017:</b>	<b>324</b>	<b>(100%)</b>	<b>186</b>	<b>138</b>	<b>324</b>

FY2017 Orders Entered Against Pharmacist Licenses	186	57%
FY2017 Orders Entered Against Pharmacy Licenses	138	43%
FY2017 Total Disciplinary Orders on Pharmacist/Pharmacy	324	100%

**LEGAL DIVISION**

**DISCIPLINARY ORDERS ON PHARMACISTS, INTERNS, AND  
APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2017)**  
**NATURE OF VIOLATIONS\***

	<b>RPh</b>	<b>Phcy</b>	<b>Total</b>	<b>Total %</b>
<b>Diversions</b>	<b>13</b>	<b>2</b>	<b>15</b>	<b>5%</b>
Illegal Delivery	0	0	0	
Illegal Possession of Rx Drugs	1	0	1	
Unauthorized Dispensing	2	2	4	
Theft	6	0	6	
Obtained C/S by Fraud	1	0	1	
No Valid Dr-Pt Relationship	3	0	3	
<b>Convictions/Defer Adj</b>	<b>12</b>	<b>10</b>	<b>22</b>	<b>7%</b>
Felony	2	10	12	
Misdemeanor	1	0	1	
Deferred Adjudication, Felony	4	0	4	
Deferred Adjudication, Misdemeanor	4	0	4	
Alcohol-Related	1	0	1	
<b>Audit Discrepancies</b>	<b>3</b>	<b>8</b>	<b>11</b>	<b>3%</b>
Drug	2	8	10	
Continuing Education	1	0	1	
<b>Practice Deficiencies</b>	<b>44</b>	<b>50</b>	<b>94</b>	<b>29%</b>
Dispensing Errors	8	24	32	
Dispensing Errors & No Counsel and/or No Drug Regimen Review	12	11	23	
No Counsel and/or DRR	18	10	28	
Compounding Sterile without Class S	1	1	2	
Shipping Rx to Other States w/o License	5	4	9	
<b>Unprofessional Conduct</b>	<b>74</b>	<b>57</b>	<b>131</b>	<b>40%</b>
Aiding and Abetting	3	1	4	
Allow Tech to Work without an Active Registration	9	9	18	
Falsified Application for Licensure	18	26	44	
Sterile Compounding w/o Proper Training	0	0	0	
Impairment	5	0	5	
Action by TSBP or Other Boards	23	19	42	
Non-Compliance with Previously Entered Order	6	0	6	
Non-Compliance with PRN Program	5	0	5	
Violation of Board Rules	5	2	7	
<b>Other</b>				
Modification	<b>14</b>	<b>1</b>	<b>15</b>	<b>5%</b>
Reinstatement	<b>5</b>	<b>0</b>	<b>5</b>	<b>2%</b>
Request for Revocation/Retirement/Restrict	<b>15</b>	<b>4</b>	<b>19</b>	<b>6%</b>
Temporary Suspension Orders	<b>6</b>	<b>3</b>	<b>9</b>	<b>3%</b>
Other	<b>0</b>	<b>3</b>	<b>3</b>	<b>&lt;1%</b>
<b>TOTAL FY2017:</b>	<b>186</b>	<b>138</b>	<b>324</b>	<b>100%</b>

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

**LEGAL DIVISION**

**SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON  
PHARMACY TECHNICIANS, TECHNICIAN TRAINEES, AND  
APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2017)**

