



Texas State Board of Pharmacy

Annual Report FY2012

Jeanne Waggener, R.Ph.

President (9/01/10 - 8/31/12)

Gay Dodson, R.Ph.

Executive Director/Secretary

333 Guadalupe Street, Suite 3-600

Austin, Texas 78701

512/305-8000

www.tsbp.state.tx.us

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Board Members

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

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

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

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

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

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

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

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

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

Office of the Executive Director

Executive Director

Gay Dodson, R.Ph.

Executive Assistant

Becky Damon

Receptionist

Debra Dukes

Director Information Resources

Steve Rapp

Network Specialist

Todd Hayek

Matthew Hays

Administrative Services & Licensing

Division Director

Cathy Stella, P.H.R.

Chief Accountant

Jane Bennett

Accountant II

Chantell Solomon

Accountant III

Sandra Morton

Staff Services Officer II

Robbi Dana

Purchaser

Patrick McReynolds

Licensing Administrator

Carol Willess

Licensing Specialists

Estella Casarez

Rachel Glass

Diana Ruedas

Melinda Uballe

Misty Whitcomb

Lisa Ake

Marcie Alvarez

Professional Services

Division Director

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

Senior Administrative Assistant

Leslie Kacer
Vacant

Enforcement

Division Director

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

Assistant Director of Enforcement

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

Chief of Investigations

Robert Ebrom

Chief of Compliance

Ben Santana, R.Ph.

Enforcement Program Specialist

Janelle Dooley

Enforcement Specialists

Annette Porterfield, Ph.T.R.
Griselda Lopez, Ph.T.R.
Elaine Naivar, Ph.T.R.
Brandy Plummer
David Gomez
Lindsay Cruthers, Ph.T.R.
Deb Beal

Enforcement Officers

Barbara Raca, Ph.T.R.
Linda Yazdanshenas

Enforcement Technicians

Yvette Muniz
Noreen Trevino
Marianne Holden
Elizabeth Kanode

Senior Staff Investigator

Melissa Weeden

Investigative Case Manager

Cynthia Fazin

Enforcement Program Administrator

Robert Rivera, Ph.T.R.

Enforcement Program Officer

Nelma Sanchez, Ph.T.R.

Investigators (9)

Senior Compliance Officers

Mike Ethridge, R.Ph.
Iona Grant, R.Ph.

Compliance Specialist

Jessica Rodriguez-Reyes, Ph.T.R.

Compliance Inspectors

Kara Stapp, Ph.T.R.
David Meryman, Ph.T.R.
Adrienne Bauer, Ph.T.R.
Darrell Montgomery, Ph.T.R.
Chris Schuttler, Ph.T.R.

Administrative Assistants

Demetria Williams
Amy Burt
Vacant

STAFF

Legal

General Counsel

Kerstin Arnold, J.D.

Litigation Counsel

Vacant

Staff Attorney

Caroline Hotchkiss, J.D.

Linda Townsend, J.D.

Tyler Vance, J.D.

Legal Program Specialist

Sharanya Rao

Legal Assistant**Hearings Coordinator**

Ann Driscoll, Ph.T.R

Legal Assistants

Tabatha Lowden

Kelly Clark

Kate Hayden, Ph.T.R.

April Adams

Lindsay Powers

Vacant

Note: The organizational structure reflects the organization as of August 31, 2012.

ANNUAL REPORT FY2012

Board Mission

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

Board Philosophy

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

Board Strategic Goals (FY2011-2015)

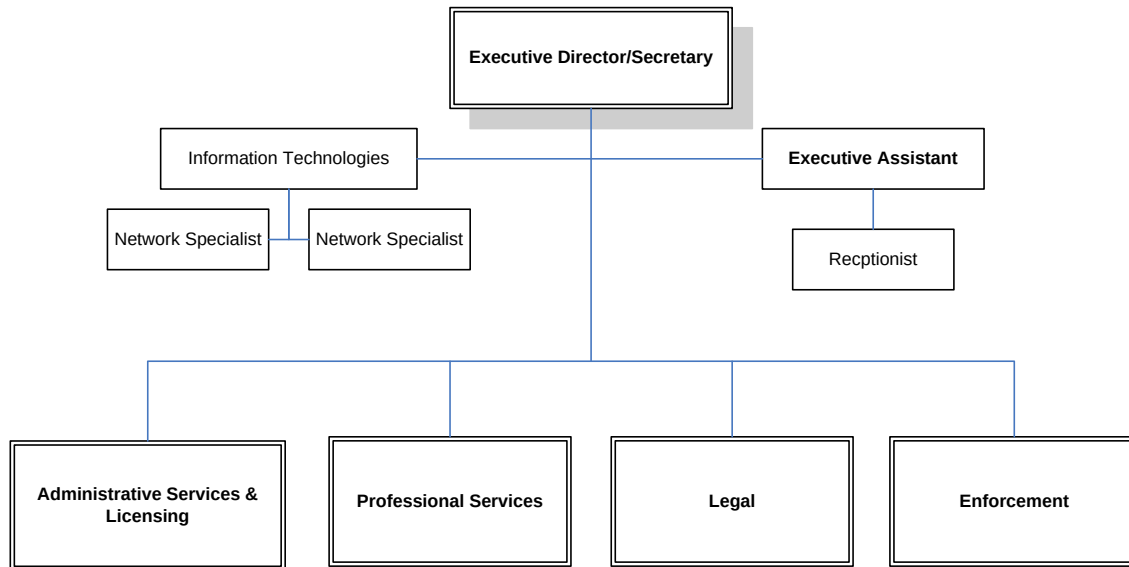
- We will establish and implement reasonable standards for pharmacist and pharmacy technician education and practice, and for the operation of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas [Texas Pharmacy Act (Occupations Code, Sec. 551-566, 568-569)].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

Board Structure

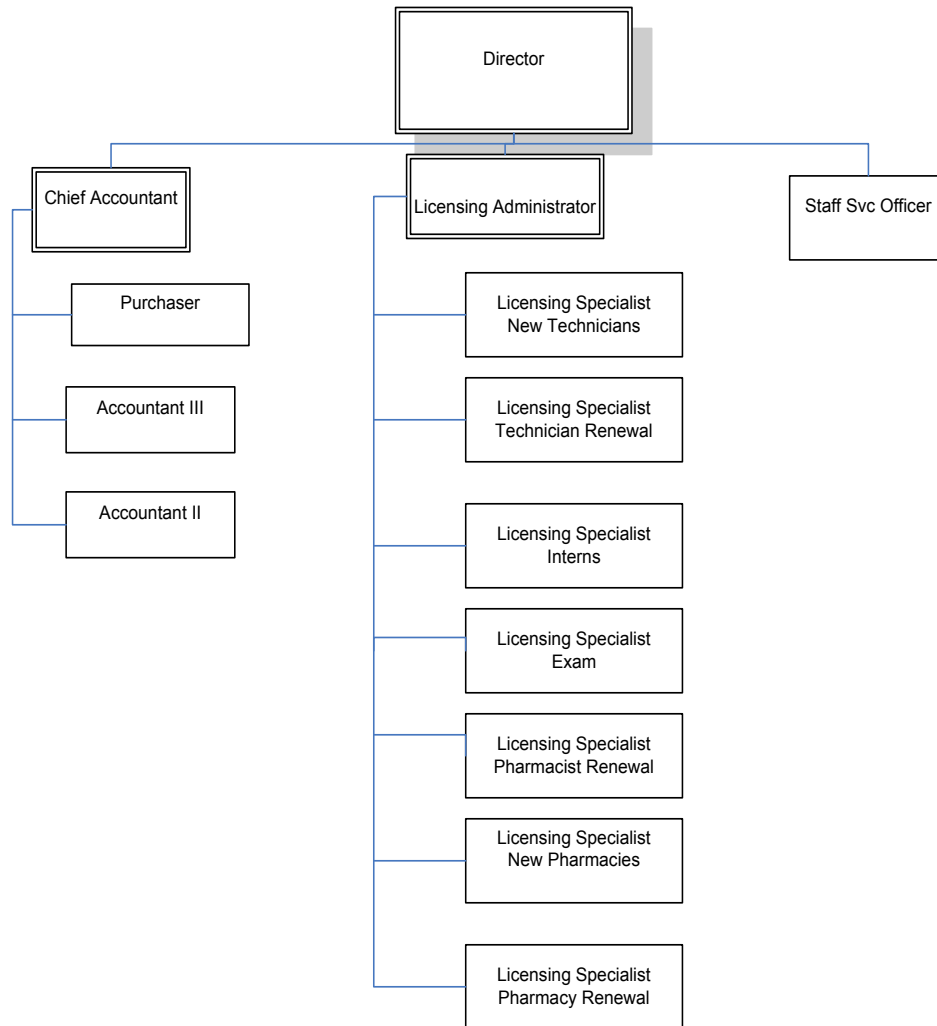
The Board's functional structure at the end of FY2012 was composed of the Office of the Executive Director and four Divisions:

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

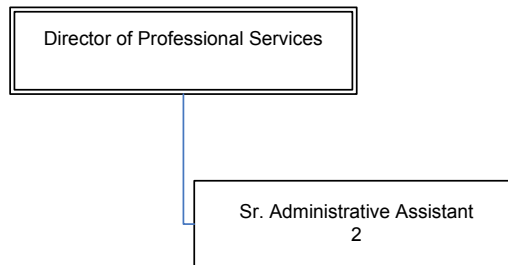
Texas State Board of Pharmacy
Fiscal Year 2012



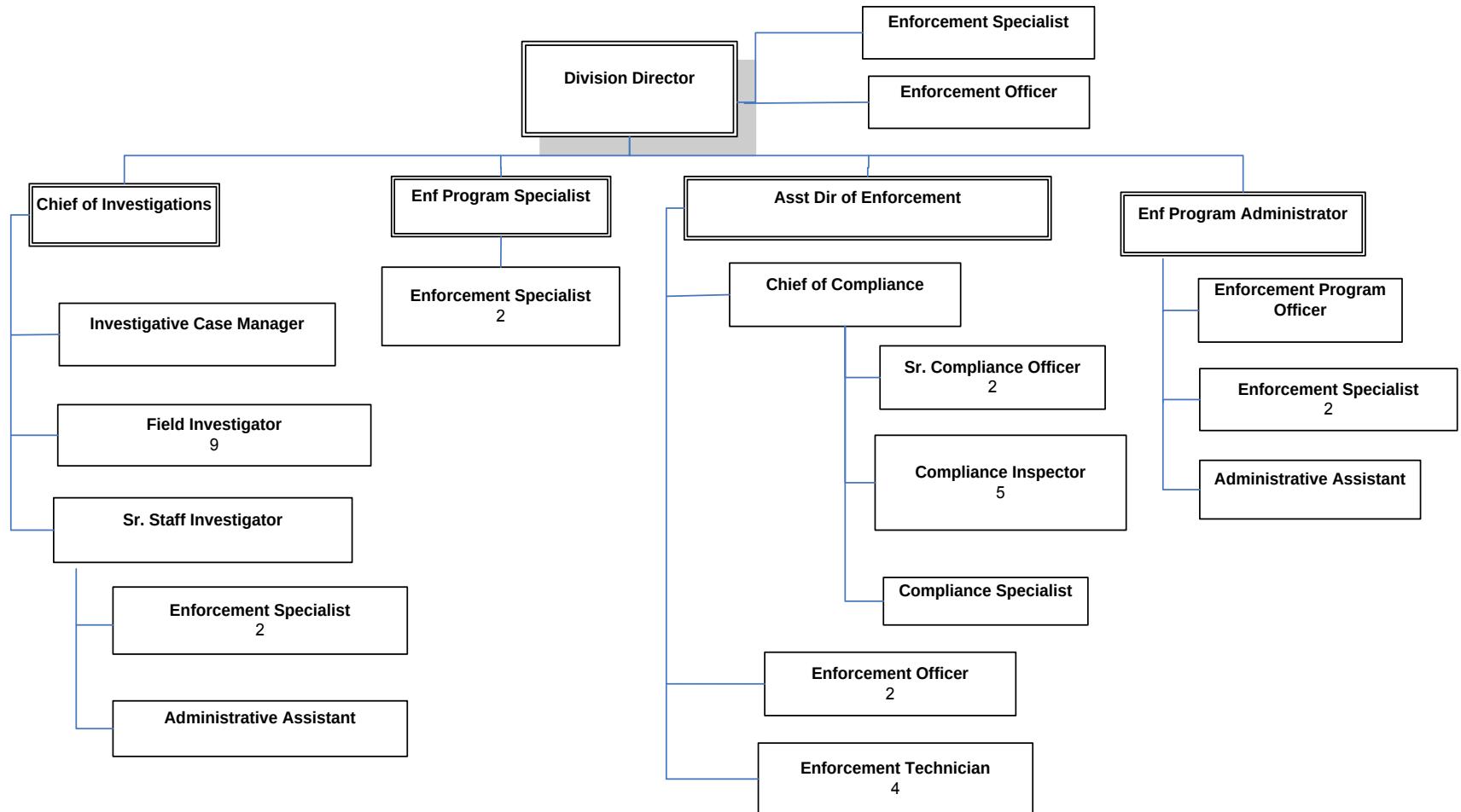
Texas State Board of Pharmacy
Administrative Services & Licensing Division
Fiscal Year 2012



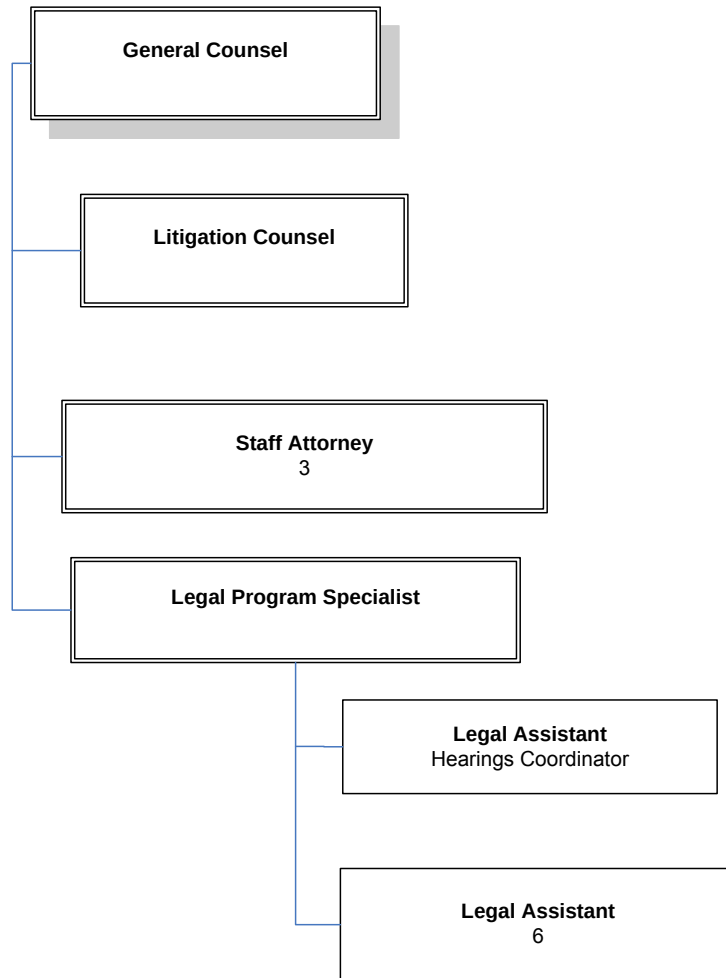
Texas State Board of Pharmacy
Professional Services Division
Fiscal Year 2012



Texas State Board of Pharmacy
Fiscal Year 2012



Texas State Board of Pharmacy
Legal Division
Fiscal Year 2012



FY2012 FISCAL REPORT

The attached report represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2012 (September 1, 2011 - August 31, 2012). 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 *"FY2012 Annual Financial Report."*

As of August 31, 2012, the unexpended balance for FY2012 was approximately \$176,276 or 3.28% under budget. However, of this amount, \$172,474 was carried forward to FY2013, leaving an unexpended balance for FY2012 of only \$3,802.

TEXAS STATE BOARD OF PHARMACY
EXPENDITURES - Fiscal Year 2012 - 4TH Quarter
as of August 2012

Code	Description	Budget	Expended	Unexpended Balance	Remaining Budget	Percent Remaining
1008	(a) Professional Fees & Svcs (Other)	76,652.24	40,268.39		36,383.85	47.47%
1010	(b) Professional Fees & Svcs (TPA)	136,719.00	136,719.00		0.00	0.00%
3002	Gas, Other Fuels & Lubricants	42,252.98	41,636.98		616.00	1.46%
3003	Vehicles - Maintenance	13,925.02	13,358.06		566.96	4.07%
3004	Consumable Supplies & Materials	37,952.77	37,764.25		188.52	0.50%
3005	Postage	55,236.00	55,221.22		14.78	0.03%
3006	Telephone	38,273.38	24,272.55		14,000.83	36.58%
3014	Subscriptions	14,002.37	11,715.61		2,286.76	16.33%
3018	Travel - Board Members (Service)	24,200.00	23,462.78		737.22	3.05%
3019/20	Travel - Board Mbr Conference	6,311.00	6,270.38		40.62	0.64%
3027	Travel - State Vehicle	743.57	743.57		0.00	0.00%
3028	Travel - Staff (Service)	93,635.77	63,715.80		29,919.97	31.95%
3037	Travel - Conference - State Vehicle	253.66	253.66		0.00	0.00%
3038	Travel - Staff (Conference)	4,918.00	4,570.92		347.08	7.06%
3039	Travel - Staff (Conf Out Of State)	1,946.00	1,945.09		0.91	0.00%
3516	Membership Fees & Dues	2,441.00	2,441.00		0.00	0.00%
3517	Administrative Support Service & Othe	1,560.00	1,560.00		0.00	0.00%
3518	Administrative Support Service	79,128.28	68,548.32		10,579.96	13.37%
3518(b)	HPC Shared Regulatory Database Migr	264,909.00	264,909.00		0.00	0.00%
3521	Criminal Investigative Expense	900.00	151.79		748.21	83.13%
3534	Freight & Delivery Service	4,517.00	4,163.20		353.80	7.83%
3535	Maint & Repair - Furn & Equip	10,999.50	10,947.68		51.82	0.47%
3536	Rental of Furn & Equip	7,300.00	7,268.28		31.72	0.43%
3537	Rental of Space	3,500.00	3,471.13		28.87	0.82%
3538	Bonds & Insurance	5,272.00	5,272.00		0.00	0.00%
3540	Reproduction & Printing	16,647.65	15,481.78		1,165.87	7.00%
3570	Registration Fees	6,084.00	6,084.00		0.00	0.00%
3571	Board Member Registration	2,730.00	2,730.00		0.00	0.00%
3581	F & E - Not Capitalized or Inventoried	53,396.88	53,338.65		58.23	0.11%
3582	F & E -Under \$1000-Inventory	3,168.60	3,168.60		0.00	0.00%
3586	Cap Bdgt Project - F&E - Inventoried	34,196.97	34,196.97		0.00	0.00%
3588	Books & Recorded Materials	600.00	462.75		137.25	22.88%
3590	Miscellaneous (HPC Transfer and Fees)	25,753.90	25,753.90		0.00	0.00%
3595	Awards	2,707.20	2,692.31		14.89	0.55%
5000	Vehicles	93,450.64	93,450.64		0.00	0.00%
7001	Exempt Salaries	106,500.00	106,500.00		0.00	0.00%
7002-47	Classified Salaries - Full Time	3,499,130.12	3,499,130.12		0.00	0.00%
7017	One-Time Merit	85,712.00	85,712.00		0.00	0.00%
7020	Hazardous Pay	3,500.00	3,210.00		290.00	8.29%
7021	Overtime Pay	4,406.80	4,406.80		0.00	0.00%
7022	Longevity	80,809.00	74,780.00		6,029.00	7.46%
7023	Lump Sum Termination Payment	16,200.76	12,700.76		3,500.00	21.60%
7025	Compensatory Per Diem	2,103.00	402.00		1,701.00	80.88%
7042	Payroll Health Insurance Contribution	34,805.22	34,521.22		284.00	0.82%
7219	Texas Online Fee	303,909.00	303,909.00		0.00	0.00%
7947	State Office of Risk Management	4,431.20	4,431.20		0.00	0.00%
	Controlled Substance Forfeiture Funds	66,198.09	0.00		66,198.09	100.00%
TOTAL ADMIN, LIC & ENF		5,373,989.57	5,197,713.36	0.00	176,276.21	3.28%
		5,373,989.57	5,197,713.36	0.00	176,276.21	3.28%
Rider No. 2 - Controlled Substance Forfeiture Program UB Authority				66,198.09	-66,198.09	0.00%
Rider No. 3 - Contingent Revenue				106,276.00	-106,276.00	0.00%
Total ADMIN, LIC & ENF Incl Riders		5,373,989.57	5,197,713.36	172,474.09	3,802.12	0.07%

Office of the Executive Director

This FY2012 Annual Report reflects the objectives accomplished and activities conducted by the agency necessary to implement its *Strategic Plan*. The agency continued to enjoy an excellent reputation with a broad range of customers as a consumer protection advocate and also has the support of its activities by the regulated profession.

The numerous accomplishments achieved by TSBP staff are highlighted at the beginning of each division report. Although specific activities are highlighted under each Division Director's Objectives, TSBP experienced the following major accomplishments and disappointments/constraints in FY2012.

FY2012 SIGNIFICANT ACCOMPLISHMENTS

1. The staff of the Texas State Board of Pharmacy was selected by the Texas Public Employees Association to be a recipient of the 2012 Unsung Hero Award, in recognition of outstanding volunteer outreach.
2. The agency accomplished or partially accomplished all (100%) of its 105 objectives, [104 accomplished (99%) and 1 partially accomplished (1%)]. In addition, the agency also met or exceeded 90% of the 10 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board (LBB). (See Executive Director Ongoing Objective #1 for additional details).
3. The agency was successful in obtaining a additional \$810,002 and 6 additional FTEs during the 82nd Session. The six new FTE's are as follows:
 - A. Network Specialist
 - B. Legal Assistant
 - C. Attorney
 - D. Field Investigator (2)
 - E. Administrative Assistant Professional Services
4. Agency Staff gave 50 presentations to approximately 4,253 individuals during FY2012. (See Professional Services Ongoing Objective #4, Enforcement Ongoing Objectives #5 and #7, and Executive Director Ongoing Objective #5 for more details).
5. Agency Field Compliance staff conducted 2,135 pharmacy inspections, thereby exceeding the inspection goal for FY2012 (see Ongoing Objective #2 for further details regarding compliance inspections). This number of inspections included 166 pre-inspections of new pharmacies, a process to ensure that TSBP is issuing licenses to valid facilities.
6. The Legal Division resolved 17 respondent cases that were set for administrative hearings at the State Office of Administrative Hearings (SOAH) prior to proceeding to hearing. The cases were resolved through resulting in 17 Agreed Board Orders (ABO) through negotiations with the licensees or their attorneys or through the SOAH Mediation process. These resolutions saved the agency considerable resources both in time and expenditures.

OFFICE OF THE EXECUTIVE DIRECTOR

7. As seen in the chart below, in FY2012 the agency continued to have a significant increase (5.9%) in the number of licensees as compared to FY2011.

