



Donna Burkett Rogers, M.S., R.Ph.
President

Gay Dodson, R.Ph.
Executive Director/Secretary

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Annual Report FY2002



Board Mission

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

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BOARD MEMBERS

Donna Burkett Rogers, M.S., R.Ph.
President
San Antonio
10/27/97-08/31/03

Rosemary Forester Combs
Public Member
El Paso
11/10/99-8/31/05

Roger W. Anderson, Dr.P.H., R.Ph.
Vice President
Houston
11/10/99-8/31/05

Doyle E. High, R.Ph.
Haskell
12/19/01-08/31/07

Wiki Erickson, M.A.
Treasurer
Public Member
Waco
10/27/97-08/31/03

Angela S. Myres
Public Member
Kingwood
12/19/01-7/19/02

W. Michael Brimberry, R.Ph., MBA
Austin
12/19/01-8/31/07

Oren M. Peacock, Jr., R.Ph.
Sachse
11/10/99-8/31/05

Kim A. Caldwell, R.Ph.
Plano
10/27/97-08/31/03

STAFF

Office of the Executive Director

Executive Director

Gay Dodson, R.Ph.

Executive Assistant

Kay Wilson, C.P.S.

Administrative Services & Licensing

Division Director

Cathy Stella, P.H.R.

Purchaser

Darlene Guthrie

Staff Services Officer II

Robbi Dana

Web Technician

Todd Hayek

Network Manager

Steve Rapp

Receptionist

Estella Casarez

Chief Accountant

Jane Bennett

Licensing Specialists

Lisa Ake

Rachel Glass

René Howard

Melinda Uballe

Accountant II

Mary Helen Oviedo

Accountant III

Sandra Morton

Professional Services

Division Director

Steve Morse, R.Ph.

Administrative Assistant

Retta Cole

Note: The organizational structure reflects the organization as of August 31, 2002.

STAFF

Legal

General Counsel

Kerstin Arnold, J.D.

Assistant General Counsel

Julie Hildebrand, J.D.

Lori Tullos Barta, J.D.

Legal Assistants

Georgienne Nassauer

Cheryl Sepulveda

Enforcement

Division Director

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

Assistant Director

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

Chief Investigator

Joe Lewis

Chief Compliance Officer

Cy Weich, R.Ph.

Staff Compliance Officers

Milton Jez, R.Ph.

Ben Santana, R.Ph.

Enforcement Specialist

Janelle Nastri

Enforcement Officers

Sarah Guevara

Amy Shroeder

Senior Administrative Assistant

Sherry Stevenson, C.P.S.

Investigators

Anita Arnet

Dwayne Darter

Robert Ebrom

Wayne Jones

Richard Klemme

In-House Investigator

Melissa Weeden

Compliance Officers

Mike Ethridge, R.Ph.

Iona Grant, R.Ph.

Heidi Holmes, R.Ph.

Richard Thompson, R.Ph.

Compliance Specialist

Carol Willess

Administrative Assistants

Patty Galan

Angela Hicks

Diane Torres

Note: The organizational structure reflects the organization as of August 31, 2002.

BOARD-APPOINTED TASK FORCES

The Board views the role of its task forces as an invaluable tool in addressing the complexities of pharmacy regulation. Great care is taken to ensure that membership of these task forces is representative of the diversity of experience in pharmacy that exists today. The Board would like to thank the following individuals for their service on task forces in FY2002.

Task Force on Technician Registration

Jim Cousineau, R.Ph. (Chair), Tyler
Debbie Garza, R.Ph. (Interim Chair), Austin
Jennifer Taylor Fix, R.Ph., Haltom City
Madeline Jensen, B.S., Ed., CPhT, Galveston
Patricia Meier, R.Ph., Burleson
Larry C. Nesmith, CPhT, San Antonio
Denise Quintanilla, CPhT, Austin
Ryan Roux, M.S., Pharm.D., Houston
Chad Simpson, R.Ph., Amarillo

Legislative Liaisons

Mario Villafranca, Austin
Velma Cruz-Silva, Austin

Board Member Liaisons

Wiki Erickson, M.A., Waco
Doyle High, R.Ph., Haskell

FY2001 ANNUAL REPORT

(September 1, 2001 - August 31, 2002)

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 (FY2001-2005)

1. We will establish and implement reasonable standards for pharmacist education and practice, and for the operations of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas.
2. 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 unprofessional conduct, fraud, and misrepresentation, and to prevent the misuse, abuse, and diversion of prescription drugs from pharmacies.
3. We will establish and carry out policies governing purchasing and public works contracting that foster meaningful and substantive inclusion of historically underutilized businesses.

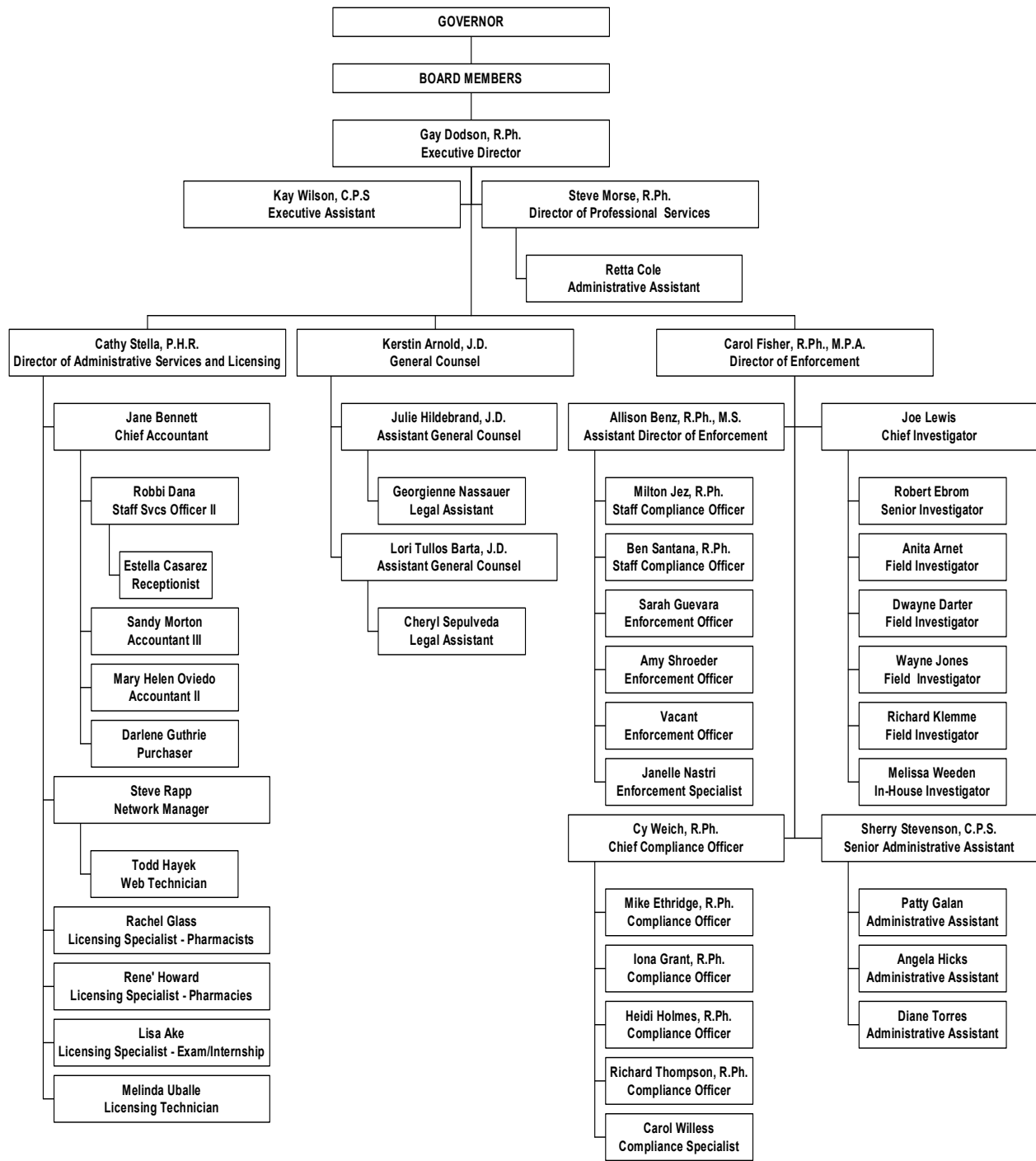
BOARD STRUCTURE

The Board's functional structure at the end of FY2002 was composed of the Office of the Executive Director and four Divisions:

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

TEXAS STATE BOARD OF PHARMACY

FISCAL YEAR 2002



FY2002 FISCAL REPORT

The following represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2002 (September 1, 2001 - August 31, 2002). 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 *"FY02 Annual Financial Report."*

The agency ended its fiscal year with an unexpended balance of approximately \$57,590, or 1.74% under budget. The primary source of this unexpended balance was in salaries, which was \$23,104 under budget. In addition, travel for Board and Staff resulted in a total of \$8,895 of remaining free budget, which was the result of travel funds not spent in staff service and Board Member in-state conference travel. Finally, it is important to note that \$3,870 was unspent from Board Member Compensatory Per Diem and this amount could not be spent on general operating expenditures.

FINANCIAL STATEMENT — FISCAL YEAR 2002
September 1, 2001 - August 31, 2002

| | BUDGETED | EXPENDED | REMAINING BUDGET | PERCENT REMAINING |
|--|------------|------------|---------------------|----------------------|
| 1008 Professional Fees | 126,698.00 | 126,618.82 | 79.18 | 0.06% |
| 1009 Professional Fees | 8,774.00 | 0.00 | 8,774.00 | 100.00% |
| 3002 Gas, Other Fuels & Lubricants | 9,911.00 | 8,327.01 | 1,583.99 | 15.98% |
| 3003 Vehicles - Maintenance | 9,652.00 | 8,566.77 | 1,085.23 | 11.24% |
| 3004 Consumable Supplies & Materials | 23,181.00 | 22,788.76 | 392.24 | 1.69% |
| 3005 Postage | 40,962.00 | 38,131.96 | 2,830.04 | 6.91% |
| 3006 Telephone | 40,178.00 | 38,742.80 | 1,435.20 | 3.57% |
| 3014 Subscriptions | 10,681.00 | 10,678.41 | 2.59 | 0.02% |
| 3015 Postage - Newsletter | 27,400.00 | 27,400.00 | 0.00 | 0.00% |
| 3018 Travel - Board Members (Service) | 20,424.00 | 16,542.96 | 3,881.04 | 19.00% |
| 3019 Travel - Bd Members Conference | 10,000.00 | 4,985.61 | 5,014.39 | 50.14% |
| 3020 Travel - Bd Members (Conf Out of State) | 6,973.00 | 6,511.85 | 461.15 | 6.61% |
| 3027 Travel - State Vehicle | 1,085.77 | 1,085.77 | 0.00 | 0.00% |
| 3028 Travel - Staff (Service) | 67,914.17 | 67,914.17 | 0.00 | 0.00% |
| 3037 Travel - Conf - State Vehicle | 82.65 | 82.65 | 0.00 | 0.00% |
| 3038 Travel - Staff (Conference) | 18,363.83 | 18,363.83 | 0.00 | 0.00% |
| 3039 Travel - Staff (Conf Out of State) | 3,069.06 | 3,069.06 | 0.00 | 0.00% |
| 3516 Membership Fees & Dues | 3,150.00 | 3,150.00 | 0.00 | 0.00% |
| 3518 Administrative Support Service | 49,573.56 | 45,633.53 | 3,940.03 | 7.95% |
| 3520 Witness Expense | 0.00 | 0.00 | 0.00 | 0.00% |
| 3521 Criminal Investigative Expense | 1,000.00 | 477.63 | 522.37 | 52.24% |
| 3534 Freight & Delivery Service | 2,866.00 | 2,552.49 | 313.51 | 10.94% |
| 3535 Maint & Repair - Furn & Equip | 7,369.00 | 7,350.59 | 18.41 | 0.25% |
| 3536 Rental of Furn & Equip | 13,757.00 | 13,726.33 | 30.67 | 0.22% |
| 3537 Rental of Space | 4,064.00 | 3,767.88 | 296.12 | 7.29% |
| 3538 Bonds & Insurance | 8,683.44 | 7,183.68 | 1,499.76 | 17.27% |
| 3540 Reproduction & Printing | 31,811.70 | 26,419.95 | 5,391.75 | 16.95% |
| 3541 Printing Newsletter | 35,070.00 | 32,399.95 | 2,670.05 | 7.61% |

FINANCIAL STATEMENT - FISCAL YEAR 2002

| | BUDGETED | EXPENDED | REMAINING BUDGET | PERCENT REMAINING |
|--|---------------------|---------------------|-----------------------------|------------------------------|
| 3542 Printing - Law Book | 77,315.00 | 77,210.00 | 105.00 | 0.14% |
| 3545 Computer Expenses (Northrop) | 223,026.06 | 223,026.06 | 0.00 | 0.00% |
| 3570 Registration Fees | 24,130.00 | 24,130.00 | 0.00 | 0.00% |
| 3571 Board Member Registration | 6,125.00 | 5,380.00 | 745.00 | 12.16% |
| 3581 Furn & Equip - Not Inventoried | 14,999.05 | 14,999.05 | 0.00 | 0.00% |
| 3582 Furn & Equip Under \$5000 | 821.00 | 821.00 | 0.00 | 0.00% |
| 3584 Software - Not Capitalized | 14,936.00 | 14,936.00 | 0.00 | 0.00% |
| 3585 Software - Capitalized (over \$5000) | 0.00 | 0.00 | 0.00 | 0.00% |
| 3586 Computer Equip / Not Inventoried | 4,901.00 | 3,951.00 | 950.00 | 19.38% |
| 3587 Computer Equip / Capitalized-Capital Bldg | 15,359.00 | 15,359.00 | 0.00 | 0.00% |
| 3588 Books & Recorded Materials | 2,343.00 | 2,116.71 | 226.29 | 9.66% |
| 3589 Remodeling | 0.00 | 0.00 | 0.00 | 0.00% |
| 3590 Miscellaneous (HPC transfer) | 34,188.06 | 34,188.06 | 0.00 | 0.00% |
| 3595 Awards | 544.88 | 532.61 | 12.27 | 2.25% |
| 5001 Purchase of Vehicles | 30,000.00 | 29,578.00 | 422.00 | 1.41% |
| 7001 Exempt Salaries | 70,000.00 | 69,999.96 | 0.04 | 0.00% |
| 7002 Classified Salaries - Full Time | 1,987,864.74 | 1,964,760.23 | 23,104.51 | 1.16% |
| 7017 One-Time Merit | 14,058.45 | 14,058.45 | 0.00 | 0.00% |
| 7020 Hazardous Pay | 1,939.00 | 1,939.00 | 0.00 | 0.00% |
| 7021 Overtime | 7,254.46 | 7,254.46 | 0.00 | 0.00% |
| 7022 Longevity | 29,920.00 | 29,920.00 | 0.00 | 0.00% |
| 7023 Lump Sum Payment | 11,681.28 | 11,681.28 | 0.00 | 0.00% |
| 7025 Compensatory Per Diem | 9,450.00 | 5,580.00 | 3,870.00 | 40.95% |
| 7047 Retention Bonus | 30,000.00 | 30,000.00 | 0.00 | 0.00% |
| 7219 Subscription Fee - Profile | 67,610.00 | 63,360.00 | 4,250.00 | 6.29% |
| 7947 State Office of Risk Management | 39,203.41 | 39,203.41 | 0.00 | 0.00% |
| TOTAL | 3,300,363.57 | 3,226,456.74 | 73,906.83 | 2.24% |

EXECUTIVE DIRECTOR SUMMARY

This FY2002 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.

Numerous accomplishments were achieved by TSBP staff which are highlighted at the beginning of each division report. Although specific activities are highlighted under each division director's objectives, TSBP experienced the following major accomplishments and constraints in FY2002.

FY2002 SIGNIFICANT ACCOMPLISHMENTS

1. During FY2002, the agency accomplished or partially accomplished 100% of its 111 objectives [105 accomplished (95%) and 6 partially accomplished (5%)]. The agency also met or exceeded (within a 5% variance) 73% of its 11 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board as indicated below. It should be noted that the two cost measures (Average Cost of Issuing an Individual and Facility License) were not met because of the passage of S.B. 187 by the 77th Legislature. This bill mandated the agency to charge each licensee a subscription fee of \$10, payable to the Texas Online Authority. Targets for this performance measure were established before passage of this legislation.
2. TSBP met all of the deadlines for adoption of rules established in the following bills. Specifics for implementation of the bills are as follows.
 - A. S.B. 768
 - Dispensing Directive for Generic Substitution (Legislative Deadline: Rules must be adopted to become effective on June 1, 2002). The rules became effective on June 1, 2002.
 - Emergency Medication Kits for Nursing Homes (Legislative Deadline: Rules must be adopted by February 28, 2002). The rules became effective on December 19, 2001.
 - B. S.B. 98 - Automated Pharmacy System (Legislative Deadline: Rules must be adopted by February 28, 2002). The rules became effective on December 19, 2001.
 - C. S.B. 65 - Telepharmacy System (Legislative Deadline: Rules must be adopted by February 28, 2002) . The rules became effective on December 19, 2001.
 - D. H.B. 99 - Internet Pharmacy (Legislative Deadline: Rules must be adopted by February 28, 2002). The rules became effective on December 19, 2001.
 - E. H.B. 2408 - Health Professions Council study of complaint procedures (Legislative Deadline: Report due January 1, 2003). Carol Fisher, Director of Enforcement, served as chair of the HPC committee that conducted the study and drafted the report. The final draft report is in process and should be completed by December 2002.
 - F. S.B. 187 - Online renewal of licenses - (Legislative Deadline: Rules must be adopted by January 1, 2002). The rules became effective on December 19, 2001.
 - G. H.B. 609 - Internal audit program (Legislative Deadlines: (1) Contract with internal auditor must be signed by January 1, 2002; (2) audit report due October 31, 2002). The audit plan was approved by the Executive Committee on April 14, 2002.
3. The agency produced and published the Board's pharmacy law manual in a new format that will be updated every year rather than every two years. Included in the publication was a searchable CD-Rom version of the

EXECUTIVE DIRECTOR SUMMARY

pharmacy law manual which has proven to be extremely useful to those researching specific topics.

4. The agency received and closed more complaints in FY2002 than it did during the prior four fiscal years and reduced the average resolution time by over 15% from FY2001, as indicated in the chart below:

| Fiscal Year | Complaints Received | % Change Complaints Received Previous Year | Complaints Closed | % Change Complaints Closed Previous Year | % Complaints Closed | Resolution Time (Agency Average) | % Change Time |
|-------------|---------------------|--|-------------------|--|---------------------|----------------------------------|---------------|
| FY98 | 1314 | | 1504 | | 114% | 222 Days | |
| FY99 | 1533 | +17% | 1335 | -11% | 87% | 221 Days | -0.45% |
| FY00 | 1577 | +3% | 1513 | +13% | 96% | 220 Days | -0.45% |
| FY01 | 1683 | +7% | 1667 | +10% | 99% | 262 Days | +19.00% |
| FY02 | 1836 | +9% | 2137 | +28% | 116% | 221 Days | -15.65% |

5. TSBP entered significantly more disciplinary orders in FY2002 than in FY2001. As indicated in the chart below, 98.9% of the disciplinary cases were settled through the entry of Agreed Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and costs.

| Fiscal Year | Number of Board Orders (BOs) | Number of Agreed Board Orders (ABOs) | Number of Disciplinary Orders (BOs & ABOs) | % ABOs of Total Orders |
|--------------|------------------------------|--------------------------------------|--|-------------------------|
| FY98 | 5 | 179 | 184 | 97.3% |
| FY99 | 0 | 108 | 108 | 100% |
| FY00 | 0 | 126 | 126 | 100% |
| FY01 | 4 | 141 | 145 | 97% |
| FY02 | 2 | 179 | 181 | 98.9% |
| Total | 11 | 733 | 744 | 5 Yr. Avg. 98.6% |

6. The following TSBP Board Members were appointed to offices, received honors, or received recognition in FY2002:
- A. Ms. Erickson was appointed to the NABP Committee on Constitution and Bylaws.
 - B. Mr. Caldwell was appointed to the NABP Task Force on Electronic Transmission of Prescriptions.
 - C. Ms. Rogers served as the NABP/AACP District VI representative on the NABP Resolutions Committee.
 - D. Ms. Erickson completed her Master of Arts degree.
 - E. Dr. Anderson was designated as the 17th John Webb Visiting Professor in Hospital Pharmacy by the Bouve College of Pharmacy and Health Sciences, Northeastern University, and the

EXECUTIVE DIRECTOR SUMMARY

Massachusetts Society of Health-System Pharmacists.

7. The following TSBP staff were appointed to offices, received honors, or received recognition in FY2002:
 - A. The Executive Director served as Chair of the NABP Task Force on Privacy and Confidentiality.

FY2002 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Agency staff gave 32 presentations to approximately 3,115 individuals in FY2002.
2. Enforcement Division staff discovered that numerous pharmacies had not submitted professional liability reports as required by law. After the pharmacies were contacted, TSBP received a large number of late reports. Accordingly, TSBP received over 300 malpractice reports in FY2002, as compared to about 50 reports in FY2001 (500% increase in one year).
3. Enforcement Division staff continued to spend significant time/efforts monitoring compliance with the terms of disciplinary orders that were entered by TSBP in FY2002. A large number (144 disciplinary orders or 80% of the total number of disciplinary orders entered in FY2002) required some type of intensive monitoring. Many of the disciplinary orders required the licensee to submit policies and procedures (e.g., Quality Assurance Programs including peer review procedures).
4. The Licensing workload has increased significantly, both in terms of new and existing projects/requirements. New, completed projects during this fiscal year included:
 - A. Department of Information Resources Benchmarking Study - the Licensing staff participated in a lengthy benchmarking exercise designed to help capture information to assess the impact of placing services (i.e., pharmacist license renewal) on TexasOnline.
 - B. Preceptor Certification Project - approximately 3,000 pharmacist preceptor certification expiration dates were changed to coincide with their license renewal period;
 - C. Pharmacist and Pharmacy Profile Bill - agency began allocation and payment of \$10 subscription fee per license to the Department of Information Resources (DIR) in March 2002;
 - D. Development/testing of Pharmacist Online license renewal system;
 - E. Pharmacist Imaging Project - approximately one-third of all pharmacist files have been imaged; and
 - F. New Remote Pharmacy Services Registration Program - approximately 1,000 remote pharmacy services certificates issued.
5. Workload constraints continue to hamper all agency employees, as requests for information from customers grow. The agency responded to 24,714 requests for information, both written and electronic. The electronic requests for information are growing rapidly, and will inevitably slow down the agency's response time in other areas.