		Total	Percent
<b>Registration Removed</b>		<b>48</b>	<b>(24%)</b>
Revoke	48		
Retire	0		
<b>Suspensions</b>		<b>40</b>	<b>(20%)</b>
Suspension	2		
Suspension, followed by Probation	3		
Suspension w/Conditions	6		
Suspension w/Conditions, followed by Probation	18		
Suspension/Fine	0		
Suspension/Fine w/Conditions, followed by Probation	0		
Probation	0		
Probation with Conditions	10		
Probation/Fine	1		
Probation/Fine with Conditions	0		
<b>Restricted</b>	0	<b>0</b>	<b>(N/A)</b>
<b>Other</b>		<b>45</b>	<b>(22%)</b>
Fine	32		
Fine with Conditions	2		
Fine/Reprimand	2		
Fine/Reprimand with Conditions	0		
Reprimand	9		
Reprimand with Conditions	0		
<b>Issuance Registration</b>		<b>63</b>	<b>(31%)</b>
Grant with Suspension	5		
Grant with Suspension/Fine	0		
Grant with Probation	9		
Grant with Probation/Conditions	16		
Grant with Probation/Conditions and Fine	0		
Grant with Probation and Fine	0		
Grant with Fine	17		
Grant with Fine and Reprimand	2		
Grant with Reprimand	14		
Deny	0		
<b>Reinstatements</b>		<b>1</b>	<b>(N/A)</b>
Grant with Suspension, followed by Prob/Cond	0		
Grant with Probation/Conditions	0		
Grant with w/Conditions and Reprimand	0		
Grant with Fine	1		
<b>Modifications</b>	4	<b>4</b>	<b>(2%)</b>
<b>TOTAL FY2017:</b>		<b>201</b>	<b>(100%)</b>

**LEGAL DIVISION**

**DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS, TECHNICIAN TRAINEES,  
AND APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2017)**  
**NATURE OF VIOLATIONS\***

		Total	Percent
<b>Diversion</b>		<b>10</b>	<b>(5%)</b>
Theft	10		
Forged Rx	0		
Illegal Delivery	0		
<b>Convictions/Deferred Adjudications</b>		<b>94</b>	<b>(47%)</b>
Felony	9		
with Falsified Application	1		
Misdemeanor	7		
with Falsified Application	1		
Deferred Adjudication/Felony	32		
with Falsified Application	0		
Deferred Adjudication/Misdemeanor	36		
with Falsified Application	3		
Alcohol-Related (e.g., DWI)	5		
with Falsified Application	0		
<b>Impairment</b>		<b>7</b>	<b>(3%)</b>
Drug or Alcohol Dependency	1		
with Falsified Application	0		
Probable Cause	6		
<b>Falsified Applications **</b>		<b>23</b>	<b>(11%)</b>
<b>Other Violations</b>		<b>36</b>	<b>(18%)</b>
Gross Immorality	0		
Non-Compliance w/Previously Entered Order	17		
Performed Tech Duties w/Delinquent Registration	2		
Performed Pharmacist Duties	7		
Performed Tech Duties without Registration	4		
Action by TSBP or Other Board	2		
Negligence	2		
CE Shortage	2		
<b>Request for Revocation/Retirement</b>		<b>26</b>	<b>(13%)</b>
<b>Reinstatement</b>		<b>1</b>	<b>(N/A)</b>
<b>Modify</b>		<b>4</b>	<b>(2%)</b>
<b>Temporary Suspension Orders</b>		<b>0</b>	<b>(N/A)</b>
<b>TOTAL FY2017:</b>		<b>201</b>	<b>(100%)</b>

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

\*\* Does not include the 5 falsified applications described above.

## LEGAL DIVISION

2. To review all cases referred to the Division for potential disciplinary action; and if sufficient evidence exists to warrant action, to institute disciplinary proceedings against licensees within an average of 150 days of the date of the receipt of the case, in accordance with priorities established for the Enforcement Division, throughout FY2017.