Fiscal Year	# Licensed Pharmacists	# Licensed Pharmacies	# Registered Pharmacy Technicians	# Registered Pharmacy Technician Trainees	# Registered Interns	Total	% Increase from Previous Year
FY2008	24,586	6,424	32,914	18,093	925	82,942	-
FY2009	25,507	6,516	33,927	17,657	1,052	84,659	2.1%
FY2010	26,551	6,762	36,134	13,829	2,451	85,727	1.3%
FY2011	27,329	6,964	37,507	11,839	2,806	86,445	0.8%
FY2012	28,417	7,185	39,973	13,195	2,805	91,575	5.9%
% Increase Since FY2008	15.6%	11.8%	21.4%	-27.1%	203.2%	10.4%	-

8. TSBP entered more disciplinary orders in FY2012 than in the previous year, as reflected in the chart below (See Legal Ongoing Objective #1 for more details).

Number of Disciplinary FY2008-2012				
Year	Pharmacists	Pharmacies	Pharmacy Technicians	Total
FY2008	171	821	310	563
FY2009	207	127	403	737
FY2010	217	127	464	808
FY2011	213	129	364	706
FY2012	217	169	406	792
% 5-year Increase (FY2008 – FY2012)				40.7%

9. The agency maintained a high level of information technologies system availability and security (nearly 100%) in a highly volatile environment.

10. The following TSBP Board Members and staff were appointed to offices, received honors, or received recognition in

A. Board President Jeanne D. Waggener, R.Ph. was:

- (1) Appointed as a member of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act;
- (2) Elected to serve a 3 year term on the National Association of Boards of Pharmacy's Executive Committee representing District 6;

OFFICE OF THE EXECUTIVE DIRECTOR

- (3) Appointed to serve as Chairperson of the National Association of Boards of Pharmacy's Task Force on Internet Pharmacy Practice Standards;
 - (4) Nominated by the National Association of Boards of Pharmacy to participate as an at-large member at the Accreditation Council for Pharmacy Education hosted meeting on September 12-14 2012, in Atlanta, Georgia, entitled "*Advancing Quality in Pharmacy Education: Charting Accreditation's Future*"; and
 - (5) Appointed by the National Association of Boards of Pharmacy's President, Malcolm Broussard to be a representative on the newly formed *Standards Development Oversight Committee* for community pharmacy accreditation, a collaborative committee with representation from the National Association of Boards of Pharmacy and the American Pharmacists Association.
- B. Board Vice-President Alice G. Mendoza, R.Ph. was appointed as a member of the National Association of Boards of Pharmacy's Task Force on the Control and Accountability of Prescription Medications.
- C. Board Treasurer Dennis F. Wiesner, R.Ph. was appointed a member of the National Association of Boards of Pharmacy's Committee on Law Enforcement/Legislation.
- D. Board member Buford T. Abeldt, Sr., R.Ph. was appointed a member of the National Association of Boards of Pharmacy's Task Force on the Control and Accountability of Prescription Medications.
- E. Board member W. Benjamin Fry, R.Ph., FIACP, FACA. was appointed to serve as a member of the National Association of Boards of Pharmacy's Task Force to Review Recommendations to the Controlled Substances Act.
- F. Board member L. Suzan Kedron was appointed as a member of the National Association of Boards of Pharmacy's Task Force to Review Recommendations to the Controlled Substances Act.
- G. Board Member Charles F. Wetherbee was appointed to the National Association of Boards of Pharmacy's Task Force on Internet Pharmacy Practice Standards.
- H. Executive Director/Secretary Gay Dodson, R.Ph.:
- (1) Was appointed to serve as a member of the National Association of Boards of Pharmacy's Committee on Law Enforcement/Legislation; and
 - (2) Received the Outstanding Women in Texas Government for Professional Development from the State Agency Council to the Governor's Commission for Women.

OFFICE OF THE EXECUTIVE DIRECTOR

FY2012 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) with a Shared Regulatory Database System (RDB), entitled, the Versa Regulatory System, became operational in May 2011 with the Versa Online System beginning operation on June 3, 2011. Although the conversion of the majority of the data from the prior system was successful, the implementation and ongoing use of the System has left the agency struggling with a number of issues. The increasing amount of manual processes required, non-working interfaces with other agencies and poor project management/responsiveness from Versa, are major problem issues. Most importantly, the Versa Online System's lack of integration with the back office system creates duplicate data, is not user friendly, and continues to result in major problems in the issuance of licenses and many customer complaints. Although an updated online system is available, it has not yet been tested or implemented.
2. Although the TSBP was successful in obtaining additional appropriations for a portion of the requested exceptional items during the 82nd Legislative session, the state's fiscal crisis required maintaining the existing 5% and 2.5% reductions of FY2010-11, as well as an additional 10% reduction. These reductions eliminated the increases to appropriations received in FY2010-2011 in the areas of the Pharmacy Recovery Network, the testing of compounded products, and merit increases to eligible employees. The reductions also eliminated the critical replacement of agency vehicles and technology as well as numerous reductions to the majority of agency services.

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

3. Throughout FY2012, TSBP Compliance Field staff continued to discover numerous individuals performing technician duties without an active registration. Approximately 30 pharmacies allowed individuals to perform technician duties without an active registration. These cases were referred to the TSBP Legal Division for the institution of disciplinary action. In FY2012, TSBP entered 102 disciplinary orders for this violation (30 orders on pharmacists; 34 orders on pharmacies; and 38 orders on technicians).

OFFICE OF THE EXECUTIVE DIRECTOR

FY2012 ANNUAL REPORT

GOAL

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

Objectives (New)

1. **To continue to direct the implementation of the new licensing, enforcement, and administration database system throughout FY2012.**

Status: ACCOMPLISHED

Comment: The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) with a Shared Regulatory Database System (RDB), entitled, the Versa Regulatory System, became operational in May 2011 with the Versa Online System beginning operation on June 3, 2011. Although the conversion of the majority of the data from the prior system was successful, the implementation and ongoing use of the System has left the agency struggling with a number of issues. The increasing amount of manual processes required, non-working interfaces with other agencies and poor project management/responsiveness from Versa, are major problem issues. Most importantly, the Versa Online System's lack of integration with the back office system creates duplicate data, is not user friendly, and continues to result in major problems in the issuance of licenses and many customer complaints. Although an updated online system is available, it has not yet been tested or implemented.

2. **To review and implement legislation passed by the 82nd Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2012.**

Status: ACCOMPLISHED

Comment: A chart containing the action steps to implement provisions of bills passed during the 2011 Legislative Session was developed with timelines for action. An updated chart was presented to the Board at each meeting showing progress of the implementation.

The following was accomplished during FY2012 regarding this objective:

- A. H.B. 1 (Appropriations Act) – The base appropriation for TSBP for FY2012-2013 is approximately 17.5% less than the base appropriation for FY2010-2011. In addition to the base, the agency received a Contingent Revenue rider that appropriated an additional \$810,002 and 6 additional FTEs provided the agency increases fees sufficient to generate an additional \$810,002 in revenue. In implementing the provisions of the bill the following activities occurred.

OFFICE OF THE EXECUTIVE DIRECTOR

- (1) The Board voted to propose a fee increase sufficient to generate the additional revenue at the June 7, 2011, Board meeting and voted to adopt the proposed rules at the August 9-10, 2011, Board meeting. The Rules became effective on September 12, 2011.
 - (2) In late August 2011, documentation was sent to the Comptroller showing that TSBP will generate sufficient revenue to generate the additional revenue and ask for certification of the funds. The Comptroller's office released the funds for FY2012 on March 7, 2012.
- B. H.B. 1137 (Real-time electronic logging system for the sale of ephedrine, pseudoephedrine, and norpseudoephedrine.) – Under the provisions of this bill TSBP is required to provide the name, address, and phone number of every pharmacy that may sell pseudoephedrine products to the administrator of the real-time network. Pharmacies are required to submit data to the network beginning January 1, 2012. In implementing the provisions of the bill TSBP performed the following activities.
- (1) In early September TSBP provided pharmacy information to the administrator of the system.
 - (2) Information about the provisions of this legislation was published in the Fall 2011 issue of the Newsletter.
- B. H.B. 2069 (Authority to accelerate refills) – The bill allows pharmacists to accelerate refills up to a 90-day supply under certain conditions. To implement the provisions of the bill by the Board voted to propose the amendments to rules at the August 9, 2011, Board meeting and to adopt the proposed rules at the November 9, 2011, Board meeting. The rules became effective on November 24, 2011.
- D. S.B. 158 (Licensing of Freestanding Emergency Clinics) – This bill amended the Controlled Substances Act to make it a felony for a person who has access to controlled substances because of their profession to divert the drugs for their own use or diverts the drug; and obtains controlled substances without a legitimate medical purpose. TSBP published information about this change in the law in the Fall 2011 issue of the TSBP Newsletter.
- E. S.B. 594 (Electronic Transmission of Prescriptions for Schedule II Controlled Substances) – This bill amended the Texas Controlled Substances Act to allow the electronic transmission of Schedule II prescriptions. The primary responsibility for implementing the provisions of this bill rests with the Texas Department of Public Safety. The Board voted to propose the rules to include the electronic transmission of prescriptions for Schedule II controlled substances at the November 9, 2011, Board meeting and voted to adopt the proposed rules at the February 14, 2012, Board Meeting. The rules became effective on March 13, 2012.

OFFICE OF THE EXECUTIVE DIRECTOR

- F. S.B. 867 (Testing accommodations for persons with dyslexia) – This bill requires all licensing agencies to make testing accommodations for persons with dyslexia. To implement the provisions of the bill, The Board voted to propose the rules at the August 9, 2011, Board meeting and voted to adopt the proposed rules at the November 9, 2011, Board meeting. The rules became effective on November 24, 2011.
- G. S.B. 1273 (Amendments to the Controlled Substances Act) – This bill amends the Controlled Substances Act to eliminate the requirement that a physician's DPS number be on a prescription for a controlled substance and require pharmacies to submit information on controlled substance prescriptions to DPS at least every 7-days. TSBP took the following actions regarding this bill.
- (1) Information about the provisions of this legislation was published in the Fall 2011 issue of the Newsletter.
 - (2) The Board voted to propose amendments to the Class A rules at the August 7-8, 2012, Board meeting and the Board will consider the rules for final adoption at the November 5-6, 2012, meeting.
- H. S.B. 1438 (Pharmacy Act Clean-up Bill) – This bill amends the Texas Pharmacy Act to:
- (1) clarify the confidentiality provisions of records regarding impaired pharmacists;
 - (2) when the TSBP can release investigative files;
 - (3) the temporary suspension provisions of the Act; and
 - (4) the procedures for ordering a licensee to submit to a mental or physical examination.
- The agency amended internal procedures to incorporate the provisions of the legislation
- I. S.B. 1743 (Alternative Licensing Procedures for Military Spouses) – This bill required all agencies that issue an occupational license are required to adopt rules for the issuance of a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States; and
- (1) holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license; or
 - (2) within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months.

To implement the bill, the Board voted to propose the amendments to the rules at the November 9, 2011, Board meeting and voted to adopt the amendments at the February 14, 2012, Board meeting. The rules became effective on March 13, 2012.

OFFICE OF THE EXECUTIVE DIRECTOR

3. **To assist and participate with the Board in updating and preparing the *TSBP Strategic Plan* for FY2013-2017 and submitting the plan to the Governor's Office of Budget, Planning, and Policy and Legislative Budget Board by the due date.**

Status: ACCOMPLISHED

Comment: The agency researched the trends and resulting issues expected to have the most significant impact on the profession and the agency over the next five years. Legal Program Specialist, Sharanya Rao, served as a facilitator in the review, discussion, and identification of the issues. Several non-Board members participated with the Board in these discussion sessions held during the August and November Board meetings. Once the issues were identified, the Board Members worked with staff to develop issue statements and the final *Strategic Plan* was approved at the May 2012 Board Business Meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

4. **To direct the preparation of a proposed budget for the FY2014-2015 biennium for review and approval by the Board at the FY2012 Board Budget Meeting.**

Status: ACCOMPLISHED

Comment: The Executive Committee reviewed staff's recommendations for the exceptional items contained in the *Legislative Appropriation Request* (LAR) in April 2012. The full Board met in May 2012 to review and approve the agency's LAR for FY2014-2015. The approved exceptional items requested in the LAR, included:

- restoration of partial funding from reductions in fiscal years 2010-2012;
- general revenue for agency contribution to the Employees Retirement System Group Benefits Program;
- funding for 10 additional employees;
- funding for a portion of a web administrator employee for the Health Professions Council;
- executive director salary increase; and
- increased funding for the Pharmacist Recovery Network.

5. **To direct the preparation and submission of the agency's Legislative Appropriation Request for FY2014-2015 and corresponding performance measures by the due date.**

Status: ACCOMPLISHED

Comment: The *Legislative Appropriation Request* was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy (GBO) by August 17, 2012. The LAR included the items approved by the Board in May 2012.

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

Status: ACCOMPLISHED

Comment: On September 27, 2011, the Executive Director, Division Directors and other agency staff participated in the orientation of new public Board Member Phyllis Stine. Board members, Jeanne Waggner and Alice Mendoza, were reappointed for another 6-year term and did not attend the orientation.

OFFICE OF THE EXECUTIVE DIRECTOR

Objectives (Ongoing)

- To manage and monitor the agency's performance and operational efficiency throughout FY2012.**

Status: **ACCOMPLISHED**

Comment: The agency accomplished or partially accomplished 100 % of its 105 objectives [(99%) accomplished and 1 partially accomplished (1%)]. In addition, the agency also met or exceeded 90% of the 10 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board (LBB) as indicated below.

Performance Measure		FY12 Projected Performance	FY12 Performance Attained	Projected Target Met?*
A. GOAL: MAINTIAN STANDARDS				
Outcome (Results/Impact)				
	Percent of Licensees with No Recent Violations	95%	95.5%	Met
	Percent of Licensees Who Renew Online	89%	95.19%	Exceeded
A.1.1 STRATEGY: LICENSING				
Output (Volume)				
	Number of New Licenses Issued to Individuals	1,300	1,407	Exceeded
	Number of Licenses Renewed (Individuals)	13,857	15,621	Exceeded
Explanatory				
	Total Number of Business Facilities Licensed	6,842	7,185	Exceeded
B. GOAL: ENFORCE REGULATIONS				
Outcome (Results/Impact)				
	Percent of Complaints Resulting in Disciplinary Action	15%	14.82%	Met
B.1.1 STRATEGY: ENFORCEMENT				
Output (Volume)				
	Number of Jurisdictional Complaints Resolved	4,980	5,728	Exceeded
Efficiencies				
	Average Time for Jurisdictional Complaint Resolution	180	205	Not Met
Explanatory				
	Number of Jurisdictional Complaints Received	5,000	5,792	Exceeded
B.1.2. STRATEGY: PEER ASSISTANT				
Output (Volume)				
	Number of Licensed Individuals Participating in a Peer Assistant Program	160	194	Exceeded

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

OFFICE OF THE EXECUTIVE DIRECTOR

2. To coordinate the development of proposed goals and objectives and budget for FY2013 based on the *Strategic Plan* and projected budget, for submission to the Board two weeks prior to the August 2012 meeting.

Status: ACCOMPLISHED

Comment: A proposed budget, including revenue projections, and Goals and Objectives for the agency was presented and approved at the August 9-10, 2012, Board Business Meeting.

3. To direct TSBP's "*lead agency approach*" to help assure coordination of TSBP activities with those of other state and federal agencies involved in the regulation of the practice of pharmacy throughout FY2012.

Status: ACCOMPLISHED

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

4. To review all federal statutes, regulations, and policies that may impact the regulation of the practice of pharmacy and make timely recommendations to the Board for implementation of any required Board actions throughout FY2012.

Status: ACCOMPLISHED

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

5. As the Executive Director of the Board, throughout FY2012, 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:

A. The Executive Director:

- (1) Gave 14 presentations to approximately 2,050 persons, as indicated below.

Date	Name of Association/Location of Meeting	Attendance (Approximate)
9/18/2011	University of Texas Pharmacy Practice Seminar – Austin	500
10/1/2/11	DSHS Vendor Drug Pharmacists – Austin	15
10/7/2011	Central Texas Society of Health-System Pharmacists – San Antonio	40
10/20/2011	Texas Federation of Drug Stores' Annual Meeting – San Antonio	30
10/22/2011	Texas Association of Independent Pharmacy Owners – Houston	50
11/18/2011	UT College of Pharmacy Professional Development Seminar – Austin	40
3/3/2012	El Paso Area Society of Health-System Pharmacists – El Paso	75
3/24/2012	Rxperts Leadership Conference – Austin	100
4/14/2012	Texas Society of Health-System Pharmacists Annual Meeting – Dallas	90
5/12/2012	Rangel College of Pharmacy Commencement Address – Kingsville	300
6/5/2012	TSBP Patient Counseling Video Taping – Austin	unknown
6/17/2012	HEB Pharmacists Conference – San Antonio	400
7/27/2012	Texas Pharmacy Association's Annual Meeting – The Woodlands	400
8/29/2012	Joint Budget Hearing (LBB & Governor's Office Staff) – Austin	10
Total		2,050

- (2) Participated in 9 interviews with the press as indicated below.

Date	Interview With
9/27/2011	Telephone Interview with Cinday Horswell of the Houston Chronicle regarding pill mill pharmacies
10/10/2011	Telephone Interview with Valarie Redell of the Polk county Enterprise regarding the arrest of a pharmacist
10/20/2011	Telephone Interview with Brooks Edgerton of the Dallas Morning News regarding use of Droperidol
11/14/2011	Telephone Interview with Kevin Quint of KTRK TV Houston regarding dispensing errors
12/16/2011	Telephone Interview with Joe Augustine of KRGV TV regarding pseudoephedrine monitoring program
2/16/2012	Telephone Interview with Cinday Horswell of the Houston Chronicle regarding steroid abuse
4/6/2012	Telephone Interview with Chris Weaver of the Wall Street Journal regarding counterfeit drugs
8/9/2012	Telephone Interview with Kimberly Wyatt of Action 4 News regarding procedures for obtaining information on investigations
8/16/2012	Telephone Interview with Christine Blake from Drug Topics regarding prescription monitoring programs

OFFICE OF THE EXECUTIVE DIRECTOR

(B) Attended 37 meetings, conferences, or phone calls representing the agency as indicated below.

Date	Name of Association/Location of Meeting
9/4-6/2011	NABP District 6, 7 & 8 Meeting – Seattle
9/21-22/2011	NABP Interactive Executive Officer Forum – Chicago
10/19/2011	Texas Federation of Drug Stores Annual Meeting – San Antonio
10/20-21/2011	UT College of Pharmacy Advisory Council Meeting – Austin
11/3/2011	Meeting with Kamila K. Piekos, PharmD. Medical Liaison-Purdue Pharma
11/5/2011	Meeting with Dennis McAlister of Medco Health -- Austin
2/10/2012	Conference Call with FDA -- Austin
2/15/2012	Presentation by Walgreen regarding new pharmacy layout concept – Austin
2/16/2012	Conference Call regarding NPLEX Implementation – Austin
2/21/2012	Meeting with Omnicare regarding their New Initiatives and Focus – Austin
2/23/2012	Rxexperts Leadership Conference – Austin
2/24/2012	Meeting with Krista Crockett of the Texas Pain Society – Austin
2/28-29/2012	NAPB Committee on Law Enforcement and Legislation – Chicago
3/8/2012	Meeting with representatives from Seton Health Care – Austin
3/9/2012	Conference Call with Medvantix regarding Internet pharmacies – Austin
3/21/2012	TSBP Long Term Care Task Force Meeting – Austin
3/22/2012	Texas Association of Business meeting regarding Responsible Prescription Drug Use – Austin
3/22/2012	Capitol Area Pharmacy Association Meeting – Austin
3/26/2012	Meeting with representatives of DPS regarding regulation of Controlled Substance Act and rules -- Austin
3/29-30/2012	UT College of Pharmacy Advisory Council Meeting – Austin
4/10/2012	TSBP Executive Committee Budget Committee Meeting – Austin
4/13/2012	Texas Society of Health-System Pharmacists Annual Meeting – Dallas
4/17/2012	Orientation for new Legislative Budget Board Analyst – Austin
5/19-22/2012	NABP Annual Meeting – Philadelphia
6/8/2012	Meeting with DEA Taskforce on Pill Mills – Austin
6/11/12	Meeting with Helix – Austin
6/15/2012	Meeting with Central Admixture Pharmacy – Austin
6/20/2012	Meeting with Everett McAlister, new PTCP Executive Director – Austin
6/22/2012	Meeting with Joel Adamson regarding veterinary pharmacy – Austin
6/29/2012	Meeting with Paul Davis, Executive Director of TSHP – Austin
7/5/2012	Meeting with Joe DaSilva, Executive Director of TPA – Austin

OFFICE OF THE EXECUTIVE DIRECTOR

Date	Name of Association/Location of Meeting
7/6/2012	Meeting with Stacey Williams, State Auditor's Office – Austin
7/9/2012	Joint meeting with TFDS, TPA, DEA, and DPS – Austin
7/20/2012	Entrance Interview with State Auditor's Office – Austin
7/26-28/2012	Texas Pharmacy Association's Annual Meeting – The Woodlands
8/15/2012	Meeting with Richard Beck
8/23/2012	Meeting with the TPA Board of Directors regarding 2013 Legislative Session – Austin

- C. The Executive Director was elected as Chair of the Health Professions Council at a meeting on November 9, 2011, meeting. She attended 11 meetings of the Council or Council Committees and meetings of the Regulatory Database Committees as follows:

Date	Activity
9/14/2011	Regulatory Database Steering Committee Meeting
9/19/2011	Regulatory Database Steering Committee Meeting
10/14/2011	Regulatory Database Steering Committee Meeting
11/8/2011	Regulatory Database Steering Committee Meeting
11/9/2011	Regulatory Database Executive Committee Meeting
12/5/2011	Regulatory Database Steering Committee Meeting
12/12/2011	Health Professions Council Meeting
3/5/2012	Health Professions Council Meeting
3/12/2012	Regulatory Database Steering Committee Meeting
3/19/2012	Regulatory Database Steering Committee Meeting
4/3/2012	Regulatory Database Steering Committee Meeting
6/18/12	Regulatory Database Executive Committee Meeting

- D. The Executive Director attended 4 meetings of the Texas Pharmacy Congress as follows.

Date	Activity
2/7-8/2012	Texas Pharmacy Congress Meeting – Houston
5/14-15/2012	Texas Pharmacy Congress Meeting – Amarillo
8/21/2011	Texas Pharmacy Practice Coalition Meeting – San Antonio
8/21-22/2012	Texas Pharmacy Congress Meeting – San Antonio

OFFICE OF THE EXECUTIVE DIRECTOR

6. **To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations throughout FY2012.**

Status: ACCOMPLISHED

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

7. **To maintain a staff development program by encouraging Executive Office staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training and to conduct periodic reviews and annual evaluations of Division Directors and Executive Office staff and to monitor evaluations of employees in all Board Divisions throughout FY2012.**

Status: ACCOMPLISHED

Comment: In FY2012, Division staff attended General Staff Meetings held in September 2011, December 2011, February 2012, June 2012, and August 2012. In conjunction with quarterly General Staff Meetings, Division staff participated in staff training, as listed below:

- Alliance Work Partners *"Defusing Hostile Customers" and "Cube Etiquette"*
- Ongoing – Regulatory Database Training

Evaluations of the Division Directors and Executive Assistant were completed in August 2012.