FY2002 GOALS AND OBJECTIVES

OFFICE OF THE EXECUTIVE DIRECTOR

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 assist and participate with the Board in updating and preparing the TSBP *Strategic Plan* for the FY2003-2007 period and submit the plan to the Governor's Office of Budget and Planning and Legislative Budget Board by the due date.

Status: ACCOMPLISHED

Comment: In developing the FY2003-2007 *Strategic Plan*, Board Members and agency staff conducted an internal and external assessment of the agency specifically looking at trends and issues expected to have the most significant impact on the profession and regulation of the practice of pharmacy. The internal review consisted of a comprehensive review of the last *Strategic Plan*, specifically looking for changes, new issues, and updates that needed to be addressed in the 2003-2007 *Strategic Plan*. For the external review, the agency solicited comments from Board customers and other interested parties. All of the comments from these two assessments were reviewed by the Board at the November 19, 2001, Board meeting. At this meeting, the Board determined that the policy issues included in the previous strategic plan were the issues that needed to be covered in the new strategic plan. The Board Members identified areas for change and addition in these four policy statements and a Board Member(s) and staff member were assigned to work on the statements as follows:

Policy Issue #1 - *The Changing Focus of Pharmacy* (Board Member Roger W. Anderson, Dr.P.H., R.Ph., and staff member Gay Dodson, R.Ph.)

Policy Issue #2 - *Increased Use of Technology in the Practice of Pharmacy* (Board Members Kim A. Caldwell, R.Ph., and Oren M. Peacock, Jr., R.Ph., and staff member Steve Morse, R.Ph.)

Policy Issue #3 - *Pharmacy Personnel and Working Conditions* (Board Member Donna Rogers, R.Ph., M.B.A., and staff member Allison Benz, R.Ph., M.S.)

Policy Issue #4 - *To Maintain the Agency's Leadership Position in Pharmacy Practice Regulation and Establish a Key Leadership Position for Addressing Public Needs* (Board Members Rosemary F. Combs and Doyle E. High, R.Ph., and staff member Cathy Stella, P.H.R.)

The Board reviewed the updated drafts of the issue statements at the February 5-6, 2002, meeting and made suggestions for changes. The final draft of the FY2003-2007 *Strategic Plan* was approved by the Board at the May 7-8, 2002, meeting. The plan was submitted to the Governor's Office of Budget and Planning and Legislative Budget Board by the June 3, 2002, due date.

EXECUTIVE DIRECTOR

2. To direct the preparation of a proposed budget for the FY2004-2005 biennium for review and approval by the Board at the 2002 Board Budget Meeting.

Status: **ACCOMPLISHED**

Comment: At the February 5-6, 2002, meeting, the Board directed the Executive Committee to serve as the Budget Committee and develop a proposed budget for the 2004-2005 biennium based on the strategic plan. The Executive Committee met on April 13, 2002, to review the draft budget request from staff. The Executive Committee made suggestions for improvement of the request to be presented to the full Board at their next Board meeting. At the May 7-8, 2002, meeting the Board Members approved the FY2004-2005 budget.

3. To direct the submission of the agency's FY2004-2005 *Legislative Appropriation Request* and corresponding performance measures by the due date.

Status: **ACCOMPLISHED**

Comment: The FY2004-2005 Legislative Budget Appropriation Request was submitted to the Governor's Office of Budget and Planning and Legislative Budget Board by the August 2, 2002, due date.

4. To review and implement legislation passed by the 77th Legislature that affects agency operations and/or the practice of pharmacy throughout FY2002, including the following:

- A. S.B. 768 relating to pharmacist continuing education; emergency medication kits in nursing homes; and development of a "Dispensing Directive" for generic substitution on prescriptions;
- B. S.B. 98 relating to the provision of pharmacy services in a nursing home through an automated pharmacy system;
- C. S.B. 65 relating to the provision of pharmacy services in a rural health clinic through a telepharmacy system;
- D. H.B. 99 relating to the adoption of rules regarding the sale and delivery of drugs by use of electronic media;
- E. S.B. 753 regarding amendments to the Texas Controlled Substances Act;
- F. H.B. 2408 relating to a study by the Health Professions Council (HPC) of the complaint procedures of certain health care regulatory entities;
- G. S.B. 187 relating to government services provided through online systems;
- H. H.B. 609 relating to establishing an internal audit program; and
- I. S.B. 645 relating to the establishment of an electronic system for occupational licensing transactions.

Status: **ACCOMPLISHED**

EXECUTIVE DIRECTOR

Comment: TSBP met all of the deadlines for adoption of rules established in the bills listed above. Specifics for implementation of the bills are as follows.

A. S.B. 768

- Dispensing Directive for Generic Substitution (Legislative Deadline: Rules must be adopted to become effective on June 1, 2002)
 - On October 16, 2001, TSBP convened a meeting with representatives from professional associations and licensing agencies that are involved in dispensing and prescribing prescription drugs and representatives of the legislators who sponsored the bill. The attendees at this meeting developed recommendations for rules concerning implementation of S.B. 768. Board Member Kim A. Caldwell, R.Ph., served as chair at the meeting.
 - The recommendations from the meeting were presented to the Board at the November 13-14, 2001, meeting. At this meeting, the Board voted to propose rules based on these recommendations.
 - The rules were published in the December 28, 2001, issue of the *Texas Register*.
 - A public hearing on the rules was held on February 5, 2002, and the Board adopted the rules at this meeting.
 - The rules became effective on June 1, 2002.
- Emergency Medication Kits for Nursing Homes (Legislative Deadline: Rules must be adopted by February 28, 2002)
 - The Board established a task force to assist in implementation of this bill. The task force met on June 27, 2001.
 - The task force presented its report to the Board at the August 2001 meeting. At this meeting, the Board voted to propose rules.
 - A public hearing on the rules was held on November 13, 2001, and the Board adopted the rules at this meeting.
 - The rules became effective on December 19, 2001.

B. S.B. 98 - Automated Pharmacy System (Legislative Deadline: Rules must be adopted by February 28, 2002)

- The Board established a task force to assist in implementation of this bill. The task force met on June 27, 2001.
- The task force presented its report to the Board at the August 2001 meeting. At this meeting, the Board voted to propose rules.
- A public hearing on the rules was held on November 13, 2001, and the Board

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adopted the rules at this meeting.

- The rules became effective on December 19, 2001.

C. S.B. 65 - Telepharmacy System (Legislative Deadline: Rules must be adopted by February 28, 2002)

- The Board established a task force to assist in implementation of this bill. The task force met on June 28, 2001.
- The task force presented its report to the Board at the August 2001 meeting. At this meeting, the Board voted to propose rules.
- A public hearing on the rules was held on November 13, 2001, and the Board adopted the rules at this meeting.
- The rules became effective on December 19, 2001.

D. H.B. 99 - Internet Pharmacy (Legislative Deadline: Rules must be adopted by February 28, 2002)

- The Board voted to propose rules at the August 2001 meeting and the rules were published as proposed in the September 14, 2001, issue of the *Texas Register*.
- A public hearing on the rules was held at the November 13, 2001, meeting, and the Board adopted the rules at this meeting.
- The rules became effective on December 19, 2001.

E. S.B. 753 - Amendments to the Texas Controlled Substances Act

- TSBP notified pharmacists of changes to the Texas Controlled Substances Act in the *Summer 2001 TSBP Newsletter*.
- The 2002 edition of the pharmacy law manual contained an updated version of the Controlled Substances Act.

F. H.B. 2408 - Health Professions Council study of complaint procedures (Legislative Deadline: Report due January 1, 2003)

- Carol Fisher, Director of Enforcement, served as chair of the HPC committee that conducted the study and drafted the report.
- The final draft report will be completed by December 2002.

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- G. S.B. 187 - Online renewal of licenses - (Legislative Deadline: Rules must be adopted by January 1, 2002)
- Rules were approved for proposal at the August 2001 Board Meeting and published in the September 14, 2001, issue of the *Texas Register*.
 - A public hearing was held on November 13, 2001, and the rules were adopted by the Board at this meeting.
 - The rules became effective on December 19, 2001.
- H. H.B. 609 - Internal audit program (Legislative Deadlines: (1) Contract with internal auditor must be signed by January 1, 2002; (2) audit report due October 31, 2002)
- At the November 2001 meeting, the Board directed the Executive Committee to review the proposals and choose an internal auditor. The Executive Committee selected Porterfield and Associates to be the TSBP internal auditor, and the contract was signed by the due date.
 - The audit plan was approved by the Executive Committee on April 14, 2002.
- I. S.B. 645 - Electronic system for occupational licensing transactions
- TSBP signed a contract to establish an online renewal system for pharmacy and pharmacist licenses. Testing was conducted in July 2002, and the system will be online during FY2003.

5. To coordinate and participate in the orientation of newly-appointed Board Members within 90 days of their appointment by the Governor.

Status: ACCOMPLISHED

Comment: On December 19, 2001, Governor Rick Perry appointed W. Michael Brimberry, R.Ph., and Angela S. Myres, and reappointed Doyle E. High, R.Ph., to serve as Board Members through August 31, 2007. Orientation for the two new Board Members was conducted on January 24-25, 2002.

6. To direct the implementation of a registry of Certified Pharmacy Technicians in Texas.

Status: PARTIALLY ACCOMPLISHED

Comment: During the 1999 Legislative Session, S.B. 730 was passed, which required TSBP to begin registering pharmacy technicians on September 1, 2001. Because the registration of pharmacy technicians was not scheduled to occur during the FY2000-2001 biennium, the Legislature did not appropriate additional funds to the agency to implement this mandate. Funding needs therefore, were identified in the agency's Legislative Appropriation Request for FY2002-2003. During the 2001 Legislative Session, the Senate Finance Committee voted to fund this critical program.

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However, the House Appropriations Committee received testimony indicating that the intent of the legislation passed in 1999 was to create a simple registry rather than the registration with disciplinary authority contained in S.B. 730. After this testimony, the House Appropriations Committee voted to not give the agency any additional funding or resources, and the Conference Committee concurred.

In FY2002, TSBP formed a task force composed of individuals representing the Texas pharmacy professional associations and interested legislators. The task force was charged with making recommendations regarding the registration of pharmacy technicians, including any suggested changes in the Pharmacy Act. The task force met on March 4, 2002, and June 14, 2002. The recommendations of the task force were presented to the Board of Pharmacy at the August 2002 meeting. Included in these recommendations was that the *“registration of pharmacy technicians should proceed in the manner outlined in S.B. 730, Acts of the 76th Legislature, including authority for the TSBP to discipline a pharmacy technician.”*

7. To survey agency customers regarding the quality of service delivered by the agency as specified in Chapter 2113 of the Government Code and report the results of the survey to the Legislative Budget Board and the Governor's Office of Budget and Planning by June 1, 2002.

Status: ACCOMPLISHED

Comment: Director of Enforcement Carol Fisher, worked with Ashish Patel, R.Ph., a graduate student in the University of Texas College of Pharmacy, to conduct a customer service survey in the fall of 2001. Ms. Dodson and Ms. Fisher also analyzed the results and read all comments written on the surveys, and Ms. Fisher summarized all suggestions for improvement. The analysis of the survey results and the summary of suggestions was presented to the Board at its May 2002 meeting. Management staff of the agency worked to implement/accomplish many of the suggestions. The report of the survey was submitted to the Governor and Legislative Budget Board in compliance with Chapter 2113 of the Government Code by due date.

Objectives (Ongoing)

1. To manage and monitor the agency's performance and operational efficiency throughout FY2002 and to submit the FY2001 Annual Report of the agency accomplishments to the Board at the May 2002 meeting.

Status: ACCOMPLISHED

Comment: The agency accomplished or partially accomplished 100% of its 111 objectives [105 accomplished (95%) and 6 partially accomplished (5%)]. The agency also met or exceeded 73% of its 11 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board as indicated below. The two cost measures (Average Cost of Issuing an Individual and Facility License) were not met because of the passage of S.B. 187 by the 77th Legislature. This bill mandated the agency to charge each licensee a subscription fee of \$10, payable to the TexasOnline Authority. Targets for this performance measure were established before passage of this legislation.

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| Performance Measure | FY02 Projected Performance | FY02 Performance Attained | Projected Target Met?* |
|---|----------------------------|---------------------------|------------------------|
| A. Goal: Maintain Standards - To establish and implement reasonable standards for pharmacist education and practice, and for the operations of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas. | | | |
| Outcome (Results/Impact) | | | |
| Percent of Licensees with No Recent Violations | 99% | 97.2% | Met |
| A.1.1. Strategy: Licensing - To operate a timely, cost-effective application and renewal licensure system for pharmacies and pharmacists. | | | |
| Output (Volume) | | | |
| Number of New Licenses Issued to Individuals | 750 | 855 | Exceeded |
| Number of Licenses Renewed (Individuals) | 10,300 | 10,507 | Exceeded |
| Efficiencies | | | |
| Average Licensing Cost Per Individual License Issued | \$9.39 | \$14.85 | Not Met |
| Average Licensing Cost Per Facility License Issued | \$31.66 | \$35.27 | Not Met |
| Explanatory | | | |
| Total Number of Business Facilities Licensed | 5,470 | 5,681 | Exceeded |
| B. Goal: Enforce Regulations - To assertively and swiftly enforce all laws relating to the practice of pharmacy to ensure that the public health and safety is protected from unprofessional conduct, fraud, and misrepresentation, and to prevent the misuse, abuse, and diversion of prescription drugs from pharmacies. | | | |
| Outcome (Results/Impact) | | | |
| Percent of Jurisdictional Complaints Resulting in Disciplinary Action | 10% | 10% | Met |
| B.1.1. Strategy: Enforcement - Emphasize preventative enforcement by conducting compliance inspections of pharmacies; providing technical assistance, licensee information and educational programs; receiving, investigating, and resolving complaints; and monitoring compliance with disciplinary orders resulting from Board adjudication. | | | |
| Output (Volume) | | | |
| Number of Jurisdictional Complaints Resolved | 1,300 | 2,090 | Exceeded |
| Efficiencies | | | |
| Average Time for Jurisdictional Complaint Resolution | 300 | 225 | Exceeded |
| Explanatory | | | |
| Number of Jurisdictional Complaints Received | 2,000 | 1,787 | Not Met |
| B.1.2. Strategy: Peer Assistance - Operate a peer assistance program. | | | |
| Output (Volume) | | | |
| Number of Licensed Individuals Participating in a Peer Assistance Program | 150 | 166 | Exceeded |

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

- To coordinate the development of proposed goals and objectives and budget for FY2003, based on the *Strategic Plan* and projected budget, for submission to the Board two weeks prior to the 2002 Annual Policy Meeting.

Status: **ACCOMPLISHED**

Comment: The *TSBP 2003 Goals and Objectives* and FY2003 operating budget were submitted to the Board as scheduled and were approved at the August 1-2, 2002, Board Business Meeting.

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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 FY2002.

Status: ACCOMPLISHED

Comment: The agency's Enforcement and Legal staffs worked extensively with federal, state, and local regulatory agencies. (See Enforcement Division's Ongoing Objective #6 and Legal Division's Ongoing Objective #5 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 FY2002.

Status: ACCOMPLISHED

Comment: During FY2002, staff continued to monitor the Federal Department of Health and Human Services development of regulations to implement the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The final rule took effect on April 14, 2001, but most covered entities, including pharmacies, have until April 14, 2003, to comply with the regulations.

5. To personally participate and represent Board policies and programs to local, state, and national pharmacy, health-related, and consumer organizations during FY2002.

Status: ACCOMPLISHED

Comment: A. The Executive Director gave 9 presentations to 1,250 persons as indicated below.

| Date | Name of Association/Location of Meeting | Attendance (Approximate) |
|---------|---|--------------------------|
| 9/15/01 | Board of Pharmacy Update, University of Texas Postgraduate Seminar — Austin | 600 |
| 10/8/01 | University of Texas Law Class — Austin | 65 |
| 4/14/02 | Board of Pharmacy Update, Texas Society of Health-System Pharmacists Annual Seminar – Galveston | 60 |
| 4/16/02 | Testimony before the Senate Health and Human Services Committee Interim Charge #4 (Prescription Painkillers) – Austin | 50 |
| 4/25/02 | House Appropriations Committee, Regulatory Subcommittee Hearing – Austin | 20 |
| 5/4/02 | Board of Pharmacy Update, West Texas Pharmaceutical Association's Annual Meeting – El Paso | 75 |
| 6/7/02 | Pharmacy Technician Registration in Texas – Texas Pharmacy Association's Annual Meeting – Corpus Christi | 30 |
| 6/8/02 | TSBP Forum, Texas Pharmacy Association's Annual Meeting – Corpus Christi | 300 |
| 6/17/02 | Testimony before the Senate Health and Human Services Committee Interim Charge #4 (Prescription Painkillers) – Austin | 50 |
| | Totals | 1,250 |

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B. The Executive Director attended 37 meetings or conferences representing the agency as indicated below.

| Date | Name of Association/Location of Meeting |
|----------------|--|
| 9/19/01 | Health Professions Council Meeting – Austin |
| 10/6-10/8/01 | National Association of Boards of Pharmacy/American Association of Colleges of Pharmacy District 6 Meeting – Lawrence, Kansas |
| 10/11/01 | Health and Human Services Telemedicine Advisory Committee Meeting – Austin |
| 10/16/01 | Meeting with Interested Parties to Discuss Implementation of S.B. 768 (Generic Substitution) – Austin |
| 11/1/01 | University of Texas College of Pharmacy's Pharmaceutical Advisory Council Meeting – Austin |
| 11/5/02 | Texas Department of Health, Food and Drug Division meeting regarding implementation of H.B. 2729 (Donation of Drugs to Charitable Medical Clinics) – Austin |
| 11/6-11/7/01 | Texas Pharmacy Congress Meeting – Houston |
| 11/29-11/30/01 | National Association of Boards of Pharmacy Task Force on Privacy and Confidentiality – Chicago, Illinois |
| 12/10/01 | Health Professions Council Meeting – Austin |
| 12/20/01 | Health and Human Services Telemedicine Advisory Committee Meeting – Austin |
| 1/8/02 | State Office of Administrative Hearings Mediation – Austin |
| 1/14/02 | Meeting with staff of the Texas Veterinary Medical Examiners Board to discuss Internet Pharmacies |
| 2/19-2/20/02 | Texas Pharmacy Congress Meeting – Austin |
| 2/22/02 | Meeting with representatives of Seton Hospital to discuss Technician Recertification |
| 3/1/02 | Texas State Board of Pharmacy Technician Task Force Meeting – Austin |
| 3/4/02 | Meeting with representatives of Cardinal Health – Austin |
| 3/7/02 | Health Professions Council Administrative Committee meeting to discuss Complaint Process Study recommendations – Austin; Health Professions Council Budget and Planning Committee Meeting – Austin |
| 3/25/02 | Health Professions Council Administrative Committee meeting to discuss Complaint Process Study recommendations – Austin |
| 3/28/02 | Meeting with representatives of Merck Medco - Austin |
| 4/8/02 | Meeting with Senate Health and Human Services Committee staff – Austin |
| 4/8/02 | Meeting with representatives of the Department of Information Resources regarding telephone system options – Austin |
| 4/13-4/15/02 | Texas Society of Health-System Pharmacists Annual Meeting – Galveston |
| 4/20/02 | Senate Health and Human Services Committee – Interim Charge #4 (Prescription Painkillers) Stakeholders Meeting – Austin |
| 5/1/02 | Health Professions Council Meeting regarding Complaint Study – Austin |
| 5/4/02 | West Texas Pharmaceutical Association's Annual Meeting – El Paso |
| 5/6/02 | House Insurance Committee Meeting on Medical Liability Insurance – Austin |
| 5/9/02 | Texas State Board of Pharmacy Technician Task Force Meeting – Austin |

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| Date | Name of Association/Location of Meeting |
|--------------|--|
| 5/14/02 | Meeting with Eckerd Drug Loss Prevention staff – Austin |
| 5/19-5/22/02 | National Association of Boards of Pharmacy Annual Meeting – Phoenix, AZ |
| 5/28/02 | Orientation for Legislative Budget Board Analyst (Daniel Estrada) – Austin |
| 5/29-5/30/02 | Texas Pharmacy Congress Meeting – Austin |
| 6/5-6/9/02 | Texas Pharmacy Association's Annual Meeting – Corpus Christi |
| 6/14/02 | Texas State Board of Pharmacy's Technician Task Force Meeting – Austin |
| 6/26/02 | Health Professions Council Meeting – Austin |
| 8/15/02 | Orientation for Legislative Budget Board Analyst (Thomas Galvan) – Austin |
| 8/19/02 | Health Professions Council Meeting – Austin |
| 8/20-8/21/02 | Texas Pharmacy Congress Meeting – Amarillo |

C. The Executive Director attended 10 training seminars as indicated below.

| Date | Name of Seminar and Location |
|--------------|--|
| 10/6-10/8/01 | National Association of Boards of Pharmacy/ American Association of Colleges of Pharmacy District 6 Meeting – Lawrence, Kansas |
| 1/9/02 | Customer Services Symposium – Austin |
| 4/13-4/15/02 | Texas Society of Health-System Pharmacists Annual Meeting – Galveston |
| 5/3/02 | Workforce Planning Seminar – Austin |
| 5/4/02 | West Texas Pharmaceutical Association's Annual Meeting – El Paso |
| 5/6/02 | House Insurance Committee Meeting on Medical Liability Insurance – Austin |
| 6/5-6/9/02 | Texas Pharmacy Association's Annual Meeting – Corpus Christi |
| 7/19/02 | Best Practices in State Government – Austin |
| 8/22-8/23/02 | High Impact Presentations, a Dale Carnegie Seminar – Dallas |
| 8/27/02 | Diversity Training – Austin |

6. To act as the Board's liaison to the pharmacy professional associations throughout FY2002.

Status: **ACCOMPLISHED**

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

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| Date | Name of Association/Location of Meeting |
|--------------|--|
| 11/1/01 | University of Texas College of Pharmacy's Pharmaceutical Advisory Council Meeting – Austin |
| 11/6-11/7/01 | Texas Pharmacy Congress Meeting – Houston |
| 2/19-2/20/02 | Texas Pharmacy Congress Meeting – Austin |
| 4/13-4/15/02 | Texas Society of Health-System Pharmacists Annual Meeting – Galveston |
| 5/4/02 | West Texas Pharmaceutical Association's Annual Meeting – El Paso |
| 5/29-5/30/02 | Texas Pharmacy Congress Meeting – Austin |
| 6/5-6/9/02 | Texas Pharmacy Association's Annual Meeting – Corpus Christi |
| 8/20-8/21/02 | Texas Pharmacy Congress Meeting – Amarillo |

7. To continue to take a proactive role in the operation of the Health Professions Council in cooperation with other member health regulatory agencies, the Legislature, and the Governor's Office during FY2002.