**Status:** ACCOMPLISHED

**Comment:** This objective was accomplished through the following activities:

- A. During FY2017, Division staff reviewed numerous cases prior to referral for disciplinary action to determine whether sufficient evidence existed to warrant prosecution.
- B. During FY2017, Division staff received 635 cases, 400 pharmacist and pharmacy cases and 235 pharmacy technician and pharmacy technician trainee cases, which was a decrease from the 680 cases received in FY2016, and resolved 649 cases, which was slight increase from the 642 cases resolved during FY2016.
- C. Division staff mailed 628 Preliminary Notice Letters in FY2017, in accordance with the priorities established for the Division, which was significantly less than in FY2016, when the Division mailed 728 PNLs. Of these PNLs, 391 PNLs were mailed to pharmacists and pharmacies, and 237 PNLs were mailed to pharmacy technicians and pharmacy technician trainees.
- D. The number of days to mail PNLs after the case review date in FY2017 was 45 days which is a significant decrease from the FY2016 number of 55 days due to increased efficiencies achieved by scheduling the maximum number of cases per informal conference day. The number of days for PNLs to be sent to pharmacists and pharmacies averaged 58 days which is a significant decrease from 78 days in FY2016. PNLs to pharmacy technicians were sent in an average of 31 days from receipt of the case, which is a slight decrease from 34 days in FY2016.
- E. Total resolution time for cases in FY2017 was 135 days from receipt of the case in the Legal Division to the disposition of the case in the Legal Division, which is a decrease from last year's number of 149 days. Case resolution for pharmacists and pharmacies averaged 163 days which is a decrease from 172 days in FY2016. Case resolution for pharmacy technicians averaged 97 days which is a slight decrease from 98 days in FY2016.
- F. The Division filed petitions to conduct a Temporary Suspension hearing for four cases involving a total of nine respondents comprised of six pharmacists and three pharmacies. Nine temporary suspension petitions were granted, and none were denied. Following the temporary suspensions, one case was referred for hearing at the State Office of Administrative Hearing for disciplinary actions against the license. In addition, Division staff filed two Requests for Show Cause Orders involving two pharmacists. One case was resolved after receipt of the requested evaluation clearing the pharmacist and one case was resolved after an Order was entered that granted the request.

## LEGAL DIVISION

3. To plan and conduct a minimum of 24 days of informal conference sessions in FY2017 to adjudicate violators of pharmacy laws/rules.

**Status:** ACCOMPLISHED

**Comment:** During FY2017, the Division prepared for and conducted 31.5 days of Informal Conferences for 388 Respondents comprised of 240 pharmacy/pharmacist/intern licensees and applicants and 148 registrants and applicants, as indicated in the following charts. The number of licensees/registrants and applicants decreased in FY2017, from 420 Respondents comprised of 219 pharmacy, pharmacist and intern licensees and applicants and 201 registrants and applicants in FY2016.

### Informal Conferences for Pharmacies and Pharmacists

Dates of Informal Conferences	Days IC Held	Phy/RPh Licensees	Tech Registrants	Number of Cases	Licensees Dismissed
September 6-8, 2016*	3	26	3	16	2
October 4-6, 2016*	3	37	2	24	2
October 16, 2016	0.5	3	0	3	0
December 6-7, 2016	2	20	3	16	1
January 10-12, 2017	3	34	0	23	4
January 19, 2017	0.5	1	0	1	0
March 7-8, 2017	2	13	0	11	2
March 23, 2017	0.5	2	0	1	0
April 4-6, 2017*	3	33	1	27	2
April 20, 2017	1	10	0	10	3
June 6-8, 2017	2.5	26	1	17	3
July 11-13, 2017	3	35	0	22	3
<b>TOTAL</b>	<b>24</b>	<b>240</b>	<b>10</b>	<b>171</b>	<b>22</b>

\*Respondent(s) did not appear, application withdrawn, or denied

### Informal Conferences for Technicians/Technician Trainees

Dates of Informal Conferences	Days IC Held	Number of Cases	Applicants	Registrants	No-shows	Defaults
September 22, 2016	1	17	5	12	3	10
October 18, 2016	1	16	11	5	8	3
November 17, 2016	0.5	13	7	6	3	3
January 19, 2017	1	19	10	9	5	6
February 23, 2017	0.5	10	5	5	3	3
March 23, 2017	1	18	10	8	6	5
April 20, 2017	0.5	7	2	5	1	1
May 18, 2017	1	19	9	10	5	5
July 27, 2017	1	19	9	10	7	7
<b>TOTAL</b>	<b>7.5</b>	<b>138</b>	<b>68</b>	<b>70</b>	<b>41</b>	<b>43</b>

## LEGAL DIVISION

Division staff used electronic notebooks for all informal conferences, thus allowing the informal conference panel to access the allegations and evidence on computer laptops and reducing copying cost and staff time to prepare informal conference notebooks. Division staff also prepared this information in advance to allow the Board members additional time to review the cases prior to informal conference.