8. **To provide the Board information necessary to conduct performance evaluation of the Executive Director by August 31, 2012.**

Status: ACCOMPLISHED

Comment: A self and staff evaluation of the Executive Director were presented to the Board at its August 2012 meeting. The Board conducted the performance evaluation at this meeting.

9. **To prepare a report on the accomplishments of the Office of the Executive Director and direct the preparation and submission of the agency's FY2011 Annual Report to be presented to the Board at the May 2012 meeting.**

Status: PARTIALLY ACCOMPLISHED

Comment: The final draft of the TSBP Annual Report for FY2011 was not completed by the May 2012 meeting but was presented to and approved by the Board at the August 2012 Board meeting.

Administrative Services and Licensing Division

FY2012 SIGNIFICANT ACCOMPLISHMENTS

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

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

FY2012 SIGNIFICANT DISAPPOINTMENTS

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

WORKLOAD INCREASES							
Number	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	Percent Increase since FY07
Licensed Pharmacists	23,939	24,586	25,507	26,551	27,329	28,417	18.70%
Licensed Pharmacies	6,315	6,424	6,516	6,762	6,964	7,185	13.77%
Registered Pharmacy Technicians	32,106	32,914	33,927	36,134	37,507	39,973	24.50%
Registered Pharmacy Tech Trainees	10,399	18,093	17,657	13,829	11,839	13,195	26.88%
Registered Interns	886	925	1,052	2,451	2,806	2,805	216%
Total Licensees	73,645	82,942	84,659	85,727	86,445	91,575	24.34%

2. The agency has been largely unsuccessful in obtaining much needed space for its employees. The agency has grown from 35 in-house staff, to 66 in-house staff and interns since 1995, with only a small increase of 600 square feet in those 17 years. Lack of adequate work space has reached a critical point. In addition, lack of filing space has been compounded by budget reductions with regard to the imaging of historical licensing files. Options to obtain additional space in the William P. Hobby Building have been unsuccessful and the agency has resorted to requesting additional appropriations in FY14-15 to obtain private leased space.
3. Regulatory Database system – The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) with a Shared Regulatory Database System (RDB), entitled, the Versa Regulatory System, became operational in May 2011 with the Versa Online System beginning operation on June 3, 2011. Although the conversion of the majority of the data from the prior system was successful, the implementation and ongoing use of the System has left the agency struggling with a number of issues. The increasing amount of manual processes required, non-working interfaces with other agencies and poor project management/responsiveness from Versa, are major problem issues. Most importantly, the Versa Online System's lack of integration with the back office system creates duplicate data, is not user friendly, and continues to result in major problems in the issuance of licenses and many customer complaints. Although an updated online system is available, it has not yet been tested or implemented.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

4. Although the TSBP was successful in obtaining additional appropriations for a portion of the requested exceptional items during the 82nd Legislative session, the state's fiscal crisis required maintaining the existing 5% and 2.5% reductions of FY2010-11, as well as an additional 10% reduction. These reductions eliminated the increases to appropriations received in FY2010-2011 in the areas of the Pharmacy Recovery Network, the testing of compounded products, and merit increases to eligible employees. The reductions also eliminated the critical replacement of agency vehicles and technology as well as numerous reductions to the majority of agency services.

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

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

FY2012 ANNUAL REPORT

GOAL

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

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2012.

1. Continuing the implementation of a new licensing, enforcement, and administration database system throughout FY2012.
2. Reviewing and implementing legislation passed by the 82nd Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2012.
3. Updating and preparing the *TSBP Strategic Plan for FY2013-2017* and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date.
4. Preparing a proposed budget for the FY2014-2015 biennium for review and approval by the Board at the 2012 Board Budget meeting.
5. Preparing the *TSBP Legislative Appropriation Request for FY2014-2015* and corresponding performance measures by the due date.
6. Conducting the orientation of new Board Members within 90 days of appointment by the Governor.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

1. New Regulatory Database System (RDB) – The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) with a Shared Regulatory Database System (RDB), entitled, the Versa Regulatory System, became operational in May 2011 with the Versa Online System beginning operation on June 3, 2011. Although the conversion of the majority of the data from the prior system was successful, the implementation and ongoing use of the System has left the agency struggling with a number of issues. The increasing amount of manual processes required, non-working interfaces with other agencies and poor project management/responsiveness from Versa, are major problem issues. Most importantly, the Versa Online System's lack of integration with the back office system creates duplicate data, is not user friendly, and continues to result in major problems in the issuance of licenses and many customer complaints. Although an updated online system is available, it has not yet been tested or implemented.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

2. Implementing Legislation Passed by 82nd Texas Legislature – The agency was successful in obtaining additional appropriations for a portion of the requested exceptional items during the 82nd Legislative session. These included six new FTE's, including:

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

However, the FY2012-2013 appropriations also maintained funding reductions of 5% and 10% realized in fiscal years FY2010-2011; and eliminated the agency's replacement costs for vehicles and technology. In order to maintain the critical replacement of agency vehicles and technology, the majority of new positions were lapsed throughout FY2012.

3. Strategic Plan for FY2013-2017 – The agency researched the trends and resulting issues expected to have the most significant impact on the profession and the agency over the next five years. The Board Members worked with staff to develop issue statements and approved the final *Strategic Plan* at the May 2012 Board Business Meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.
4. Proposed Budget – The Executive Committee reviewed staff's recommendations for the exceptional items contained in the *Legislative Appropriation Request* (LAR) in April 2012. The full Board met in May 2012 to review and approve the agency's LAR for FY2014-2015. The Board Members were apprised of the exceptional items requested in the LAR, which included restoration of partial funding from reductions realized in fiscal years 2010-2012; general revenue for agency contribution to the Employees Retirement System Group Benefits Program; funding for 10 additional employees; funding for a portion of a web administrator employee for the Health Professions Council; executive director salary increase; and increased funding for the Pharmacist Recovery Network.
5. Legislative Appropriation Request for FY2014-2015 (LAR) – The *Legislative Appropriation Request* was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy (GBO) by the August 17, 2012. The LAR included the items approved by the Board in May 2012.
6. Orientation of New Board Member – On September 27, 2011, Division staff, along with the Executive Director and other agency staff, participated in the orientation of new public Board Member, Phyllis Stine. Board members, Jeanne Waggener and Alice Mendoza, were reappointed and did not attend the orientation.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

Objectives (Ongoing) – Administrative Services

1. **To prepare a proposed budget for FY2013 for submission to the Board two weeks prior to the August 2012 Board Meeting.**

Status: ACCOMPLISHED

Comment: A proposed budget, including revenue projections and fee recommendations, was presented and approved at the August 2012 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 FY2012.**

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, 2012 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 FY2012.**

Status: ACCOMPLISHED

Comment: A quarterly operating budget was presented to the Board at each of the regularly scheduled business meetings and recorded as such in the official minutes of the Board meeting.

A decrease in the fees for the initial licensure and renewal of pharmacy, pharmacist licenses, and pharmacy technician fees was previously adopted in August 2010 with an effective date of December 2011. The purpose of adopting rules this early was to provide the Comptroller of Public Accounts a Biennial Revenue Estimate (BRE) for FY2014-15 that allows fees to be as low as possible while covering the baseline budget for FY2014-15.

A second fee change was recommended and approved by the Board in August 2012 with an effective date of October 2012. This resulted in a slight increase in fees for all applicants and licensees, and was due primarily to the manner in which the Comptroller certified the additional appropriations for all agencies and statistics regarding future licensees that seemed to indicate a decrease in the number of technician registrations issued.

Since revenue estimates are based on the projected numbers of people and facilities that apply for new licenses, renew those licenses, and the amount of fines/probations that are collected, it is imperative that reliable historical statistics can be obtained. Statistics obtained from faulty reports early in the year, generated by the new computer system, indicated that the BRE would not be met. In addition, the Comptroller's new method of certification of funds, relied upon a month-to-month review of the cash receipts of each agency. These

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

factors led the agency to take steps to ensure that sufficient revenue would be generated to cover the additional appropriations that were eventually certified by the Comptroller in March 2012.

- 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 FY2012.**

Status: ACCOMPLISHED

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

- 5. To increase the efficiency and productivity of Board office operations by managing and coordinating space needs and on-site maintenance of the Board's office facilities throughout FY2012.**

Status: ACCOMPLISHED

Comment: The agency continued to initiate efforts in obtaining much needed space for its agency employees. In 1995, the agency in-house employees numbered 35 and occupied 8,415 square feet in the Wm.P Hobby building. In FY2012 the agency housed 66 employees and interns, and occupied 9,014 square feet. The Texas Facilities Commission estimated that in order to renovate the existing square footage by removing all offices in favor of an open office plan, the cost would be approximately \$1.8M. This option was rejected as cost prohibitive. The agency continues its discussions with the Texas Facilities Commission to either obtain additional space in its current location (Wm P Hobby building), moving to other state space, or obtaining private lease space in the coming biennium.

- 6. To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2012.**

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- A. All newly hired employees received Equal Employment Opportunity/Sexual Harassment Training as required by state law.
- B. Division directors continued to review and revise employee position descriptions.
- C. The agency reviewed its Employee Handbook of Personnel Policies and Procedures. One employee complaint was filed and resolved, and there were no employment discrimination or other charges initiated with the Texas Commission on Human Rights.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

- D. The agency received 261 applications for employment during this fiscal year, which resulted in six new hires and no promotions. (Note: providing EEO information by applicants is strictly voluntary. Eleven applicants did not provide the information thus it is not included in the chart below).
- E. The agency had six employees that terminated employment with the agency in FY2012, resulting in a turnover rate of 6.9%. This compares to the overall statewide turnover rate of the state of 17.3%.
- F. The 2012 State of Texas Census reflects the following data that can be used to compare with the overall EEO data shown in the table below. According to the 2012 Census Data, the following is applicable.

White, Anglo	=	45%
Black	=	12%
Hispanic	=	37%
Other	=	06%

Note that 22% of the Texas Census Data are age 14 and younger.

To further compare with the agency overall EEO data, the following data is offered for the population of Texas licensed pharmacists.

White, Anglo	=	37%
Black	=	09%
Hispanic	=	06%
Other	=	13%
Information not available	=	35%

The following table reflects the agency's EEO profile for employees hired, promoted, or terminated during FY2012.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

Texas State Board of Pharmacy
EEO Data as of August 31, 2012

Agency EEO Data

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	5	0	0	0	0	0	0	0	5	5
Professional	6	8	0	2	2	0	0	1	8	11	19
Para-Prof	9	18	0	0	2	12	0	0	11	30	41
Admin Support	0	4	0	4	0	4	0	0	0	12	12
TOTALS	15	35	0	6	4	16	0	1	19	58	77
Percentage	19.5%	45.5%	0.0%	7.8%	5.2%	20.8%	0.0%	1.3%	24.7%	75.3%	

New Hires

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	0	1	0	0	0	0	0	0	0	1	1
Para-Prof	0	2	0	0	0	1	0	0	0	3	3
Admin Support	0	1	0	1	0	0	0	0	0	2	2
TOTALS	0	4	0	1	0	1	0	0	0	6	6

Promotions

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	0	0	0	0	0	0	0	0	0	0	0
Para-Prof	0	1	0	0	0	0	0	0	0	0	0
Admin Support	0	0	0	0	0	0	0	0	0	0	0
TOTALS	0	1	0	0	0	0	0	0	0	0	0

Terminations

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	0	1	0	0	0	0	0	0	0	1	1
Para-Prof	0	2	0	0	0	1	0	0	0	3	3
Admin Support	0	0	0	2	0	0	0	0	0	2	2
TOTALS	0	3	0	2	0	1	0	0	0	6	6

Applications

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	29	12	12	2	4	3	4	0	49	17	70
Para-Prof	31	16	7	6	13	8	0	2	51	32	86
Admin Support	7	33	4	19	8	27	2	1	21	80	105
TOTALS	67	61	23	27	25	38	6	3	121	129	261

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

- 7. To manage the information resource needs (data processing, telecommunication, and Website) of the agency throughout FY2012.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities.

- A. Continued implementation and support of the Versa Regulatory System. Although the conversion of the majority of the data from the prior system was successful, the implementation and ongoing use of the System has left the agency struggling with a number of functionality issues. The increasing amount of manual processes required, non-working interfaces with other agencies and poor project management/responsiveness from Versa, are the major issues. Agency staff continues to work closely with partner agencies, the Health Professions Council and the vendor to resolve the many lingering issues that exist with the system.
- B. Completed the Information Resources Deployment Review and The Information Technology Detail portion of the Agency Strategic plan.
- C. The agency completed a successful DIR sponsored penetration testing of agency firewall.
- D. The availability of the system and the system security were maintained at a high level in an increasingly volatile environment.
- E. Despite the lack of funding, all critical equipment was replaced in accordance with the replacement schedule and in a timely manner. Agency accomplished this by lapsing salaries of open positions which included the delayed hiring of a newly appropriated Network Administrator position.
- F. The agency continued imaging the licensing/registration records of pharmacists and pharmacy technicians and the pharmacy technician complaint files.

- 8. To serve as the Agency Records Retention Manager to the Texas State Library, in maintaining a Records Retention Program for the economical and efficient management of agency records throughout FY2012.**

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 128,000 images scanned into the imaging system.

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

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

- 9. To serve as the Agency Risk Manager by annually assessing areas of agency risk exposures and recommending procedures to control these exposures throughout FY2012.**

Status: ACCOMPLISHED

Comment: The Texas Internal Audit Act requires all agencies to conduct a formal risk assessment and submit an annual Risk Assessment Report to the Office of the State Auditor (SAO). The Agency conducted an assessment of the major programs of the agency (i.e., fiscal, technology, licensing, public information, rule making, peer assistance, enforcement) and submitted the Risk Assessment Report by the due date to the SAO.

- 10. To provide verbal and written information to Board staff and customers throughout FY2012, including, by the assigned due dates, the preparation of the LBB Performance and Funds Management Report and other special reports as requested by LBB, legislative committees, legislators, and others, in conjunction with other Divisions as necessary.**

Status: ACCOMPLISHED

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

Report Title	Recipient(s)	Division Reporting
FTE State Employees	State Auditor	Administration
Governmental Employees Quarterly Report	Texas Workforce Commission	Administration
Employer's Quarterly Federal Tax Return	Internal Revenue Service	Administration
Retirement Contributions Reconciliation Report	Employees Retirement System	Administration
Annual Financial Report	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor	Administration
Non-Financial Annual Report	Governor's Office; Legislative Budget Board; State Auditor	Administration
ABEST Reconciliation	Legislative Budget Board	Administration
Recycled Materials Expenditures	Texas Comptroller of Public Accounts	Administration
Historically Underutilized Business Progress Reports	Governor's Office; Lt. Governor; Speaker of House; Texas Building & Procurement Commission	Administration
Encumbrance Reports	State Comptroller; State Auditor; Legislative Budget Board	Administration
State Use Report	Texas Comptroller of Public Accounts	Administration
EEO Information Report	Texas Workforce Commission	Administration
Minority Hiring Practices	Texas Workforce Commission	Administration

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

Report Title	Recipient(s)	Division Reporting
SORM 200	Office of Risk Management	Administration
Performance and Funds Mgmt. Reports	Legislative Budget Board	All
Contract Workforce Report	State Auditor; Legislative Budget Board; Governor	Administration
Open Records Online Monthly Report	Office of Attorney General	All
Fleet Management Report	Texas Comptroller of Public Accounts	Administration
FY12 Risk Assessment	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor, Sunset Advisory Commission	Administration
Veterans Workforce Summary Report	Comptroller	Administration
Space Utilization Survey	Texas Facilities Commission	Administration
SORM Report	SORM	Administration
Agency Fee/Revenue Projections	Legislative Budget Board	Administration
Professional and Consultant Services Report	Legislative Budget Board	Administration
TexFlex Reconciliation Report	Employees Retirement System	Administration
Annual Debt Report	Office of Attorney General	Administration
Procurement Plan	Comptroller	Administration
Audit Corrective Action Plan	State Auditor	Enforcement and Administration

11. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2012.

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. Health Professions Council Annual Report - Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
- C. Continued participation in several HPC centralized services, such as the Courier Service; Shared Employee Training; Shared Information Resource Technology staff; posting of position descriptions, and use of the imaging system.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

- 12. To manage employees under the supervision of the Division throughout FY2012, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division Director updated and/or reviewed any revised position descriptions for compliance with all personnel statutes.
- B. Division Director conducted regular staff team meetings for division staff and in-house training sessions.
- C. Division staff participated in personal development seminars and participated in all-staff training, as listed below:
 - Alliance Work Partners “Defusing Hostile Customers” and “Cube Etiquette”
 - Ongoing – Regulatory Database Training
- D. Division Director conducted the annual evaluation of Division employees in August 2012.

- 13. To destroy records in accordance with the agency’s record retention plan throughout FY2012, and 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 FY2012.**

Status: ACCOMPLISHED

Comment: Agency staff destroyed 430.88 cubic feet of records in accordance with the TSBP records retention schedule, and 129 cubic feet of records were sent to the State Library for storage.

Various personnel policies were updated and published in April 2012, as well as implementing a new “Mother Friendly Worksite Policy” and “Agency Access to Criminal History Record Information.”

- 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 FY2012.**

Status: ACCOMPLISHED

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

Comment: Rules and procedures regarding licensing and registration of pharmacists, pharmacies, interns and pharmacy technicians, are reviewed on a regular basis and recommendations are made as necessary. In particular, division staff contributed to the development of new rules relating to the following:

- §§291.6, 295.5, 297.4 concerning license fees for pharmacies, pharmacies, technicians and technician trainees
- §§283.7, 283.8, 283.11 regarding applicants diagnosed with dyslexia seeking accommodations and expiration dates for passing grades on licensure examination
- Chapter 283 and 297.10 concerning internship programs and military spouses
- §295.8 concerning continuing education approved by other state boards.

15. To prepare a report on the accomplishment of Division objectives for incorporation into the agency's *FY2011 Annual Report* and submit to the Executive Director by the due date.

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2011 *TSBP Annual Report* was submitted to the Executive Director by the due date.

Objectives (Ongoing) – Licensing

16. To coordinate the collection of licensing data for *Key Performance Targets* required under the FY2012-2013 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2012.

Status: ACCOMPLISHED

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

PERFORMANCE MEASURES	TARGET FY2012	ACCOMPLISHED FY2012	Key or Non Key (K-NK)	Expectations
Percent of Licensees with No Recent Violations	95%	95.50%	K	Met
Percent of Licenses Who Renew Online	89%	95.19%	K	Exceeded
Percent of New Individual Licenses Issued Online	81%	91.30%	NK	Exceeded

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Number of New Licenses issued to Individuals (Pharmacists)	1,300	1,594	K	Exceeded
Number of Licenses Renewed (Individuals – Pharmacists)	13,857	15,621	K	Exceeded
Number of New Registrations Issued to Individuals (Technician and Trainee)	11,600	14,565	NK	Exceeded
Number of Registrations Renewed (Technicians)	12,000	14,823	NK	Exceeded
Percent of New Licenses Issued within 10 days	99%	90%	NK	Not Met
Percent of Individual Licenses Issued within 7 days	99%	90%	NK	Not Met
Total Number of Pharmacists Licensed	27,400	28,417	NK	Exceeded
Total Number of Facilities Licensed	6,842	7,185	K	Exceeded
Total Number of Individuals (Technicians & Trainees) Registered	52,000	53,168	NK	Exceeded

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

Status: ACCOMPLISHED

Comment: At year end, a total of 2,805 interns (student interns and intern trainees) were certified within one to four days of receipt of required documents. In addition, a total of 4,145 pharmacist preceptors were initially certified or renewed their certification. At fiscal year-end, a total of 7,102 pharmacists were active preceptors.

18. To determine the eligibility of all pharmacist applicants applying to take the NAPLEX and Texas Pharmacy Jurisprudence Examination for initial licensing or licensing by reciprocity throughout FY2012.

Status: ACCOMPLISHED

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

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

JURISPRUDENCE (MPJE)	TOTALS
Candidates Passing	1424 (92.77%)
Candidates Failing	111(7.23%)
TOTAL ADMINISTERED	1535

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

NAPLEX	TOTALS
Candidates Passing	849 (92.89%)
Candidates Failing	65 (7.11%)
TOTAL ADMINISTERED	914

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

NEW PHARMACISTS LICENSED – FY2012	
Graduates of Texas Colleges of Pharmacy	672 (42.16%)
Graduates of Out-of-State Colleges of Pharmacy	788 (49.44%)
Credentialed by the Foreign Pharmacist Equivalency Committee	134 (8.40%)
Undetermined	
TOTAL	1594

Regarding reciprocity (license transfer) in and out of Texas, 454 candidates were licensed by reciprocity in FY2012. The National Association of Boards of Pharmacy reports that in calendar year 2012, Texas had the second largest number of requests to transfer licensure into the state with 770 requests.

- 19. To provide staff support to the *Examination Retake Committee* and any other advisory committee related to licensing issues as required in FY2012.**

Status: ACCOMPLISHED

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

- 20. To issue a pharmacist license by examination, score transfer, or reciprocity within an average of ten working days after the date the agency receives the examination results throughout FY2012.**

Status: ACCOMPLISHED

Comment: The agency issued 1,594 new pharmacist licenses with an average turnaround time of 6.5 business days from the download of the examination results. It should be noted however, that the percent of licenses issued within 10 business days dropped from 95% in FY2011, to 90% in FY2012, due primarily to the agency's new computer system. The inefficiencies of the system, as well as the lack of automated processes have required many more manual processes which have required a significant amount of human resources to perform.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

- 21. 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 FY2012.**

Status: ACCOMPLISHED

Comment: The agency renewed 15,621 biennial pharmacist licenses during FY2012. Approximately 92% of eligible pharmacists renewed their licenses online. The average processing time to issue a renewal license from receipt of a completed application was two business days. It should be noted however, that the percent of licenses issued within 10 business days dropped from 100% in FY2011 to 90% in FY2012, due primarily to the agency's new computer system. The inefficiencies of the system, as well as the lack of automated processes have required many more manual processes which have required a significant amount of human resources to perform.

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

PHARMACISTS LICENSED FY2012	
Active Status	26,864
Inactive Status*	1,553**
TOTALS	28,417

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

**Of the above number, 558 pharmacists have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as "exempt."

- 22. To audit the pharmacists' compliance with continuing education and to initiate complaints on pharmacists who are not in compliance with the rules regarding pharmacists' mandatory continuing education for renewal, in cooperation with the Enforcement team, throughout FY2012.**

Status: ACCOMPLISHED

Comment: Continuing education audits were completed for all pharmacists requesting to return to an active status. Due to increasing workload issues, the random continuing education audits were discontinued.

- 23. To issue initial certificates to all pharmacy technician trainee candidates within an average of five working days of receipt of the required documents throughout FY2012.**

Status: ACCOMPLISHED

Comment: The agency issued 8,110 new pharmacy technician trainee registrations bringing the total population of active registered technician trainees for this fiscal year to 13,195. Approximately 92% 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 2 business days and 90% of certificates were mailed within 10 working days or less.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

- 24. To issue initial and/or renewal certificates to all pharmacy technician candidates within an average of ten working days of receipt of the required fee and all required documents throughout FY2012.**

Status: ACCOMPLISHED

Comment: The agency issued 6,455 new pharmacy technician registrations, and renewed 14,823 registrations on a biennial basis, bringing the total population of active registered technicians for this fiscal year to 39,973. Approximately 97% 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 95% 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 four business days and 85% of certificates were mailed within 10 working days or less. It should be noted however, that the percent of licenses issued within 10 business days is not ideal, and due primarily to the agency's new computer system. The inefficiencies of the system, as well as the lack of automated processes have required many more manual processes which have required a significant amount of human resources to perform.