Status: **ACCOMPLISHED**

Comment: The Executive Director continued to serve as Vice-Chair of the Health Professions Council (HPC). During this fiscal year, the HPC was involved in conducting a study of the complaint procedures of the HPC agencies, as mandated by H.B. 2408. Carol Fisher, Director of Enforcement, served as chair of the Complaint Study Committee. This committee developed a questionnaire about the complaint processes, distributed it to all 29 agencies/programs, and compiled the data. The HPC Administrative Committee reviewed this data and made tentative recommendations to the members of HPC. The final recommendations will be reviewed by HPC members during the fall of 2002, and the report will be distributed by the January 1, 2003, deadline. The following chart shows the involvement of TSBP staff in this process.

| Date | Activity | TSBP Staff Member |
|-------------|--|-----------------------------|
| 7/16/01 | Initial meeting of the Complaint Study Committee | Carol Fisher |
| 11/01-1/02 | Follow-up interviews with HPC agencies for clarification of survey data | Carol Fisher |
| 1/7/02 | Final Committee Meeting | Carol Fisher |
| 3/7/02 | HPC Administration Committee Meeting to review data and make recommendations | Gay Dodson and Carol Fisher |
| 3/25/02 | HPC Administration Committee Meeting to review data and make recommendations | Gay Dodson and Carol Fisher |
| 5/1/02 | HPC Meeting to review recommendations | Gay Dodson and Carol Fisher |
| 6/26/02 | HPC Meeting to review recommendations | Gay Dodson and Carol Fisher |
| 8/19/02 | HPC Meeting to review recommendations | Gay Dodson and Carol Fisher |

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8. To continue to support and participate in the Texas Pharmacy Congress throughout FY2002.

Status: ACCOMPLISHED

Comment: The Executive Director attended all four of the Texas Pharmacy Congress (TPC) meetings held in November 2001, February, May, and August of 2002 and provided staff support to President Donna Rogers, R.Ph., M.S., and Vice President Roger Anderson, R.Ph., at these meetings.

9. To recommend changes to the Texas Pharmacy Act and rules, which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Board for consideration for action throughout FY2002.

Status: ACCOMPLISHED

Comment: The agenda for each meeting of the Board included discussion of possible suggestions for changes to the Pharmacy Act. As a result of these discussions, the Board approved the following for possible legislative action.

Approved at the November 2001 Board Meeting

- A. Amend Subchapter F, Title 4, of the Government Code to give the Board the authority to perform federal background checks on applicants for licensure.

Approved at the February 2002 Board Meeting

- B. Support the transfer of \$850,000 from the Board of Pharmacy fund balance in the General Fund to the Higher Education Coordinating Board to fund the Roberta High Memorial Pharmacy Residency Program.
- C. Authorize the agency to exceed the full-time equivalent employment cap for positions associated with the Summer Intern Program of the Board of Pharmacy.
- D. Amend the Act to allow the Board to make a second order against a person who has a chemical, physical, or mental impairment a non-confidential order.
- E. Amend Section 555.004(b) of the Pharmacy Act to remove the restriction that faculty members of colleges of pharmacy cannot serve as TSBP Board Members.

Approved at the May 2002 Board Meeting

- F. Amend Section 565.001 and 565.002 of the Pharmacy Act to allow the Board to discipline a licensee who has been convicted of or received deferred adjudication for a misdemeanor or a felony involving a violation of the Dangerous Drug or Controlled Substances Acts.

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- G. Amend Section 565.001 and 565.002 of the Pharmacy Act to allow the Board to discipline a pharmacy technician who has been convicted of or received deferred adjudication for a misdemeanor or a felony involving a violation of the Dangerous Drug or Controlled Substances Acts.
- H. Return the ability to cancel a license.
- I. Clarify that pharmacists have professional discretion when deciding to dispense a prescription or medication order.

Approved at the August 2002 Board Meeting

- J. Amend the Texas Pharmacy Act, or other appropriate act, to allow home addresses of pharmacists to be exempted from release under the Texas Open Records Act.
 - K. Amend the Texas Pharmacy Act to allow a non-pharmacist to be a preceptor under certain limited circumstances in college-based internship programs.
10. To conduct periodic reviews and annual evaluations of division directors and the executive assistant and to monitor evaluations of employees in all board divisions throughout FY2002.

Status: **ACCOMPLISHED**

Comment: Performance evaluations were conducted for the Division Directors and the Executive Director's Executive Assistant as indicated below.

| Employee | Date of Evaluation |
|-----------------|---------------------------|
| Kerstin Arnold | 7/12/02 |
| Carol Fisher | 7/15/02 |
| Steve Morse | 7/2/02 |
| Cathy Stella | 7/12/02 |
| Kay Wilson | 7/2/02 |

All agency evaluations were conducted on schedule. (See Administrative Services Ongoing Objective #13, Enforcement Ongoing Objective #14, Legal Ongoing Objective #11, and Professional Services Ongoing Objective #12 for details of other staff evaluations.)

11. To provide the Board's Executive Committee information necessary to conduct a performance evaluation of the Executive Director by August 31, 2002.

Status: **ACCOMPLISHED**

Comment: A self and staff evaluation of the Executive Director was presented to the Board at its May 2002 meeting. The Board conducted the performance evaluation at this meeting.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION FY2002 SIGNIFICANT ACCOMPLISHMENTS

1. The division accomplished or partially accomplished 100% of its objectives (32 objectives: 29 accomplished and 3 partially accomplished).
2. Significant efficiencies and/or benefits, primarily for board customers, have or will be gained through the implementation of a number of projects which included:
 - A. Preceptor Certification Project - approximately 3,000 pharmacist preceptor certification expiration dates were changed to coincide with their license renewal period;
 - B. Addition of Intern Verification to the agency web site;
 - C. Creation of agency Web Committee to review/recommend enhancements to the agency web site;
 - D. Imaging Project - approximately one-third of all pharmacist files have been imaged;
 - E. Development/testing of Pharmacist Online license renewal system;
 - F. Development/testing of wireless handheld devices for inspection program; and
 - G. Active computer virus monitoring and firewall installation.
3. Implementation of the following legislation (see remarks under New Objective #4):
 - A. S.B. 187: Pharmacist and Pharmacy Profile Bill. Agency began allocation and payment of \$10 subscription fee per license to the Department of Information Resources (DIR), in March 2002;
 - B. S.B. 645: Development/testing of the Texas Online renewal system for pharmacist licenses with projected startup for October 2002;
 - C. S.B. 768, S.B. 98, and S.B. 65: Approximately 1,000 remote pharmacy services certificates issued; and
 - D. H.B. 609: The agency complied with all requirements of this bill with a planned submission of the annual audit in October 2002.
4. The agency received a favorable Risk Management Program Review Audit that included congratulations on the implementation of a comprehensive and effective risk management program.
5. The Division Director implemented within the Division the new uniform objectives for employee evaluations developed during FY2001.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

FY2002 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The Licensing workload has increased significantly, both in terms of new and existing projects/requirements. New, completed projects during this fiscal year included:
 - A. Department of Information Resources Benchmarking Study - the Licensing staff participated in a lengthy benchmarking exercise designed to help capture information to assess the impact of placing services (i.e., pharmacist license renewal) on TexasOnline.
 - B. Preceptor Certification Project - approximately 3,000 pharmacist preceptor certification expiration dates were changed to coincide with their license renewal period;
 - C. Pharmacist and Pharmacy Profile Bill - agency began allocation and payment of \$10 subscription fee per license to the Department of Information Resources (DIR) in March 2002;
 - D. Development/testing of Pharmacist Online license renewal system;
 - E. Pharmacist Imaging Project - approximately one-third of all pharmacist files have been imaged; and
 - F. New Remote Pharmacy Services Registration Program - approximately 1,000 remote pharmacy services certificates issued.

All of the above new projects required a significant amount of time, both from the Licensing staff and the Division Director. In addition, due to staff turnover or absence in Licensing, it was necessary for the Division Director to spend approximately 360 hours (45 days) in answering telephone calls, modifying the web site, data entering licensing information, reviewing and approving licensing files, and other general backup duties. As the licensing population continues to grow and technology increases, it is critical that additional licensing staff be allocated to the Division.

2. As requests for information to TSBP staff and customers grow, workload constraints continue to hamper Division employees. Division staff responded to approximately 16,600 telephone calls, and 5,100 email inquiries, mailed 2,000 packets of information to applicants for licensure and/or pharmacy owners, and responded to 75 requests for lists and labels. The electronic requests for information are growing rapidly, and will inevitably slow down the agency's response time in other areas.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

FY2002 ANNUAL REPORT

Goal

To administer agency operations including personnel, accounting, budgeting, purchasing, property management, and information technologies. To conduct a pharmacy and pharmacist licensure system, initial licensure by examination, and the ongoing renewal of licenses.

Objectives (New) - Administrative Services

1. To assist the Executive Director in updating and preparing the TSBP *Strategic Plan* for the 2003-2007 period, and submitting the plan to the Governor's Office of Budget and Planning and the Legislative Budget Board by the due date.

Status: ACCOMPLISHED

Comment: The *Strategic Plan for the 2003-2007* period was the product of the following:

- A. Overall review of the *2001-2005 Strategic Plan* by the Board Members and agency staff (Internal Assessment) with a significant amount of input provided as to changes, issues, and updates that need to be addressed; and
- B. Comments solicited from key pharmacy professional organizations, consumer advocacy groups, governmental agencies, and academic institutions.

The agency conducted research into 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 these Issue Statements and approved the final *Strategic Plan* at the May 2002 Board Business Meeting.

2. To prepare a proposed budget for the FY2004-2005 biennium for approval by the Board at the 2002 Board Meeting.

Status: ACCOMPLISHED

Comment: The Board met on May 7-8, 2002, to review and approve the agency's *Strategic Plan* for FY2003-2007 and the *Legislative Appropriation Request (LAR)* for FY2004-2005. This review process linked the strategic planning process to the budgeting process. The Board Members were appraised of the exceptional items requested in the LAR, most notably the funding required for the statutorily mandated Pharmacy Technician Registration and Enforcement Program. The members were informed that a pharmacist/pharmacy fee increase would be necessary in FY2004 to fund any incremental increases in appropriations approved by the Legislature. However, a new pharmacy technician fee could be assessed to fund the Pharmacy Technician Registration and Enforcement Program.

ADMINISTRATIVE SERVICES AND LICENSING

3. To prepare and submit the agency's *Legislative Appropriation Request* and corresponding performance measures for FY2004-2005 by the due date.

Status: **ACCOMPLISHED**

Comment: The *Legislative Appropriation Request* was submitted to the Legislative Budget Board (LBB) and the Governor's Budget Office (GBO) by the due date of August 2, 2002. The Division Director served as a resource to the Executive Director/Secretary at an orientation for the new LBB Budget Analyst(s) on May 28, 2002, and again on August 15, 2002.

4. To assist the Executive Director, in cooperation with other Divisions, in reviewing and implementing legislation passed by the 77th Texas Legislature which affects agency operations, including the following:
- A. S.B. 187 relating to government services provided through online systems;
 - B. S.B. 645 relating to the establishment of an electronic system for occupational licensing transactions;
 - C. S.B. 768 relating to pharmacist continuing education; emergency medication kits in nursing homes; and development of a "Dispensing Directive" for generic substitution on prescriptions;
 - D. S.B. 98 relating to the provision of pharmacy services in a nursing home through an automated pharmacy system;
 - E. S.B. 65 relating to the provision of pharmacy services in a rural health clinic through a telepharmacy system; and
 - F. H.B. 609 relating to establishing an internal audit program.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished in the following manner:

- A. S.B. 187: Rules were adopted by the Board at the November 2001 meeting and became effective on December 19, 2001. The pharmacist renewal application was amended, and data bases were modified to accept the additional information required. The pharmacy renewal application and data base were scheduled for modification in FY2003. Agency began allocation and payment of \$10 subscription fee per license to the Department of Information Resources (DIR) in March 2002.
- B. S.B. 645: TSBP signed a contract to establish an online renewal system for pharmacist licenses. Numerous meetings with the TexasOnline staff, DIR, and Northrop Grumman were held to develop the online application. Testing of the online application was initiated at the end of FY2002.

ADMINISTRATIVE SERVICES AND LICENSING

- C. S.B. 768, S.B. 98, and S.B. 65: Rules were adopted by the Board in December 2001. Remote pharmacy applications were developed, data bases were designed, and approximately 1,000 remote pharmacy service registrations were approved. Agency web page reflects certification information on all remote pharmacy service registrations.
- D. H.B. 609: The Board appointed an internal auditor to perform the functions mandated by this bill. An audit plan was developed and approved by the Board and the required audits were conducted.

5. To assist the Executive Director, in cooperation with other Divisions, in the orientation of new Board Members within 90 days of their appointment by the Governor.

Status: **ACCOMPLISHED**

Comment: On December 19, 2001, Governor Rick Perry appointed W. Michael Brimberry, R.Ph., and Angela S. Myres, and reappointed Doyle E. High, R.Ph., to serve as Board Members through August 31, 2007. Division Director and Division staff participated in the orientation of the new Board Members on January 24-25, 2002.

6. To develop and implement a registry of Certified Pharmacy Technicians in Texas.

Status: **PARTIALLY ACCOMPLISHED**

Comment: During the 1999 Legislative Session, S.B. 730 was passed, which required TSBP to begin registering pharmacy technicians on September 1, 2001. Because the registration of pharmacy technicians was not scheduled to occur during the FY2000-2001 biennium, the Legislature did not appropriate additional funds to the agency to implement this mandate. Funding needs therefore, were identified in the agency's Legislative Appropriation Request for FY2002-2003. During the 2001 Legislative Session, the Senate Finance Committee voted to fund this critical program. However, the House Appropriations Committee received testimony indicating that the intent of the legislation passed in 1999 was to create a simple registry rather than the registration with disciplinary authority contained in S.B. 730. After this testimony, the House Appropriations Committee voted to not give the agency any additional funding or resources, and the Conference Committee concurred.

In 2002, TSBP formed a task force composed of pharmacists and pharmacy technicians who represented the Texas pharmacy professional associations and persons representing interested legislators. This task force was charged with making recommendations to the Board regarding the registration of pharmacy technicians including any suggested changes in the Pharmacy Act. The task force completed its charge and recommended implementation of the law as it now stands. Therefore, the Legislative Appropriations Request for FY2004-2005 again identifies the funding required to implement the registration of pharmacy technicians.

7. To assist the Executive Director, in conducting a survey of agency customers regarding the quality of service delivered by the agency as specified in Chapter 2113 of the Government Code, and report the results of the survey to the Legislative Budget Board and the Governor's Office of Budget and Planning by June 1, 2002.

Status: **ACCOMPLISHED**

Comment: Division Director assisted the Director of Enforcement in developing an inventory of external

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customers for the Licensing & Enforcement budget strategies, to identify groups of individuals to be surveyed. A questionnaire was mailed to approximately 3,500 external customers, including a random sample of licensees. As questionnaires were returned, the data was entered and analysis conducted by Mr. Ashish Patel, R.Ph., a graduate student in the University of Texas College of Pharmacy Option II Masters Program. The analysis of findings and survey results were presented to the Board at its May 2002 meeting.

Objectives (Ongoing) - Administrative Services

1. To comply with all Comptroller Accounting Policies, Notices to State Agencies, and Attorney General Opinions relating to fiscal matters by specified due dates throughout FY2002.

Status: **ACCOMPLISHED**

Comment: The following Comptroller Accounting Policy Statements and Notices to State Agencies were submitted as follows:

- | | | |
|------|---|---|
| (1) | Accounting Policy Statement 001: DUE: As transaction occurs | Fund reimbursement for Employee Benefit. |
| (2) | Accounting Policy Statement 003: DUE: Within 30 days of receipt of statement (revised 7/01/00) | Reimbursement for Unemployment Compensation Payments. |
| (3) | Accounting Policy Statement 004: DUE: As transaction occurs | All transactions involving GAAP Agency/Suspense Funds. |
| (4) | Accounting Policy Statement 007: DUE: As transaction occurs | Deposit of revenues intended to increase revenue and expenditure budget. |
| (5) | Accounting Policy Statement 008: DUE: Every 3 days | Deposit of sales tax and hotel occupancy tax collected by state - Attorney General Opinion JM-987 (Agencies must follow sales tax laws and file sales tax reports). |
| (6) | Rapid Deposit Bill: DUE: Every 3 days | To account for and deposit all revenues collected within three days of receipt. |
| (7) | Prompt Pay Act (HB 275): DUE: As transaction occurs | Mandates state agencies pay for goods and services within 30 days. |
| (8) | Physical Inventory: DUE: Annually | Due to the Comptroller's Office and the State Auditor. |
| (9) | Notice to State Agency DUE: September 2001 | Fiscal Year 2002 allocation of appropriations. Responsible for setting up new program cost accounts appropriations and budget amounts for appropriations. |
| (10) | Accounting Policy Statement 010: DUE: As transaction occurs | Travel advance, evidence fund, and petty cash fund - auditing, reconciling, and ensuring the funds are properly reimbursed and that agency policy and procedures are in compliance with the Comptroller's guidelines. |

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- | | | |
|------|---|--|
| (11) | Accounting Policy Statement 011: DUE: Annually (revised 01/05/99) | Benefits to be proportional by fund due to Comptroller and SAO. |
| (12) | Accounting Policy Statement 013: DUE: As transaction occurs | Refunds of deposits - required guidelines for refunds of erroneous collections. |
| (13) | Accounting Policy Statement 014: DUE: As transaction occurs | Interagency payments and receipts. |
| (14) | Accounting Policy Statement 016: DUE: As transaction occurs | Multiple employments with the state. |
| (15) | Accounting Policy Statement 018: DUE: 30 days after the close of the fiscal year (revised 7/01/00) | Encumbrance report and lapsing of appropriations. |
| (16) | Accounting Policy Statement 019: DUE: September 15, 2001 | Salary Benefit Appropriation allocations. |
| (17) | Accounting Policy Statement 021: DUE: As transaction occurs | Cost allocation procedure and expenditure transfer procedure. Corrective transactions-bookkeeping entries. |
| (18) | Accounting Policy Statement 022: DUE: As savings are approved | Employee Incentive Award transfers. |
| (19) | Accounting Policy Statement 027: DUE: As transactions occur | Accounting for uncollectible accounts. |
| (20) | Accounting Policy Statement 028: | Reporting of debts and tax delinquencies. |
| (21) | Accounting Policy Statement 026: | Capital Budget Rider Appropriations. |
| (22) | Accounting Policy Statement 029: | Recognition of Revenues from convenience fees and expenditures for transaction fees; credit card fees; and other charges associated with receiving payments. |
| (23) | State Legislation Impact Assistance: DUE: Annually | Calendar year expenditures. |
| (24) | Federal Relations Report: DUE: Quarterly | Details agency efforts to maximize federal funds. |
| (25) | Notice to State Agencies: DUE: As transaction occurs | Complete revision on procedures for interagency payments. |
| (26) | Notice to State Agencies: USAS Profile Rollover AY01 DUE: September 1, 2001 | Review and correct Appropriation Structure for FY02. |
| (27) | Notice to State Agencies: | Benefit Replacement Pay Allocation. |
| (28) | Notice to State Agencies (FM02-75): | USAS Security Coordinator and user class updates. |
| (29) | Notice to State Agencies (FM02-63): | USAS Profile Rollover to FY02. |
| (30) | Notice to State Agencies (FM02-64): | USAS Balances for Imprest, Petty and Travel Cash. |

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- (31) Notice to State Agencies (FM02-61): Appropriation Allocation, Rider Appropriation, Capital Budget Allocation.
- (32) Notice to State Agencies (FM02-59): Use of Comptroller Expenditure Object Code.
- (33) Notice to State Agencies (FM02-58): State Property Accounting Controlled Class Code Revision.
- (34) Notice to State Agencies (FM02-44): Payment to SORM for Risk Management & Workers' Compensation.

2. To prepare and submit all required accounting and fiscal reports and reconciliations to the Executive Director throughout FY2002, no later than ten days from the monthly due date.