- 4. To refer disciplinary cases to the State Office of Administrative Hearings (SOAH) throughout FY2017, and file a complaint with SOAH within an average of 180 days of the date that the agency determines the case cannot be settled with an Agreed Board Order.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. At the onset of FY2017, three respondent cases were ongoing following the filing of a complaint at the State Office of Administrative Hearings in FY2016 and pending a resolution. The Division filed formal Complaints at SOAH, within an average of 180 days from the date the case failed to settle with an Agreed Board Order, for 12 additional respondent cases in FY2017.
  - B. Eleven respondent cases were resolved prior to a full contested administrative hearing being conducted at SOAH. Of these cases, six respondent cases were resolved through the SOAH mediation process. The remaining cases were resolved otherwise, including through negotiations. This resolution was beneficial in saving the agency both considerable time and effort in the alternative of preparing for and presenting a full contested case hearing. However, considerable preparation was required for several of the cases because they were not resolved until shortly before the scheduled hearing date.
  - C. Administrative hearings were conducted against two respondents in FY2017. Proposals for Decision (PFD) were issued by the Administrative Law Judges against one respondent during FY2017. Two respondent cases were pending a hearing at the end of FY2017.
  - D. SOAH performed 157 hours of work on cases for the TSBP in FY2017, totaling approximately \$8,883.06 in direct hearings expenses and \$24,521.56 in total case expenses. These SOAH hours are significantly decreased from FY2016 which had 270 hours of work on cases.
- 5. To research legal issues and provide legal services and advice to the Board and agency staff; to provide legal services to the Enforcement and Administrative Services and Licensing Divisions regarding interpretation of the laws and rules and to the Division of Professional Services in the development of agency rules and publication of newsletters.**

**Status: ACCOMPLISHED**

## LEGAL DIVISION

**Comment:** This objective was accomplished through the following activities:

- A. Legal Research and Advice on Agency Administration
- (1) General Counsel continued to work to develop efficient procedures for Board member access to case information prior to informal conferences.
  - (2) General Counsel served as Fraud Coordinator for the agency.
  - (3) General Counsel participated in meetings regarding Risk Assessment and provided recommendations in the development of the agency's Risk Management plan.
  - (4) General Counsel and Division staff provided legal advice and consultation on numerous personnel issues during FY2017, including:
    - (a) General Counsel, in cooperation and conjunction with the Division Director for Administrative Services & Licensing Division, managed the new hire process for the vacancy of the Executive Director/Secretary position. The position description was updated and all necessary application and interview criteria were reviewed for compliance with applicable state and federal employment law and policies. Interviews were conducted by a Board Panel and an offer of employment was made by the full Board, to become effective in FY2018.
    - (b) assisted with issues in various hiring/disciplinary processes and complaints against agency employees;
    - (c) advised regarding FMLA leave issues and sick leave pool requests;
    - (d) provided legal advice regarding outside employment for agency staff;
    - (e) developed and/or reviewed performance plans and/or probation;
    - (f) interviewed applicants for new positions;
    - (g) assisted with resolution of complaints against agency employees;
    - (h) attended presentations and webinars to keep apprised of current trends in labor and employment law, including multiple Austin Labor and Employment Law Update events and an OSHA Forecast webinar.
  - (5) General Counsel served as the agency's Ethics Advisor and continued to assist Board Members and staff with legal and ethical issues.
  - (6) General Counsel consulted with other Division Directors regarding the evaluation of results of the Survey of Employee Engagement completed by agency staff.