- 25. To issue an initial and/or renewal certificate to all pharmacy license applicants on receipt of the required fees and all required documents according to the following guidelines throughout FY2012.**

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

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities.

- A. The agency issued 502 new pharmacy licenses, and renewed 3,400 licenses on a biennial basis, bringing the total population of active registered pharmacies for this fiscal year to 7,185. Approximately 27% of eligible pharmacies renewed their licenses online.

The average processing time to issue a renewal license from receipt of a completed application was four business days and 85% of licenses were mailed within 10 working days or less.

Although a small percentage of pharmacies continue to renew their licenses online, it should be noted that the inefficiencies of the new computer system as well as the lack of automated processes, have necessitated that all new pharmacy applications be received and processed in paper format only. There is no anticipated date that new pharmacy applications will be processed online.

The average processing time to issue an initial license from receipt of a completed application and inspection, was three business days.

DIVISION OF ADMINISTRATIVE SERVICES AND LICENSING

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

ACTIVE PHARMACIES FY2012	
Class A (Community)	4898
Class B (Nuclear)	36
Class C (Institutional)	1118
Class D (Clinic)	374
Class E (Non Resident)	683
Class F (FreeStanding Emergency Medical Centers)	65
Class G (Central Processing)	11
TOTALS	7,185
Remote Pharmacies	1,577

A total of 4,151 change documents were processed as follows:

PHARMACY APPLICATIONS PROCESSED	
Pharmacy Renewals	3,400
New Licenses Issued [new opens (403) and changes of ownership (99)]	502
Closings	249
TOTAL	4,151

26. In cooperation with the Enforcement Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants for licensure and registration throughout FY2012, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2012.

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.

Professional Services Division

FY2012 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 19 of the Division's Objectives for FY2012. Objective #7 was no longer applicable due to a change in Board rules.
2. Division Director drafted or assisted others in drafting 38 rules and preparing the rules for review by the Board.
3. Division staff prepared and mailed or emailed 1,555 pieces of information during FY2012.
4. Division Director gave seventeen presentations during FY2012 to over 700 pharmacists, pharmacy students, and pharmacy technicians.

PROFESSIONAL SERVICES DIVISION

FY2012 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The 82nd Legislature appropriated funds to TSBP for six new employees, one of which was an administrative assistant for Professional Services. However, the new position could not be filled until March 2012.

PROFESSIONAL SERVICES DIVISION

FY2012 ANNUAL REPORT

GOAL

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

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2012:

1. Continuing the implementation of a new licensing, enforcement, and administration database system throughout FY2012.
2. Reviewing and implementing legislation passed by the 82nd Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2012.
3. Updating and preparing the TSBP Strategic Plan for FY2013 - 2017 and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date.
4. Preparing a proposed budget for the FY2014 - 2015 biennium for review and approval by the Board at the 2012 Board Budget meeting.
5. Preparing the TSBP Legislative Appropriation Request for FY2014 - 2015 and corresponding performance measures by the due date.
6. Conducting the orientation of new Board Members within 90 days of appointment by the Governor.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

1. New Regulatory Database System (RDB) –Division staff continued to participate in meetings regarding the new system. Division staff continued to learn the new system in order to process requests for agency information.
2. Implementing Legislation Passed by 82nd Texas Legislature –Division Director, with assistance from other Directors, drafted language to implement legislation passed by the 82nd Texas Legislature.
3. Strategic Plan for FY2013-2017 – The Strategic Plan for FY2013-2017 was prepared and reviewed. The agency researched the trends and resulting issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years. The Board Members worked with staff to develop Issue Statements and approved the final Strategic Plan at the May 2012 Board meeting. The TSBP Strategic

PROFESSIONAL SERVICES DIVISION

Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

4. Proposed Budget – Division Director worked with the Executive Director and the other Division Directors in preparation of the proposed budget for FY2014-2015.
5. Legislative Appropriation Request for FY2014-2015 (LAR) – Division Director worked with the Executive Director and the other Division Directors in preparation of the FY2014-2015 Legislative Appropriations Request and reviewed the final draft of the document.
6. Orientation of New Board Member – On September 27, 2011, General Counsel, along with the Executive Director and the other agency staff, participated in the orientation of public Board member, Phyllis Stine. Board members, Jeanne Waggener and Alice Mendoza, were reappointed and did not attend the orientation.

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.**

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 22 rules and assisted others in drafting of 16 additional rules as follows:

RULES
Drafted:
§§283.2, 283.3, 283.4, 283.7, 283.8, 283.9, 283.10, 283.11 regarding Internship Programs
§291.34 regarding Electronic Schedule II Prescriptions
§291.3 regarding Notification Requirements
§291.9 regarding Delivery of Prescriptions
§291.17 regarding Inventory Requirements
§291.32 regarding Duties of Pharmacists and Pharmacy Technicians/Trainees
§291.33 regarding Patient Counseling
§291.34 regarding Records and Professional Judgment
§291.54 regarding Owners of Nuclear Pharmacies
§291.153 regarding Ratios in Central Processing Pharmacies
§291.93 regarding Provision of Drugs in Class D Pharmacies
§295.8 regarding Continuing Education Approved by Other State Boards of Pharmacy
§291.17 regarding Inventory Requirements
§291.93 regarding Labeling Prescriptions for Partner Therapy in Class D Pharmacies
§291.104 regarding Submission of Controlled Substance Prescription Information to the Texas Department of Public Safety by Class E Pharmacies
Assisted the Legal Division in Drafting:
§281.6 regarding Mental or Physical Exams
§281.22 regarding Informal Disposition of a Contested Case
§281.32 regarding Failure to Attend Hearing and Default
§281.64 regarding Sanctions for Misdemeanor Offenses Involving Intoxication

PROFESSIONAL SERVICES DIVISION

RULES
§281.67 regarding Sanctions for Out-of-State Disciplinary Actions
§281.7 regarding Grounds for Discipline of a Pharmacist
§281.22 regarding Informal Disposition of a Contested Case
§281.30 regarding Pleadings and Notice in a Contested Case
§281.65 regarding Administrative Penalties for Failure to Counsel
Assisted the Licensing Division in Drafting:
§§283.12, 297.10 regarding Military Spouses
§§291.6, 295.5, 297.4 regarding Fees
Assisted Enforcement Division in Drafting:
§§291.131, 291.133 regarding Recall Procedures

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

Status: ACCOMPLISHED

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

RULE SUBMISSIONS TO THE *TEXAS REGISTER*

During FY2012, 61 submissions to the *Texas Register* were made that proposed, adopted, reviewed, repealed, or withdrew amendments or new Texas Pharmacy rules. Division staff met all deadlines for submissions to the *Texas Register*, monitored the submissions for action, and notified Board Members, TSBP staff, and other interested parties of the status of rules as follows:

Rules	Type of Action	Published in TxReg as Proposed	Memo to Staff and Others	Published in TxReg as Adopted	Memo to Staff and Others
§§281.2, 281.9	Amendments	FY2011	FY2011	9/9/2011	9/9/2011
§281.30	Amendments	FY2011	FY2011	9/9/2011	9/9/2011
§§283.4, 283.7, 283.8	Amendments	FY2011	FY2011	9/9/2011	9/9/2011
§§291.1, 291.6, 291.29	Amendments	FY2011	FY2011	9/9/2011	9/9/2011
§§291.32, 291.33	Amendments	FY2011	FY2011	9/9/2011	9/9/2011
§291.104	Amendments	FY2011	FY2011	9/9/2011	9/9/2011
§295.5	Amendments	FY2011	FY2011	9/9/2011	9/9/2011
§§297.3, 297.4	Amendments	FY2011	FY2011	9/9/2011	9/9/2011
§303.1	Amendments	FY2011	FY2011	9/9/2011	9/9/2011
Chapter 291, (§§291.101 – 291.105)	Rule Review	FY2011	FY2011	9/9/2011	9/9/2011
Chapter 295 (§§295.1 – 295.9, 295.11 – 295.13, 295.15)	Rule Review	FY2011	FY2011	9/9/2011	9/9/2011
§§283.7, 283.8, 283.11	Amendments	9/23/2011	9/23/2011	11/18/2011	12/2/2011
§291.34	Amendments	9/23/2011	9/23/2011	11/18/2011	12/2/2011
§§283.2, 283.3, 283.4, 283.7, 283.8, 283.9, 283.10, 283.11	Amendments	12/9/2011	12/2/2011*	3/9/2012	3/20/2012
§283.12	New	12/9/2011	12/2/2011*	3/9/2012	3/20/2012

PROFESSIONAL SERVICES DIVISION

Rules	Type of Action	Published in TxReg as Proposed	Memo to Staff and Others	Published in TxReg as Adopted	Memo to Staff and Others
§291.34	Amendments	12/9/2011	12/2/2011*	3/9/2012	3/20/2012
§297.10	New	12/9/2011	12/2/2011*	3/9/2012	3/20/2012
Chapter 291 (§§291.31 – 291.35)	Rule Review	12/9/2011	12/2/2011*	3/9/2012	3/20/2012
Chapter 283 (§§283.1 – 283.11)	Rule Review	12/9/2011	12/2/2011*	3/9/2012	3/20/2012
§281.6	Amendments	3/30/2012	3/20/2012*	6/1/2012	6/22/2012
§§281.22, 281.32	Amendments	3/30/2012	3/20/2012*	6/1/2012	6/22/2012
§§281.64, 281.67	Amendments	3/30/2012	3/20/2012*	6/1/2012	6/22/2012
§§291.3, 291.9, 291.17	Amendments	3/30/2012	3/20/2012*	6/1/2012	6/22/2012
§§291.32, 291.33, 291.34	Amendments	3/30/2012	3/20/2012*	6/1/2012	6/22/2012
§291.53	Amendments	3/30/2012	3/20/2012*	6/1/2012	6/22/2012
§291.153	Amendments	3/30/2012	3/20/2012*	6/1/2012	6/22/2012
§281.7	Amendments	6/22/2012	6/22/2012	8/31/2012	FY2013
§§281.22, 281.30	Amendments	6/22/2012	6/22/2012	8/31/2012	FY2013
§281.64	Amendments	6/22/2012	6/22/2012	8/31/2012	FY2013
§291.6	Amendments	6/22/2012	6/22/2012	8/31/2012	FY2013
§291.93	Amendments	6/22/2012	6/22/2012	8/31/2012	FY2013
§§291.131, 291.133	Amendments	6/22/2012	6/22/2012	8/31/2012	FY2013
§§295.5, 295.8	Amendments	6/22/2012	6/22/2012	8/31/2012	FY2013
§297.4	Amendments	6/22/2012	6/22/2012	8/31/2012	FY2013
Chapter 291 (§§291.71 – 291.76)	Rule Review	6/22/2012	6/22/2012	8/31/2012	FY2013
Chapter 303 (§§303.1 – 303.3)	Rule Review	6/22/2012	6/22/2012	8/31/2012	FY2013

OPEN MEETING SUBMISSIONS TO THE *TEXAS REGISTER*

Twelve notices of open meetings scheduled during FY2012 were submitted by the Division to the *Texas Register* for publication. The submissions were as follows:

Type of Submission	Date Published
Open Meeting 10/31/11 – Strategic Planning Session, Board Business Meeting	10/21/11
Open Meeting 11/1/11 – Board Business Meeting	10/21/11
Open Meeting 12/1/11 – Disciplinary Panel Hearing	11/22/11
Open Meeting 1/26/12 – Disciplinary Panel Hearing	1/17/12
Open Meeting 2/14 – 15/12 – Board Business Meeting	1/30/12
Open Meeting 2/27/12 – Disciplinary Panel Hearing	2/24/12
Open Meeting 3/31/12 – Task Force on Long Term Care Pharmacies	3/9/12
Open Meeting 4/10/12 – Executive Committee	4/2/12
Open Meeting 5/8 – 9/12 – Board Business Meeting	4/23/12
Open Meeting 7/9/12 – Texas Federation of Drugs Stores Meeting	6/28/12
Open Meeting 7/27/12 – Executive Committee	6/25/12
Open Meeting 8/7/12 – Board Business Meeting	7/25/12

PROFESSIONAL SERVICES DIVISION

Division Director reviewed each issue of the *Texas Register* for items that might have an impact on the Board or profession. The following rules were identified as impacting the agency or pharmacy practice and circulated to appropriate staff as indicated:

Date	Rules from Other Agencies	Action
9/21/11	Department of Information Resources	Reported to Steve Rapp, Cathy Stella
12/2/11	Office of Attorney General	Reported to Kerstin Arnold
1/27/12	Health and Human Services	Reported to Board Members, Staff

- 3. To respond to open records requests throughout FY2012, in accordance with the procedures set forth in the Texas Public Information Act.**

Status: **ACCOMPLISHED**

Comment: As indicated in the following chart, TSBP experienced a 13% decrease in the number of requests for records in FY2012, as compared to FY2011.

OPEN RECORDS REQUESTS FY08 through FY12

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
FY08	205	205	948	2,398	1,153	2,603	96	217	+22%	+39%
FY09	163	163	1,452	2,466	1,615	2,629	135	219	+40%	+1%
FY10	96	111	1,441	1,979	1,537	2,090	128	174	-5%	-21%
FY11	124	131	1,445	2,115	1,569	2,246	131	187	+2%	+7%
FY12	238	295	1,140	2,086	1,378	2,381	115	198	-13%	+6%

- 4. To provide information to Board staff and customers, including responses to surveys and questionnaires, oral and written communication, and public speaking engagements, as needed and required throughout FY2012.**

Status: **ACCOMPLISHED**

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

- A. During FY2012, the Division sent out 1,555 pieces of written information including emails, packets of information, and information regarding rules and open meetings. In FY2012, the Division implemented the use of Mail Chimp, an online email system used 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 just over 600 subscribers at the end of the FY2012.

PROFESSIONAL SERVICES DIVISION

- B. The Division Director gave seventeen presentations to over 700 individuals as indicated in the following chart:

Date	Group	Attendance (Approx.)
9/15/11	Westlake High School Pharmacy Technician Program	15
10/5/11	State Supported Living Centers Pharmacy Directors' Meeting, Austin	20
10/11/11	University of Texas College of Pharmacy, 1 st Semester students	126
10/20/2011	Pharmacy Technician Regulation and Registration – webinar	10
11/16/2011	Pharmacist-in-Charge Training – webinar	25
1/11/2012	Bexar County Pharmaceutical Association Meeting, San Antonio	40
1/19/2012	El Paso Pharmacy Association Meeting, El Paso	50
2/24/2012	Texas State Board of Pharmacy Technician Seminar, Austin	15
3/27/2012	Lone Star Association of Charitable Clinics: Class D Pharmacy – webinar	20
4/14/2012	Regulating Pharmacy Technicians, TSHP Annual Meeting, Dallas	50
4/18/2012	Bexar County Pharmaceutical Association Meeting, San Antonio	35
4/20/2012	San Jacinto College Pharmacy Technicians, Austin	20
4/21/2012	West Texas Pharmacy Association Meeting, Midland	40
5/2/2012	Pharmacist-in-Charge Training – webinar	5
5/10/2012	Kroger Pharmacists Meeting, Houston	95
5/16/2012	Kroger Pharmacists Meeting, Plano	95
6/2/2012	Prescribing Opioids for Chronic Pain Balancing Safety and Efficacy – Understanding the Regulatory Environment (CME program), Austin	85
TOTAL		746

- C. The Division Director provided training and information to new employees and pharmacist-interns regarding the operation of the Professional Services Division.

D. Other Activities

- The Division Director routinely answered questions from Enforcement and Licensing staff concerning the laws and rules, including their applicability to specific situations.
- The Division Director routinely monitored the TSBP Website. Changes and/or updates were forwarded to Network Specialist Todd Hayek.

PROFESSIONAL SERVICES DIVISION

- Facebook, Twitter, and YouTube continued to be useful tools to provide information. At the end of FY2012, over 2,000 individuals “liked” TSBP on Facebook and over 1,000 individuals “followed” TSBP on Twitter.

5. To publish an Internet version of the *Newsletter* during FY2012, in order to promote voluntary compliance with the law by providing information to educate pharmacists about their responsibilities under current law and rules, and to provide information consistent with the responsibilities of the Board.

Status: ACCOMPLISHED

Comment: Two issues of the *TSBP Newsletter* were published on the TSBP website.

Throughout FY2012, an email subscription to the Newsletter was available on the TSBP website. Individuals were able to subscribe to the Newsletter by providing an email address. During FY2012, the email subscription was converted to Mail Chimp which provides better management of email addresses. Over 4,000 individuals were subscribed to the email notification as of the end of FY2012.

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

Status: ACCOMPLISHED

Comment: The Division accomplished this goal with the cooperation of agency personnel who assisted in the reviews of the MPJE item pool. The Division Director and agency personnel participated in the following activities in support of the MPJE program:

Date	Activity	Personnel
March 21 – 22, 2012	MPJE Texas Item Writing Workshop, Chicago, IL	Allison Benz
August 2012	MPJE Item Pool Review, Austin, TX	Allison Benz Kerstin Arnold

7. To assist the Board, throughout FY2012, in its review of the Texas colleges of pharmacy degree and internship programs to determine if the programs are adequate to prepare a student for pharmacy practice.

Status: NA

Comment: At its February 2012 Board meeting, the Board amended §283.4 of the Texas Pharmacy rules and eliminated the review of Texas colleges/schools of pharmacy degree and internship programs. Accordingly, the Board will no longer be conducting a review of these programs.

PROFESSIONAL SERVICES DIVISION

8. To coordinate the updating of the Texas State Pharmacy Law reference manual and provision of the updates to the publisher of the manual and to NABP for inclusion in NABPLAW during FY2012.

Status: ACCOMPLISHED

Comment: Law Reference

Although the Texas State Pharmacy Law Reference manual was not published by TSBP, the Division Director worked closely with the publisher, Lexis Nexis, to ensure that the reference met TSBP requirements.

Law Reference Updates

Updates to the law reference in the form of Rule Memos were provided to Board Members, staff, and other interested parties on:

- September 9, 2011
- December 2, 2011
- March 20, 2012
- June 22, 2012

NABPLAW Updates

Although the National Association of Boards of Pharmacy (NABP) no longer requires Boards to provide updates for NABPLAW, updates were submitted to NABP during FY2012 as follows:

- March 23, 2012

NABP Survey of Pharmacy Law Updates

The NABP publication, Survey of Pharmacy Law, is updated annually. During FY2012, the update was completed by the Division Director and returned to NABP by the due date.

9. To provide professional staff support to Board-appointed task forces and complete other special projects as assigned throughout FY2012.

Status: ACCOMPLISHED

Comment: The Division's staff provided professional staff support including communicating with task force members regarding meetings and setting up the meetings. There was one task force meeting supported by the Division staff during FY2012 as follows:

March 21, 2012 Task Force on Long Term Care Pharmacies

10. To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2012.

Status: ACCOMPLISHED

PROFESSIONAL SERVICES DIVISION

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

- A. Division Director assisted the Texas Department of Public Safety (DPS) in the review and approval of plans from twenty-one Texas pharmacies to dispense prescriptions for Schedule II controlled substances issued by out-of-state practitioners.
- B. Division staff maintained close contact with *Texas Register* staff as needed to prepare and publish rules in the *Texas Register*.
- C. Division Director maintained contact with numerous state and federal agencies and other state boards of pharmacy.
- D. Division Director served as liaison to the federal Healthcare Integrity and Protection Data Bank (HIPDB). With assistance from Enforcement staff, 262 Adverse Action Reports were submitted to HIPDB during FY2012, as required by federal law.

11. To manage employees under the supervision of the Division throughout FY2012, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.

Status: ACCOMPLISHED

Comment: A performance review for Senior Administrative Assistant Leslie Kacer was conducted on August 10, 2012.

In FY2012, Division staff attended general staff meetings and in-house training sessions. In conjunction with General Staff Meetings, Division staff participated in all-staff trainings.

Division Director and Senior Administrative Assistant Leslie Kacer attended the Office of the Attorney General Open Government Conference December 5, 2011.

The Division Director served as co-chair on the agency's Wellness Committee in conjunction with the General Counsel. The TSBP Wellness Program applied for and received a grant of \$2,000 for becoming a Mother Friendly Worksite.

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

October 6, 2011	State Agency Wellness Conference
Fall 2011	Step into Fitness (10,000 steps a day)
11/2011 – 01/2012	Maintain No Gain Challenge
Spring 2012	Just Tri It (mock triathlon for time worked out)
Summer 2012	Race across Texas (total number of miles covered)

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

PROFESSIONAL SERVICES DIVISION

- 12. To destroy records in accordance with the agency's record retention plan throughout FY2012; 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 FY2012.**

Status: ACCOMPLISHED

Comment: During FY2012, the Division accomplished this goal as follows:

A. Records Management

Records in the possession of the Division scheduled for destruction during FY2012 under the approved Record Retention Schedule were identified and destroyed.

B. Policies and Procedures

The policies and procedures for handling Open Records Requests, submitting information to the *Texas Register*, and destroying records according to the Record Retention Schedule were reviewed in FY2012.

- 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 FY2012.**

Status: ACCOMPLISHED

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

- 14. To prepare a report on the accomplishment of Division objectives, for incorporation in the agency's 2011 Annual Report, and submit to the Executive Director by the due date.**

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2011 *Annual Report* was submitted to the Executive Director by the due date.

Enforcement Division

FY2012 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 100% of its 20 Objectives for FY2012.
2. TSBP met or exceeded 91% of the 11 enforcement-related performance measures for FY2012 (see Ongoing Objective #1 for further information regarding measures).
3. TSBP received more complaints in FY2012 than in the prior fiscal year (a two percent increase), as reflected in the chart below:

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%
FY09	5,290	-8%	6,182	+15%	117%	211 Days	+8%
FY10	5,702	+8%	5,512	-11%	97%	182 Days	-14%
FY11	5,698	-<1%	5,840	+6%	102%	195 Days	+7%
FY12	5,830	+2%	5,766	-1%	99%	204 Days	+5%

4. Field Compliance staff conducted 2,135 pharmacy inspections, thereby exceeding the inspection goal for FY2012 (see Ongoing Objective #2 for further details regarding compliance inspections). This number of inspections included 166 pre-inspections of new pharmacies, a process to ensure that TSBP is issuing licenses to valid facilities (a 15% decrease in the number of pre-inspections when compared to FY2011).
5. During FY2012, Division staff responded to 25,822 telephone calls received via the Compliance Queue Phone Line and made 20 presentations to approximately 1,457 individuals. In addition, Field investigators made 1,053 contacts with 277 law enforcement agencies (see Ongoing Objectives #5 and #7 for further details).
6. Assistant Division Director Paul Holder, R.Ph., Pharm.D., continued to serve as preceptor for students from Texas Colleges of Pharmacy. In FY2012, Dr. Holder served as a preceptor to five students from three Colleges of Pharmacy (see Ongoing Objective #8 for further details).
7. Division staff continued to implement the program to convert paper complaint files to imaged records. Approximately 2,150 complaint files were scanned during FY2012, which represented a 55% increase over FY2011, when approximately 1,390 complaint files were imaged.
8. With the assistance of Board President Jeanne Waggener and several Board Staff, Division Director Carol Fisher, R.Ph., M.P.A., prepared a written application to nominate TSBP Executive Director Gay Dodson, R.Ph., for an award that is presented annually by the State Agency Council of the Governor's Commission on Women. Following the nomination, Ms. Dodson was selected to receive the 2012 Outstanding Women in Texas Government award for Outstanding Professional Development.