Status: ACCOMPLISHED

Comment: A monthly report was submitted to the Executive Director/Secretary for each month during the fiscal year, that outlined major financial reports and reconciliations completed for the prior month. The agency's Annual Financial Report (AFR) for the year ending August 31, 2001, was submitted on November 20, 2002, and the Annual Report of Non-Financial Data was submitted on December 31, 2002, in accordance with the requirements established by the Comptroller of Public Accounts. 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 FY2002.

Status: ACCOMPLISHED

Comment: A quarterly operating budget was presented to the Board at the regularly scheduled business meetings and recorded as such in the official minutes of the Board. Revenue projections were made and closely monitored to ensure that expenditures did not exceed the required amount of revenue collected. Revenue projections were completed for FY2002-2003, to comply with the new Riders regarding additional appropriations. Recommended fee increases to initial licensure and renewal of pharmacy and pharmacist licenses were presented and approved by the Board Members with implementation in October 2001.

4. To assess the material needs of the agency and supervise the purchasing and supply activities in accordance with all Texas Building & Procurement Commission rules and procedures throughout FY2002.

Status: ACCOMPLISHED

Comment: A Post-Procurement and Payment audit was conducted by the Texas Building & Procurement Commission during this fiscal year. The findings of this audit will be available in FY2003. The Chief Accountant continued to review all specifications, product tabulations, and purchase

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requisitions for compliance with agency policies and procedures and Texas Building & Procurement Commission rules. This oversight ensures that the appropriate procurement method is identified, the agency receives the best value for the product or service purchased, and that funds are 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 FY2002.

Status: **ACCOMPLISHED**

Comment: See comments regarding Objective #8. A major result of the scanning project is that approximately 33 square feet of file room space can be converted to office space in the future. With regard to maintenance, the Executive Assistant continued to act as the agency representative to the Hobby Building Users Group and coordinate any on-site maintenance and security. With regard to building security, several recommendations were implemented regarding building security, on advice of the Executive Director/Secretary. These included limiting outside access to all building doors and requiring identification badges to be worn by all tenants and visitors.

6. To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2002.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished as follows:

- A. All newly hired and current employees received EEO/sexual harassment training as required by state law.
- B. The agency participated in a Salary Parity Study of Accounting Personnel, conducted by the Office of the State Auditor. The results of the study showed that all Accounting Personnel were correctly classified.
- C. The agency submitted recommended changes and market data to the State Auditor's Office (SAO) regarding the State Classification Plan. Of the three recommendations submitted, one recommendation was approved for submission by the SAO to the 78th Texas Legislature. This change was to create a job classification series specifically for web design and development duties.
- D. The agency reviewed its Recruitment Plan/Affirmative Action Plan and made updates as necessary. No employee grievances or discrimination complaints were filed, and there were no employment discrimination charges pending with the Texas Commission on Human Rights.
- E. The agency received 259 applications for employment during this fiscal year, which resulted in six new hires. (Note: Providing EEO information by applicants is strictly voluntary. Twelve applicants did not provide the information.)
- F. The following table reflects the agency's EEO profile for employees hired, promoted, or terminated during FY2002, as well as an applicant profile report.

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| AGENCY EEO DATA | WHITE | | | BLACK | | | HISPANIC | | | OTHER | | | TOTAL | | |
|--------------------|-----------|-----------|-----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-----------|-----------|-----------|
| | M | F | TOT | M | F | TOT | M | F | TOT | M | F | TOT | M | F | TOT |
| BOARD MEMBERS | 5 | 2 | 7 | 0 | 1 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 5 | 4 | 9 |
| ADMINISTRATORS | 1 | 4 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 4 | 5 |
| PROFESSIONALS | 11 | 10 | 21 | 0 | 1 | 1 | 1 | 2 | 3 | 0 | 0 | 0 | 12 | 13 | 25 |
| PARA-PROFESSIONALS | 0 | 8 | 8 | 0 | 2 | 2 | 0 | 3 | 3 | 0 | 0 | 0 | 0 | 13 | 13 |
| ADMIN SUPPORT | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 3 | 3 | 0 | 0 | 0 | 0 | 4 | 4 |
| TOTALS | 17 | 26 | 43 | 0 | 4 | 4 | 1 | 8 | 9 | 0 | 0 | 0 | 18 | 38 | 56 |

| NEW HIRES | WHITE | | | BLACK | | | HISPANIC | | | OTHER | | | TOTAL | | |
|--------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| | M | F | TOT | M | F | TOT | M | F | TOT | M | F | TOT | M | F | TOT |
| ADMINISTRATORS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| PROFESSIONALS | 2 | 1 | 3 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 2 | 2 | 4 |
| PARA-PROFESSIONALS | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 2 | 2 |
| ADMIN SUPPORT | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTALS | 2 | 2 | 4 | 0 | 0 | 0 | 0 | 2 | 2 | 0 | 0 | 0 | 2 | 4 | 6 |

| PROMOTIONS | WHITE | | | BLACK | | | HISPANIC | | | OTHER | | | TOTAL | | |
|--------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| | M | F | TOT | M | F | TOT | M | F | TOT | M | F | TOT | M | F | TOT |
| ADMINISTRATORS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| PROFESSIONALS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| PARA-PROFESSIONALS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| ADMIN SUPPORT | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTALS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| TERMINATIONS | WHITE | | | BLACK | | | HISPANIC | | | OTHER | | | TOTAL | | |
|--------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| | M | F | TOT | M | F | TOT | M | F | TOT | M | F | TOT | M | F | TOT |
| ADMINISTRATORS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| PROFESSIONALS | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 2 |
| PARA-PROFESSIONALS | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 2 | 2 |
| ADMIN SUPPORT | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| TOTALS | 1 | 1 | 2 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 4 | 5 |

| APPLICANTS | WHITE | | | BLACK | | | HISPANIC | | | OTHER | | | TOTAL | | |
|--------------------|-----------|-----------|------------|----------|-----------|-----------|----------|-----------|-----------|----------|-----------|-----------|-----------|------------|------------|
| | M | F | TOT | M | F | TOT | M | F | TOT | M | F | TOT | M | F | TOT |
| ADMINISTRATORS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| PROFESSIONALS | 37 | 28 | 65 | 7 | 3 | 10 | 2 | 11 | 13 | 1 | 11 | 12 | 47 | 53 | 100 |
| PARA-PROFESSIONALS | 7 | 42 | 49 | 1 | 17 | 18 | 4 | 17 | 21 | 0 | 1 | 1 | 12 | 77 | 89 |
| ADMIN SUPPORT | 4 | 28 | 32 | 0 | 6 | 6 | 2 | 18 | 20 | 0 | 0 | 0 | 6 | 52 | 58 |
| TOTALS | 48 | 98 | 146 | 8 | 26 | 34 | 8 | 46 | 54 | 1 | 12 | 13 | 65 | 182 | 247 |

7. To manage the information resource needs (data processing, telecommunication and web site) of the agency throughout FY2002.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- A. Wireless handheld devices were purchased and an interface with the database systems written. Currently in the final test stage, this application allows Compliance Officers to complete paperless pharmacy inspections and transmit the necessary information to the database system.

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- B. A firewall was installed to prevent external threats to internal systems. Upgrades and modifications to anti-virus software were made, allowing for more timely updates and notification of virus activity.
 - C. System availability was extremely high, with scheduled downtime well under 2%, and unscheduled downtime relatively non-existent. Upgrades to the power supply systems, the rapid application of systems patches and staff diligence in resource monitoring are the primary factors.
 - D. This past year saw the creation of an agency Web Review Committee. Information Resources staff, an integral part of the committee, worked closely with web content experts from different divisions within the agency to maintain the most up-to-date site possible. Each paragraph, page, and image was scrutinized on a regular basis for accuracy.
 - E. In FY2002, TSBP received 112,184 web site inquiries (average of 9,349 "hits" each month), as compared to 90,701 inquiries in FY2001, and 64,476 inquiries in FY2000. Of this total (112,184), approximately 65% of the inquiries are using the license verification link to verify a pharmacist or pharmacy license or intern registration.
 - F. The Licensing staff participated in a bench-marking study of the licensing processes prior to implementation of the online license renewal system. This study will be repeated approximately six months after implementation of the online license renewal system to determine any cost efficiencies.
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 FY2002.

Status: **ACCOMPLISHED**

Comment: A full third of all pharmacist files were scanned, burned to CD, and then imported into the imaging system. This resulted in a total number of 379,468 images that were scanned. Division staff (Information Resources and Purchaser) worked closely with both the imaging vendor and the systems vendor to insure a smooth implementation. In addition, division staff destroyed 240 cubic feet of records, in accordance with the TSBP record retention schedule, and 33 cubic feet of records were sent to the State Library for retention.

9. To coordinate the sale and distribution of the pharmacy law reference manual and cooperate with the Professional Services Division to assure the publication of any updates of the manual throughout FY2002.

Status: **ACCOMPLISHED**

Comment: The *Texas Pharmacy Laws and Regulations* was completely updated and significantly improved with a new format, the addition of a cumulative reference index, and a CD ROM with search features. At year end, approximately \$130,556 was generated in spendable revenue due to the sale of this publication. The Administrative Services staff continued to provide the administrative support necessary to determine fees, maintain mailing lists, and proper inventory levels of these manuals.

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10. To provide verbal and written information to Board staff and customers throughout FY2002 including, by the assigned due dates, the preparation of:
- A. 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;
 - B. responses to surveys and questionnaires; and
 - C. a report of the types and numbers of surveys/questionnaires/reports completed by all divisions during FY2002.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished as follows:

- A. Statutorily Required Reports

| Report Title | Recipient(s) | Division Reporting |
|--|--|----------------------------|
| Registrations | Ethics Commission | Administration |
| FTE State Employees | State Auditor | Administration |
| Annual Financial Report | Governor's Office; LBB; State Comptroller; State Auditor. | Administration |
| Non-Financial Annual Report | Governor's Office; LBB; State Comptroller; State Auditor. | Administration |
| Recycled Materials Expenditures | LBB | Administration |
| Historically Underutilized Business Progress Reports | Governor's Office; Lt. Governor; Speaker of House | Administration |
| Encumbrance Reports | State Comptroller; State Auditor; LBB | Administration |
| Strategic Plan; Information Resources Strategic Plan | Governor's Office; LBB; State Comptroller; Legislative Reference Library | Administration |
| Non-Resident Bidders | LBB | Administration |
| EEO Information Report | Commission on Human Rights | Administration |
| Minority Hiring Practices | Commission on Human Rights | Administration |
| Historically Underutilized Minority Businesses - Contracts | Texas Building & Procurement Commission; State Comptroller | Administration |
| Risk Management - Losses | Office of Risk Management | Administration |
| Performance and Funds Mgmt. Reports | Legislative Budget Board | Administration Enforcement |
| Contract Workforce Report | State Auditor | Administration |
| Open Records Online Monthly Report | Legislative Budget Board | All |
| Legislative Appropriations Request | Governor's Office; LBB; State Comptroller; Legislative Reference Library | Administration |
| Internal Audit Report | Governor's Office; LBB; State Comptroller; State Auditor, Sunset Advisory Commission | Administration |
| Operating Budget | Legislative Budget Board | Administration |
| Biennial Operating Plan for Technology | Legislative Budget Board | Information Resources |

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B. Other Surveys and Questionnaires:

| Report Title | Recipient(s) | Division Reporting |
|---|---|---------------------------|
| Budget Reduction Projections | Legislative Budget Board; Governor's Office | Administration |
| Revenue Projections re: Contingency Riders; S.B 187; H.B. 609 | State Comptroller's Office | Administration |
| Salary Parity Study | State Auditor's Office | Administration |
| Workforce Plan | State Auditor's Office | Administration |
| Report on Customer Service | Legislative Budget Board | Enforcement |
| Contract Report | Legislative Budget Board | Administration |
| Licensing Survey | Sunset Commission | Licensing |
| Pharmacist Census Data | Senator Leticia Van de Putte | Executive Director |
| Mediated Settlement Conference Process | State Office of Administrative Hearings | Legal |
| Customer Satisfaction Survey | Office of Attorney General | Legal |
| Survey on State Office of Administrative Hearings | Sunset Advisory Commission | Legal |
| Customer Survey | Texas Ethics Commission | Legal |
| E-Procurement Survey | Texas Building & Procurement Commission | Administration |
| Cost Savings Report | Legislative Budget Board; Governor's Office | Administration |

C. Types and numbers of surveys/questionnaires/reports completed by all Divisions: See Professional Services Ongoing Objective #10, Legal Services Ongoing Objective #8, and Enforcement Ongoing Objective #9. In addition, the agency as a whole, responded to 11,914 requests for information, both written and electronic.

D. Division (Licensing) staff responded to approximately 16,000 telephone calls and 5,100 email inquiries; mailed 2,000 packets of information to applicants for licensure and/or pharmacy owners; and responded to 112 requests for lists and labels.

11. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to division activities throughout FY2002.

Status: **ACCOMPLISHED**

Comment: Division staff participated in the following activities:

- A. HPC Annual Report - Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
- B. The TSBP continued to participate in several HPC centralized services, such as the Centralized Mail Center, Courier Service, and Copy Center; Shared Employee Training; and Shared Information Resource Technology staff.

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12. 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 FY2002.

Status: **ACCOMPLISHED**

Comment: Division staff participated in the following activities:

| |
|--|
| Cathy Stella, Division Director |
| EEO Training |
| Teambuilding Seminar |
| 2002 Texas Business Conference |
| Health Professions Council Meetings |
| Numerous meetings with KPMG regarding E-commerce and state portal system |
| HB 609 Educational Program |
| Orientation(s) for LBB Analysts |
| DIR Task Force on E-Renewal |
| Texas Online Meetings |
| S.B. 187 Profile Subcommittee Meetings |
| S.B. 645 Steering Committee Meetings |
| House Appropriations Committee Subcommittee Hearing |
| Chaired Web Committee Meetings |
| Texas Department of Human Resources Meeting on Emergency Drug Kit Contract |
| Power Builder Demonstration by Northrop |
| Internal Auditor Meetings |
| New Board Member Orientation |
| CPR Training |
| Electronic Government Program Meeting |
| Numerous DIR Benchmarking Meetings |
| Meetings with Comptroller re: Profile Fee Procedures |
| Administration of Tennessee Jurisprudence Exam to applicant |
| New Hire Orientation for New Hires/Interns |
| Presentation to Texas Tech students - NAPLEX & MPJE |
| Defensive Driving for Risk Management |

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Jane Bennett, Chief Accountant

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|--|
| 100 Day Report Seminar |
| USAS User Group Meetings |
| Small Agency Task Force Meeting re: LAR |
| Internal Audit Training |
| EEO Training |
| Teambuilding |
| Meetings with Northrop Grumman re: subscription fees |
| Internal auditor meetings re: H.B. 609 |
| Meet with Comptroller re: TX OnLine payments |
| Board meetings in Galveston re: LAR and Internal Auditor |
| Board meetings re: Internal Operating Budget and LAR |
| GASB 34 Tele Conference |
| TSABAA LAR Instructions |
| Orientation(s) for LBB Analysts |
| House Appropriations Regulatory Subcommittee Hearing |
| Defensive Driving for Risk Management |

Robbi Dana, Employee Relations Coordinator

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|---|
| Insurance Summer Enrollment Training |
| EEO/Sexual Harassment Training |
| New staff orientation for new hires and interns |
| Hobby Building Tenant Meetings |
| Numerous meetings with KPMG, DIR & Comptroller regarding e-Commerce & state portal system |
| USPS Monthly Users Meetings |
| SORM Annual State Agency Report Training |
| Texas Workers' Compensation Educational Conference |
| Managing Electronic Records |
| Defensive Driving - SORM |
| Personal Safety |
| Imaging System Navigation Training |
| New Board Member Orientation |

Sandy Morton, Accountant

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|------------------------------|
| EEO Training |
| Teambuilding Training |
| USPS Payroll Training |
| Excel Tips and Shortcuts |
| Excel 2000 Advanced |
| New Board Member Orientation |

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Darlene Guthrie, Purchaser

Level One Purchaser Certification

EEO Training

Teambuilding Staff Training

Fleet Anywhere

Texas E-Procurement Training

Delivery Service Contract Review

TXMAS Program

HUB Training

Bank of America Training

Defensive Driving - SORM

Legislative Update

Intro to NIGP Code System

How to Pass a TBPC Procurement Audit

Texas State Use Orientation

Mary Helen Oviedo

EEO Training

Introduction to Travel

USAS Core Lab

Purchase, Payment, Rules and Guidelines Seminar

Excel 2000 Introduction Class

SPA Training

Defensive Driving for Risk Management

Kay Wilson, Executive Assistant

EEO Training

Hobby Building Tenant Meetings

Lisa Ake, Exam/Intern Specialist

Staff Orientation

EEO Training

Presentation to Texas Tech students - NAPLEX & MPJE

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Steve Rapp, Information Resource Manager

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|--|
| New staff orientation for new hires |
| EEO Training |
| Teambuilding Seminar |
| Executive Leadership for Information Technology Excellence |
| House Appropriations Regulatory Subcommittee Hearing |

Todd Hayek, Network Specialist

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|-----------------------------------|
| EEO Training |
| ADA Training for Webmasters |
| Windows Networking Video Training |
| Team Building Training |

Rachel Glass, Pharmacist Licensing Specialist

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|--|
| DIR/Northrop Special Project meetings re: Online Renewal |
| DIR Bench-marking Study |
| EEO Training |
| Team Building Seminar |
| Texas Pharmacy Association Annual Meeting |
| Administrative Professional Conference |
| Defensive Driving |

Rene Howard, Pharmacy Licensing Specialist

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|------------------------|
| DIR Benchmarking Study |
| EEO Training |
| Team Building Seminar |

Melinda Uballe, Licensing Technician

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|-----------------------|
| EEO Training |
| Team Building Seminar |

13. To conduct periodic reviews and annual evaluations of all employees under the supervision of this division during FY2002.

Status: **ACCOMPLISHED**

Comment: The division achieved a 100% completion rate of evaluations scheduled for this fiscal year. All employees, with the exception of two new hires, were evaluated in July 2002.

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14. To update the agency Personnel Handbook and the Division's *Policy and Procedure Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2002.

Status: **PARTIALLY ACCOMPLISHED**

Comment: The agency Personnel Handbook was not updated in this fiscal year. All sections of the Licensing *Policy and Procedure Manual* were revised and pertinent sections of the Accounting *Policy and Procedure Manual* were revised. In addition, the *Risk & Safety Manual* and the *Disaster Recovery Manual* were revised, which resulted in a favorable Risk Management Program Review Audit.

15. To recommend policies and procedures to the Executive Director which will enhance the efficiency and effectiveness of the agency throughout FY2002.

Status: **ACCOMPLISHED**

Comment: Major accomplishments in this area include the following:

- A. Transition of Preceptor Certification from every three years to every two years;
- B. Addition of Intern Verification to the agency web site;
- C. Creation of agency Web Committee and revisions to agency web site;
- D. Imaging of agency licensing files project;
- E. Development/testing of Pharmacist Online license renewal system;
- F. Development/testing of wireless handheld devices for inspection program; and
- G. Active computer virus monitoring and firewall installation.

A more detailed discussion of these accomplishments can be found under New Objective #4; Ongoing Objectives #5, 6, and 7; and Ongoing Licensing Objective #7.

16. To recommend changes to the Texas Pharmacy Act and rules which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2002.

Status: **ACCOMPLISHED**

Comment: Reviewed and/or made suggestions regarding the following rules:

- A. Adopted rule regarding the license fee for a pharmacist 72 years or older who is not actively practicing pharmacy.
- B. Adopted rule concerning changing the preceptor certification period to match the pharmacist license period.
- C. Proposed rule concerning changes to requirements for initial pharmacy applications.

ADMINISTRATIVE SERVICES AND LICENSING

17. To prepare and submit a report on the accomplishment of Division objectives for incorporation into the agency's *FY2001 Annual Report* to be presented to the Board by its May 2002 Board Meeting.

Status: **PARTIALLY ACCOMPLISHED**

Comment: The first draft of the FY2001 Annual Report was not submitted to the Executive Director by the due date. The final draft of the TSBP Annual Report was presented to and approved by the Board as scheduled, at the meeting held May 7-8, 2002.

Objectives (Ongoing) - Licensing

1. To coordinate the collection of licensing data for *Key Performance Targets* required under the 2002-2003 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2002.

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 Budget Office by the prescribed due dates, in conjunction with the enforcement performance measures. Within a 5% variance, the Division met or exceeded 75% of these measures (12 measures; 3 measures were not met). With regard to the Average Cost of an Individual and Facility License, the 77th Texas Legislature passed S.B. 187 that mandates the agency to charge each licensee a subscription fee of \$10.00, payable to the Texas Online Authority. Targets for this performance measure were made before this legislation passed, which nearly doubled the cost of a license.

The chart below reflects year-end data for TSBP licensing and cost performance measures:

| PERFORMANCE MEASURES | TARGET FY02 | ACCOMPLISHED FY02 | Key or Non Key (K-NK) | Expectations |
|--|----------------|----------------------|-----------------------------|--------------|
| Percent of Licensees with No Recent Violations | 99 | 97.20 | K | Met |
| Individuals Examined (examinations administered) | 1500 | 1387 | NK | Not met |
| Number of Licenses Renewed (Individuals) | 10,300 | 10,507 | K | Exceeded |
| Number of New Licenses Issued to Individuals | 750 | 855 | K | Exceeded |
| Average Licensing Cost Per Individual License Issued | \$9.39 | \$14.85 | K | Not Met |
| Average Licensing Cost Per Facility License Issued | \$31.66 | \$35.27 | K | Not Met |

ADMINISTRATIVE SERVICES AND LICENSING

| PERFORMANCE MEASURES | TARGET FY02 | ACCOMPLISHED FY02 | Key or Non Key (K-NK) | Expectations |
|--|--------------------|--------------------------|------------------------------|---------------------|
| Average Cost Per Exam Administered | \$65.23 | \$67.96 | NK | Met |
| % of New Licenses Issued within 10 Days | 98% | 100% | NK | Exceeded |
| % Individual Licenses Issued within 7 Days | 98% | 100% | NK | Exceeded |
| Total Number of Individuals Licensed | 20,600 | 21,106 | NK | Exceeded |
| Total Number of Business Facilities Licensed | 5,470 | 5,681 | K | Exceeded |
| Pass Rate | 87% | 92.79% | NK | Exceeded |

2. To determine the eligibility of all pharmacist applicants applying to take the NAPLEX and Texas Pharmacy Jurisprudence Examination (MPJE) for initial licensing or licensing by reciprocity throughout FY2002.