## LEGAL DIVISION

- (7) General Counsel assisted in the review and preparation of minutes of four regularly-scheduled Board meetings.
- (8) General Counsel and Division staff cooperated with the staff of the Sunset Advisory Commission throughout the Sunset review process. General Counsel assisted the Executive Director and other Division Directors and agency staff in providing information and documents. General Counsel also constructively participated in meetings and legislative hearings.
- (9) General Counsel consulted with the Executive Director and other Division Directors and agency staff to facilitate the move of the TSBP to the 5th floor.
- (10) General Counsel consulted with the Executive Director and other Division Directors and agency staff regarding upgrades to Versa.
- (11) General Counsel consulted with the Executive Director and other Division Directors and agency staff to ensure compliance with CJIS Security Policy.

### B. Technical Assistance to Enforcement Activities

- (1) Division staff researched numerous issues, including the determination of crimes of moral turpitude, various forms of disposition for criminal cases and applicability of actions taken in other jurisdictions, whether prescription hardcopies are medical records, and revocation based on incarceration versus imprisonment.
- (2) General Counsel attended meetings, as requested, to provide legal guidance on inspection and investigative issues.
- (3) Division staff drafted numerous subpoenas and voluntary revocation orders to assist with the investigative work of the TSBP investigators.
- (4) Division staff handled legal questions from all staff regarding a myriad of issues.
- (5) General Counsel and Division staff reviewed complaint files for pharmacists and pharmacies and provided guidance regarding the identification of violations and the resolution of the cases. In addition, General Counsel and Division staff reviewed complaint files on pharmacy technicians to determine type of violation and appropriate action, as previously determined by the Board.
- (6) General Counsel and Division staff made presentations at all Board meetings held in FY2017. Presentations included information about proposed Agreed Board Orders and proposed Board Orders following SOAH proceedings.
- (7) General Counsel participated in meetings to discuss appropriate action regarding questions/issues raised by licensees.

## LEGAL DIVISION

- (8) Division staff informed the Enforcement staff of disciplinary actions to be taken by the Board prior to entry of the orders, to ensure the correct information is immediately available on the computer system.
- (9) Division staff assisted the Enforcement Division with issues involving the monitoring of impaired pharmacists, including legal consultation on handling of positive drug screens and interfacing with the PRN program.
- (10) Division staff drafted ineligibility issues for pharmacist applicants who did not qualify for licensure under the Texas Pharmacy Act.
- (11) Division staff redacted files to comply with orders of expunction and of non-disclosure regarding criminal offenses.
- (12) Division staff assisted Compliance staff with questions during inspections and regarding follow-up issues.
- (13) General Counsel consulted with the Director of the Professional Recovery Network regarding diagnoses for misdemeanor offenses, and on the development of a chart outlining the disciplinary implications for certain findings by Mental Health Professionals.
- (14) General Counsel reviewed the contract and participated in review of issues relating to providers of drug screening services.
- (15) General Counsel consulted with the Enforcement Division on policies and procedures for the use of body-worn cameras by investigators in the field.
- (16) Division staff aided in revising standard requirements for information letters used to obtain criminal history record information from police departments.
- (17) General Counsel consulted with the Enforcement Division regarding procedures for identifying pharmacy personnel during field investigations.
- (18) General Counsel and Division staff consulted with the Enforcement Division regarding procedures for use of recording devices during under-cover investigations.

### C. Legal Services for Professional Services

- (1) General Counsel assisted the Division of Professional Services in the review/drafting of proposed rules and preambles for rules, and the review of rule submissions to the *Texas Register* for all rules either proposed or adopted during FY2017. (See Ongoing Objectives numbers 1 and 2 in the annual report of the Professional Services Division for a summary of specific rule proposals and submissions).
- (2) General Counsel assisted the Division of Professional Services with requests for public information in clarifying requests and requesting assistance from the OAG.

## LEGAL DIVISION

- (3) General Counsel assisted with the continued implementation of the agency's social media presence (e.g., Facebook, Twitter, and email communication).
- (4) General Counsel participated in implementing the transfer of the Prescription Monitoring Program to the Texas State Board of Pharmacy on September 1, 2016. Progress was facilitated via weekly status meetings, and General Counsel worked closely with other Division Directors, agency staff, and the program administrator to develop and implement optimal program specifications.