ENFORCEMENT DIVISION

FY2012 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Division staff continued to experience problems due to lack of adequate work space.
2. Division staff resolved (closed) fewer complaints in FY2012 than in prior fiscal year (a one percent decrease). In addition, the average complaint resolution time increased by nine days (an increase of 5% when compared to FY2011). The complaint resolution time was negatively effected by the issues described in Significant Disappointments/ Constraints #1, #3, #4, #5, #7 and #10.
3. Division staff experienced numerous problems with the agency's new computer system. In the beginning months of FY2012, the system was extremely slow or completely down. Enforcement staff assumed duties previously performed by Licensing staff due to workload increases imposed on Licensing staff as a result of the new system. See New Objective #1 for further details.
4. Division staff spent significant time and efforts monitoring compliance of 696 disciplinary orders entered in FY2012 (or 88% of the 792 disciplinary orders entered in FY2012) that required some type of monitoring by Division staff (see Ongoing Objective #6 for details). Not all monitoring efforts were accomplished in a timely manner.
5. TSBP issued a new bid for a vendor for the agency's drug screening program. Division Staff spent significant time preparing the bid specifications, responding to questions from potential bidders, and evaluating the proposals that were submitted.
6. Division staff collected 28 samples of compounded preparations during FY2012, which represented 9 fewer samples (24% decrease) than were collected in FY2011. Although all of the sterile preparations collected in FY2012 sterile and free of endotoxins (100% sterility), test results show that 3 of the 28 collected samples (11%) failed to yield the acceptable potency results. See Ongoing Objective #2 for additional information.
7. During FY2012, the Division experienced the loss of three employees (two employees resigned and one employee was promoted to the Legal Division). See Ongoing Objective #11 for further details regarding personnel changes.
8. Throughout FY2012, TSBP Compliance Field staff continued to discover numerous individuals performing technician duties without an active registration. Approximately 30 pharmacies allowed individuals to perform technician duties without an active registration. These cases were referred to the TSBP Legal Division for the institution of disciplinary action. In FY2012, TSBP entered 102 disciplinary orders for this violation (30 orders on pharmacists; 34 orders on pharmacies; and 38 orders on technicians).
9. During FY2012, TSBP received 245 theft/loss reports of employee pilferage by 264 individuals resulting in the diversion of 849,419 dosage units of controlled substances. These reports reflected an increase in diversion as compared to FY2011, when TSBP received 214 theft/loss reports of employee pilferage (15% increase in the number of reports) by 255 individuals (4% increase in the number of individuals) who allegedly diverted 574,827 dosage units of controlled substances (48% increase in the number of dosage units). See Ongoing Objective #3 for further details.
10. During FY2012, the State Auditor's Office began a follow-up audit of issues identified during an audit in 2008. Division staff spent significant time with auditors (in meetings, pulling records and answering questions). Final audit report will be published in FY2013.

ENFORCEMENT DIVISION
FY2012 ANNUAL REPORT

GOAL

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

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2012.

1. Continuing the implementation of a new licensing, enforcement, and administration database system throughout FY2012.
2. Reviewing and implementing legislation passed by the 82nd Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2012.
3. Updating and preparing the *TSBP Strategic Plan for FY2013-2017* and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date.
4. Preparing a proposed budget for the FY2014-2015 biennium for review and approval by the Board at the 2012 Board Budget meeting.
5. Preparing the *TSBP Legislative Appropriation Request for FY2014-2015* and corresponding performance measures by the due date.
6. Conducting the orientation of new Board members within 90 days of appointment by the Governor.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

1. New Regulatory Database System (RDB) – For the first several months of FY2012, the system continued to be extremely slow or had to be brought down on numerous occasions for updates or to correct problems (same condition experienced in May 2011 following migration to the new system). Enforcement reports cannot be printed when needed, but rather, Division staff is required to request reports to be generated. Not all enforcement reports contained the information that was available with the prior computer system. Division staff must open numerous screens to locate pertinent information, which slowed down processes. Data entry of information regarding compliance inspections continued to be extremely slow and burdensome. Data entry of new complaints continued to be slow and burdensome. Division Staff continued to detect and report various errors and problems to the Director of I.T. Due to increased workload on Licensing Division staff as a result of the new computer system, Enforcement Division staff has assumed additional processes previously performed by Licensing staff.

ENFORCEMENT DIVISION

2. Implementing Legislation Passed by 82nd Texas Legislature – The agency's budget approved by the Appropriation Act passed by the 82nd Texas Legislature included two staff positions (two field investigators). However, because the agency's budget was cut in other areas (e.g., no replacement costs for vehicles and technology), these Enforcement Staff positions were not filled in FY2012.
3. Strategic Plan for FY2013-2017 – Division Director and Assistant Director, In conjunction with the Executive Director and other Division Directors, spent numerous hours researching, reviewing, and discussing trends and issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years, including the comments that had been received from the various organizations who were asked for input on the process. In addition, Division Director and Assistant Director attended and participated in five internal planning meetings prior to discussing issues with the Board. The primary planning session was held with Board Members and interested parties on October 31, 2011. The Board Members worked with staff to develop Issue Statements and approved the final Strategic Plan at the May 2012 Board meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.
4. Proposed Budget – Division Director prepared written justification for additional staff and reclassifications and submitted this proposal to the Executive Director by the internal due date. The management team reviewed and discussed requests submitted by all Division Directors. Due to fiscal constraints, all requests from Division Directors were not included in the staff's proposed budget to the Board. The proposed budget was first reviewed by the Board's Executive Committee in April 2012 who approved and supplemented the staff's proposal. The budget was presented and approved by the full Board at its regularly scheduled meeting in May 2012.
5. Legislative Appropriation Request for FY2014-2015 (LAR) – Division Director worked with the Executive Director and other Division Directors in the preparation of the LAR including determining targets for performance measures for the baseline budget and the exceptional-item budget. The LAR was submitted to the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy by the due date.
6. Orientation of New Board Member – On September 27-28, 2011, Division Director and other Enforcement staff, along with the Executive Director and the other agency staff, participated in the orientation of public Board member, Phyllis Stine. Board members, Jeanne Waggener and Alice Mendoza, were reappointed and did not attend the orientation.

ENFORCEMENT DIVISION

Objectives (Ongoing)

- To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2012-2013 Appropriations Act to Executive Director by specified due dates throughout FY2012; 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 FY2012, 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 FY2012. The other eight measures were reported to the LBB and GBO at year-end (annual basis).

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

Enforcement-Related Performance Measure	FY12 Projected Performance	FY12 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
Outputs:				
Inspections	1,800	2,140	NK	Exceeded
Jurisdictional Complaints Resolved	4,980	5,728	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	160	194	K	Exceeded
Efficiency:				
Average Time for Jurisdictional Complaint Resolution	180	205	K	Not Met
Outcomes:				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	15.0%	14.82%	K	Met
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	95.0%	95.5%	K	Met
Recidivism Rate of Those Receiving Disciplinary Action	6.0%	4.3%	NK	Met
Percent of Jurisdictional Complaints Resolved within Six Months	50.0%	61.61%	NK	Exceeded
Recidivism Rate for Participants in Peer Assistance Program	30.0%	21.21%	NK	Exceeded
One-Year Completion Rate for Participants in Peer Assistance Program	75.0%	85.71%	NK	Exceeded
Explanatory:				
Jurisdictional Complaints Received	5,000	5,792	K	Exceeded

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

ENFORCEMENT DIVISION

2. To monitor pharmacy inspections and pharmacists' practice by conducting 2,000 inspections, inspection-visits, and/or visits, including follow-up inspections to "Warning Notices" throughout FY2012. To inspect pharmacies and monitor pharmacists' practice throughout FY2012, according to the following priorities:
- A. pharmacists and pharmacies who are the subject of a complaint received by TSBP or a disciplinary order entered by TSBP;
 - B. new pharmacies or pharmacies with a recent change of ownership;
 - C. pharmacies that have received a "Warning Notice" (follow-up inspections);
 - D. requests for inspection by licensee;
 - E. pharmacies with a preceptor working in the pharmacy; and
 - F. routine inspections.

Status: ACCOMPLISHED

Comment: TSBP Compliance Field Staff conducted 2,135 inspections during FY2012. The term "inspections" includes inspections, pre-inspections, partial-inspections, and inspection-visits. These terms are described below:

- A. Inspections are full inspections of licensed facilities in which Compliance field staff check the facilities for compliance with each of the items on the inspection report form.
- B. Pre-Inspections are partial inspections that occur prior to TSBP issuing the pharmacy license. The Compliance field staff determines if the pharmacy has the necessary items to open and operate a pharmacy in compliance with the laws and rules governing the practice of pharmacy. A pharmacy license is not issued to the facility unless the facility can pass the pre-inspection process.
- C. Partial-Inspections are inspections of licensed facilities in which Compliance field staff check the facility for compliance with a portion of the items on the inspection report form. In addition, partial inspections include follow-up inspections of pharmacies that received a "Warning Notice" to determine if the pharmacies have corrected the discrepancies listed on the "Warning Notice." Follow-up inspections are conducted within six months after the pharmacy has notified the Board in writing that the discrepancies have been corrected.
- D. Inspection-Visits are inspections in which Compliance field staff generally do not complete an inspection report form. Inspection-visits include inspections of non-licensed facilities that are operating a pharmacy (e.g., medical supply house), visits made to pharmacies that have closed (and did not notify the Board), and visits to "new" pharmacies that have not opened for business. The last two situations are discovered by Compliance field staff after arriving at the addresses listed in Board records.

ENFORCEMENT DIVISION

Statistics regarding these inspections are set forth below:

Total Inspections by Type	FY2010	FY2011	FY2012	% of FY12	3-Year Average	% of 3-Yr. Average
Inspections	2,033	1,806	1,633	76%	1,824	80%
Pre-Inspections	158	195	166	8%	173	7%
Partial-Inspections	196	308	237	11%	247	11%
Inspection-Visits	55	15	20	<1%	30	1%
Attempted Inspections	0	74	64	3%	46	2%
Other	7	42	15	<1%	21	<1%
Total	2,449	2,440	2,135	100%	2,341	100%

Number of Inspections/Visits by Class	FY2010	FY2011	FY2012	% of FY12	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	2,056	1,909	1,776	83%	1,914	82%
Class B Pharmacies	4	3	5	<1%	4	0%
Class C Pharmacies	235	377	255	12%	289	12%
Class D Pharmacies	154	147	91	4%	131	6%
Class F Pharmacies	0	4	8	<1%	4	0%
Total	2,449	2,440	2,135	100%	2,341	100%

Number of Warning Notices Issued by Class*	FY2010	FY2011	FY2012	% of FY12**	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	604	459	449	88%	504	86%
Class B Pharmacies	0	0	1	0%	0	0%
Class C Pharmacies	60	84	46	9%	63	11%
Class D Pharmacies	26	23	14	3%	21	4%
Class F Pharmacies	0	0	1	0%	0	0%
Total	690	566	511	100%	589	100%

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

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

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Conditions Receiving "Warning Notices" FY2012						
Percentages are based on the total number of "Warning Notices" issued to Pharmacies in FY2012. Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.						
Type of Violation	FY2010	FY2011	FY2012	3-Year Average	% FY2012	% 3-Year Average
Equipment	64	47	35	49	3%	3%
Balance Failed Inspection	46	34	21	34		
Equipment Inspection Due (Not Balance)	17	13	13	14		
Insufficient Equipment	1	0	1	1		
Pharmacy Technicians	313	182	176	224	13%	15%
No/Incomplete Training	262	148	138	183		
No/Improper Supervision	28	21	26	25		
Improper Registration	13	12	9	11		
No Name Tags	10	1	3	5		
Inadequate Library	85	52	77	71	6%	5%
Counseling Area	0	1	1	1	0%	0%
Licenses	251	127	145	174	11%	12%
Licenses Not Posted	235	118	139	164		
Delinquent Licenses	16	9	6	10		
Prescriptions	75	154	122	117	9%	8%
Lack Proper Information	53	58	39	50		
Prescription Label Incorrect	15	90	79	61		
Triplicate Non-Compliance	7	6	4	6		
Drug Stock/Environment	205	115	144	155	11%	11%
Improper Environment	80	38	29	49		
Out-of-Date Drug Stock	84	37	59	60		
Security	19	19	37	25		
Unsanitary	13	14	17	15		
Improper Drug Storage	8	2	1	4		
Area for Non-Sterile Compounding	1	0	1	1		
Violation of Limited Formulary	0	4	0	1		
Prohibited Drugs (Class D)	0	1	0	0		
Inventory	103	84	96	94	7%	6%
No Annual Inventory	68	44	54	55		
No Change of Ownership Inventory	3	2	1	2		
No Change of PIC Inventory	16	18	18	17		
Incomplete Inventory	16	17	23	19		
No Perpetual inventory (Class C)	0	3	0	1		
Improper Drug Destruction	0	0	0	0		
Improper Prepackaging Procedures	45	45	27	39	2%	3%

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Conditions Receiving "Warning Notices" FY2012 <i>Continued</i>						
Type of Violation	FY2010	FY2011	FY2012	3 Year Average	% FY2012	% 3-Year Average
Computer Systems	125	100	97	107	7%	7%
Computer Records Incomplete	123	81	82	95		
Computer Records Non-Compliance	2	19	15	12		
Records	100	90	62	84	5%	6%
Records Not Available	20	28	32	27		
DEA Order Forms Incomplete	0	0	0	0		
Absence of R.Ph. Record	2	15	6	8		
Rx Not Separated	3	1	2	2		
Rx Records not Numerical Order	20	16	2	13		
Improper Transfer of RX copies	1	0	0	0		
Invoices Not Separated/Retrievable	15	14	11	13		
Records for Non-Sterile Compounds	34	12	6	17		
No Written Information on Prescription	5	4	3	4		
Improper Refill Documentation	0	0	0	0		
OBRA Violations	51	69	128	83	9%	6%
Written Information Not Provided	5	4	3	4		
No Patient Counseling	43	63	125	77		
PMR Absent or Incomplete	3	2	0	2		
Sterile Pharmaceutical Violations	148	87	93	109	7%	7%
No/Incomplete QA/QC	6	6	10	7		
No/Incomplete P&P Manual	67	42	42	50		
No/Inadequate Preparation Area	57	30	29	39		
IV Preparation	12	5	11	9		
No DUR	3	3	1	2		
Absence of R.Ph. Pick-Up-Records	2	1	0	1		
Cytotoxic/Bio Procedures	1	0	0	1		
No/Incomplete Non-Sterile Cpd Records	34	12	6	17	0%	1%
Improper Distribution	6	11	8	8	1%	0%
No PIC	21	17	23	20	2%	1%
Dispensing	49	54	80	61	6%	4%
Improper Dispensing	17	31	54	34		
Aiding and Abetting	7	0	1	3		
Illegal Dispensing	2	0	2	1		
Substitution Non-Compliance	0	0	2	1		
Out-of-State Rx's for Controlled Substances	0	0	0	0		
Improper Emergency Room Dispensing	0	1	1	1		
Improper Automated Dispensing Procedures	20	19	18	19		
Improper Provision	3	3	2	3		
Improper Advertising	14	0	0	5	0%	0%

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Conditions Receiving "Warning Notices" FY2012 <i>Continued</i>						
Type of Violation	FY2010	FY2011	FY2012	3 Year Average	% FY2012	% 3-Year Average
Notification Violation	33	23	22	26	2%	2%
Theft & Loss of C/S Not Reported	4	10	14	9	1%	1%
Gray Market diversion	1	0	1	1	0%	0%
Improper Closing/Change of Ownership	0	0	0	0	0%	0%
Improper Inpatient Procedures (Class C)	0	0	0	0	0%	0%

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

Purpose of Inspection (In Order of Priority)	FY2010	FY2011	FY2012	% of FY12	3-Yr. Avg.	% of 3-Yr. Avg.
Complaint	137	128	156	7%	140	6%
Follow-up to Disciplinary Order	8	12	12	1%	11	0%
Pre-Inspection New	162	204	184	9%	183	8%
New Pharmacies	95	112	107	5%	105	4%
Change of Ownership	9	11	13	1%	11	0%
Preceptor	311	189	116	5%	205	9%
Follow-up to "Warning Notice"	119	231	151	7%	167	7%
Routine Inspections	1,538	1,442	1,303	61%	1,428	61%
Attempted Inspection	52	0	0	0%	17	1%
Other	18	111	93	4%	74	3%
Total	2,449	2,440	2,135	100%	2,341	100%

SUMMARY OF PROGRAM TO SAMPLE AND TEST COMPOUNDED PREPARATIONS

During Fiscal Year 2012, TSBP submitted for testing 28 compounded preparations from 21 different pharmacies. Test results revealed that three of the 28 samples (10.7%) were not within acceptable limits for potency.

(1) **Non-sterile Preparations -**

Of the 28 tested preparations, 20 (71%) were non-sterile preparations. Potency problems were determined in 2 (7%) of the non-sterile preparations.

(2) **Sterile Preparations -**

Of the 28 tested samples, 8 (29%) were sterile preparations. One sample failed sterility and endotoxin tests. Potency problems were obtained in 1 (13%) of the sterile preparations tested.

3. **To coordinate and monitor throughout FY2012, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants. To investigate complaints throughout FY2012, according to the following priorities:**

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- A. Continuing threats to the public welfare requiring a temporary suspension;**
- B. Complaints filed against licensees/registrants who have a chemical, mental, or physical impairment;**
- C. Complaints involving the diversion of prescription drugs, through the following illegal means:**
 - theft of drugs;**
 - delivering prescription drugs without a prescription;**
 - dispensing prescription drugs pursuant to an invalid prescription, such as forged or fraudulent prescriptions, prescriptions dispensed following an Internet consultation, and unauthorized refills; and**
 - failing to keep and maintain accurate records of purchases and disposals of prescription drugs (i.e., audit shortages);**
- D. Complaints against licensees/registrants who have been convicted of a felony involving offenses that involved drug laws or occurred while engaged in pharmacy practice;**
- E. Complaints against licensees/registrants who are registered sex offenders;**
- F. Complaints against licensees/registrants who have been convicted of a felony involving offenses not occurring while engaged in pharmacy practice;**
- G. Complaints involving applicants for licensure or registration (not including applications for reinstatement);**
- H. Complaints involving dispensing errors and malpractice reports;**
- I. Complaints involving violations of rules relating to patient counseling or drug regimen review;**
- J. Complaints involving health-care fraud or fraud, deceit, and misrepresentation in the practice of pharmacy, including aiding and abetting a non-licensed individual in the practice of pharmacy;**
- K. Complaints against licensees/registrants who have been convicted of a misdemeanor that involved drug laws or occurred while engaged in pharmacy practice;**
- L. Applications involving reinstatement of revoked licenses and registrations;**
- M. Complaints involving other violations of the laws and rules relating to the practice of pharmacy (e.g., CE audit shortages; falsification of renewal applications; possession of samples or misbranded/adulterated drugs; working with an expired license or registration; and falsification of response to warning notices);**
- N. Complaints against licensees/registrants who have been convicted of a misdemeanor involving offenses not occurring while engaged in pharmacy practice; and**

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- O. Complaints against licensees/registrants who have been subject to a disciplinary action by another state board of pharmacy.**

Status: ACCOMPLISHED

Comment: TSBP received 132 more complaints (2% increase), but closed 74 fewer complaints (1% decrease) in FY2012 than in the prior fiscal year. In addition, the average complaint resolution time increased by 9 days (5% increase), as reflected in the chart below:

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%
FY09	5,290	-8%	6,182	+15%	116%	211 Days	+8%
FY10	5,702	-8%	5,512	-11%	97%	182 Days	-14%
FY11	5,698	-<1%	5,840	+6%	102%	195 Days	+7%
FY12	5,830	+2%	5,766	-1%	99%	204 Days	+5%

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

DATA ON DISPENSING ERROR COMPLAINTS CLOSED FY08– FY12

Type of Dispensing Error	FY08	FY09	FY10	FY11	FY12	5-Year Avg.
Wrong Drug/Strength or Wrong Directions for Use	86	115	100	288	196	157
Mislabeled	13	11	8	14	19	13
Dispensed Wrong Quantity	41	125	60	70	67	73
Dispensed Outdated Drug	4	3	3	3	6	4
Packaging/Delivery Error	25	24	17	23	21	22
Error + No Counseling	2	3	5	5	11	5
Total # Dispensing Error Complaints	171	281	193	403	320	274
Total # Complaints Closed	5,360	6,182	5,512	5,840	5,766	5,732
% Dispensing Error Complaints	3%	5%	4%	7%	6%	5%

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

DATA ON COMPLAINTS CLOSED FY2010 – FY2012

Form of Complaints	FY10	FY11	FY12	% of FY12	3-Yr. Avg.	% of 3-Yr. Avg.
Telephone	53	44	29	<1%	42	<1%
Letter	181	141	133	2%	152	3%
TSBP Complaint Form	150	234	177	3%	187	3%
HPC 800 #	21	42	14	<1%	26	<1%
Fax	60	53	51	1%	55	1%
Visit	4	5	5	<1%	5	0%
Agency Report	25	8	13	<1%	15	0%
Inspection	98	120	210	4%	143	3%
Interoffice Referral	16	11	10	<1%	12	0%
Licensure Application	2,511	2,475	2,564	44%	2,517	44%
Data Bank	8	6	13	<1%	9	0%
Theft/Loss Report	447	676	683	12%	602	11%
Investigation	330	283	415	7%	343	6%
Intra-Agency Referral	10	7	14	<1%	10	<1%
Malpractice Report	3	11	7	<1%	7	<1%
Press Clip	0	2	1	<1%	1	0%
Email *	148	249	230	4%	209	4%
Internet *	406	635	524	9%	522	9%
DPS/quarterly **	1040	836	671	12%	849	15%
Other	1	2	2	<1%	2	0%
TOTAL	5,512	5,840	5,766	100%	5,706	100%

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

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

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DATA ON COMPLAINTS CLOSED FY2010 – FY2012

Source of Complaints	FY10	FY11	FY12	% of FY12	3-Yr. Avg.	% of 3-Yr. Avg.
Consumer	565	750	582	10%	633	11%
Government Agency	1,090	894	730	13%	905	16%
Pharmacist	45	55	49	1%	50	<1%
Pharmacist (Self)	79	58	62	1%	66	1%
Pharmacist Applicant	213	204	143	2%	187	3%
Technician	29	21	18	<1%	23	<1%
Technician (Self)	84	58	83	1%	75	1%
Tech Applicant	257	253	271	5%	260	5%
Technician Trainee	6	0	0	0%	2	0%
Tech Trainee (Self)	8	4	2	0%	5	0%
Tech Trainee Applicant	1,086	1,002	952	17%	1,013	18%
Intern	0	0	3	0%	1	0%
Intern Applicant	0	0	74	1%	25	<1%
TSBP	1,254	1,299	1,529	27%	1,361	24%
Doctor	54	62	54	<1%	57	<1%
Other Health Professional	21	29	21	<1%	24	<1%
NABP	8	8	14	<1%	10	<1%
PIC, Pharmacy Manager, or Supervisor	499	778	827	14%	701	12%
Loss Prevention Officer (Corporate)	8	14	3	0%	8	<1%
Manufacturing Rep.	2	1	12	<1%	5	<1%
Professional Recovery Network (PRN)	24	8	11	<1%	14	<1%
Insurance Company	2	9	7	<1%	6	<1%
Attorney	6	12	9	<1%	9	<1%
Employee/Ex-Employee	21	23	41	<1%	28	<1%
Media	1	4	0	<1%	2	<1%
Drug Screening Co.	117	241	224	4%	194	3%
Other	33	53	45	<1%	44	<1%
TOTAL	5,512	5,840	5,766	100%	5,708	100%