Status: **ACCOMPLISHED**

Comment: The following statistics relate to all applicants that were determined eligible and received a score for the NAPLEX and MPJE in FY2002:

| JURISPRUDENCE (MPJE) | Total Exams Administered |
|----------------------------------|---------------------------------|
| Candidates Passing | 813 (93%) |
| Candidates Failing | 62 (07%) |
| TOTAL EXAMS JURISPRUDENCE | 875 (100%) |

| NAPLEX | Total Exams Administered |
|---------------------------|---------------------------------|
| Candidates Passing | 474 (93%) |
| Candidates Failing | 38 (07%) |
| TOTAL EXAMS NAPLEX | 512 (100%) |

ADMINISTRATIVE SERVICES AND LICENSING

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

| NEW PHARMACISTS LICENSED - FY02 | |
|--|-------------------|
| Graduates of Texas Colleges of Pharmacy | 365 (43%) |
| Graduates of Out-of-State Colleges of Pharmacy | 447 (52%) |
| Credentialed by the Foreign Pharmacist Equivalency Committee | 43 (05%) |
| Total | 855 (100%) |

Regarding reciprocity (license transfer) in and out of Texas, 274 candidates were licensed by reciprocity in FY2002, and the agency responded to requests from NABP for verification of licensure status of Texas licensees desiring to transfer to other states. The National Association of Boards of Pharmacy reports that in calendar year 2002, Texas had 373 requests for licensure transfer into the state and 343 licensure requests to transfer to other states.

3. To provide staff support to the *Examination Retake Committee* and any other advisory committee related to licensing issues as required in FY2002.

Status: **ACCOMPLISHED**

Comment: Division Director provided staff support to the Examination Retake Committee in the form of one conference call meeting to discuss various recommendations. Division Director continued to inform applicants who failed the Board licensing examination(s) three times, of the committee recommendations to complete college course work prior to retaking the examination(s).

4. To issue an initial and/or renewal certificate to all pharmacy license applicants within seven working days of receipt of the required fee and all required documents throughout FY2002.

Status: **ACCOMPLISHED**

Comment: This measure represents the total number of pharmacy licenses (business or facilities) issued by the agency, and includes five classes of pharmacy licenses.

The average processing time to issue a license from receipt of a completed application was two working days for a pharmacy renewal and seven working days for a new pharmacy license. The total number of active pharmacy licenses at the end of the fiscal year was as follows:

| PHARMACIES ACTIVE FY02 | |
|-------------------------------|--------------|
| Class A (Community) | 4,077 |
| Class B (Nuclear) | 36 |
| Class C (Institutional) | 841 |
| Class D (Clinic) | 454 |
| Class E (Non Resident) | 273 |
| TOTAL | 5,681 |

A total of 6,114 pharmacy applications were processed as follows:

ADMINISTRATIVE SERVICES AND LICENSING

| PHARMACY APPLICATIONS PROCESSED | |
|--|--------------|
| Pharmacy Renewals | 3,495 |
| Remote Pharmacies | 1,064 |
| New Opens | 443 |
| Change of Ownership | 602 |
| Change of Location | 62 |
| Change of Name | 98 |
| Closings | 350 |
| TOTAL | 6,114 |

5. To issue renewal certificates to all pharmacist candidates within four working days of receipt of the required fee and all required documents throughout FY2002.

Status: **ACCOMPLISHED**

Comment: The agency renewed 10,507 pharmacist licenses on a biennial basis during FY2002. The average processing time to issue a renewal license from receipt of a completed application was one business day. The total population of licensed pharmacists for this fiscal year is as follows:

| PHARMACISTS LICENSED - FY02 | |
|------------------------------------|---------------|
| Active Status | 19,632 |
| Inactive Status* | 1,216** |
| TOTALS | 20,848 |

* Not practicing pharmacy in Texas and not reporting continuing education credits.
 ** Of the above number, 174 pharmacists have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as "exempt."

In addition to these statistics, division (Licensing) staff had the following workload statistics:

| WORKLOAD | STATISTIC |
|----------------------------|------------------|
| Changes of Address | 2,200 |
| Changes of Employment | 4,500 |
| Telephone Calls Received | 16,000 |
| Email Inquiries Answered | 5,100 |
| Information Packets Mailed | 2,000 |
| Lists/labels Processed | 112 |

ADMINISTRATIVE SERVICES AND LICENSING

6. To issue a pharmacist license by examination, score transfer, or reciprocity within 10 working days after the date the agency receives the examination results throughout FY2002.

Status: **ACCOMPLISHED**

Comment: The agency issued 855 new pharmacist licenses with an average turnaround time of three business days from the download of the examination results. Examination results were downloaded approximately once every five business days with the exception of the June - August period. During these months, examination grades were downloaded once every 10 business days. Barring any other requirements that might be due for initial licensure, licensure candidates received notice of their new license within an average of 6-18 business days of their examination date.

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

Status: **ACCOMPLISHED**

Comment: 526 new intern registrations were issued in FY2002 and all interns were certified within nine business days after receipt of all required documents. In addition, an Intern Verification was added to the agency web page, which enables a pharmacist preceptor and other Board customers to verify the registration status of an intern (i.e., date certified, date internship expires, number of hours certified).

Of particular note in this fiscal year was the recertification and streamlining of pharmacist preceptors. Approximately 3,000 pharmacist preceptor certification expiration dates were extended to coincide with each pharmacist license renewal period. New Preceptor Certifications were mailed to all current preceptors, and computer changes were implemented which will enable future preceptors to renew their certification at the time that their pharmacist license is renewed.

8. 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 relicensure, in cooperation with the enforcement team, throughout FY2002.

Status: **ACCOMPLISHED**

Comment: Of the total number of audits conducted, 92% of the audits were closed or referred to Enforcement, with 8% active at year-end.

PROFESSIONAL SERVICES DIVISION

FY2002 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished all of the division's Objectives for FY2002.
2. Division staff supervised production and publication of the Board's pharmacy law manual in a new format that will be updated every year rather than every two years. Included in the publication was a searchable CD-Rom version of the pharmacy law manual which has proven to be extremely useful to those researching specific topics.
3. The Division Director managed the educational project associated with the substitution "dispensing directive" contained in S.B. 768. A document to educate prescribers about the dispensing directive was developed, mailing labels obtained from all Texas licensed prescribers, and approximately 60,000 prescribers received the document by mail.
4. The Division Director worked with the Texas Department of Human Services to advise Texas licensed Long Term Care Facilities of the new requirements for emergency medication kits maintained in their facilities.
5. Division staff worked closely with the Division of Administrative Services and Licensing to develop the new application for Remote Pharmacy Services.
6. The Division Director implemented within the division the new uniform objectives for employee evaluations developed during FY2001.
7. Division staff managed the publication of a 25th Anniversary issue of the Board's *Newsletter*.
8. Division staff developed the procedures and forms to implement the awarding of continuing education credit for attendance at a meeting of the Texas State Board of Pharmacy.
9. Division staff worked with the National Association of Boards of Pharmacy to implement quarterly updates rather than biannual updates to *NABPLAW*.
10. The Division Director gave 11 presentations during FY2002 to over 1,200 Texas pharmacists, technicians, and pharmacy students. This constitutes a 63% increase in attendance for these presentations over FY2001.
11. The division continues to experience an increase in the amount of mailed or emailed information to Board customers. Of particular note is the 52% increase in the number of email responses required by the Division Director over the number of responses for FY2001. These responses answered specific inquiries from external Board customers.

PROFESSIONAL SERVICES DIVISION
FY2002 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Although also mentioned as a significant accomplishment, the number of answered email inquiries takes a considerable amount of the Division Director's time. These responses answered specific inquiries from external Board customers. The amount of time spent to answer these email inquiries was 2.8 weeks during FY2002 compared to 2.3 weeks during FY2001. Please refer to Ongoing Objective #10 for further information.

PROFESSIONAL SERVICES DIVISION FY2002 ANNUAL REPORT

Goal

To facilitate agency operations by providing information through publications, including the *Newsletter*, law references, and the *Texas Register*; and by providing professional services, including internship reviews, law exam development, task force support, and public speaking engagements to agency customers.

Objectives (New)

1. To assist the Executive Director in updating and preparing the *TSBP Strategic Plan* for the 2003-2007 period, and submitting the plan to the Governor's Office of Budget and Planning and the Legislative Budget Board, by the due date.

Status: **ACCOMPLISHED**

Comment: The Division Director was teamed with Board Members Oren Peacock, R.Ph., and Kim Caldwell, R.Ph., to review and revise Policy Issue #2 for the *TSBP Strategic Plan* for 2003-2007. The revision was completed in January 2002 and a draft prepared by the Division Director for presentation to the full Board at their February 2002 meeting. The draft was approved and included in the *TSBP Strategic Plan* for 2003-2007, which was approved at the Board's May 2002 meeting.

2. To assist the Executive Director, in cooperation with other divisions, in reviewing and implementing legislation passed by the 77th Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2002 including the following:
 - A. S.B. 768 relating to pharmacist continuing education; emergency medication kits in nursing homes; and development of a "Dispensing Directive" for generic substitution on prescriptions;
 - B. S.B. 98 relating to the provision of pharmacy services in a nursing home through an automated pharmacy system;
 - C. S.B. 65 relating to the provision of pharmacy services in a rural health clinic through a telepharmacy system;
 - D. H.B. 99 relating to the adoption of rules regarding the sale and delivery of drugs by use of electronic media; and
 - E. S.B. 753 regarding amendments to the Texas Controlled Substances Act.

Status: **ACCOMPLISHED**

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Comment: Division staff assisted with completion of this activity in FY2002 through the following activities:

A,B&C. Remote Pharmacy Services

Senate Bills 768, 98, and 65 all deal with remote pharmacy services. Rules to implement these bills began development in FY2001. The Division Director drafted rules to implement S.B. 768 and S.B. 98 and assisted the Executive Director with the draft of rules to implement S.B. 65. These rules were adopted by the Board in November 2001 and became effective on December 19, 2001, a full two and a half months ahead of the February 29, 2002, deadline.

To implement registration of these remote pharmacy sites, division staff assisted the Division of Administrative Services and Licensing with the development of computer programs and registration procedures. The remote pharmacy services application form was designed by Senior Administrative Assistant Retta Cole.

Implementation of S.B. 768 required the responsibility for emergency medication kits to be transferred from the Texas Department of Human Resources (DHS) to TSBP. This required the Division Director to work closely with staff of DHS and the Board's Administrative Services and Licensing Division to accomplish the transition. Written articles were prepared by the Division Director and used by both agencies to provide notice to all nursing homes and pharmacies involved.

Dispensing Directive

S.B. 768 also directed the Board to develop a dispensing directive for generic substitution on prescriptions. The Division Director assisted the Executive Director in the drafting of rules to implement this directive. These rules were adopted by the Board on February 6, 2002, with an effective date the same date as the statutory provision, June 1, 2002. An educational mailout was prepared, mailing lists obtained, and all licensed prescribers in Texas received written notification of the dispensing directive. Division staff coordinated this endeavor.

- D. The Division Director assisted the Executive Director in the drafting of rules to implement H.B. 99.
- E. The Division Director monitored the progress of rules to implement S.B. 753 and gave appropriate feedback to the Executive Director.

- 3. To assist the Executive Director, in cooperation with other divisions, in the preparation of a proposed budget for the FY2004-2005 biennium.

Status: **ACCOMPLISHED**

Comment: The Division Director attended and participated in all budget planning meetings of the management staff of the agency.

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4. To assist the Executive Director, in cooperation with other divisions, in the orientation of new Board Members within 90 days of their appointment by the Governor.

Status: **ACCOMPLISHED**

Comment: The Division Director participated in the orientation of new Board Members Mike Brimberry, R.Ph., and Angela Myres on January 24, 2002.

Objectives (Ongoing)

1. To assist the Board, throughout FY2002, in its review of the Texas colleges of pharmacy degree and internship programs to determine if the programs are adequate to prepare a student for pharmacy practice.

Status: **ACCOMPLISHED**

Comment: The Division Director, with the assistance of a Board Member, conducted on-site reviews of the internship records of the four Texas colleges of pharmacy as follows.

| Date | College / School of Pharmacy | Board Member |
|-------------|-------------------------------------|---------------------|
| 6/18/02 | University of Texas | Mike Brimberry |
| 6/20/02 | Texas Southern University | Oren Peacock |
| 6/20/02 | University of Houston | Oren Peacock |
| 6/27/02 | Texas Tech University | Mike Brimberry |

Results of the on-site reviews of the internship records for the four Texas colleges of pharmacy were presented to the Board at its August 6-7, 2002, meeting.

In addition, the division sent a questionnaire concerning the Texas colleges of pharmacy internship programs to the four Texas colleges of pharmacy. Responses were reviewed by the Division Director and presented to the Board on August 6, 2002, resulting in approval of the internship programs for the 2002-2003 academic year.

2. 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 the Enforcement Division to review 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 personnel from the Enforcement Division who assisted in the reviews of the MPJE item pools. The Division Director and pharmacist personnel from the Enforcement Division participated in the following activities in support of the MPJE program:

| Date | Activity | Personnel |
|-------------|---|--|
| 10/01 | MPJE Texas Item Pool Review, Austin, TX | Steve Morse, Heidi Holmes, Milton Jez, Ben Santana |

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| Date | Activity | Personnel |
|-------------|---|---------------------------|
| 1/25-27/02 | MPJE Item Writing Workshop, Chicago, IL | Steve Morse |
| 2/02 | Drafted 45 Items for the Texas MPJE Exam, Austin, TX | Steve Morse |
| 3/02 | Revised Texas Candidate Guide for MPJE Exam, Austin, TX | Steve Morse |
| 4/10-14/02 | MPJE Review Committee Meeting, Chicago, IL | Steve Morse |
| 5/30-6/2/02 | MPJE Texas Item Pool Review, Chicago, IL | Steve Morse, Heidi Holmes |
| 6/02 | Completed MPJE Item Coding Project, Austin, TX | Steve Morse |
| 8/7-11/02 | MPJE National Item Pool Review, Phoenix, AZ | Steve Morse |

The Division Director continues to serve on the MPJE Review Committee which has the responsibility for the review and selection of all items placed into the active MPJE item pool.

- To publish a minimum of four issues of the *Newsletter* during FY2002, 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: Division Director Steve Morse, serving as the Managing Editor, and Senior Administrative Assistant Retta Cole, serving as Editorial Assistant, coordinated publication of the following four issues of the Newsletter during FY2002:

- Fall 2001
- Winter 2001/2002
- Spring 2002
- Summer 2002

A Newsletter planning committee was created with members from each of the agency's divisions. The committee meets to plan each *Newsletter* by providing input on the articles to be included in each issue and to author articles when needed. One of the results of this committee's work was the 25th Anniversary issue in which the Board celebrated the 25th year of the *Newsletter* with the Winter 2001/2002 25th Anniversary issue. This issue took a look at the past 25 years of pharmacy as seen through the articles appearing in the *Newsletter* and looked forward to the challenges of the next 25 years.

| Every Issue Contained | Significant Articles in FY02 |
|-----------------------------|---|
| Adopted Rules and Summaries | Recognizing Signs of Substance Abuse and Addiction |
| Disciplinary Actions | Position Statement on the Treatment of Pain |
| Compliance Reminders | Changes in Generic Substitution Laws and Rules |
| Complaint Corner | Medication Safety Self Assessment™ - An Extremely Useful Tool |

- To provide periodic updates of the Texas State Pharmacy Law reference manual to Board Members, staff, and NABP for inclusion in NABPLAW during FY2002.

Status: **ACCOMPLISHED**

Comment: Law Reference
The Texas State Pharmacy Law reference manual was published in an entirely new format

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consisting of a bound book that included a searchable CD-Rom of the entire contents. Division staff coordinated the project and with the assistance of staff from other divisions updated the appropriate portions of the reference. The new law reference became available in April 2002.

Law Reference Updates

The new law reference will be published yearly rather than every other year. Updates in the form of Rule Memos were provided to Board Members and staff on:

- September 6, 2001
- December 19, 2001
- March 8, 2002
- June 20, 2002

NABPLAW Updates

NABPLAW updates were sent to NABP on the following dates during FY2002:

- March 11, 2002
- July 3, 2002

The Division Director worked with staff at NABP to update NABPLAW quarterly rather than twice a year as in the past. Although updating twice as frequently, staff time to prepare the electronic files of changed sections has decreased. This was accomplished through new procedures developed with NABP which identify sections with changes and direct NABP to Internet web sites to obtain new language. Division staff no longer prepare electronic files of changed sections. The change was fully implemented with the March 11, 2002, update.

NABP Survey of Pharmacy Law Updates

The NABP publication *Survey of Pharmacy Law* is updated annually for NABP. During FY2002, the update was completed by the Division Director and returned to NABP in July 2002.

5. To develop rules for consideration by the Board relating to professional issues and assist other divisions with the development of rules pertaining to Board operations; coordinate rule reviews; act as agency liaison to the *Texas Register*; and coordinate and monitor all submissions to the *Texas Register* throughout FY2002.

Status: **ACCOMPLISHED**

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

DRAFTING OF RULES

The Division Director spent a considerable amount of time drafting rules, assisting others in the drafting of rules, and preparing 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 during the same Board meeting. The Division Director drafted seven rules and assisted others in the drafting of ten additional rules as follows:

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| Rules |
|--|
| Drafted by Division Director: |
| Amendments to §§291.32 & 291.36 concerning the ability of a pharmacist to be PIC of multiple Class A pharmacies |
| Amendments to §295.5 concerning the license fee for a pharmacist 72 years or older who is not actively practicing pharmacy |
| Amendments to §§295.7 & 295.9 concerning changes to citations due to codification of the Pharmacy Act |
| Amendments to §291.73 concerning the display of a technician's certification certificate in a Class C Pharmacy |
| Amendments to §311.1 concerning changes to code of conduct as a result of a rule review |
| Assisted the Executive Director in drafting: |
| Amendments to §§291.33, 291.34, 291.36, 291.52, 291.54, & 291.55 concerning the dispensing directive |
| Repeal/New §§309.1 - 309.8 concerning the dispensing directive |
| Assisted Enforcement Division in drafting: |
| New §291.11 concerning what constitutes the operation of a pharmacy |
| Amendments to §§291.1 & 291.4 concerning changes to requirements for initial pharmacy applications (1 st attempt) |
| Amendments to §§291.32 & 291.36 concerning responsibilities of PIC & Owner & whether a pharmacist can be PIC of multiple Class A Pharmacy. |
| Amendments to §§291.1 & 291.4 concerning changes to requirements for initial pharmacy applications (2 nd attempt) |
| Assisted the Legal Division in drafting: |
| Repeal of §301.1 concerning fraud, deceit, and misrepresentation |
| Repeal/New §281.40 concerning hearings by phone |
| Amendments to §§281.1, 281.4, 281.14, 281.17, 281.27, 281.33, 281.43, & 281.45 concerning updates to citations found during rule review |
| Assisted the Administrative Services and Licensing Division in drafting: |
| Amendments to §§283.1 & 283.6 concerning changing the preceptor certification period to match the pharmacist license period |

RULE SUBMISSIONS TO THE TEXAS REGISTER

During FY2002, 60 submissions to the *Texas Register* were made that proposed, adopted, reviewed, repealed, or withdrew Texas Pharmacy rules. This is a 50% increase in the number of submissions from the previous fiscal year. 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 |
|----------------------------------|-----------------------|---------------------------------------|---------------------------------|--------------------------------------|---------------------------------|
| §281.19 | New | FY2001 | FY2001 | 9/7/01 | 9/6/01* |
| §§291.32, 291.36, 291.53, 291.73 | Amendment | FY2001 | FY2001 | 9/7/01 | 9/6/01* |
| §§291.6, 295.5 | Amendment | FY2001 | FY2001 | 9/7/01 | 9/6/01* |

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| Rules | Type of Action | Published in TxReg as Proposed | Memo to Staff and Others | Published in TxReg as Adopted | Memo to Staff and Others |
|--|-----------------------|---------------------------------------|---------------------------------|--------------------------------------|---------------------------------|
| §291.20 | New | 9/14/01 | 9/6/01* | 12/14/01 | 12/19/01 |
| §§291.33, 291.36, 291.74 | Amendment | 9/14/01 | 9/6/01* | 12/14/01 | 12/19/01 |
| §281.21 | Amendment | 9/14/01 | 9/6/01* | 12/14/01 | 12/19/01 |
| §§291.21, 295.11 | Amendment | 9/14/01 | 9/6/01* | 12/14/01 | 12/19/01 |
| §283.10 | Amendment | 9/14/01 | 9/6/01* | 12/14/01 | 12/19/01 |
| §295.8 | Amendment | 9/14/01 | 9/6/01* | 12/14/01 | 12/19/01 |
| §295.12 | New | 9/14/01 | 9/6/01* | 12/14/01 | 12/19/01 |
| §§295.13, 295.15 | Amendment | 9/14/01 | 9/6/01* | 12/14/01 | 12/19/01 |
| §291.33, 291.34, 291.36, 291.52, 291.54, 291.55 | Amendment | 12/28/01 | 12/19/01* | 3/8/02 | 3/8/02 |
| §§309.1-309.8 | Repeal/New* | 12/28/01 | 12/19/01* | 3/8/02 | 3/8/02 |
| Chapter 291 (291.51-291.55) | Rule Review | 12/28/01 | 12/19/01* | 3/8/02 | 3/8/02 |
| Chapter 305 (305.1-305.2) | Rule Review | 12/28/01 | 12/19/01* | 3/8/02 | 3/8/02 |
| Chapter309 (309.1-309.8) | Rule Review | 12/28/01 | 12/19/01* | 3/8/02 | 3/8/02 |
| §291.11 | New | 3/15/02 | 3/8/02* | 6/7/02 | 6/20/02 |
| §§291.1, 291.4 | Amendment | 3/15/02 | 3/8/02* | Withdrawn | Withdrawn |
| §295.5 | Amendment | 3/15/02 | 3/8/02* | 6/7/02 | 6/20/02 |
| §§295.7, 295.9 | Amendment | 3/15/02 | 3/8/02* | 6/7/02 | 6/20/02 |
| §§283.1, 283.6 | Amendment | 3/15/02 | 3/8/02* | 6/7/02 | 6/20/02 |
| §291.73 | Amendment | 6/21/02 | 6/20/02* | 8/30/02 | FY2003 |
| §281.40 | Repeal/New | 6/21/02 | 6/20/02* | 8/30/02 | FY2003 |
| §291.20 | New | 6/21/02 | 6/20/02* | 8/30/02 | FY2003 |
| §§291.32, 291.36 | Amendment | 6/21/02 | 6/20/02* | 8/30/02 | FY2003 |
| §301.1 | Repeal | 6/21/01 | 6/20/02* | 8/30/02 | FY2003 |
| §§281.2, 281.4, 281.14, 281.17, 281.27, 281.33, 281.43, 281.45 | Amendment | 6/21/02 | 6/20/02* | 8/30/02 | FY2003 |
| §311.1 | Amendment | 6/21/02 | 6/20/02* | 8/30/02 | FY2003 |
| Chapter 281 | Rule Review | 6/21/02 | 6/20/02* | 8/30/02 | FY2003 |
| Chapter 295 (295.15) | Rule Review | 6/21/02 | 6/20/02* | 8/30/02 | FY2003 |
| Chapter 301 | Rule Review | 6/21/02 | 6/20/02* | 8/30/02 | FY2003 |
| Chapter 311 | Rule Review | 6/21/02 | 6/20/02* | 8/30/02 | FY2003 |

* Advanced Notice

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TEXAS REGISTER - OPEN MEETING SUBMISSIONS

During FY2002, seven notices of open meetings were submitted by the division to the *Texas Register* for publication as follows:

| Type of Submission | Date Published |
|---|----------------|
| Open Meeting - 9/14/01 Election of Officers | 9/28/01 |
| Open Meeting - 11/13/01 Board Meeting | 10/31/01 |
| Open Meeting - 2/4/02 Public Hearing and Board Meeting | 1/25/02 |
| Open Meeting - 4/23/02 Board Panel to Receive Information | 4/15/02 |
| Open Meeting - 5/7/02 Board Meeting | 4/24/02 |
| Open Meeting - 6/8/02 Board Forum | 5/20/02 |
| Open Meeting - 8/6/02 Board Meeting | 7/24/02 |

6. To review and monitor the *Texas Register* for activities of other agencies that would impact the policy and procedures of the Board throughout FY2002.