### D. Legal Services for Licensing

- (1) Division staff assisted with recommendations on eligibility for licensure and registration, verified accuracy of warning letters, and handled cases through the legal process.
- (2) General Counsel reviewed requests for accommodation under the Americans with Disabilities Act for legal compliance.
- (3) General Counsel was consulted on issues concerning licensing of pharmacists and pharmacies and regarding application forms.
- (4) Division staff consulted with the Division Director regarding state bar licensing and fees as compared to the TSBP.
- (5) General Counsel advised the Division Director and Licensing staff on numerous questions regarding pharmacy classifications.
- (6) General Counsel advised the Division Director and Licensing staff on questions regarding fingerprint-based criminal background checks.
- (7) General Counsel and Division staff researched and advised the Division Director and Licensing staff on the different types of corporate entities and how they apply to ownership of a pharmacy.

### E. Other Legal Services regarding Pharmacy Issues

- (1) General Counsel participated in meetings and teleconferences regarding any pending pharmacy issues as required, such as stakeholder questions and concerns, requirements that Class E and Class E-S pharmacies have a Texas-licensed PIC, pharmacy technician certification exam requirements, pharmacy classifications, utilization of the Prescription Monitoring Program, and issues regarding telemedicine in light of recent court decisions.
- (2) General Counsel participated in the writing of questions and the review of the question pool for the Multistate Jurisprudence Examination to ensure the validity of the questions in the pool.

## LEGAL DIVISION

- (3) General Counsel participated in teleconference meetings of committees to review requests for pilot projects and assisted with development of rules on related issues.
- (4) General Counsel participated in and provided legal analysis for all task force meetings, including the Task Force on Pharmacy Technician Qualifications and Duties and the Task Force on Implementation of Rules Relating to USP General Chapter 800 – Hazardous Drug.

**6. To review and monitor the Texas Register for Attorney General opinions; to draft requests for Attorney General Opinions throughout FY2017; to serve as liaison for the Board to the Office of the Attorney General (OAG); to monitor and assist with appeals, injunctions, or civil litigation handled by the OAG against pharmacists or non-pharmacists**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. Division staff reviewed new opinions of the Office of the Attorney General for applicability to TSBP and disseminated any relevant material to appropriate agency personnel.
- B. Liaison with the Office of Attorney General
  - (1) Division staff continued to serve as liaison with the OAG throughout FY2017. Ted Ross and John Langley served as the Assistant Attorneys General assigned to TSBP from the OAG Administrative Law Division.
  - (2) Appeals; Injunctions; Civil Litigation
    - (a) General Counsel coordinated representation regarding appeal of Board Order on an impaired pharmacist suspended in conjunction with an order in another state at the Texas Supreme Court.
    - (b) General Counsel coordinated representation with OAG attorney regarding an ongoing action filed by a pharmacist in Federal District Court seeking injunctive relief.
  - (3) Requests for AG Opinions

Division staff drafted requests for open records decisions for filing with the OAG.
  - (4) General Assistance

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

**7. To assist with open records requests throughout FY2017, in accordance with the procedures set forth in the Texas Public Information Act.**

**Status: ACCOMPLISHED**

## LEGAL DIVISION

**Comment:** This objective was accomplished through the following activities:

- A. General Counsel reviewed written responses to open records requests, prepared by the Professional Services Division, for legal compliance with the Public Information Act in FY2017. In addition, the General Counsel assisted with clarifying certain open records requests requiring telephonic clarification, when legal issues were involved.
- B. General Counsel attended presentations regarding current public information topics.
- C. Division staff handled requests for open records decisions for those open records requests that related to confidential information requiring a ruling from the OAG.
- D. Division staff consulted with the Director of the Professional Services Division regarding whether dates of birth should be verified for staffing agencies in light of the OAG's new interpretation under common law privacy.
- E. Division staff provided training to Division Directors, managers, and team leaders regarding Open Records Issues.