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DATA ON CLOSED FY2010 – FY2012 COMPLAINTS

Subjects of Complaints	FY2010	FY2011	FY2012	3-Yr. Average
Licensees (RPh/Pharmacy)	1,546 (28%)	2,080 (36%)	2,024 (35%)	1,884 (33%)
Pharmacist	678	588	597	621
In-State Pharmacy	832	1,462	1,380	1,225
Out-of-State Pharmacy	36	30	47	38
Registrants (Intern/Tech)	1,457 (26%)	1,232 (21%)	1,160 (20%)	1,283 (22%)
Intern	23	16	49	29
Technician	853	748	673	758
Technician Trainee	581	468	438	496
Applicants (Lic & Reg)	2,444 (44%)	2,478 (42%)	2,528 (44%)	2,483 (44%)
Pharmacist	130	152	169	150
Pharmacy	65	107	147	106
Intern	113	91	82	95
Technician	465	444	526	478
Technician Trainee	1,671	1,684	1,604	1,653
Non-Licensees	65 (1%)	50 (<1%)	54 (<1%)	56 (<1%)
Doctor	29	6	14	16
Manufacturer	2	0	1	1
Wholesaler	2	0	0	0
Non-Licensed Facility or Person	15	25	30	23
Insurance Company/ PBM	8	9	3	7
Out-of-State Facility	7	6	4	6
Other	2	4	2	3
TOTAL	5,512	5,840	5,766	5,706

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NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2010 – FY2012

Alleged Violation	FY10	FY11	FY12	3-Yr. Avg.	% of 3-Yr. Avg.
Diversion	28	29	20	26	0%
Controlled Substances (C/S)	17	18	14	16	0%
Dangerous Drugs (D/D)	1	1	0	1	0%
Both (C/S & D/D)	2	5	4	4	0%
Internet Rxs	8	5	2	5	0%
Unauthorized Dispensing	16	16	29	20	0%
Controlled Substances	4	8	11	8	0%
Dangerous Drugs	10	8	11	10	0%
Both (C/S & D/D)	2	0	7	3	0%
Illegal Delivery	5	3	14	7	0%
Controlled Substances	4	3	13	7	0%
Dangerous Drugs	1	0	0	<1	0%
Both (C/S & D/D)	0	0	1	<1	0%
Illegal Possession	17	28	23	23	0%
Controlled Substances	14	24	20	19	0%
Dangerous Drugs	2	2	3	2	0%
Both (C/S & D/D)	1	2	0	1	0%
Convictions/Criminal Offenses	2,160	1,910	1,886	1,985	35%
Felony	62	47	59	56	<1%
Misdemeanor	332	250	192	258	5%
DWI/PI	560	484	399	481	8%
Deferred Adjudication	541	352	370	421	7%
Offense on Application	665	777	866	769	13%
Dispensing Error	193	403	322	306	5%
Wrong Drug/Strength	100	288	198	195	3%
Mislabeling	8	14	19	14	0%
Wrong Quantity	60	70	67	66	1%
Outdated Drug	3	3	6	4	0%
Packaging/Delivery	17	23	21	20	0%
Dispensing Error and No or Improper Patient Counseling	5	5	11	7	0%
No or Improper Patient Counseling	27	30	41	33	0%
No or Improper Drug Regimen Review	18	26	16	20	0%
Theft/Loss of C/S and/or D/D	416	664	643	574	10%
Non-Therapeutic Dispensing	13	40	90	48	<1%
Action by Other Board	66	78	123	89	2%
Non-Compliance with Substitution Rules	40	36	33	36	<1%
Non-Compliance with Disciplinary Order	329	364	381	358	6%
Non-Compliance with PRN Contract	9	4	6	6	0%
Interference with Doctor/Patient Relationship	53	52	41	49	<1%
Confidentiality	11	25	22	19	0%
Failed to Keep Records	1	5	7	4	0%
Negligence	0	2	0	<1	0%
Unsafe Practice	0	1	0	<1	0%
Compounding	3	7	5	5	0%
Unprofessional Conduct	4	0	3	2	0%
Gross Immorality	6	5	5	5	0%
Fraud	838	922	939	900	16%
Fraud, Deceit & Misrepresentation	3	0	4	2	0%
Falsified Response to Warning Notice	1	0	0	<1	0%
Falsified Application	815	901	915	877	15%
Filled/Passed Forged Prescription	10	19	16	15	0%
Insurance Fraud	5	2	0	2	0%
Medicare Fraud	4	0	4	3	0%

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Alleged Violation	FY10	FY11	FY12	3-Yr. Avg.	% of 3-Yr. Avg.
Impairment	27	39	39	35	<1%
Probable Cause	2	14	19	12	0%
Drug & Alcohol	4	7	1	4	0%
Drug	13	9	5	9	0%
Alcohol	6	4	9	6	0%
Physical	0	0	0	0	0%
Mental	2	5	5	4	0%
Changed Prescription	22	37	25	28	0%
Aiding and Abetting	116	131	204*	150	4%
Non-Therapeutic Prescribing (Doctor)	8	3	7	6	0%
Excessive Purchases of Controlled Substances	0	0	2	<1	0%
Anabolic Steroids	0	0	0	0	0%
Grey Market Diversion	0	0	1	<1	0%
Samples	2	0	2	<1	0%
Technician Violation	6	10	5	7	0%
Improper Security	1	4	4	3	0%
Problem with OTC Drug	6	7	3	5	0%
Closed Pharmacy Improperly	0	4	0	1	0%
Operating Pharmacy without License	4	4	0	3	0%
Working Conditions	3	10	10	8	0%
Delinquent License	20	13	8	14	0%
Kickbacks	0	1	2	1	0%
No PIC	2	3	0	2	0%
Recordkeeping Error	60	55	44	53	<1%
Notification Violation	0	0	1	<1	0%
No Annual/PIC/DEA Inventory	0	1	0	<1	0%
C-II Rx	1	0	2	1	0%
Improper Rx's Issued by Doctors	0	0	1	<1	0%
Advertising	4	2	2	3	0%
Overcharging	1	0	0	<1	0%
Billing Dispute	62	40	32	45	<1%
Customer Service	53	38	32	41	<1%
Hot Check	0	0	0	0	0%
Accountability Audit Discrepancies (shortages/overages)	19	13	11	14	0%
CE Audit	5	7	4	5	0%
Default on Student Loans	1	0	0	<1	0%
Other Allegations	711	672	576	653	11%
Texas Pharmacy Act	23	23	10	19	0%
Texas Dangerous Drug Act	1	6	0	2	0%
Texas Controlled Substances Act	92	92	53	79	1%
Food Drug & Cosmetic Act	8	6	3	6	0%
TSBP Rule	118	185	186	163	3%
Other Laws/Rules	469	360	324	384	7%
Request Disciplinary Action	92	65	57	71	1%
Reinstatement	7	11	12	10	0%
Modification	26	20	31	26	0%
TOTAL	5,512	5,840	5,766	5,706	100%

* This violation code includes Technicians working with Delinquent/No Registration

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ACTION TAKEN BY TSBP TO CLOSE COMPLAINTS FY2010 – FY2012

	FY2010	FY2011	FY2012	3-Yr. Avg.	% of 3-Yr. Avg.
Investigations Not Resulting in Disciplinary Action:	4,050	4,714	4,564	4,443	78%
Investigate + Dismissal (Warning) Letter	1,277	1,417	1,391	1,362	24%
Investigate + Complaint Closed with Verbal Warning	328	390	404	374	7%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	1,318	1,449	1,367	1,378	24%
Investigate + Lost Jurisdiction (registration expired)	162	198	151	170	3%
Inspections	53	108	105	89	2%
Inspection + Warning Notice or Dismissal Letter	11	23	48	27	<1%
Application Withdrawn	78	335	362	258	5%
Other *	823	794	736	784	14%
Investigations Resulting in Disciplinary Action:	1,164	814	906	961	17%
Agreed Board Order	664	664	752	693	12%
Board Order	137	113	98	116	2%
Preliminary Notice Letter + Dismissal (Warning) Ltr.	1	2	0	1	0%
PNL + Application Withdrawn (with or without Informal Conference)	351	2	22	125	2%
PNL + Informal Conference + Dismissal Letter	0	16	20	12	<1%
PNL + Informal Conference + Case Dismissed	6	11	13	10	<1%
PNL + Case Dismissed	5	6	1	4	<1%
Referrals To:	97	46	74	72	1%
Medical Board	6	3	9	6	<1%
PRN Program	0	0	1	0	0%
Supervisor	13	4	6	8	<1%
Other Agency	78	39	58	58	1%
No Action Because:	201	266	223	230	4%
No Violation	12	21	31	21	<1%
No Jurisdiction	97	67	88	84	2%
Insufficient Information	11	14	10	12	<1%
Other **	81	164	94	113	2%
TOTAL	5,512	5,840	5,767	5,706	100%

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

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

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During FY2012, TSBP received 245 reports indicating that pharmacies experienced theft of 849,419 dosage units of controlled substances by 264 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 FY2012 (9/1/2011 – 8/31/2012)

CLASSIFICATION OF EMPLOYEE	Class "A"	Class "C"	Hospital Floor Stock	Total	%	DU	%
Registered Pharmacist	16	3	0	19	7%	60,728	7%
Pharmacist Intern	0	0	0	0	0%	0	0%
Registered Pharmacy Technician	97	3	0	100	38%	627,488	74%
Pharmacy Technician Trainee	16	0	0	16	6%	63,748	8%
Physician	0	0	0	0	0%	0	0%
Registered Nurse	0	25	0	25	9%	2,579	0%
Certified Registered Nurse Anesthetist	0	0	0	0	0%	0	0%
Licensed Vocational Nurse	0	6	0	6	2%	130	<1%
Delivery – In or Out of Pharmacy	5	0	0	5	2%	6,771	<1%
Pharmacy Cashier – Pharmacy Clerk	7	0	0	7	3%	48,478	6%
Pharmacy Staff – Unidentified	45	0	0	45	17%	28,778	3%
Hospital Staff – Unidentified	0	10	0	10	4%	1,490	<1%
Hospital Staff – Pharmacy Staff	0	5	0	5	2%	370	<1%
Miscellaneous*	20	6	0	26	10%	8,859	1%
TOTALS	206	58	0	264 **	100%	849,419	100%

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

** A total of 245 DEA Reports involving 264 individuals

ENFORCEMENT DIVISION

Report Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2010 - FY2012 (by Individuals)

CLASSIFICATION OF EMPLOYEE	FY 2010		FY2011		FY2012		% Change FY11-FY12
	Total # of Individuals	%	Total # of Individuals	%	Total # of Individuals	%	
Registered Pharmacist	20	8%	18	7%	19	7%	6%
Pharmacist Intern	2	<1%	0	0%	0	0%	N/A
Registered Pharmacy Technician	41	17%	66	26%	100	38%	52%
Pharmacy Technician-in-Training	16	6%	10	4%	16	6%	6%
Physician	0	0%	0	0%	0	0%	N/A
Registered Nurse	37	15%	40	16%	25	9%	-38%
Certified Registered Nurse Anesthetist	0	0%	0	0%	0	0%	N/A
Licensed Vocational Nurse	6	2%	11	4%	6	2%	-45%
Delivery – In or Out of Pharmacy	0	0%	2	<1%	5	2%	150%
Pharmacy Cashier – Pharmacy Clerk	7	3%	6	2%	7	3%	17%
Pharmacy Staff – Unidentified	60	24%	39	15%	45	17%	15%
Hospital Staff – Unidentified	20	8%	13	5%	10	4%	-23%
Hospital Staff – Pharmacy Staff	7	3%	1	<1%	5	2%	4%
Miscellaneous *	33	13%	49	19%	26	10%	-47%
TOTALS	249	100%	255	100%	264	100%	4%

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

ENFORCEMENT DIVISION

Reports Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2010 - FY2012 (by Dosage Units)

CLASSIFICATION OF EMPLOYEE	FY 2010		FY 2011		FY2012		% Change FY11-FY12
	Total # of Dosage Units	%	Total # of Dosage Units	%	Total # of Dosage Units	%	
Registered Pharmacist	55,630	5%	41,106	7%	60,728	7%	48%
Pharmacist Intern	613	<1%	0	0%	0	0%	N/A
Registered Pharmacy Technician	860,262	77%	324,475	56%	627,488	74%	93%
Pharmacy Technician-in-Training	22,465	2%	44,166	8%	63,748	7%	44%
Physician	0	0%	0	0%	0	0%	N/A
Registered Nurse	4,357	<1%	7,339	1%	2,579	0%	-65%
Certified Registered Nurse Anesthetist	0	0%	0	0%	0	0%	N/A
Licensed Vocational Nurse	193	<1%	712	<1%	130	0%	-82%
Delivery – In or Out of Pharmacy	0	0%	765	<1%	6,771	1%	785%
Pharmacy Cashier – Pharmacy Clerk	14,359	1%	14,703	3%	48,478	6%	230%
Pharmacy Staff – Unidentified	63,640	6%	101,752	18%	28,778	3%	-72%
Hospital Staff – Unidentified	402	<1%	3,223	<1%	1,490	0%	-54%
Hospital Staff – Pharmacy Staff	1,114	<1%	1	<1%	370	0%	369%
Miscellaneous *	91,340	8%	36,585	6%	8,859	1%	-76%
TOTALS	1,114,375	100%	574,827	100%	849,419	100%	48%

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

ENFORCEMENT DIVISION

4. **In cooperation with the Licensing Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants for licensure and registration throughout FY2012, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2012.**

Status: ACCOMPLISHED

Comments: Throughout FY2012, 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 FY2012, TSBP received 531 such reports (as compared to FY2011 when TSBP received 457 such reports – a 16% increase);
- C. Conducted background checks on pharmacists, interns, and technicians/tech trainees; during FY2012, the agency opened 266 complaints due to the criminal history information provided on the quarterly reports (as compared to FY2011 when TSBP received 460 such reports – a 42% decrease). This decrease can be partially attributed to the difficulty with the new computer system implemented by the Texas Department of Public Safety (DPS) which resulted in Division staff not being able to complete quarterly background checks in a timely manner.

Considering (B) and (C) together, the agency received 797 reports in FY2012, as compared to FY2011 when the agency received 917 reports (13% decrease).

During FY2012, Division staff were required to complete a “self-audit” from DPS regarding the agency's policies and procedures for using the DPS on-line background system. This “self-audit” was submitted to DPS by the due date. Division Director Carol Fisher and Chief of Investigations Robert Ebrom attended a training session at DPS Headquarters on April 18, 2012, with regard to DPS regulations and expectations for use of the system. DPS notified TSBP and all of the other agencies using the on-line system that DPS would be conducting on-site audits at the various agencies, primarily to check for unauthorized use of the system. DPS will schedule the TSBP audit in FY2013.

In August 2012, DPS conducted an audit of the Division's policies, procedures and records relating to the Texas Law Enforcement Telecommunications System (TLETS). This audit was successful, in that there were no substantive findings of non-compliance.

5. **To provide technical assistance, maintain liaison, and coordinate joint investigations of pharmacists, interns, pharmacy technicians, and pharmacies, in line with the “lead agency approach,” with federal, state, and local law enforcement agencies, including health regulatory or administrative agencies, throughout FY2012.**

ENFORCEMENT DIVISION

Status: ACCOMPLISHED

Comment: TSBP continued to provide assistance to other agencies, when requested, throughout FY2012. TSBP Field Investigators maintained liaison with law enforcement agencies across the State, totaling over 1,053 contacts with 277 agencies. In-house investigative staff made hundreds of contacts with courts and law enforcement agencies both in Texas and out of state while conducting criminal background checks.

6. To monitor compliance with all Board Orders and Agreed Board Orders, including rehabilitation Orders relating to impaired or recovering pharmacists, throughout FY2012.

Status: ACCOMPLISHED

Comment: Almost all of the disciplinary orders entered in FY2012 required some type of monitoring by Division staff (i.e., 696 orders or 88% of the 792 disciplinary orders that TSBP entered during FY2012 required some type of monitoring). Monitoring included the following types of actions/activities:

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

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

The following charts indicate the types of Orders entered in FY2012, which required the Division to monitor the licensee's compliance with the Order, in some manner:

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Total Number of Orders Entered by TSBP That Required Monitoring on Licensees (Pharmacists and Pharmacies), Interns, and Technicians (FY12)		
	FY12	% of FY12
Total Number of Orders on Licensees Requiring Monitoring	353	45%
Total Number of Orders on Technicians Requiring Monitoring	343	43%
Total Number of Orders Requiring Monitoring	696	88%
Total Number of Orders Not Requiring Monitoring	96	12%
Total Number of Orders Entered by TSBP in FY12	792	100%

Types of TSBP Disciplinary Orders Entered on Licensees (Pharmacists and Pharmacies) and Interns That Required Monitoring (FY10-FY12)						
Sanction	FY10 Orders	FY11 Orders	FY12 Orders	% of FY12	3-Yr. Avg.	% of 3-Yr. Avg.
Revoke / Retire	15	14	18	5%	16	4%
Suspension	27	36	34	9%	32	9%
Restricted	7	3	6	2%	5	1%
Rehabilitation Orders*	19	25	19	5%	21	6%
Reinstatement	3	3	3	<1%	3	<1%
Fines or Probation Fees Only	107	94	110	28%	104	29%
Continuing Education, Texas Jurisprudence Exam, and/or Pharmacy Law Course (could also include fines and/or probation fees)	49	48	53	14%	50	14%
Continuous Quality Improvement Program, Self Assessments, Policies/ Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	97	89	107	28%	98	27%
Public Orders Requiring Drug Screens	1	2	3	<1%	2	<1%
TOTAL NUMBER OF ORDERS ON LICENSEES REQUIRING MONITORING	325	314	353	91%	331	93%
TOTAL NUMBER OF ORDERS NOT REQUIRING MONITORING	19	28	33	9%	27	8%
TOTAL ORDERS	344	342	386	100%	357	100%

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

ENFORCEMENT DIVISION

Types of TSBP Disciplinary Orders Entered on Technicians That Required Monitoring (FY10 – FY12)						
Sanction	FY10 Orders	FY11 Orders	FY12 Orders	% of FY12	3-Year Average	% of 3-Year Average
Revoke	133	83	90	22%	102	25%
Suspension	28	26	40	10%	31	8%
Restriction	0	0	0	0%	0	0%
Fines Only	162	140	163	40%	155	38%
Other *	50	42	50	12%	47	11%
TOTAL NUMBER OF ORDERS ON TECHNICIANS REQUIRING MONITORING	373	291	343	84%	336	82%
TOTAL NUMBER OF ORDERS ON TECHNICIANS NOT REQUIRING MONITORING	91	73	63	16%	76	18%
TOTAL NUMBER OF ORDERS ON TECHNICIANS	464	364	406	100%	411	100%

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

During FY2012, TSBP entered 60 confidential disciplinary Orders (47 orders were entered on pharmacists, 1 order on a pharmacy, and 12 orders were entered on applicants pharmacist/Interns). These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below:

Confidential Disciplinary Orders On Pharmacists and Interns Entered by TSBP (FY10 – FY12)						
Nature of Violation	FY10	FY11	FY12	% of FY12	3-Yr. Avg.	% of 3-Yr. Avg.
Non-Compliance with ABO	8	10	14	24%	11	19%
Non-Compliance with PRN	0	0	0	0%	0	0%
Action by Other Boards	4	1	2	3%	2	4%
Audit Shortages	2	0	0	0%	1	2%
Alcohol-Related Conviction	1	6	4	7%	4	7%
Theft of Prescription Drugs	8	10	5	8%	8	14%
Created Fraudulent Rx or Obtained C/S by Fraud	1	2	0	0%	1	2%
Convictions	3	0	1	2%	1	2%
Deferred Adjudication	8	6	2	3%	5	9%
Illegal Possession of Controlled Substances	0	3	0	0%	1	2%
Unauthorized Refills of Controlled Substances	0	0	3	5%	1	2%
Probable Cause/Dependency	9	3	10	17%	7	12%
Mental Impairment	0	0	0	0%	0	0%
Request for Modification of Previously Entered ABO	5	6	12	20%	8	14%
Request for Retirement or Revocation	7	4	5	8%	5	9%
Request for Reinstatement	3	2	1	2%	2	4%
TOTAL	59	53	59	100%	57	100%

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Of the 59 confidential *pharmacist/intern* Orders entered in FY2012, there were 29 Orders resulting in an impaired/recovering pharmacist or intern being added to the number who were being monitored at the end of FY2012, as reflected in the chart below. However, 26 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, 2012, a total of 135 impaired/recovering pharmacists or interns were being monitored by TSBP. The number of individuals being monitored at year-end, as compared to the year-end of previous fiscal years, is depicted in the following chart:

Impaired/Recovering Pharmacists Monitored by Enforcement Division (FY08 – FY12)			
Fiscal Year	Total Orders*	Total New Orders**	Total Being Monitored***
FY08	57	27	102
FY09	55	24	103
FY10	59	32	118
FY11	52	32	132
FY12	59	29	135

In addition to monitoring confidential Orders for recovering pharmacists and interns, TSBP monitored 11 pharmacist/interns who are subject to *public* Orders that require random drug screening, as of August 31, 2012.

* 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 by the agency.

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

During FY2012, TSBP entered 57 Orders on Technicians or Techs-in-Training (TNT) who are subject to probation periods with random drug screening. Of the 57 Orders, there were 51 Orders resulting in a Tech or TNT being added to the number who were being monitored at the end of FY2012, as reflected in the chart below. However, 67 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, 2012, a total of 64 technicians/tech-trainees were being monitored by TSBP, as depicted in the chart below:

Technicians / Technicians-in-Training Monitored (with probation under conditions, including random drug screens) by Enforcement Division (FY2011 – FY2012)			
Fiscal Year	Total Orders Added	Total Orders Deleted	Total Being Monitored
*FY2011	52	48	80
FY2012	51	67	64

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

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7. To provide verbal and written information to Board staff and customers as needed or required throughout FY2012, to include providing technical assistance to other Divisions and responding to surveys and questionnaires.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

A. COMPLIANCE INSPECTIONS

Compliance Field Staff provided information during compliance inspections. The Division conducted 2,135 inspections in FY2012 (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 25,822 callers who were routed through the Compliance Queue telephone line.

Number of Telephone Calls Handled via Compliance Queue (FY08 – FY12)		% Change
FY08	14,326	25%
FY09	15,466	8%
FY10	18,794	22%
FY11	23,095	23%
FY12	25,822	12%

C. COMPLAINT FORMS

During FY2012, TSBP mailed 502 complaint forms to individuals who requested a complaint form. As indicated in the chart below, 213 complaint forms (42% of total) were mailed to individuals who had requested a form by calling the HPC toll-free complaint hotline and 289 complaint forms (58% 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 (FY08 – FY12)						
Fiscal Year	Requests for Complaint Forms via HPC 800#	% Change	Requests for Complaint Forms via TSBP Voice Mail	% Change	Total Request	% Change
FY08	398	-29%	406	-30%	804	-30%
FY09	304	-24%	403	-1%	707	-12%
FY10	265	-13%	328	-19%	593	-16%
FY11	260	-2%	283	-14%	543	-8%
FY12	213	-18%	289	2%	502	-8%

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D. CUSTOMER SERVICE SURVEYS

During FY2012, Division staff mailed 654 customer service surveys to TSBP customers.