Status: **ACCOMPLISHED**

Comment: Division Staff reviewed every 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 appropriate action taken as indicated:

| Date | Rules from the Texas State Board of Pharmacy | Action |
|----------|---|--|
| 9/6/01 | Proposed and Adopted Rules from the August 2001 Board Meeting | Reported to Board Members/Staff & Interested Parties |
| 12/19/01 | Proposed and Adopted Rules from the November 2001 Board Meeting | Reported to Board Members/Staff & Interested Parties |
| 3/8/02 | Proposed and Adopted Rules from the February 2002 Board Meeting | Reported to Board Members/Staff & Interested Parties |
| 6/20/02 | Proposed and Adopted Rules from the May 2002 Board Meeting | Reported to Board Members/Staff & Interested Parties |

| Date | Rules from Other Agencies | Action |
|-------|--|--|
| 10/01 | Proposed Rules from the State Office of Administrative Hearings (SOAH) | Reported to General Counsel |
| 10/01 | Proposed Rules from the Department of Information Resources - Procedures | Reported to Director Admin. Services & Licensing |

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| Date | Rules from Other Agencies | Action |
|-------------|---|---------------------------------|
| 11/01 | Proposed Rules from Board of Nurse Examiners - APN dispensing authority & changes to Rx format due to substitution changes | Drafted Comments for BNE |
| 1/02 | Adopted Rules from the Department of Human Services - Emergency Medication Kits | Reported to Board Members/Staff |
| 2/02 | Proposed Rules from Health and Human Services - Medicaid Rxs | Reported to Board Members/Staff |
| 2/02 | Adopted Rules from the Drug Enforcement Administration - New thresholds for sales of pseudoephedrine and phenylpropanolamine | Reported to Board Members/Staff |
| 3/02 | Adopted Rules from the Board of Nurse Examiners - APN dispensing authority & changes to Rx format due to substitution changes | Reported to Board Members/Staff |
| 3/02 | Adopted Rules from Health and Human Services - Medicaid Rxs | Reported to Board Members/Staff |
| 3/02 | Proposed Rules from the Department of Information Resources - (1) Web site requirements; and (2) Information security standards | Reported to Network Manager |
| 3/02 | Proposed Rules from the Department of Public Safety - Total Revision of Controlled Substance Rules | Reported to Board Members/Staff |
| 4/02 | Proposed Rules from Department of Information Resources - Management of Information Resources | Reported to Network Manager |
| 4/02 | Proposed Rules from the Department of Public Safety - Licensing standards for law enforcement personnel | Reported to Chief Investigator |
| 6/02 | Adopted Rules from the Department of Public Safety - Use of Peyote by Indians for religious ceremonies | Reported to Board Members/Staff |

7. To provide professional staff support to Board-appointed task forces, as assigned, in FY2002.

Status: ACCOMPLISHED

Comment: The division's staff provided professional staff support to two meetings of the Task Force on Technician Registration.

8. To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2002.

Status: ACCOMPLISHED

Comment: A. The Division Director assisted the Texas Department of Public Safety in the review and approval of five plans from Texas pharmacies to fill prescriptions for Schedule II controlled substances issued by out-of-state practitioners.

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- B. The Division Director worked with representatives of the Texas Department of Human Services to transfer the responsibility for emergency medication kits in nursing homes to the Texas State Board of Pharmacy.
- C. The Division Director worked with representatives of all health licensing agencies whose licensees have prescriptive authority to prepare a jointly issued document describing changes to substitution requirements and mail it to all licensees with prescriptive authority located in Texas.
- D. Division staff maintained close contact with *Texas Register* staff as needed to prepare and publish rules in the *Texas Register*.
- E. The Division Director had telephone contact with numerous agencies as indicated below:

| Agencies | Telephone Contacts |
|---|--------------------|
| Drug Enforcement Administration | 6 |
| Food and Drug Administration | 5 |
| Lieutenant Governor's Office | 1 |
| Office of Rural Community Affairs | 2 |
| Secretary of State | 2 |
| Texas Board of Psychologist Examiners | 1 |
| Texas Department of Criminal Justice | 1 |
| Texas Department of Health | 13 |
| Texas Department of Human Services | 19 |
| Texas Department of Public Safety | 18 |
| Texas Legislative Council | 2 |
| Texas Optometry Board | 1 |
| Texas State Board of Chiropractic Examiners | 2 |
| Texas State Board of Dental Examiners | 1 |
| Texas State Board of Medical Examiners | 4 |
| Texas State Board of Nurse Examiners | 5 |
| Texas State Board of Veterinary Medical Examiners | 2 |
| Texas Worker Compensation Commission | 1 |
| Travis County Health Department | 1 |
| TOTAL AGENCY CONTACTS | 87 |

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| State Boards of Pharmacy | Telephone Contacts |
|----------------------------------|--------------------|
| Arizona Board of Pharmacy | 3 |
| Kentucky Board of Pharmacy | 1 |
| Louisiana Board of Pharmacy | 2 |
| Mississippi Board of Pharmacy | 1 |
| New Jersey Board of Pharmacy | 1 |
| North Carolina Board of Pharmacy | 1 |
| Washington Board of Pharmacy | 1 |
| TOTAL BOARD CONTACTS | 10 |

9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council throughout FY2002.

Status: **ACCOMPLISHED**

Comment: No activities were assigned to the division by the Executive Director regarding this objective.

10. 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 FY2002.

Status: **ACCOMPLISHED**

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

- A. The division mailed 3,459 pieces of written information as indicated in the following chart:

| Written Information | |
|--|--------------|
| Packets of Information | 316 |
| Memos Regarding Rules & Open Meetings | 1,647 |
| Letters | 191 |
| Emails (52% increase) | 1,296 |
| Surveys | 9 |
| TOTAL | 3,459 |
| AVERAGE PER MONTH | 288 |

Emails: 676 email inquiries from external Board customers were answered by the Division Director. The Division Director averaged 9.3 hours/month, with a high of 13.3 hours/month, answering these inquiries.

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B. The Division Director gave 11 presentations as indicated in the following chart:

| Date | Presentations — Steve Morse | Attendance (Approx.) |
|-----------------------------|---|-----------------------------|
| 9/27/01 | UT College of Pharmacy First Semester Students, Austin | 130 |
| 10/5/01 | Texas Federation of Chain Drug Stores, Austin | 40 |
| 10/26/01 | West Texas Pharmaceutical Association Educational Fair, El Paso | 60 |
| 11/3/01 | Texas Pharmacy Association Academy of Pharmacy Technicians, Austin | 150 |
| 11/5/01 | Texas Tech School of Pharmacy Law Class, Amarillo | 75 |
| 4/5/02 | Texas Pharmacy Association Academy of Consultant Pharmacists, San Antonio | 6 |
| 4/20/02 | Texas Pharmacy Association Region D, San Antonio | 200 |
| 5/22/02 | Office of Rural Community Affairs, Temple | 200 |
| 6/6/02 | Texas Pharmacy Association Annual Meeting - Preceptors, Corpus Christi | 50 |
| 6/8/02 | Texas Pharmacy Association Annual Meeting - Board Forum, Corpus Christi | 300 |
| 6/24/02 | Walgreen's Interns | 20 |
| TOTAL (63% increase) | | 1,231 |

C. Division personnel served as a resource on 19 occasions as indicated in the following chart:

| Date | Resource for: | Staff* | Attendance (Approx.) |
|-------------|---|---------------|-----------------------------|
| 10/9/01 | Representatives of the Board of Nursing Examiners & Medical Examiners | SM | 6 |
| 10/16/01 | Representatives of all Health Boards whose licensees can prescribe | SM | 25 |
| 10/17/01 | Meeting of the Governor's Council on Women in State Government | RC | 40 |
| 11/15/01 | Representatives of the Board of Nursing Examiners | SM | 6 |
| 11/17/01 | Meeting of the Governor's Council on Women in State Government | RC | 40 |
| 12/7/01 | Meeting of the Governor's Council on Women in State Government | RC | 40 |
| 12/10/01 | Representatives of Texas Department of Health & Interested Parties | SM | 20 |
| 1/16/02 | Representatives of the Department of Information Resources | SM | 5 |
| 1/16/02 | Meeting of the Governor's Council on Women in State Government | RC | 40 |
| 2/22/02 | Representatives of Biotech | SM | 6 |
| 2/22/02 | Representatives of Seton Hospital | SM | 4 |
| 2/27/02 | Representatives of the Department of Human Services | SM | 5 |

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| Date | Resource for: | Staff* | Attendance (Approx.) |
|--------------|---|--------|----------------------|
| 3/21/02 | University of Texas College of Pharmacy's Pharmaceutical Advisory Council Meeting | SM | 30 |
| 4/4/02 | Texas Pharmacy Association Academy of Consultant Pharmacists | SM | 40 |
| 4/5/02 | Representatives of the Department of Human Services | SM | 10 |
| 4/9/02 | Representative of Lexis Nexis | SM/RC | 6 |
| 5/28/02 | Legislative Budget Board Analyst | SM | 6 |
| 8/15/02 | Legislative Budget Board Analyst | SM | 6 |
| 8/19/02 | Representatives of NCS Pharmacies | SM | 4 |
| TOTAL | | | 339 |

* SM - Steve Morse, RC - Retta Cole

D. The Division Director provided information to Board staff as follows:

Training and Informational Activities

| Date | Training | Personnel |
|------------|--|--|
| 9/25/01 | Oriented New Enforcement Officers to Division & Laws/Rules | Sarah Guevara, Enforcement Amy Herring, Enforcement |
| 12/5/01 | Enforcement Meeting - Rules from 11/01 Board Mtg | Enforcement Staff |
| 12/13/01 | Memo @ delay in DEA registrations due to anthrax scare in DC post offices | Enforcement Staff Legal Staff |
| 12/14/01 | Developed position & sent Memo @ CE for Pharmacy Techs Exempt from Certification | Enforcement Staff |
| 2/21/02 | Enforcement Meeting - Rules from 2/02 Board Mtg | Enforcement Staff |
| 3/5/02 | Memo @ new CII Rx Forms | Enforcement Staff Licensing Staff |
| 3/7/02 | Orientation to Division | Wayne Jones, Enforcement Richard Thompson, Enforcement Mary Helen Oviedo, Accounting |
| 3/7/02 | Orientation to Laws/Rules | Wayne Jones, Enforcement Richard Thompson, Enforcement |
| 5/14-15/02 | Enforcement Meeting - Rules from 5/02 Board Mtg | Enforcement Staff |
| 8/20/02 | Enforcement Meeting - Rules from 8/02 Board Mtg | Enforcement Staff |

Other Activities

- The Division Director routinely answered questions concerning the laws and rules, including their applicability to specific situations, for Enforcement (66) and Licensing (18) staff.

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- The Division Director and staff served on the agency Web Site Committee, monitored a portion of the site for accuracy of the information presented, and forwarded changes and/or updates to Web Technician Todd Hayek.
- Division staff assisted other divisions by creating, updating, and/or changing over 25 forms and documents used by other divisions of the agency.
- The Division Director processed 319 notifications of Drug Therapy Management by pharmacists and 62 requests for exemption from technician certification.

11. 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 FY2002.

Status: ACCOMPLISHED

Comment: Division staff completed the following education activities:

| Retta Cole | |
|--|--|
| 9/28/01 | Evelyn Wood's Reading Dynamics |
| 12/5/01 | All Staff EEO Training |
| 12/6/01 | All Staff Team Building Seminar |
| 2/26/02 | Defensive Driving Course |
| 6/20/02 | Microsoft Small Business Solutions Seminar |
| 4/22/02 4/25/02 7/9/02 7/10/02 7/16/02 | Self Training Program - Adobe Illustrator |

| Steve Morse | |
|--------------------|---|
| 10/26-27/01 | TPA West Texas Educational Seminar, El Paso |
| 12/5/01 | All Staff EEO Training |
| 12/6/01 | All Staff Team Building Seminar |
| 3/13-14/02 | Project Management (Governor's Center for Management Development) |
| 6/5-9/02 | TPA Annual Meeting, Corpus Christi |

12. To conduct periodic reviews and annual evaluations of all employees under the supervision of this division by August 31, 2002.

Status: ACCOMPLISHED

Comment: The annual review for Retta Cole occurred on May 21, 2002.

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13. To destroy records in accordance with the agency's record retention plan throughout FY2002; to update the division's *Policy and Procedure Manual* as needed and submit any substantive revisions to the Executive Director/Secretary for approval throughout FY2002.

Status: ACCOMPLISHED

Comment: During FY2002 the division accomplished this goal as follows:

- A. Records Management
All records in the possession of the division scheduled for destruction under the approved Record Retention Schedule were identified, logged, and destroyed on October 17, 2001, and August 31, 2002.
- B. Policies and Procedures
The division's policies and procedures for agency submissions to the *Texas Register*; and for preparing the agency's *Newsletter* for publication were reviewed and updated. Additional areas for inclusion in the division's policy and procedure manual have been identified.

14. To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2002.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division staff worked with the division of Administrative Services and Licensing to develop the procedures and forms to register three types of remote pharmacy sites.
- B. The Division Director reviewed the agency's disaster recovery plan and made suggestions to revise and update the plan.
- C. Senior Administrative Assistant Retta Cole formatted the pharmacist license certificate into an electronic format to facilitate the printing process.
- D. The Division Director recommended use of a law publisher rather than a printer to publish the pharmacy law manual and coordinated implementation. Considerable staff time was saved and the pharmacy law manual is more current, contains a searchable CD-Rom, and will be published yearly rather than biennially.
- E. The Division Director recommended, developed, and implemented the plan to notify practitioners of the requirements of the new dispensing directive regarding generic substitution.
- F. The Division Director recommended, designed, and coordinated production and mailing of new generic substitution/complaint notification signs to all pharmacies. The new signs were modified to provide the Board's web site address as a means for filing complaints in accordance with changes to the Board's rules.

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- G. The Division Director recommended implementation of an item writing committee to facilitate the writing of items for the jurisprudence exam. The recommendation was approved and will be implemented in FY2003.
- H. The Division Director recommended that time be set aside at the Board's August 2002 meeting to honor Dr. Lokhandwala for his service to the profession. Dr. Lokhandwala is retiring as Dean of the University of Houston College of Pharmacy.
- I. The Division Director recommended a brochure to the General Counsel titled "How to be a Witness" to help prepare witnesses for service during a SOAH hearing.

15. To recommend changes to the Texas Pharmacy Act and rules 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 FY2002.

Status: ACCOMPLISHED

Comment: The Division Director recommended the following:

- A. After multiple conversations with the Executive Director, the Division Director recommended the provision that allows a pharmacy to compound for a physician's office be eliminated.
- B. The Division Director recommended proceeding with a prior recommendation to change the preceptor certification period to match the pharmacist licensure period.

16. To prepare and submit a report on the accomplishment of division objectives for incorporation in the agency's *FY2001 Annual Report* to be presented to the Board by its May 2002 Board Meeting.

Status: ACCOMPLISHED

Comment: The division's first draft of the FY2001 Annual Report was submitted to the Executive Director by the due date. Senior Administrative Assistant combined the various divisions' reports into one report which was presented and approved by the Board at its May 2002 meeting.

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FY2002 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of the division's 22 Objectives for FY2002 (20 objectives were accomplished and 2 objectives were partially accomplished). In addition, TSBP met or exceeded (within a 5% variance) 12 of 15 (80%) FY2002 projections for enforcement-related performance measures (15 measures: 6 key measures and 9 non-key measures). One key measure (relating to number of complaints received) was not met and two non-key measures were not met. (See Ongoing Objective #1.)
2. The agency received and closed more complaints in FY2002 than it did during the prior four fiscal years, as indicated in the chart below:

| Fiscal Year | Complaints Received | % Change Complaints Received Previous Year | Complaints Closed | % Change Complaints Closed Previous Year | % Complaints Closed | Resolution Time (Agency Average) | % Change Time |
|-------------|---------------------|--|-------------------|--|---------------------|----------------------------------|---------------|
| FY98 | 1314 | | 1504 | | 114% | 222 Days | |
| FY99 | 1533 | +17% | 1335 | -11% | 87% | 221 Days | -0.45% |
| FY00 | 1577 | +3% | 1513 | +13% | 96% | 220 Days | -0.45% |
| FY01 | 1683 | +7% | 1667 | +10% | 99% | 262 Days | +19.00% |
| FY02 | 1836 | +9% | 2137 | +28% | 116% | 221 Days | -15.65% |

The increase in the number of complaints received can be partially attributed to the ease of filing complaints on the TSBP web page. Although TSBP implemented the web-based complaint form in FY2001, the number of complaints received via the Internet increased from 22 in FY2001 to 187 in FY2002 (750% increase in one year).

3. Field Compliance Officers conducted 2,581 inspections during FY2002, which exceeded the objective of 2,300 inspections by 12%. This accomplishment was achieved despite the West Texas Compliance Officer position being vacant for five months of the fiscal year.
4. Division staff handled almost 8,000 telephone calls during FY2002. In August 2002, TSBP implemented a new telephone system which provides for more "customer friendly" service to individuals who call the agency and want to speak to a Compliance Officer. The new system provides a queue so that the caller can wait a few minutes to speak to a Compliance Officer, rather than leaving a message on voice mail. The new system was installed following the staff's review and consideration of comments made on the agency's Customer Service Satisfaction Survey.
5. With the assistance of other TSBP staff, Compliance Specialist Carol Willess spearheaded the project to develop a wireless handheld device for Field Compliance Officers to conduct paperless inspections. Compliance Officer Heidi Holmes spent significant time and efforts field testing the program, which the division expects to be in operation in FY2003.

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6. Division operations were enhanced with the employment of the personnel who filled vacant positions in FY2002: Sarah Guevara and Amy Herring, Enforcement Officers; Richard Thompson, West Texas Field Compliance Officer; and Wayne Jones, North-East Texas Field Investigator. In addition, the division was fortunate to have Jon Pate, student of the University of Texas at Austin College of Pharmacy, serve as an intern during FY2002.
7. With the assistance of the General Counsel and other staff, Assistant Division Director Allison Benz, R.Ph., M.S., prepared bid specifications for the agency's program to monitor licensees who are required to submit to drug screens under the terms of a disciplinary order. This bid was let in July 2002 and the contract was awarded in August 2002. The new drug screening program will increase the agency's efficiency and effectiveness in monitoring licensees.
8. Division staff spent significant time and efforts assisting Board Members, the Executive Director, and other Board staff (see New Objectives #1-4 and Ongoing Objectives #9, #10, and #16-18). Of particular note are the following: implementing new legislation, assisting with the preparation of the TSBP Strategic Plan and Budget Request, analyzing responses to the Customer Service Satisfaction Survey, and drafting the required report regarding the Customer Service Survey to the Governor and Legislature. Division staff also spent significant time and efforts assisting external customers, particularly responding to requests for information (see Ongoing Objectives #8 and #9). In addition, in line with the agency's "lead agency" philosophy, TSBP investigators made an extraordinary number of contacts with other law enforcement agencies (see Ongoing Objective #6).