**8. To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2017; to provide legal assistance and maintain liaison with appropriate local, state, and federal prosecutors, legal divisions, and enforcement agencies involved in the investigation or prosecution of Board licensees, in conjunction with the Enforcement Division, throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

- A. Surveys/Questionnaires and Other Correspondence  
  
General Counsel and/or Division staff responded to following surveys:
  - (1) Annual survey from the State Office of Administrative Hearings; and
  - (2) Client survey from the OAG.
- B. Technical Assistance to Other Agencies and Organizations
  - (1) General Counsel and Division staff consulted with the Director of the Professional Recovery Network to discuss the handling of cases involving impaired pharmacists.
  - (2) Division staff attended Public Service Career Day at the University of Texas School of Law.
  - (3) General Counsel participated in meetings and other communications with the FDA regarding compounding of sterile products.

## LEGAL DIVISION

- (4) General Counsel participated in DEA-State Regulators meeting regarding development of federal regulations for telemedicine.
- (5) General Counsel reviewed proposed rules of Texas Medical Board prior to stakeholder meetings and attended meetings to provide input. Division staff coordinated with the Texas Medical Board regarding the prosecution of pill mill cases.
- (6) General Counsel attended meetings of the Statewide Information Privacy Advisory Committee.
- (7) General Counsel and Division staff engaged with DEA, DPS, the Texas Medical Board and other law enforcement and prosecutorial agencies regarding enforcement of laws against pill mills in the Houston and Dallas area.
- (8) General Counsel participated in the Texas Government Social Media Alliance meetings.
- (9) Division staff coordinated with and/or assisted state and federal prosecutors, DEA investigators, and Board staff in other pharmacy and pharmacist licensing jurisdictions with questions and requests as needed throughout the fiscal year.
- (10) Division staff assisted other licensing agencies with issues involving validity and authorization of prescriptions and with standardization of agreed settlement orders.
- (11) General Counsel assisted in the Interagency Prescription Monitoring Program Work Group.
- (12) General Counsel consulted with outside agencies licensing healthcare professionals, as well as the Department of Public Safety and the Drug Enforcement Administration regarding the implementation of the Prescription Monitoring Program from the Department of Public Safety to the TSBP.
- (13) General Counsel participated in meetings of the Interagency Council.

### D. Technical Assistance to the Legislature

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

### E. Technical Assistance to the Press and the Public

- (1) Division staff answered numerous telephone calls from pharmacist and pharmacy technician applicants and licensees/registrants regarding the application process and the associated disciplinary process, including providing information about denial of registration and options for Informal Conference.

## LEGAL DIVISION

- (2) Division staff answered questions from licensees, attorneys, and other members of the public regarding legal issues, including:
  - (a) licensing eligibility and requirements;
  - (b) effect of convictions and deferred adjudications and/or probation for various crimes on registration and licensure;
  - (c) applicability of pharmacy laws and rules; and
  - (d) schedules for resolution of pending cases.
- (3) Division staff participated in UT Law School educational and recruitment programs.
- (4) General Counsel provided information to various reporters researching pharmacy-related stories
- (5) Division staff participated in meetings of the State Agency Council.
- (6) General Counsel consulted with pharmacy business entities on issues regarding legalities of implementing proposed business models.

**9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished through the following activities:

General Counsel and Division staff participated in the HPC Legal Committee, which includes attorneys from other agencies, as requested to discuss problems identified with the State Office of Administrative Hearings regarding the handling of legal cases for HPC agencies.

**10. To manage employees under the supervision of the Division throughout FY2017, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

**Status: ACCOMPLISHED**

## LEGAL DIVISION

**Comment:** This objective was accomplished through the following activities:

- A. Division staff was evaluated on an annual basis, as required by agency policy.
- B. General Counsel conducted team meetings approximately once a month with Division staff. Legal Assistants met with the Legal Assistant Team Manager on a bimonthly basis.
- C. Division staff conducted the hiring process to fill one attorney position and two legal assistant positions during FY2017.
- D. Division staff interviewed for and had three legal interns in 2017 to provide assistance with the preparation of legal cases.
- E. General Counsel and/or Division staff prepared and conducted orientations for all new TSBP employees and interns during FY2017 regarding the Legal Division, the disciplinary process, ethics, and Public Information and Open Meetings Acts.
- F. Division staff attended general staff meetings and in-house training sessions. In addition, Division attorneys attended required continuing legal education, and Division staff attended various programs, seminars, and events.