E. WRITTEN INFORMATION

During FY2012, Division staff mailed 105 packets of information to TSBP customers.

DATE	PRESENTATIONS Name of Association/Presentation and Location of Meeting	STAFF PERSON	ATTENDAN CE (Approx.)
09/10/11	Update on Laws and Rules, West Texas Pharmacy Association – Lubbock, TX	Paul Holder	100
10/01/11	Update on Laws and Rules, Austin Area of Health System Pharmacies – Austin, TX	Paul Holder	50
10/01/11	Fall Preceptor's Conference – Texas Southern University – Houston, TX	Iona Grant and Ben Santana	100
10/06/11	Drug Diversion Presentation – Kingsville College of Pharmacy, Kingsville, TX	Robert Ebrom	250
10/20/11	National Pharmacy Week – Sanford Brown College – Houston, TX	Iona Grant	75
10/22/11	Texas Association of Independent Pharmacies – Houston, TX	Iona Grant w/Gay Dodson	50
12/01/11-12/02/11	Challenges Encountered by TSBP when Implementing USP 797, 2011 NABP Interactive Compliance Officer Forum and Surveyor Training Program – Chicago, IL	Paul Holder	75
12/09/11	On-Site Law Seminar *	Division Staff	6
01/19/12	Drug Diversion Presentation – Liberty County Law Enforcement Association – Liberty, TX	Shawn Clark	20
01/20/12	TSBP and PRN, University of Houston Student PRN Alcohol, Drugs, and You Seminar – Houston, TX	Paul Holder	110
01/24/12	Lake Houston Pharmacy Association – Humble, TX	Iona Grant	75
03/31/12	Texas Southern University Spring Presentation – Houston, TX	Iona Grant	98
04/23/12	DPS Presentation – Houston, TX	Iona Grant	40
05/04/12	Licensing, Compliance, and Investigations, P2 students at Texas A&M Health Science Center – Kingsville, TX	Paul Holder	120
05/10/12	Hoffman Middle School Presentation – Houston, TX	Iona Grant	73
07/13/12	Drug Diversion Presentation – Walgreen's Pharmacy Interns, Houston, TX	Shawn Clark	10
07/20/12	Walgreens Presentation – Houston, TX	Iona Grant	25
07/28/12	Update on TSBP's Compounded Preparation Sampling & Testing Program, Academy of Compounding Pharmacists Meeting at the Texas Pharmacists Association Conference – The Woodlands, TX	Paul Holder	30
08/30/12	2012 TSBP Update, Rio Grande Valley Pharmacy Association/Independent Pharmacy Association – Edinburg, TX	Paul Holder	150
Total			1,457

ENFORCEMENT DIVISION

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

- * Due to the cancellation of the on-site Law Class offered by a pharmacy organization, TSBP staff held a special law class to assist licensees to complete the class prior to the required due dates specified in their disciplinary orders.

G. ASSISTANCE TO BOARD MEMBERS AND EXECUTIVE DIRECTOR

- (1) Division Director assisted in the development of the proposed Goals and Objectives for FY2012, which were presented to/approved by the Board at its meeting held in August 2011;
- (2) At all Board meetings held in FY2012, Division Director made presentations regarding the number of acting/pending complaints and the number of dismissed complaints, and Assistant Division Director made a report regarding the Peer Assistance Performance Measures;
- (3) Division Director assisted in the review/edit of the drafts of minutes of four Board meetings;
- (4) Division Director, along with other Division Directors, assisted the Executive Director in conducting orientation of agency operation to Legislative Budget Board (LBB) analyst assigned to TSBP (5/17/12);
- (5) Division Director, along with Division Directors, assisted the Executive Director in meeting with LBB staff to answer their questions regarding the agency's new computer system; and
- (6) In the absence or at the request of the Executive Director, Division Director responded to inquiries from the media.

H. TECHNICAL ASSISTANCE TO BOARD STAFF

- (1) Legal Division
 - (a) Disciplinary Proceedings – At the request of TSBP General Counsel, Division Director reviewed approximately 20 drafts of Preliminary Notice Letters prior to these documents being finalized and mailed; Division staff also assisted Legal staff with pharmacy practice-related questions relating to disciplinary cases,
 - (b) Informal Conferences involving pharmacists and pharmacies, and pharmacy technicians – Division staff attended numerous conferences; and
 - (c) Formal Hearings – Division Director testified in two hearings conducted by the State Office of Administrative Hearings (11/1/11 and 5/30/12).

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(2) Division of Professional Services

- (a) TSBP *Newsletter* – Division staff assisted with each issue of the Newsletter (e.g., wrote articles such as Compliance Reminders and Complaint Corner and provided applicable information regarding disciplinary orders entered by the Board);
- (b) Open Records Requests – Division Director provided assistance when needed;
- (c) Health Integrity and Protection Data Bank (HIPDB) – Division staff provided administrative assistance in the data entry of information regarding disciplinary orders entered by the agency in FY2012; and
- (d) Orientation of New Employees – Division Staff conducted orientation sessions with Erin Quander (Administrative Assistant) with respect to the operation of the Enforcement Division; also conducted orientation/training sessions with Ms. Quander with regard HIPDB duties [as described above] and notifying various agencies regarding disciplinary orders, in that these duties were transferred to the Professional Services Division during FY2012.

(3) Administrative Services and Licensing Division

- (a) Division Director assisted with the preparation of the agency's Internal Risk Assessment Report;
- (b) Division Director conducted orientation sessions for new employees (Patrick McReynolds, Purchaser) and Matthew Hayes (I.T.);
- (c) Division staff provided information to Cathy Stella, Director of Administrative Services and Licensing Division regarding fines and fees that had been imposed by disciplinary orders entered by TSBP during 2012; this information assisted Ms. Stella in projecting the agency's annual revenues.
- (d) Division staff compiled a list of individuals who were required to pay a fine or a fee that had been imposed by a disciplinary order and the amount of the fine/fee and provided this information to the Accounting Staff for reconciliation purposes.
- (e) Division staff continued to answer thousands of telephone calls received via the Compliance Queue line regarding the license application process, particularly calls from individuals applying for a pharmacy technician or a pharmacy technician trainee registration; and
- (f) Division staff assisted in the review of applications for a Class B or D Pharmacy license, as indicated in the chart below:

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Activity	FY2010	FY2011	FY2012	3-Year Average
New Class D (Clinic) Pharmacy Applications	27	45	17	30
New Class B (Nuclear) Pharmacy Applications	5	1	2	3
Petitions for Expanded Formularies for Class D (Clinic) Pharmacies	44	53	67	55
Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies	41	27	31	33
Notifications of Temporary Locations for Class D (Clinic) Pharmacies	7	16	14	12
Standard Class D Formularies Reviewed	29	12	10	17

I. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS

- (1) Division Director responded to a survey from the National Association of Boards of Pharmacy regarding training for individuals who inspect pharmacies that compound sterile products;
- (2) Division Director responded to a survey from the Colorado Board of Pharmacy regarding TSBP's inspection procedures;
- (3) Division Director responded to questions from LBB staff regarding performance measures and other issues;
- (4) Division staff worked with the Consumer Product Safety Commission to check for non-compliance issues during TSBP inspections;
- (5) On July 9, 2012, Division Director and Chief of Investigations, with the Executive Director, met with representatives of other pharmacy organizations and regulatory agencies to discuss various issues, including inspections by TSBP and the other regulatory agencies;
- (6) Assistant Director Paul Holder served as an expert witness in a federal trial in El Paso, Texas; the trial involved a pharmacist who was charged with diversion and health care fraud; the jury convicted the pharmacist and sentenced the pharmacist to 14 years in prison without parole; and
- (7) See Ongoing Objective #4.

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 FY2012.

Status: ACCOMPLISHED

Comment: During FY2012, Assistant Division Director served as a preceptor to five students from three different Colleges/Schools of Pharmacy, as listed below:

FY2011 – 2012

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

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FY2012

- September 26, 2011 – November 4, 2011
 - Dora Ruth Guajardo – The University of Texas at Austin
- January 2, 2012 – February 10, 2012
 - Jana Downing – University of Houston
- May 21, 2012 – June 29, 2012
 - Sean Pazoki – Texas Tech University
- August 12, 2012 (FY2012) – September 21, 2012 (FY2013)
 - Brandon Arthur Lerma – The University of Texas at Austin

9. 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 FY2012.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Board Member Ben Fry, R.Ph., served as an ex-officio member of the TX-PRN State Committee throughout FY2012;
- B. Throughout FY2012, 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 FY2012;
- 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 2, 2012, and the results of the audit were reported to the Board at its meeting held on November 6, 2012;
- D. Division staff attended two TX-PRN State Advisory Committee meetings held on October 22, 2011; and June 20, 2012; and
- E. Throughout FY2012, Enforcement Program Specialist Janelle Dooley worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

10. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2012.

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 FY2012, TSBP mailed 213 complaint forms to individuals requesting forms on the HPC complaint hotline.

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11. To manage employees under the supervision of the Division throughout FY2012, 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 the quarterly General All-Staff Meetings which were held on the following dates:
December 1, 2011
February 27, 2012
May 29, 2012
August 14, 2012
- Following each Board Meeting, Assistant Director of Enforcement conducted reviews of rules that the Board had adopted and proposed at its meetings. Division staff who answer questions regarding the laws/rules governing the practice of pharmacy attended these reviews (e.g., Compliance Field Staff and Division employees who are tasked with answering calls on the Compliance Queue Line). These Rule Reviews were also open to all technicians who work for TSBP as a means to obtain their required Continuing Education hours in pharmacy law. These Rule Reviews were held on the dates listed below:
November 30, 2011
February 29, 2012
May 31, 2012
August 15, 2012
- Division Team Leaders attended and participated in meetings for Division team leaders, as well as meetings with team leaders from other Divisions.
- Assistant Division Director and Chief of Compliance held several training sessions with members of the Division staff who answer calls on the Compliance Queue Line. Three of these sessions were held in conjunction with the Division Director of Administrative Services and Licensing and other members of the Licensing Division, so that Enforcement Division staff would be better able to answer questions regarding the licensure application process, particularly for pharmacy technicians and pharmacy technician trainees.
- Division staff attended training pertaining to the new computer system.
- Various Division staff attended professional development seminars (such as Webinars and the annual meetings of the Texas Pharmacy Association and the Texas Society of Health System Pharmacists).

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Division Director attended the University of Texas Postgraduate Seminar (September 16 and 17, 2011) and three continuing education seminars sponsored by the Capital Area Pharmaceutical Association (9/22/11; 2/16/12, and 3/22/12).

- B. Performance Evaluations – Formal performance reviews were conducted for all Division employees in FY2012, with the exception of one new hire who was scheduled for an evaluation in early FY2013.
- C. Other Activities – The Division began FY2012 with no vacancies. However, the Division experienced three losses due to two resignations and the internal transfer (promotion) of one employee to the Legal Division. These staffing changes are described below:

October 2011 - Laura Duty, Enforcement Technician, resigned. This position was vacant for three months.

January 2012 - Elizabeth Kanode was hired to fill the position vacated by Laura Duty.

March 2012 - West Texas Compliance Inspector (Lisa Stone) resigned. This position was vacant for approximately six months.

August 2012 - Kara Staff was hired to fill the West Texas Compliance Officer position that was vacated by Lisa Stone.

August 2012 - Enforcement Officer Cathy Shannon was promoted to Legal Assistant. This position was filled in FY2013 (the position was vacant for three months).

As a result of the staffing changes described above, Division staff accomplished the following activities: reviewing applications; conducting interviews; and conducting in-depth orientations.

In addition, Division Director revised/updated job descriptions for the following positions: Chief of Investigations; Compliance Inspector; and one of the Enforcement Technician positions.

- 12. **To maintain Division records throughout FY2012, 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:

- A. Records Management (Record Retention)

During FY2012, Division staff destroyed 137.82 cubic feet of records, in accordance with the TSBP record retention schedule. The quantity of

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Division records destroyed in the past five years is depicted in the chart below:

Fiscal Year (FY08 – FY12)	# of Cubic Feet of Records Destroyed	% Change
FY2008	27.88	+297%
FY2009	99.19	+256%
FY2010	252.84	+155%
FY2011	183.38	-27%
FY2012	137.82	-25%

B. Records Management (Imaging)

Division staff continued to implement the program to convert paper complaint files to imaged records. Approximately 2,150 complaint files were scanned during FY2012, which represented a 55% increase over FY2011, when approximately 1,390 complaint files were imaged.

C. Enforcement Division Policy and Procedure Manual

Division Director completed an extensive update of policies and procedures relating to the complaint process during FY2012. Most of the update was necessitated as a result of the agency's conversion to the new computer system.

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 FY2012.**

Status: **ACCOMPLISHED**

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

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

1. Division Director Carol Fisher, R.Ph., M.P.A., recommended that TSBP rules be amended to prohibit pharmacies from implementing Auto Refill programs unless the patient requested to be enrolled into such programs;
2. Division Director recommended that TSBP rules be amended to strengthen the prescription transfer rules to prevent errors from occurring during the transfer of a prescription, such as requesting the transferring and receiving pharmacists to engage in confirmation of prescription information (e.g., transferring pharmacist fax a copy of the prescription to the receiving pharmacist; or receiving pharmacist repeating the information collected during the transfer and the transferring pharmacist confirming that the repeated information is correct).

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3. Division Director recommended that TSBP Rule 291.17 regarding inventories be amended to eliminate the requirement that initial inventories (new pharmacies) be notarized.
4. Assistant Division Director Paul Holder, R.Ph., Pharm.D., recommended that TSBP rules be amended to clarify that a pharmacy must have a designated area for the storage of flammable materials. This rule amendment was adopted by the Board at its meeting on May 8, 2012.
5. Chief of Compliance Ben Santana, R.Ph., recommended clarifying TSBP rules regarding the mailing of drugs by a Class D Pharmacy. This rule amendment was adopted by the Board at its meeting on May 8, 2012.
6. Chief of Compliance made recommendations to TSBP rules regarding compounding of sterile and non-sterile preparations (e.g., immediate use language be consistent with USP 797; documentation of training; and office use preparations for physicians practicing alternative medicine).
7. Senior Compliance Officer Iona Grant, R.Ph., recommended that TSBP rules be amended to clarify that the dispensing pharmacist initials on the hard-copy prescription must designate the type of activity being performed (e.g., final review of the prescription or counseling pharmacist).
8. Enforcement Officer Linda Yazdanshenas recommended that TSBP rules be amended to clarify the documentation that is required when a pharmacist consults with a prescriber about an issue with a prescription.

B. Recommendations regarding Agency Operations:

1. Division Director recommended that confidential rehabilitation disciplinary orders that are entered on impaired/recovering pharmacists include a condition that would require the pharmacist to submit to a fingerprint process. This change will expedite the receipt of information regarding criminal offenses which the pharmacist may commit (e.g., arrests for possession of controlled substances; or driving while intoxicated). This recommendation was accepted and will be implemented in FY2013.
2. Division Director recommended that all pharmacy applications be amended to require each managing officer to answer questions regarding the respective manager's previous disciplinary actions and criminal history. This recommendation was accepted and will be implemented in FY2013.
3. Division Director recommended that the on-line application process be enhanced so that a licensee, registrant, or applicant, who answers "yes" to an attest question will be required to provide a written explanation to describe the offense.
4. Division Director recommended the application process for obtaining a pharmacy license be changed so that an applicant would be required to submit a new application and pay a new application fee, if a substantive change was made to the application (e.g., removal of a managing officer).

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5. Division Director recommended that an automatic e-mail message be sent to an individual who filed an on-line complaint to acknowledge the receipt of the complaint, if the complainant provided an e-mail address. This recommendation was implemented in FY2012.
 6. Assistant Division Director recommended that each member of the Compliance Field Team be required to complete an on-line 40-hour training course in sterile compounding that was made available to TSBP at no charge. This recommendation was implemented in FY2012.
 7. Enforcement Specialist Lindsay Cruthers recommended that all managing officers who were listed on a pharmacy application be required to submit a copy of identification for verification purposes (e.g., copy of social security card and driver's license).
 8. Division staff made numerous recommendations to improve and enhance the information provided on the TSBP webpage.
 9. Division staff made numerous recommendations to internal forms and procedures to improve day-to-day operations.
- 14. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2011 Annual Report* and submit to the Executive Director by the due date.**

Status: ACCOMPLISHED

Comment: The Division's first draft of the *FY2011 Annual Report* was submitted to the Executive Director by the due date.

FY2012 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 20 of the Division's 20 objectives for FY2012.
2. During FY2012, the agency continued to handle a large number of ongoing disciplinary issues for pharmacy technicians. The Division initiated 423 disciplinary actions by mailing a Preliminary Notice Letter and entered 406 orders against pharmacy technicians and pharmacy technician trainees during the fiscal year. During the same time, 66 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 94.5% of the disciplinary cases against pharmacists and pharmacies and 98.7% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders or default Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and agency expenditures.
4. The Division resolved 17 respondent cases that were set for administrative hearings at the State Office of Administrative Hearings (SOAH) prior to proceeding to hearing. The cases were resolved through 17 Agreed Board Orders (ABO) through negotiations with the licensees or their attorneys or through the SOAH Mediation process. These resolutions saved the agency considerable resources both in time and expenditures.
5. Administrative hearings were conducted against 2 respondents at SOAH. These hearings involved preparing motions for summary judgment and numerous discovery documents (including interrogatories and requests for admission), preparing for trial and for witness examination, and conducting the hearings. Following the hearings, exceptions were filed and drafts of proposed orders were prepared. The extensive preparation for the hearings and the presentations to the Board required a considerable amount of time, and the Division was able to maintain a fairly consistent number of cases resolved.
6. In order to more effectively deal with the proliferation of pill mills in the Houston area, the Legal Division continued the procedure to evaluate cases of non-therapeutic dispensing in terms of whether the continued operation of the associated pharmacies posed a continuing threat. If such a threat could be established, a panel was convened to hear the cases for potential temporary suspension. Petitions for Temporary Suspension were filed and Temporary Suspension Hearings were conducted before a Board panel against 9 respondents in FY2012. Three respondents were temporarily suspended, five respondents' petitions were denied, and one hearing was cancelled because the respondent signed a voluntary revocation.
7. The Legal Program Specialist was the facilitator for the Board's Strategic Planning process, which was concluded in FY2012. She prepared numerous documents throughout the process and served as the facilitator at the Board meeting. General Counsel provided assistance and legal guidance in this process.

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8. Statistics for disciplinary actions entered in FY2012 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
FY08	4	5	244	253	-16%	98%
FY09	7	10	317	334	32%	98%
FY10	8	2	334	344	3%	98%
FY11	15	2	325	342	-<1%	96%
FY12	5	3	378	386	13%	99%
TOTAL	39	22	1598	1659		98%

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
FY08	3	57	250	310	-11%	99%
FY09	0	74	329	403	30%	100%
FY10	1	108	355	464	15%	100%
FY11	2	78	284	364	-22%	99%
FY12	1	70	335	406	11%	100%
TOTAL	7	387	1553	1947		97%

9. General Counsel and Division staff completely revised the preparation of disciplinary orders for pharmacists and pharmacies. This arduous project included standardizing all ABO language, simplifying ABO forms, and creating a menu-driven form book that allows for quick creation of ABOs from standardized language. This project is expected to save the Legal Assistants significant time and effort in preparation of ABOs.
10. 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.

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FY2012 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

The caseload has continued to be significant in FY2012. In addition, 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 leads to a longer resolution time in the Legal Division due to the longer amount of time to draft and prepare the cases.

LEGAL DIVISION
FY2012 ANNUAL REPORT

GOAL

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

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2012.

1. Continuing the implementation of a new licensing, enforcement, and administration database system throughout FY2012.
2. Reviewing and implementing legislation passed by the 82nd Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2012.
3. Updating and preparing the *TSBP Strategic Plan for FY2013-2017* and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date.
4. Preparing a proposed budget for the FY2014-2015 biennium for review and approval by the Board at the 2012 Board Budget meeting.
5. Preparing the *TSBP Legislative Appropriation Request for FY2014-2015* and corresponding performance measures by the due date.
6. Conducting the orientation of new Board Members within 90 days of appointment by the Governor.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

1. New Regulatory Database System (RDB) – Legal Division staff continued to work extensively on the testing and implementation of the new database system during FY2012, including documentation of identified problems, development of new policies and procedures for using the system in the disciplinary process, and data-entry and updates of the required data into the system for processing of disciplinary cases.
2. Implementing Legislation Passed by 82nd Texas Legislature – General Counsel assisted with the implementation of new legislative through the development and review of new agency rules, such as the licensing and registration of military spouses.
3. Strategic Plan for FY2013-2017 – The Strategic Plan for FY2013-2017 was prepared and reviewed. The agency researched the trends and resulting issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years. The Board Members worked with staff to develop Issue Statements and

LEGAL DIVISION

approved the final Strategic Plan at the May 2012 Board meeting. Legal Program Specialist served as the coordinator and facilitator of the process. General Counsel assisted with development and review of the Strategic Plan. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

4. Proposed Budget – General Counsel worked with the Executive Director and the other Division Directors in preparation of the proposed budget for FY2014-2015.
5. Legislative Appropriation Request for FY2014-2015 (LAR) – General Counsel worked with the Executive Director and the other Division Directors in preparation of the FY2014-2015 Legislative Appropriations Request and reviewed the final draft of the document.
6. Orientation of New Board Member – On September 27, 2011, General Counsel, along with the Executive Director and the other agency staff, participated in the orientation of public Board member, Phyllis Stine. Board members, Jeanne Waggener and Alice Mendoza, were reappointed and did not attend the orientation.

Objectives (Ongoing)

1. **To coordinate and monitor throughout FY2012 the receipt, assignment, and resolution of all cases accepted by the Division.**

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. Division staff met approximately once a month to discuss the status of pending cases, assess workload allocation, and determine the most effective strategies to complete cases in a timely and efficient manner. The Legal Assistant Team Leader also met with the Legal Assistants on a monthly basis to address common issues and monitor progress.
- B. General Counsel, Legal Program Specialist, and Hearing Coordinator 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 and 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 an electronic log, tracking dates for mailing of Preliminary Notice Letters, scheduling of Informal Conferences, mailing and receiving of Agreed Board Orders, and other due dates previously recorded on paper to enhance accessibility by all Division staff and improve more efficient and immediate information sharing.

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- D. TSBP entered a total of 792 disciplinary orders in FY2012, as reflected in the charts below.