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FY2002 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. TSBP received more complaints in FY2002 than in any prior fiscal year, which has taxed the division's human resources (see Ongoing Objective #4). Over the past five fiscal years, the division has experienced a 278% increase in the number of requests for TSBP Complaint Forms (see Ongoing Objective #12). The most common type of consumer complaint is a dispensing error complaint. The following chart indicates the number of dispensing error complaints closed during the past five years:

**DATA ON DISPENSING ERROR COMPLAINTS
CLOSED FY98 - FY02**

| Type of Dispensing Error | FY98 | FY99 | FY00 | FY01 | FY02 | 5-Year Avg. |
|--|-------|-------|-------|-------|-------|-------------|
| Wrong Drug/Strength/Directions for Use | 162 | 151 | 173 | 189 | 213 | 178 |
| Mislabeling | 12 | 10 | 15 | 15 | 16 | 14 |
| Dispensed Wrong Quantity | 42 | 28 | 28 | 57 | 85 | 48 |
| Dispensed Outdated Drug | 7 | 4 | 4 | 6 | 12 | 7 |
| Packaging/Delivery Error | 18 | 12 | 15 | 17 | 24 | 17 |
| Error + No Counseling | * | * | * | 27 | 26 | * |
| Total # Dispensing Error Complaints | 241 | 205 | 235 | 311 | 376 | 274 |
| Total # Complaints Closed | 1,504 | 1,335 | 1,513 | 1,667 | 2,137 | 1,631 |
| % Dispensing Error Complaints | 16% | 15% | 16% | 19% | 18% | 17% |

* Data not collected as such during FY98, FY99, and FY00.

2. Division staff discovered that numerous pharmacies had not submitted professional liability reports as required by law. After Division Director contacted these pharmacies, TSBP received a large number of late reports. Accordingly, TSBP received over 300 professional liability reports in FY2002, as compared to about 50 reports in FY2001 (500% increase in one year).
3. Division staff continued to spend significant time/efforts monitoring compliance with the terms of disciplinary orders that were entered by TSBP in FY2002. A large number (144 disciplinary orders or 80% of the total number of disciplinary orders entered in FY2002) required some type of intensive monitoring. Many of the disciplinary orders required the licensee to submit policies and procedures (e.g., Quality Assurance Programs including peer review procedures). See Ongoing Objective #7.
4. Actions by the 77th Texas Legislature had a significant impact on division staff, particularly the following:
 - A. Bills Passed
 - S.B. 768, S.B. 98, and S.B. 65 relating to remote pharmacy applications (see New Objective #2);
 - H.B. 2408 relating to a study of complaint procedures of members of the Health Professions Council (see New Objective #2); and
 - H.B. 609 that established an Internal Auditor. Division staff spent significant amounts of time to provide requested information to the auditor; the division was in compliance with

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legislative mandates, with respect to the complaint process, with one exception: the division was only in 85% compliance with the requirement to notify complainants regarding the status of their complaints every four months, due to the division's workload as described in this report. This deficiency also resulted in negative comments on the agency's Customer Service Satisfaction Survey.

B. Actions Not Taken

- S.B. 768, S.B. 98, and S.B. 65 provided funding for TSBP to employ one additional field Compliance Officer, but the agency's FTE cap was not increased. Accordingly, the division was unable to hire this employee. Although TSBP filed requests with the Governor and the Legislative Budget Board to exceed the FTE cap, by hiring the Compliance Officer authorized by S.B.768, these requests were not granted.
 - The technician registration program was not funded, which resulted in the agency not being able to regulate pharmacy technicians.
5. The division began FY2002 with three vacant positions: two in-house enforcement officers (these positions were filled in September 2001) and the West Texas Compliance Officer (this position was filled in February 2002 following an eight-month vacancy). The division had a difficult time hiring an individual to fill the West Texas Compliance Officer position because the posted salary was not competitive with private market salaries, and the job required extensive overnight travel. In addition, the division experienced turnover in two positions during FY2002: Johnny Martin, Senior Investigator (retired in December 2001); and Korena Schaaf, Enforcement Officer (resigned in August 2002). Although the turnover was minimal, the vacant positions resulted in numerous cases being reassigned to other division staff.
6. Due to the factors and time required for the events described in (1) - (5) above, division staff was unable to complete the project to update written policies and procedures relating to inspections and complaint processing.

ENFORCEMENT DIVISION FY2002 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)

1. To assist the Executive Director in updating and preparing the *TSBP Strategic Plan* for the FY2003-2007 period, and submitting the plan to the Governor's Office of Budget and Planning and the Legislative Budget Board by the due date.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. Director and Assistant Director of Enforcement Allison Benz, M.S., R.Ph., attended the Board meeting on November 14, 2001, in which the Board Members identified four major policy issues facing the Board during the next five years. Ms. Benz, in consultation with Board Member Donna Rogers, M.S., R.Ph., prepared the first draft of Policy Issue #3 relating to "Pharmacy Personnel and Working Conditions." The Board approved the draft of Policy Issue #3, following Ms. Rogers' presentation to the Board at its meeting held on February 5-6, 2002.
- B. Division Director assisted in the review and preparation of the final draft of the *TSBP Strategic Plan*, which was approved by the Board at its meeting held on May 7, 2002.

The *TSBP Strategic Plan* was published and delivered to the Governor's office and other applicable agencies by the due date (June 3, 2002).

2. To assist the Executive Director, in cooperation with other divisions, in reviewing and implementing legislation passed by the 77th Texas Legislature that affects agency operations, including:
 - A. The portions of S.B. 768 relating to emergency medication kits in nursing homes and the development of a "Dispensing Directive" for generic substitution on prescriptions;
 - B. S.B. 98 relating to the provision of pharmacy services in a nursing home through an automated pharmacy system;
 - C. S.B. 65 relating to the provision of pharmacy services in a rural health clinic through a telepharmacy system;

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- D. H.B. 99 relating to the adoption of rules regarding the sale and delivery of drugs by use of electronic media (Internet pharmacies);
- E. S.B. 753 regarding amendments to the Texas Controlled Substances Act;
- F. H.B. 2408 relating to a study by the Health Professions Council of the complaint procedures of certain health care regulatory entities; and
- G. S.B. 187 relating to government services provided through online systems (pharmacist/pharmacy profile bill).

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. On October 16, 2001, the Division Director attended a meeting of interested parties to discuss implementation of S.B. 768 (Dispensing Directive), and subsequently assisted the Executive Director in the review and preparation of printed information provided to prescribers and licensees regarding the new rules. In addition, division staff responded to numerous telephone inquiries regarding the new rules.
 - B. Compliance Officers assisted the Licensing Division in reviewing hundreds of applications from persons who were applying for registrations to provide remote pharmacy services.
 - C. Division Director, in conjunction with other TSBP staff, met with Jim Lehrman, Deputy Commissioner for Long Term Care and various staff of the Texas Department of Human Services (DHS), to discuss the possibility of TSBP and DHS entering into a contract, whereby TSBP would pay DHS to inspect emergency kits in nursing homes. Following this meeting, at Mr. Lehrman's request, Division Director drafted a written request to DHS which outlined the scope of work of the project. The Executive Director mailed this letter to DHS on April 24, 2002. DHS legal staff responded to this request with legal issues/concerns.
 - D. Division Director was chosen to chair the committee of the Health Professions Counsel (HPC) that was established to study the complaint procedures of the various HPC member agencies. The Division Director conducted interviews of all HPC member agencies and attended numerous meetings held by the HPC Complaint Study committee and the HPC Administration Committee regarding the content of the report. In addition, Division Director attended HPC general meetings to discuss the recommendations to be included in the final report to the Governor and the 78th Texas Legislature. The work of the HPC Study Committee was completed in FY2002. Division Director will be assisting in the preparation of the final report by the due date (January 1, 2003).
3. To assist the Executive Director, in cooperation with other divisions, in the orientation of new Board Members within 90 days of their appointment by the Governor.

Status: **ACCOMPLISHED**

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Comment: Division staff assisted the Executive Director with the orientation of new members, Mike Brimberry, R.Ph., and Angela Myres, public member, by updating New Member Orientation Manuals and participating in an on-site orientation on January 24-25, 2002.

4. To assist the Executive Director in the preparation of a proposed budget for the FY2004-2005 biennium.

Status: **ACCOMPLISHED**

Comment: Division Director assisted the Executive Director and Director of Administrative Services and Licensing in the preparation of the FY2004-2005 Legislative Appropriation Request (LAR) through the following activities: attended a budget meeting with the TSBP Executive Committee on April 14, 2002; prepared projections for LBB performance measures relating to enforcement, at three different levels of funding; and reviewed/revise the final draft of the document, which was subsequently submitted to the Governor and the LBB on August 2, 2002. In addition, Assistant Division Director prepared the projections for LBB performance measures relating to the peer assistance program, at three different levels of funding.

Objectives (Ongoing)

1. To submit data regarding enforcement and peer assistance program data for Key Performance Targets required under the FY2002-2003 Appropriations Act to Executive Director by specified due dates throughout FY2002; to assist in the preparation of applicable reports to the Legislative Budget Board and Governor's Budget Office regarding performance measures; to meet (within a 5% variance) or exceed the Performance Targets over which the division has control.

Status: **ACCOMPLISHED**

Comment: Throughout FY2002, Division Director collected data relating to enforcement performance measures and Assistant Division Director Allison Benz, R.Ph., M.S., collected data relating to peer assistance performance measures. The statistical data was certified and submitted to the Legislative Budget Board (LBB) and Governor's Budget Office (GBO) by the prescribed due dates, in conjunction with the licensing 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 FY2002. The other 12 measures were reported to the LBB and GBO at year-end (annual basis).

As indicated in the chart below, TSBP met or exceeded, within a 5% variance, 80% of the FY2002 projections for 15 enforcement-related performance measures (met or exceeded 5 of 6 key measures and 7 of 9 non-key measures).

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| Enforcement Performance Measure | FY02 Projected Performance | FY02 Performance Attained | Key or Non-Key (K/NK) | Projected Target Met?* |
|---|-----------------------------------|----------------------------------|------------------------------|-------------------------------|
| Outputs: | | | | |
| Inspections | 2,000 | 2,581 | NK | Exceeded |
| Jurisdictional Complaints Resolved | 1,300 | 2,090 | K | Exceeded |
| Number of Licensed Individuals Participating in a Peer Assistance Program | 150 | 166 | K | Exceeded |
| Number of Students Participating in a Peer Assistance Program | 1 | 1 | NK | Met |
| Efficiency: | | | | |
| Average Cost per Jurisdictional Complaint Resolved | \$703.45 | \$395.69 | NK | Exceeded |
| Average Time for Jurisdictional Complaint Resolution | 300 | 225 | K | Exceeded |
| Outcomes: | | | | |
| Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action | 10% | 10% | K | Met |
| Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders) | 99% | 97.2% | K | Met |
| Recidivism Rate of Those Receiving Disciplinary Action | 3.5% | 4.95% | NK | Not Met |
| Percent of Jurisdictional Complaints Resolved within Six Months | 60% | 65% | NK | Exceeded |
| Recidivism Rate for Participants in Peer Assistance Program | 25% | 7% | NK | Exceeded |
| One-Year Completion Rate for Participants in Peer Assistance Program | 85% | 78% | NK | Not Met |
| Explanatory: | | | | |
| Jurisdictional Complaints Received | 2,000 | 1,787 | K | Not Met |

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

2. To monitor pharmacy inspections and pharmacists' practice by conducting 2,300 inspections, inspection-visits, and visits, including follow-up inspections to "Warning Notices," throughout FY2002.

Status: **ACCOMPLISHED**

Comment: Field Compliance Officers conducted 2,581 inspections during FY2002, which exceeded the objective of 2,300 inspections by 12%. This accomplishment was achieved during a time when the West Texas region did not have a Compliance Officer for a period of five months. Inspections, partial-inspections, and inspection-visits are described as follows:

- A. *Inspections* are full inspections of licensed facilities in which Compliance Officers check the facilities for compliance with each of the items on the inspection report form.

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- B. *Partial-Inspections* are inspections of licensed facilities in which Compliance Officers check the facility for compliance with a portion of the items on the inspection report form. Included in the partial-inspections are follow-up inspections of pharmacies that received a “Warning Notice” to determine if the pharmacies have complied with 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.
- C. *Inspection-Visits* are inspections in which Compliance Officers 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 Officers after arriving at the addresses listed in Board records.

Statistics for inspections, partial-inspections, and inspection-visits are outlined below:

| | |
|---------------------|--------------|
| Inspections | 2,460 |
| Partial-Inspections | 45 |
| Inspection-Visits | 76 |
| TOTAL FY02 | 2,581 |

Statistics for “Warning Notices” issued as a result of these inspection/visits are outlined below:

| FY02 | Number of Inspections and Inspection-Visits (% of total) | Number of “WARNING NOTICES” Issued* | Number of Pharmacies Receiving “WARNING NOTICES” (% receiving a “Warning Notice”)** |
|--------------------|---|--|--|
| Class A Pharmacies | 2,121 (82%) | 458 | 257 (12%) |
| Class B Pharmacies | 1 (<1%) | N/A | N/A |
| Class C Pharmacies | 309 (12%) | 82 | 45 (15%) |
| Class D Pharmacies | 150 (6%) | 13 | 9 (6%) |
| FY02 TOTALS | 2,581 (100%) | 553 | 311 (12%) |

* 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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CLASS A PHARMACIES

Conditions Receiving "Warning Notices"

Percentages are based on the total number of "Warning Notices" issued to Class A Pharmacies in FY2002 (458). Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.

| | | | |
|---|-------------------|--|-------------------|
| Equipment | 88 (19.2%) | Computer Systems | 27 (6%) |
| Balance Failed Insp | 26 | Computer Records Incomplete | 23 |
| Equipment Insp Due (Not Balance) | 20 | Computer Records Non-Compliance | 4 |
| Failure to Register Balance | | Records | 12 (2.6%) |
| Insufficient Equipment | 42 | Records Not Available | 9 |
| Pharmacy Technicians | 89 (19.4%) | DEA Order Forms Incomplete | 2 |
| No/Incomplete Training | 73 | Absence of R.Ph. Record | 1 |
| No/Improper Supervision | 8 | OBRA Violations | 9 (2%) |
| Inadequate Library | 57 (12.4%) | Written Information Not Provided | 5 |
| Licenses | 41 (8.9%) | No Patient Counseling | 2 |
| Licenses Not Posted | 30 | PMR Absent or Incomplete | 2 |
| Delinquent Licenses | 11 | Sterile Pharmaceutical Violations | 3 (2.8%) |
| Prescriptions | 17 (3.7%) | No/Incomplete QA/QC | 2 |
| Lack Proper Information | 10 | No/Incomplete P&P Manual | 5 |
| Prescription Label Incorrect | 6 | No/Inadequate Preparation Area | 3 |
| Triplicate Non-Compliance | 1 | No DUR | 3 |
| Drug Stock/Environment | 16 (3.5%) | No/Incomplete Non-Sterile Cpd Records | 5 (1%) |
| Out-of-Date Drug Stock | 13 | Improper Distribution | 8 (1.7%) |
| Security | 1 | No PIC | 5 (1%) |
| Unsanitary | 2 | Improper Dispensing | 2 (<1%) |
| Inventory | 49 (10.7%) | Aiding and Abetting | 1 |
| No Annual Inventory | 23 | Illegal Dispensing | 1 |
| No Change of Ownership Inventory | 6 | Notification Violation | 6 (1.3%) |
| No Change of PIC Inventory | 7 | Substitution Non-Compliance | 1 (<1%) |
| Incomplete Inventory | 13 | Theft & Loss of C/S Not Reported | 3 (<1%) |
| Improper Prepackaging Procedures | 10 (2.2%) | | |

CLASS C PHARMACIES

Conditions Receiving "Warning Notices"

Percentages are based on the total number of "Warning Notices" issued to Class C Pharmacies in FY2002 (82). Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.

| | | | |
|--|--------------------|---|-----------------|
| Pharmacy Technicians | 18 (22%) | Improper Prepackaging Procedure | 1 (1.2%) |
| No/Incomplete Tech Training | 18 | Policy and Procedures | 3 (3.6%) |
| No/Improper Supervision | | Incomplete P&P Manual | 1 |
| Sterile Pharmaceutical Violations | 11 (13.4%) | Improper Absence of R.Ph. Procedures | 2 |
| No/Inadequate Preparation Area | 7 | Improper ER Dispensing Procedures | |
| No/Incomplete QA/QC | 4 | Records | 4 (4.8%) |
| No/Incomplete PMR | | Improper Inpatient Records | 1 |
| Equipment | 6 (7.3%) | DEA Order Forms Incomplete | 3 |
| Balance Failed Inspection | 4 | Records Not Available | |
| Equipment Insp. Due (Not Balance) | 2 | Rx Lack Information | |
| Inventory | 17 (20.73%) | Invoices Not Separated | |
| No Annual Inventory | 7 | Improper Environment | 4 |
| No Change of Ownership Inventory | 2 | Computer Records Incomplete | 1 (1.2%) |
| Incomplete Inventory | 3 | Improper Distribution | 3 (3.6%) |
| No Change of PIC Inventory | 3 | Improper Closing/Change of Owner | 1 (1.2%) |
| No Perpetual Inventory | 1 | Improper Notification | 1 (1.2%) |
| Inadequate Library | 8 (9.75%) | Out-of-Date Drug Stock | 3 (3.6%) |
| Licenses Not Posted | 2 (2.43%) | | |

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CLASS D PHARMACIES

Conditions Receiving "Warning Notices"

Percentages are based on the total number of "Warning Notices" issued to Class D Pharmacies in FY2002 (13). Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.

| | | | |
|---|-------------------|---------------------------------------|-----------------|
| Pharmacy Technicians | 4 (30.76%) | Licenses Not Posted | 1 (7.7%) |
| No/Incomplete Training | 3 | Violation of Limited Formulary | 1 (7.7%) |
| No/Improper Supervision | 1 | Incomplete Provision | 1 (7.7%) |
| Improper Prepackaging Procedures | 1 (7.7%) | Improper Provision | 1 (7.7%) |
| P&P Manual No P&P | 1 (7.7%) | | |
| Inadequate Library | 3 (23%) | | |

3. To inspect pharmacies and monitor pharmacists' practice throughout FY2002, 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: The total number of inspections, partial-inspections, and inspection-visits by priority are indicated below:

| Purpose of Inspection (In Order of Priority) | Number of Inspections | % of Total |
|---|--------------------------|---------------|
| Complaint | 27 | 1% |
| Follow-up to Board Order/Agreed Board Order | 17 | <1% |
| Request of Other Division/Agency | 4 | <1% |
| New Pharmacies | 164 | 6.5% |
| Change of Ownership | 156 | 6.0% |
| Preceptor | 138 | 5.3% |
| Follow-up to "Warning Notice" | 43 | 2.0% |
| Routine Inspections | 2,032 | 79.0% |
| TOTAL | 2,581 | 100% |

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4. To coordinate and monitor throughout FY2002, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants; to achieve an average complaint resolution time (overall agency average) of 300 days.

Status: PARTIALLY ACCOMPLISHED

Comment: TSBP received 1,836 complaints in FY2002, which represented a 9% increase over the number of complaints received in FY2001, as reflected in the chart below. The staff of the Enforcement and Legal Divisions closed 2,137 complaints in FY2002, which represented a 28% increase over the number of complaints closed in FY2001, as reflected in the chart below. This accomplishment was also achieved with a faster resolution time in FY2002 (221 days) than in FY2001 (262 days). Accordingly, TSBP closed more complaints than received in FY2002 (116% completion rate) and did so in less time than in prior fiscal year (-16% decrease). However, not all notifications were mailed to complainants in a timely manner. For this reason, this objective was only partially accomplished.