**11. To destroy records in accordance with the agency's record retention plan throughout FY2017; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished as follows:

A. Records Management

During FY2017, Division staff destroyed records, in accordance with the TSBP record retention schedule, including general correspondence. Division staff also prepared and indexed material for electronic storage. In addition, Division staff revised the shared directory structure for improved use by the Legal Division to simplify access to files.

B. Policies and Procedures

- (1) Division staff updated and maintained Disciplinary Notebooks containing all Board Orders and Agreed Board Orders.
- (2) Division staff updated notebook of samples of preliminary notice letters for pharmacist and pharmacy disciplinary actions and forms for various pharmacy technician and technician trainee PNLs.
- (3) Division staff continued to review and draft/update written policies and procedures for handling of cases to provide reference and training material for the Division positions.

## LEGAL DIVISION

- (4) Division staff reviewed and updated procedures to handle expunction and nondisclosure orders for varying types of complaints and cases.
- (5) Division staff updated procedures for drafting ABOs to streamline the process and ensure that all paragraphs are up-to-date with the latest changes. This procedure includes a menu of ABO choices and standard paragraphs from which to merge the paragraphs to create the ABO documents.

**12. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2017.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished as follows:

- A. Division staff continues the process of posting the scanned version of prior actions on the agency's website. The ongoing process includes scanning and archiving prior disciplinary actions in PDF files on shared drive, which has also assisted Board staff by allowing for easy access to the prior orders.
- B. Division staff continues to work on improving the presentation of proposed disciplinary actions to the Board at Board meetings through the use of a detailed summary of those actions entered by the Executive Director and those to be entered by the Board on the electronic notebooks.
- C. Division staff worked to improve the use of a secure mechanism for Board member access to confidential information regarding informal conferences and Board meeting presentation material (i.e., proposed disciplinary orders) prior the date of the meeting.
- D. General Counsel served as co-chair on the agency's Wellness Committee and coordinated the following programs:
  - (1) Maintain No Gain;
  - (2) Farm-to-Work;
  - (3) Provision of flu shots;
  - (4) Weekly yoga classes; and
  - (5) Lose and Win and other nutrition presentations.

In addition, General Counsel conducted agency survey regarding utilization of the program. Agency staff responded positively to the survey, and the results were used in the development of new programs.

- E. Division staff developed a Calendar of Events for FY2017 for informal conferences and reserved conference rooms accordingly.
- F. General Counsel reviewed expenditures of seizure money for compliance with laws and policies.

## LEGAL DIVISION

- G. Division staff updated automatically generated letterhead which resulted in significantly reduced printing costs.
- H. General Counsel and Division staff provided ongoing analysis and preparation of pill mill cases for presentation to pharmacist experts for expert opinions on whether to proceed with disciplinary action.
- I. Division staff developed standard Agreed Board Order guidance paragraphs. Division staff also updated the Preliminary Notice Letter standard paragraphs to reflect updates to language routinely used and to accommodate changes in laws and rules.
- J. Division staff researched numerous topics, including applicable procedures at SOAH and in state and federal courts.
- K. Texas Pharmacy Act  
  
General Counsel submitted changes to the Pharmacy Act for approval by the TSBP regarding disciplinary and legal proceedings for the legislative session.
- L. Board Rules
  - (1) General Counsel drafted rule changes to disciplinary guidelines and disciplinary sanctions for all licensees and for professional responsibility, and reviewed and recommended modifications for rules changes presented to the Board.
  - (2) General Counsel and Division staff reviewed rule changes throughout the fiscal year.

**13. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2016 *Annual Report* to be presented to the Board by its May 2017 Board meeting.**

**Status: ACCOMPLISHED**

**Comment:** The Division's first draft of the FY2016 *Annual Report* was submitted to the Executive Director by the due date. All Divisions' Annual Reports were compiled and subsequently presented to the Board at its meeting in August 2017.