Type of Order	Summary Suspensions	SOAH Board Orders	Default Board Orders	ABOs Entered by ED	ABOs Public	ABOs Confidential	Total Number of Orders
Pharmacists and Pharmacies	3	2	3	101	220	57	386
Pharmacy Technicians	0	1	70	214	121	0	406
Total	3	3	73	315	341	57	792

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

Information regarding the disciplinary cases entered in FY2012 is set forth in the following charts:

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TEXAS STATE BOARD OF PHARMACY
SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON
PHARMACISTS, PHARMACIES, INTERNS, AND
APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2012)

			Pharmacist	Pharmacy	Total
Licenses Removed	18	(5%)			
Revoke			11	2	13
Retire			5	0	5
Suspensions	82	(21%)			
Suspension			8	5	13
Suspension w/Conditions			21	1	22
Suspension w/ Fine			0	0	0
Suspension/Fine/Conditions			0	0	0
Suspension/Probation			2	3	5
Suspension/Probation w/Conditions			15	6	21
Suspension/Probation/Fine			3	5	8
Suspension/Probation/Fine w/Conditions			4	9	13
Restricted	6	(2%)	6	0	6
Other	219	(57%)			
Fine			43	25	68
Fine with Conditions			4	51	55
Fine and Reprimand			5	1	6
Fine, Reprimand with Conditions			10	21	31
Reprimand with Conditions			30	17	47
Reprimand			9	3	12
Require MHP Evaluation			1	0	1
Issuance License/Regist.	41	(11%)			
Grant with Suspension			0	0	0
Grant with Restrictions			0	0	0
Grant with Probation			3	4	7
Grant with Probation and Fine			1	1	2
Grant with Probation/Fine/Conditions			0	0	0
Grant with Probation and Conditions			12	1	13
Grant with Reprimand and Fine			0	0	0
Grant with Fine			2	12	14
Grant with Reprimand			3	1	4
Reinstatements	3	(<1%)			
Grant			0	0	0
Grant with Probation/Conditions			3	0	3
Deny			0	0	0
Modifications	17	(4%)			
Grant			16	1	17
Deny			0	0	0
TOTAL FY12:	386	(100%)	217	169	386

FY12 Orders Entered Against Pharmacist Licenses	217	56%
FY12 Orders Entered Against Pharmacy Licenses	169	44%
FY12 Total Disciplinary Orders on Pharmacist/Pharmacy	386	100%

LEGAL DIVISION

TEXAS STATE BOARD OF PHARMACY
DISCIPLINARY ORDERS ON PHARMACISTS, INTERNS, AND
APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2012)
NATURE OF VIOLATIONS*

	RPh	Phcy	Total	Total %
Diversion	19	7	26	7%
Illegal Delivery	0	0	0	
Illegal Possession of Rx Drugs	0	0	0	
Unauthorized Dispensing	7	3	10	
Theft	6	0	6	
Obtained C/S by Fraud	0	0	0	
No Valid Dr-Pt Relationship (InternetRXs)	6	4	10	
Non-Therapeutic Dispensing	0	0	0	
Convictions/Defer Adj	26	3	29	8%
Felony	5	2	7	
Misdemeanor	2	0	2	
Deferred Adjudication, Felony	4	1	5	
Deferred Adjudication, Misdemeanor	10	0	10	
Alcohol-Related	5	0	5	
Audit Discrepancies	5	21	26	7%
Drug	1	21	22	
Continuing Education	4	0	4	
Practice Deficiencies	55	57	112	29%
Dispensing Errors	37	29	66	
Dispensing Errors & No Counsel and/or No Drug Regimen Review	12	23	35	
No Counsel and/or DRR	6	5	11	
Unprofessional Conduct	78	77	155	40%
Aiding and Abetting	5	3	8	
Allow Tech to Work without an Active Registration	30	34	64	
Falsified Application for Licensure	7	26	33	
Sterile Compounding w/o Proper Training	0	0	0	
Impairment	10	1	11	
Action by Other Boards	8	8	16	
Non-Compliance with Previously Entered Order	15	1	16	
Non-Compliance with PRN Program	0	0	0	
Violation of Board Rules	3	4	7	
Other				
Modification	16	1	17	4%
Reinstatement	3	0	3	1%
Request for Revocation/Retirement	12	0	12	3%
Temporary Suspension Orders	3	3	6	2%
TOTAL FY12:	217	169	386	100%

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

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TEXAS STATE BOARD OF PHARMACY
SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON
PHARMACY TECHNICIANS, TECHNICIAN TRAINEES, AND
APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2012)

		Total	Percent
Licenses Removed		90	(22%)
Revoke	90		
Retire	0		
Suspensions		67	(17%)
Suspension	13		
Suspension w/Conditions, followed by Probation	28		
Suspension/Fine	0		
Suspension/Fine w/Conditions, followed by Probation	0		
Suspension/Probation	5		
Suspension/Probation with Conditions	19		
Suspension/Probation/Fine	1		
Suspension/Probation/Fine with Conditions	1		
Restricted	0	0	(0%)
Other		74	(18%)
Fine	54		
Fine with Conditions	0		
Fine/Reprimand	0		
Fine/Reprimand with Conditions	0		
Reprimand	20		
Reprimand with Conditions	0		
Issuance Registration		171	(42%)
Grant with Suspension	3		
Grant with Suspension/Fine	0		
Grant with Probation	26		
Grant with Probation/Conditions	25		
Grant with Probation/Conditions and Fine	0		
Grant with Probation and Fine	10		
Grant with Fine	58		
Grant with Fine and Reprimand	8		
Grant with Reprimand	41		
Deny	0		
Reinstatements		2	(<1%)
Grant with Suspension, followed by Prob/Cond	1		
Grant with Probation/Conditions	1		
Modifications	2	2	(<1%)
TOTAL FY12:		406	(100%)

LEGAL DIVISION

TEXAS STATE BOARD OF PHARMACY
DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS, TECHNICIAN TRAINEES,
AND APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2012)
NATURE OF VIOLATIONS

		Total	Percent
Diversion		15	(4%)
Theft	14		
Forged Rx	1		
Illegal Delivery	0		
Convictions/Deferred Adjudications		202	(50%)
Felony	19		
with Falsified Application	4		
Misdemeanor	26		
with Falsified Application	4		
Deferred Adjudication/Felony	53		
with Falsified Application	8		
Deferred Adjudication/Misdemeanor	75		
with Falsified Application	4		
Alcohol-Related (e.g., DWI)	9		
with Falsified Application	0		
Chemical Impairment		8	(2%)
Drug or Alcohol Dependency	8		
with Falsified Application	0		
Falsified Applications *		47	(12%)
Other Violations		74	(18%)
Gross Immorality	0		
Non-Compliance w/Previously Entered Order	33		
Performed Tech Duties w/Delinquent Registration	4		
Performed Pharmacist Duties	3		
Performed Tech Duties without Registration	34		
Negligence	0		
Request for Revocation/Retirement		56	(14%)
Reinstatement		2	(<1%)
Modify		2	(<1%)
TOTAL FY12:		406	(100%)

* Does not include the 20 falsified applications described above.

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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 FY2012.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. During FY2012, Division staff participated in 20 case and/or complaint review meetings. These meetings were held approximately twice per month with participation by the Executive Director and Legal and Enforcement Division staff.
- B. During FY2012, Division staff received 725 cases and resolved 845 cases, which was 120 more than received during FY2012.
- C. Division staff mailed 918 Preliminary Notice Letters in FY2012, in accordance with the priorities established for the Division, which was significantly more than in FY2011, when the Division mailed 809 PNLs. Of these PNLs, 495 PNLs were mailed to pharmacists and pharmacies, and 423 PNLs were mailed to pharmacy technicians and pharmacy technician trainees.
- D. The number of days to mail PNLs after the case review date in FY2012 was 66 days which is a significant decrease from the FY2011 number of 86 days. The number of days for PNLs to be sent to pharmacists and pharmacies averaged 84 days as compared to 96 days in FY2011. PNLs to pharmacy technicians were sent in an average of 48 days from receipt of the case, as compared to 76 days in FY2011, which marks a significant decrease from FY2011.
- E. Total resolution time for cases in FY2012 was 146 days from receipt of the case in the Legal Division to the disposition of the case in the Legal Division, which has significantly decreased from last year's number of 182 days. Case resolution for pharmacists and pharmacies averaged 177 days and for pharmacy technicians averaged 115 days.
- F. The Division filed petitions to conduct a Temporary Suspension hearing for nine cases involving pharmacists and pharmacies in FY2012. Three temporary suspension petitions were granted, five were denied, and one hearing was cancelled because the respondent signed a voluntary revocation. Following the temporary suspensions, the cases were settled with disciplinary actions against the pharmacists' and/or pharmacies' licenses.

3. **To plan and conduct a minimum of 24 days of informal conference sessions in FY2012 to adjudicate violators of pharmacy laws/rules.**

Status: ACCOMPLISHED

Comment: During FY2012, the Division prepared for and conducted 38 days of Informal Conferences for 539 licensees/registrants and applicants, as indicated in the following charts. The number of licensees/registrants and applicants significantly increased in FY2012, from 451 licensees/registrants and applicants in FY2011.

LEGAL DIVISION

Informal Conferences for Pharmacies and Pharmacists

Dates of Informal Conferences	# of Days	# of Phy/RPh Licensees	# of Techs	# of Cases	# of Licensees Dismissed
9/6-9/8-2011	3	41	1	27	7
10/11-10/13-2011	3	38	0	26	1
10/20/2011	0.5	1	0	1	0
12/6-12/7-2011	1.5	20	1	14	1
12/12/2011	0.5	8	0	5	0
1/10-1/13-2012	3	40	2	27	6
1/19/2012	0.5	2	0	2	0
2/23/2012	0.5	2	1	1	0
3/6-3/8-2012	3	34	0	26	1
4/3-4/5-2012	3	28	0	21	2
4/17/2012	0.5	4	1	4	0
5/24/2012	0.5	1	0	1	0
6/12-6/14-2012	2.5	32	1	21	5
6/21/2012	0.5	4	0	3	0
7/10-7/12-2012	3	31	1	25	2
7/19/2012	0.5	7	4	3	0
TOTAL FY2012	26	293	12	207	25

Informal Conferences for Technicians/Technician Trainees

Dates of Informal Conferences	# of Days	# of Cases	Applicants	Registrants	No-shows	Defaults
9/22/2011	1	22	10	12	2	7
10/20/2011	1	24	8	16	4	9
11/17/2011	1	20	10	10	4	8
12/13/2011	1	13	5	8	1	3
1/19/2012	1	17	11	6	4	3
2/23/2012	1	18	13	5	4	2
3/22/2012	1	19	6	13	2	9
4/17/2012	1	28	12	16	5	10
5/24/2012	1	18	6	12	1	6
6/21/2012	1	16	4	12	2	6
7/19/2012	1	21	6	15	2	8
8/23/2012	1	18	6	12	1	11
TOTAL FY2012	12	234	97	137	32	82

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 the informal conference notebooks.

4. **To refer disciplinary cases to the State Office of Administrative Hearings (SOAH) throughout FY2012, and file a complaint with SOAH within an average of 150 days of the date that the agency determines the case cannot be settled with an Agreed Board Order.**

Status: ACCOMPLISHED

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Comment: This objective was accomplished through the following activities:

- A. At the onset of FY2012, nine respondent cases were ongoing following the filing of a complaint at the State Office of Administrative Hearings in FY2011 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 18 additional respondent cases in FY2012.
 - B. Seventeen respondent cases were resolved prior to a full contested administrative hearing being conducted at SOAH. All of the cases were resolved 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 2 respondents in FY2012. Proposals for Decision (PFD) were issued by the Administrative Law Judges against 3 respondents during FY2012. Five respondent cases were pending a hearing at the end of FY2012.
 - D. SOAH performed 120.4 hours of work on 18 cases for the TSBP in FY2012, totaling approximately \$15,597.55 in direct hearings expenses and \$18,081.94 in total case expenses. These SOAH hours are significantly decreased from the 196.1 hours of work on 18 cases in FY2011, primarily due to the large number of cases that were resolved through negotiation and mediation following the filing of the case at SOAH
- 5. To research legal issues and provide legal services and advice to the Board and agency staff; to provide legal services to the Enforcement and Administrative Services and Licensing Divisions regarding interpretation of the laws and rules and to the Division of Professional Services in the development of agency rules and publication of newsletters.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Legal Research and Advice on Agency Administration
 - (1) General Counsel developed new procedures for Board member access to information provided by TSBP to avoid problems with public information implications. These procedures included use and method of access to the TSBP email account.
 - (2) General Counsel served as Fraud Coordinator for the agency.
 - (3) Legal Program Specialist served as facilitator for the agency's Strategic Planning process. General Counsel also provided input into the process.
 - (4) General Counsel participated in meetings regarding Risk Assessment and provided recommendations in the development of the agency's Risk Management plan.

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- (5) General Counsel and Division staff provided legal advice and consultation on numerous personnel issues during FY2012, including:
 - (a) assisted with issues in various hiring/disciplinary processes and complaints against agency employees;
 - (b) advised regarding sick leave pool requests;
 - (c) provided legal advice regarding outside employment for agency staff;
 - (d) developed and reviewed performance plans and/or probation;
 - (e) interviewed applicants for new positions;
 - (f) assisted with resolution of complaints against agency employees; and
 - (g) reviewed policies in TSBP Employee Handbook.
- (8) General Counsel served as the agency's Ethics Advisor and continued to assist Board Members and staff with legal and ethical issues.
- (9) General Counsel consulted with other Division Directors regarding the evaluation of results of the Survey of Employee Engagement completed by agency staff.
- (10) General Counsel assisted in the review and preparation of minutes of four regularly-scheduled Board meetings.
- (11) General Counsel reviewed the contract proposal for the provider of drug screening for impaired pharmacists and pharmacy technicians and participated in the bid proposal process.
- (12) General Counsel participated in meetings with the State Auditor's Office regarding follow-up audit to the 2008 audit of TSBP's complaint process.

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.
- (2) General Counsel attended staff 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 numerous legal questions from all staff regarding a myriad of issues.
- (5) General Counsel reviewed numerous complaint files for pharmacists and pharmacies and provided guidance regarding the identification of violations and the resolution of the cases. In addition, General Counsel

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reviewed numerous complaint files on pharmacy technicians to determine type of violation and appropriate action, as previously determined by the Board.

- (6) Division staff made presentations at all Board meetings held in FY2012. Presentations included information about proposed Agreed Board Orders and proposed Board Orders following SOAH proceedings.
- (7) General Counsel participated in numerous meetings to resolve issues with a prescription sampling program.
- (8) Division staff informed the Enforcement staff of disciplinary actions to be taken by the Board prior to entry of the orders, to ensure the correct information is immediately available on the computer system.
- (9) Division staff assisted the Enforcement Division with issues involving the monitoring of impaired pharmacists, including legal consultation on handling of positive drug screens and interfacing with the PRN program and with the contractor providing alcohol/drug screening for Board-ordered participants.
- (10) Division staff drafted ineligibility letters for pharmacist applicants who did not qualify for licensure under the Texas Pharmacy Act.
- (11) Division staff redacted numerous files to comply with orders of expunction and of non-disclosure regarding criminal offenses.
- (12) Division staff assisted Compliance staff with questions during inspections and regarding follow-up issues.

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 FY2012.
- (2) General Counsel assisted the Division of Professional Services with requests for public information in clarifying requests and requesting assistance from the OAG.
- (3) General Counsel assisted with the continued implementation of the agency's social media presence (e.g., Facebook, Twitter, Mail Chimp) and development of policies to address the agency's use of social media.
- (4) General Counsel assisted the Director of Professional Services with the development of on-line training through the use of a webinar tool in various pharmacy practice-related issues, including pharmacy technician registration requirements and pharmacist-in-charge training.

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D. Legal Services for Licensing

- (1) Division staff assisted with recommendations on eligibility for licensure and registration, verified accuracy of warning letters, and handled cases through the legal process.
- (2) General Counsel reviewed requests for accommodation under the ADA for legal compliance.
- (3) General Counsel was consulted on procedural changes for pharmacies changing managing officers.

E. Other Legal Services regarding Pharmacy Issues

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

6. To review and monitor the Texas Register for Attorney General opinions; to draft requests for Attorney General Opinions throughout FY2012; to serve as liaison for the Board to the Office of the Attorney General (OAG); to monitor and assist with appeals, injunctions, or civil litigation handled by the OAG against pharmacists or non-pharmacists.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division staff reviewed new opinions of the Office of the Attorney General and the Texas Ethics Commission for applicability to TSBP and disseminated any relevant material to appropriate agency personnel.
- B. Liaison with the Office of Attorney General
 - (1) Division staff continued to serve as liaison with the OAG throughout FY2012. Ted Ross served as the Assistant Attorney 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 ordered to undergo a mental health evaluation in district court.

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- (b) General Counsel coordinated representation regarding temporary injunction and appeal of Board Order on an impaired pharmacist suspended in conjunction with an order in another state in district court and at the Third Court of Appeals
- (c) Division staff coordinated representation with OAG attorney regarding expunction of criminal matter also relevant to agency disciplinary action.
- (d) Division staff coordinated with OAG attorney regarding representation on an open records appeal at the Third Court of Appeals, which was ultimately decided in favor TSBP.

(3) Requests for AG Opinions

One request for open records was filed with the OAG, which was decided in favor the agency.

(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 FY2012, in accordance with the procedures set forth in the Texas Public Information Act.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. General Counsel reviewed written responses to open records requests, prepared by the Professional Services Division, for legal compliance with the Public Information Act in FY2012. In addition, the General Counsel assisted with clarifying certain open records requests requiring telephonic clarification, when legal issues were involved.
- B. Division staff handled requests for open records decisions for those open records requests that related to confidential information requiring a ruling from the OAG.

8. To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2012; 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 FY2012.

Status: ACCOMPLISHED

LEGAL DIVISION

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 attended meetings with the Director of the Professional Recovery Network to discuss the handling of cases involving impaired pharmacists and pharmacy technicians.
- (2) Division staff attended Public Service Career Day at the University of Texas School of Law.
- (3) General Counsel participated in meetings and other communications with the FDA Centers for Veterinary Medicine regarding compounding of veterinary drugs.
- (4) General Counsel attended meeting with representatives of DPS regarding the implementation of the Prescription Drug Monitoring Program.
- (5) General Counsel reviewed proposed rules of Texas Medical Board prior stakeholder meetings. Division staff coordinated with the Texas Medical Board regarding the prosecution of pill mill cases.
- (6) General Counsel attended monthly meetings of the Statewide Information Privacy Advisory Council.
- (7) General Counsel and Division staff participated in planning meetings with DEA, DPS, the Texas Medical Board and other law enforcement and prosecutorial agencies regarding enforcement of laws against pill mills in the Houston area.
- (8) Division staff assisted FDA special agent with production of records for prosecution of pharmacy case.
- (9) Division staff consulted with DSHS regarding a pharmacist's refusal to fill a prescription.

D. Technical Assistance to the Legislature

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

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E. Technical Assistance to the Press and the Public

- (1) Division staff answered numerous telephone calls from pharmacist and pharmacy technician applicants and licensees/registrants regarding the application process and the associated disciplinary process, including providing information about denial of registration and options for Informal Conference.
- (2) Division staff answered numerous questions from licensees, attorneys, and other members of the public regarding legal issues, including:
 - (a) licensing eligibility and requirements;
 - (b) effect of convictions and deferred adjudications and/or probation for various crimes on registration and licensure;
 - (c) applicability of pharmacy laws and rules; and
 - (d) schedules for resolution of pending cases.
- (3) Division staff participated in UT Law School Government Interest Table Talk presentation.
- (4) General Counsel and Division staff, along with the Director of Professional Services and the Assistant Director of Enforcement, planned and conducted a one day seminar for pharmacy technicians, which included several mock informal conferences.
- (5) General Counsel and Division staff, along with the Director of Professional Services, developed and produced a training video on patient counseling requirements.
- (6) Division staff participated in meetings of the State Agency Council.
- (7) Division staff assisted the Texas Dental Association with legal questions.

9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2012.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. General Counsel participated in the HPC Legal Committee, which includes attorneys from other agencies, to discuss problems identified with the State Office of Administrative Hearings' handling of legal cases for HPC agencies. General Counsel drafted suggested rules for SOAH's consideration to address the most common and egregious problems. General Counsel and Division staff participated extensively in the development of the petition for rulemaking to accompany the proposed rules. The rules were submitted to SOAH, which declined to adopt the rules but did make concessions to consider implementation of suggestions presented regarding proposed sanctions by the Administrative Law Judges.

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- B. General Counsel and Division staff assisted HPC staff with the implementation of the regulatory database system.

10. To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2012.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

In FY2012, Division staff attended general staff meetings and in-house training sessions. In addition, Division attorneys attended required continuing legal education, and Division staff attended various programs, seminars, and events. Division staff also developed and planned for the staff training program on team building.

11. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2012.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division staff was evaluated on an annual basis, as required by agency policy.
- B. General Counsel conducted team meetings approximately once a month with Division staff.
- C. Division staff began the hiring process for a new litigation attorney, 2 new staff attorneys, and two new legal assistants during FY2012. In addition, Division staff planned extensively for incorporating the office space of 2 newly appropriated positions in the existing office space.
- D. Division staff interviewed for and had one legal intern during the fall of 2011 and one during the summer of 2012 to provide assistance with the preparation of legal cases.
- E. General Counsel and/or Division staff prepared and conducted orientations of all new TSBP employees and interns during FY2012 regarding the Legal Division, the disciplinary process, ethics, and Public Information and Open Meetings Acts.

12. To destroy records in accordance with the agency's record retention plan throughout FY2012; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2012.

Status: ACCOMPLISHED

LEGAL DIVISION

Comment: This objective was partially accomplished as follows:

A. Records Management

During FY2012, 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 and ABOs.
- (3) Division staff drafted and/or updated written policies and procedures for handling of cases to provide reference and training material for the Division positions.
- (4) General Counsel and Division staff completely revised the preparation of for pharmacists and pharmacies. This arduous project included standardizing all ABO language, simplifying ABO forms, and creating a menu-driven form book that allows for quick creation of ABOs from standardized language. This project is expected to save the Legal Assistants significant time and effort in preparation of ABOs.

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 FY2012.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- A. Division staff significantly increased the public's accessibility to information about disciplinary actions taken against licensees and registrants by continuing 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 action to the prior orders.
- B. Division staff developed and improved on new processes for 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. General Counsel served as co-chair on the agency's Wellness Committee, and coordinated the Maintain No Gain and developed other fitness challenge

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programs, including “Step into Fitness (10,000 steps a day),” “Just Tri It (mock triathlon for time worked out),” “Race across Texas (total number of miles covered).” 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. General Counsel and Director of Professional Services also worked to have the agency received the designation of Mother Friendly worksite and received a grant to implement the program.

- E. Division staff developed Calendar of Events for FY2012 for informal conferences and reserved conference rooms accordingly.
- F. General Counsel reviewed expenditures of seizure money for compliance with laws and policies.
- G. Division staff updated automatically generated letterhead which resulted in significantly reduced printing costs.
- H. Division staff continued to participate extensively in implementation and transition to new licensing and disciplinary database system.
- I. General Counsel and Division staff developed 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.
- K. Texas Pharmacy Act

General Counsel submitted numerous changes to the Pharmacy Act for approval by the TSBP regarding disciplinary and legal proceedings for the legislative session.
- L. Board Rules
 - (1) General Counsel drafted rule changes to disciplinary guidelines and disciplinary sanctions for all licensees, and reviewed and recommended modifications for rules changes presented to the Board.
 - (2) Division staff suggested new rules regarding pleadings at the State Office of Administrative Hearings, professional responsibility, default proceedings, and patient counseling.

14. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2011 Annual Report* and submit to the Executive Director by the due date.

Status: ACCOMPLISHED

Comment: The Division's first draft of the *FY2011 Annual Report* was submitted to the Executive Director by the due date.