The agency's history with regard to complaint data and field investigations during the past five years is reflected in the charts below:

| Fiscal Year | Complaints Received | % Change Complaints Received Previous Year | Complaints Closed | % Change Complaints Closed Previous Year | % Complaints Closed | Resolution Time (Agency Average) | % Change Time |
|-------------|---------------------|--|-------------------|--|---------------------|----------------------------------|---------------|
| FY98 | 1314 | | 1504 | | 114% | 222 Days | |
| FY99 | 1533 | +17% | 1335 | -11% | 87% | 221 Days | -0.45% |
| FY00 | 1577 | +3% | 1513 | +13% | 96% | 220 Days | -0.45% |
| FY01 | 1683 | +7% | 1667 | +10% | 99% | 262 Days | +19.00% |
| FY02 | 1836 | +9% | 2137 | +28% | 116% | 221 Days | -15.65% |

| NUMBER OF COMPLAINTS HANDLED THROUGH FIELD INVESTIGATIONS | | | | | |
|---|---------------------|-----|---------------|-----|-------|
| Fiscal Year | Compliance Officers | % | Investigators | % | Total |
| FY98 | 58 | 17% | 279 | 83% | 337 |
| FY99 | 43 | 24% | 136 | 76% | 179 |
| FY00 | 67 | 43% | 89 | 57% | 156 |
| FY01 | 100 | 34% | 191 | 66% | 291 |
| FY02 | 59 | 21% | 228 | 79% | 287 |

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Additional complaint statistics on closed complaints are outlined below:

DATA ON CLOSED COMPLAINTS

| Form of Complaints | Total | |
|---------------------------|--------------|---------------|
| Telephone | 101 | (5%) |
| Letter | 332 | (16%) |
| TSBP Complaint Form | 342 | (16%) |
| HPC 800 # | 150 | (7%) |
| Fax | 100 | (5%) |
| Visit | 15 | (<1%) |
| Agency Report | 46 | (2%) |
| Inspection | 32 | (1%) |
| Interoffice Referral | 53 | (2%) |
| Licensure Application | 128 | (6%) |
| Data Bank | 16 | (<1%) |
| Theft/Loss Report | 504 | (24%) |
| Investigation | 52 | (2%) |
| Intra-Agency Referral | 48 | (2%) |
| Malpractice Report | 4 | (<1%) |
| Press Clip | 3 | (<1%) |
| EMail | 23 | (1%) |
| Internet | 187 | (9%) |
| Other | 1 | (<1%) |
| TOTAL FY02 | 2,137 | (100%) |

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DATA ON CLOSED COMPLAINTS

| Source of Complaints | Total | |
|--------------------------------------|--------------|---------------|
| Consumer | 865 | (40%) |
| Government Agency | 96 | (4%) |
| Pharmacist | 69 | (3%) |
| Pharmacist (Self) | 86 | (4%) |
| Applicant (Self) | 61 | (3%) |
| TSBP | 163 | (8%) |
| Doctor | 90 | (4%) |
| Other Health Professional | 24 | (1%) |
| NABP | 18 | (<1%) |
| PIC, Pharmacy Manager, or Supervisor | 516 | (24%) |
| Loss Prevention Officer (Corporate) | 7 | (<1%) |
| Manufacturing Rep. | 19 | (<1%) |
| Pharmacy Recovery Network (PRN) | 17 | (<1%) |
| Insurance Company | 7 | (<1%) |
| Attorney | 6 | (<1%) |
| Employee/Ex-Employee | 21 | (1%) |
| Media | 1 | (<1%) |
| Drug Screening | 48 | (2%) |
| Other | 23 | (1%) |
| TOTAL FY02 | 2,137 | (100%) |

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DATA ON CLOSED COMPLAINTS

| Subjects of Complaints | Total |
|---------------------------------|---------------------|
| Licensees | 1,955 (92%) |
| Pharmacist | 755 |
| In-State Pharmacy | 1,120 |
| Out-of-State Pharmacy | 80 |
| Applicants | 72 (3%) |
| Pharmacist | 25 |
| Pharmacy | 8 |
| Intern | 39 |
| Non-Licensees | 110 (5%) |
| Doctor | 20 |
| Manufacturer | 1 |
| Wholesaler | 0 |
| Non-Licensed Facility or Person | 22 |
| Insurance Company/PBM | 8 |
| Pharmacy Technician | 47 |
| Out-of-State Facility | 9 |
| Other | 3 |
| TOTAL FY02 | 2,137 (100%) |

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DATA ON CLOSED COMPLAINTS

| Nature of Allegations | Total | % |
|--|-------|-----|
| Diversion | 29 | 1% |
| Controlled Substances | 19 | |
| Dangerous Drugs | 5 | |
| Both | 5 | |
| Unauthorized Refills | 21 | 1% |
| Controlled Substances | 3 | |
| Dangerous Drugs | 12 | |
| Both | 6 | |
| Illegal Delivery | 7 | * |
| Controlled Substances | 0 | |
| Dangerous Drugs | 4 | |
| Both | 3 | |
| Illegal Possession | 2 | * |
| Controlled Substances | 2 | |
| Dangerous Drugs | 0 | |
| Convictions | 91 | 4% |
| Felony | 9 | |
| Misdemeanor | 37 | |
| DWI / PI | 44 | |
| Deferred Adjudication, Controlled Substances Act | 1 | |
| Dispensing Error | 376 | 18% |
| Wrong Drug/Strength/Directions for Use | 213 | |
| Mislabeling | 16 | |
| Wrong Quantity | 85 | |
| Outdated Drug | 12 | |
| Packaging/Delivery | 24 | |
| Dispensing Error / Patient Counseling | 26 | |
| Patient Counseling | 22 | 1% |
| Drug Regimen Review | 18 | * |

* = Percentage is less than 1%.

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| Nature of Allegations (Cont'd) | Total | % |
|---|-------|-----|
| Theft/Loss | 512 | 24% |
| Aiding & Abetting | 6 | * |
| Action by Other Board | 52 | 2% |
| Substitution | 115 | 5% |
| Non-Compliance with Disciplinary Order | 84 | 4% |
| Interference with Doctor/Patient Relationship | 59 | 3% |
| Confidentiality | 23 | 1% |
| Failed to Keep Records | 5 | * |
| Impairment | 45 | 2% |
| Probable Cause | 7 | |
| Drug & Alcohol | 12 | |
| Drug | 17 | |
| Alcohol | 4 | |
| Physical | 1 | |
| Mental | 4 | |
| Negligence | 1 | * |
| Unsafe Practice | 2 | * |
| Unprofessional Conduct | 3 | * |
| Gross Immorality | 0 | N/A |
| Fraud, Deceit & Misrepresentation | 5 | * |
| Falsified Response to Warning Notice | 3 | * |
| Falsified Application | 9 | * |
| Filled/Passed Forged Prescription | 15 | * |
| Changed Prescription | 61 | 3% |
| Insurance Fraud | 6 | * |
| Provider Fraud | 3 | * |
| Non-Therapeutic Dispensing | 32 | 2% |
| Excessive Purchases of Controlled Substances | 4 | * |
| Anabolic Steroids | 0 | N/A |
| Grey Market Diversion | 5 | * |
| Samples | 12 | * |

* = Percentage is less than 1%

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| Nature of Allegations (Cont'd) | Total | % |
|---|--------------|-------------|
| Technician Violation | 6 | * |
| Improper Security | 4 | * |
| Problem with OTC Drug | 2 | * |
| Closed Pharmacy Improperly | 14 | * |
| Operating Pharmacy without Pharmacy License | 5 | * |
| Working Conditions | 18 | * |
| Delinquent License | 5 | * |
| Kickbacks | 1 | * |
| No PIC | 2 | * |
| Recordkeeping Error | 96 | 5% |
| Notification Violation | 2 | * |
| No Annual Inventory / No PIC Inventory | 2 | * |
| C-II Rx | 1 | * |
| Improper Rx's Issued by Doctors | 13 | * |
| Advertising | 16 | * |
| Overcharging | 1 | * |
| Billing Dispute | 63 | 3% |
| Customer Service | 69 | 3% |
| Hot Check | 2 | * |
| CE Audit | 17 | * |
| Default on Student Loans | 1 | * |
| Other Allegations | 154 | 7% |
| Texas Pharmacy Act | 32 | |
| Texas Dangerous Drug Act | 5 | |
| Texas Controlled Substance Act | 8 | |
| Food Drug & Cosmetic Act | 11 | |
| TSBP Rule | 72 | |
| Other Laws/Rules | 26 | |
| Reinstatement | 8 | * |
| Modification | 7 | * |
| TOTAL FY02 | 2,137 | 100% |

* = Percentage is less than 1%

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ACTION TAKEN BY TSBP TO CLOSE COMPLAINTS IN FY2002

| | # of Cpts. | Percentage |
|--|--------------|-------------|
| Telephone | 358 | 17% |
| Letters | 32 | 2% |
| Certified Letter | 27 | |
| Phone/Certified Letter | 3 | |
| Non-Certified Letter | 2 | |
| Inspections | 25 | 1% |
| Inspection | 18 | |
| Inspection/Visit | 2 | |
| Inspection/Warning Notice | 5 | |
| Investigations | 960 | 45% |
| Investigate/Telephone | 125 | |
| Investigate/Dismissal Letter | 417 | |
| Investigate/Insufficient Evidence | 341 | |
| Investigate/No Violation | 38 | |
| Investigate/Other | 39 | |
| Investigation/Disciplinary Action | 236 | 11% |
| Agreed Board Order | 208 * | |
| Board Order | 3 * | |
| Preliminary Notice Letter/Dismissal Letter | 2 | |
| Informal Conference/Dismissal Letter | 5 | |
| Informal Conference/Case Dismissed | 18 | |
| Referrals | 87 | 4% |
| Medical Board | 2 | |
| PRN Program | 9 | |
| Supervisor | 18 | |
| Other | 58 | |
| No Action Because | 90 | 4% |
| No Violation | 49 | |
| No Jurisdiction | 27 | |
| Insufficient Information | 13 | |
| Other | 1 | |
| Other ** | 349 | 16% |
| Total FY02 | 2,137 | 100% |

* These figures represent the number of complaints resolved with at least one Disciplinary Order. See the Legal Division's Ongoing Objective #3 for the number of (and details about) Disciplinary Orders entered by TSBP in FY2002. One complaint may be closed with more than one Order; also one Order may close more than one complaint.

** 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 compliance inspection or the resolution is not described by the above categories.

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**REPORTS RECEIVED IN FY2002 INVOLVING THEFT OR LOSS OF
CONTROLLED SUBSTANCES BY EMPLOYEE PILFERAGE**

| Classification | Class "A" | Class "C" | Hospital Stock | Total Shortage in DU |
|--|--------------|--------------|-------------------|----------------------------|
| Registered Pharmacist | 14 | 2 | 0 | 78,579 |
| Certified Pharmacy Technician | 58 | 5 | 2 | 646,725 |
| Pharmacy Technician | 0 | 0 | 0 | 0 |
| Pharmacy Technician Trainee | 39 | 1 | 0 | 141,613 |
| Registered Nurse | | | 37 | 3,568 |
| Certified Registered Nurse Anesthetist | | | 1 | 39 |
| Licensed Vocational Nurse | | | 6 | 112 |
| Nurse's Aid | | | 3 | 588 |
| Delivery in or out of Pharmacy | 11 | | | 8,143 |
| Pharmacy Cashier-Pharmacy Clerk | 28 | | 1 | 45,148 |
| Pharmacy Staff | 28 | 2 | | 29,829 |
| Hospital Staff | | | 10 | 975 |
| Hospital Staff-Pharmacy Staff | | 2 | 0 | 1,606 |
| Miscellaneous or Unidentified Persons | 26 | 1 | 1 | 86,955 |
| TOTALS – FY02 | 204 | 11 | 58 | 1,043,292 |

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**REPORTS RECEIVED IN FY2002 INVOLVING THEFT OR LOSS OF
CONTROLLED SUBSTANCES BY EMPLOYEE PILFERAGE
(Cont'd)**

| Classification | % of Complaints | % of Drugs Diverted |
|--|----------------------------|--------------------------------|
| Registered Pharmacist | 5.81% | 7.53% |
| Certified Pharmacy Technician | 23.63% | 61.98% |
| Pharmacy Technician | 0.00% | 0.00% |
| Pharmacy Technician Trainee | 14.54% | 13.57% |
| Registered Nurse | 13.45% | 0.34% |
| Certified Registered Nurse Anesthetist | 0.36% | 0.00% |
| Licensed Vocational Nurse | 2.18% | 0.01% |
| Nurse's Aid | 0.00% | 0.00% |
| Delivery in or out of Pharmacy | 4.00% | 0.78% |
| Pharmacy Cashier-Pharmacy Clerk | 10.54% | 4.33% |
| Pharmacy Staff | 10.18% | 2.86% |
| Hospital Staff | 3.63% | 0.09% |
| Hospital Staff-Pharmacy Staff | 0.73% | 0.15% |
| Miscellaneous | 10.18% | 8.33% |

5. To investigate complaints throughout FY2002, according to the following priorities:
- A. Complaints filed against pharmacists who have a chemical, mental, or physical impairment;
 - B. Complaints involving the diversion of prescription drugs, through the following illegal means:
 - delivering prescription drugs without a prescription;
 - dispensing prescription drugs pursuant to a prescription of a practitioner not issued for a legitimate medical purpose or in the usual course of medical practice;
 - dispensing prescription drugs to patients when the pharmacist knew or should have known there was no valid doctor-patient relationship, such as prescriptions dispensed following an Internet consultation;
 - dispensing prescription drugs by a pharmacist not in the usual course of pharmacy practice;
 - distributing prescription drugs pursuant to forged or altered prescriptions;

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- failing to keep and maintain records of controlled substances; and
 - unauthorized refills.
- C. Complaints involving applicants for licensure;
- D. Complaints involving dispensing errors;
- E. Complaints involving violations of rules relating to patient counseling or drug regimen review;
- F. Complaints against licensees who have been convicted of a felony or misdemeanor involving offenses that are related to the practice of pharmacy;
- G. 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;
- H. Complaints against licensees who have been convicted of a felony or misdemeanor involving offenses that are not related to the practice of pharmacy;
- I. Complaints against licensees who have been subject to a disciplinary action by another state board of pharmacy; and
- J. Complaints involving other violations of the laws and rules relating to the practice of pharmacy.

Status: **ACCOMPLISHED**

Comment: A review of disciplinary orders entered in FY2002 substantiates that the agency handled complaints in accordance with priorities set forth above.

6. 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 FY2002.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. All investigators participated in joint investigations with the Drug Enforcement Administration (DEA), Texas Department of Public Safety Narcotic Section (DPS), and local law enforcement agencies.
- B. Investigator Richard Klemme gave course instruction to commissioned peace officers attending the Advanced Drug Diversion Investigative classes in Waco, Texas.
- C. Investigator Richard Klemme gave course instruction to officers, commissioned and non-commissioned, attending the National Association of Drug Diversion Investigators (NADDI) Annual Meeting in Fort Worth, Texas.
- D. Senior Investigator Robert Ebrom gave course instruction to commissioned peace officers attending firearms training sponsored by the Karnes County Police Officers Association in Karnes City, Texas.

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- E. Investigators worked several investigations jointly with TSBP compliance officers.
- F. Investigative staff made an extraordinary number of contacts with other law enforcement agencies, as indicated in the charts below:

| State / Local Agencies | Division and / or Location |
|---|--|
| Department of Public Safety | Narcotic Division: Euless; Weatherford; Dallas; Garland; Waco; Hurst; Uvalde; Austin; Victoria; Midland; Ozona, San Antonio; Corpus Christi; Laredo; Beeville; Karnes City; McAllen; Kerrville; San Angelo; Lubbock; and Houston. Texas Rangers: San Antonio; El Paso; and Corpus Christi. Special Crimes Units: Beeville; San Antonio; and San Angelo |
| Sheriffs' Offices | Johnson County; Tarrant County; Ector County; Harris County; Walker County; Montgomery County; Ellis County; Kerr County; Live Oak County; Dewitt County; Atascosa County; Wilson County; Fayette County; Victoria County; Bee County; and Dallas County |
| Attorney General's Office | Dallas; Austin; and Fort Worth |
| TX Alcoholic Beverage Commission | Karnes County |
| TX State Board of Medical Examiners | Dallas; Fort Worth; and Austin |
| TX State Board of Dental Examiners | Austin |
| TX State Board of Nursing Examiners | Austin |
| Texas Department of Insurance | Austin |
| TX Worker Compensation Commission | Austin |
| Texas Optometry Board | Austin |
| Texas Department of Health & Human Services | Austin and Dallas |
| Texas Department of Health | Austin; Houston; and El Paso |
| Texas Fire Marshall's Office | Austin |
| Constable Offices | Williamson County and Grayson County |
| Police Departments | Arlington; Mesquite; Garland; Little Elm; Cleburne; Burleson; Fort Worth; Sherman; Georgetown; Irving; Sadler; Carrollton; Plano; Grapevine; Grand Prairie; Houston; Killeen; Lufkin; Pearland; San Antonio; Austin; Trinity; Live Oak; Boerne; Schulenburg; Kenedy; Karnes City; Beeville; Gonzales; Helotes; Abilene; Manor; Leander; Lampasas; Bellaire; Baylor University PD; and Conroe |
| District Attorneys and County Attorneys | Offices of District Attorney: Bexar County; Karnes County; 81 st District, Jourdanon, Texas; and Harris County. County Attorney Offices: Grayson County, Harris County, and Brazos County |

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| State / Local Agencies | Division and / or Location |
|--------------------------------------|--|
| Narcotic/Organized Crime Task Forces | Cleburne STOP Task Force, Cleburne, Texas; Brazos Valley Narcotic Task Force, Bryan/College Station; Agriplex Narcotic Task Force, Waco; Independence Narcotic Task Force, Brenham; Rural Area Narcotic Task Force, Lampasas; Alamo Area Narcotic Task Force, San Antonio; 81 st District Narcotic Task Force, Floresville; 24 th and 25 th Districts' Task Force, Seguin; TNT Task Force, Sulphur Springs; and Harris County Organized Crime Task Force, Houston |
| Training Facilities | COG Regional Police Training Center, Fort Worth; and the Texas Commission on Law Enforcement Education and Standards, Austin |

| Federal Agencies | Division and / or Locations |
|--|--|
| Drug Enforcement Administration | Dallas; Fort Worth; Tyler; San Antonio; and Houston |
| United States Attorney's Office | Houston; Dallas; Beaumont; and Waco |
| Internal Revenue Service | Houston and San Antonio |
| Federal Bureau of Investigations | Dallas; Victoria; Houston; Bryan/College Station; San Antonio; and Texarkana |
| United States Food & Drug Administration/Office of Criminal Investigations | Houston; Dallas; and Austin |

H. Investigators also worked with other agencies and pharmacy associations, including the Loss Prevention Departments, as indicated in the charts below:

| National Associations | Division and / or Location |
|--|-----------------------------------|
| Federation of State Medical Boards | Eules |
| National Association of Drug Diversion Investigators (NADDI) | Fort Worth |

| Out of State Agencies | Division and / or Location |
|---------------------------------|--|
| Drug Enforcement Administration | Quantico, Virginia |
| Pharmacy Boards | Nevada; Louisiana; Florida; Arizona; New Mexico; California; Nebraska; and Indiana |
| Police Departments | Boulder, CO; Sarasota, FL; Cherry Hill, NJ; and Canon City, CO |

| Retail Pharmacies-Loss Prevention Departments | Division and / or Location |
|--|---|
| Eckerd Drugs | Dallas; Fort Worth; San Antonio; and Houston; Clearwater, Florida |
| Walgreens Company | Dallas; Fort Worth; Houston; and Austin |
| Wal-Mart | Bentonville, Arkansas |
| Tom Thumb (District Manager) | Dallas and Fort Worth |
| Winn Dixie | Fort Worth |

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| Retail Pharmacies-Loss Prevention Departments | Division and / or Location |
|--|-----------------------------------|
| Kindred Hospital | Fort Worth |
| M. D. Anderson Hospital | Houston |
| Cardinal Health | Columbus, Ohio |
| Wyeth Labs Investigations | Houston |

7. To monitor compliance with all Board Orders and Agreed Board Orders, including Orders relating to impaired pharmacists, throughout FY2002.

Status: **ACCOMPLISHED**

Comment: As indicated in the chart below, 80% of the 181 disciplinary orders that TSBP entered during FY2002 required some type of intensive monitoring. Division staff ensured that wall certificates of revoked and suspended licenses were returned to TSBP (upon the date of the revocation or suspension) or were returned to the licensee (upon reinstatement of the license or completion of the suspension period). Division staff, in conjunction with Accounting staff, ensured that administrative penalties (fines) and probation fees were paid. Division staff monitored the submission of required CE, policy and procedure manuals, and other reports.

In addition to the in-house monitoring described above, Compliance Officers conducted 17 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 #3).

The following chart indicates the types of Orders entered in FY2002, which required the division to monitor the licensee's compliance with the Order, in some manner.

| TYPES OF TSBP DISCIPLINARY ORDERS ENTERED IN FY02 REQUIRING INTENSIVE MONITORING | | |
|---|-------------------|-------------------|
| Sanction | Orders (#) | Percentage |
| Revocation, Cancellation, and Retirement | 23 | 13% |
| Suspension | 10 | 5% |
| Restricted | 14 | 8% |
| Rehabilitation Orders* | 22 | 12% |
| Reinstatement | 5 | 3% |
| Fines and/or Probation Fee | 34 | 19% |
| Fines and/or Probation Fee + CE or Other Requirements | 19 | 11% |
| Continuing Education or Other Requirements | 17 | 9% |
| TOTAL NUMBER OF ORDERS REQUIRING INTENSIVE MONITORING | 144 | 80% |
| TOTAL NUMBER OF ORDERS NOT REQUIRING INTENSIVE MONITORING | 37 | 20% |
| TOTAL ORDERS FY02 | 181 | 100% |

* New Orders excluding reinstatements, suspensions, revocations, retirements, and modifications.

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During FY2002, TSBP entered 63 confidential disciplinary Orders. These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below.

| CONFIDENTIAL DISCIPLINARY ORDERS ENTERED BY TSBP IN FY02 | |
|---|--------------|
| Nature of Violation | Total |
| Action by Other Boards | 12 |
| Audit Shortages | 0 |
| Alcohol-Related Conviction | 2 |
| Non-Compliance with ABO | 17 |
| Drug Theft | 5 |
| Created Fraudulent Rx | 3 |
| Deferred Adjudication | 3 |
| Illegal Possession of Controlled Substances | 1 |
| Unauthorized Refills of Controlled Substances | 0 |
| Probable Cause | 9 |
| Modification of ABO | 5 |
| Request for Retirement or Revocation | 2 |
| Reinstatement | 4 |
| TOTAL FY02 | 63 |

Of the 63 confidential Orders entered in FY2002, there were 35 Orders resulting in an impaired/recovering pharmacist being added to the number who were being monitored at the end of FY2001, as reflected in the chart below. However, 23 pharmacists were deleted from the list as a result of early termination of probation, successful completion of probation, death, or revocation of license. Accordingly, as of August 31, 2002, a total of 97 impaired/recovering pharmacists 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 (FY98 through FY02)

| Fiscal Year | Total Orders* | Total New Orders** | Total Being Monitored+ |
|--------------------|----------------------|---------------------------|-------------------------------|
| FY98 | 38 | 25 | 101 |
| FY99 | 34 | 22 | 89 |
| FY00 | 35 | 18 | 82 |
| FY01 | 36 | 21 | 85 |
| FY02 | 63 | 35 | 97 |

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

** An Order which 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).

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8. To respond to open records requests throughout FY2002, in accordance with the procedures set forth in the Texas Public Information Act.

Status: ACCOMPLISHED

Comment: As indicated in the chart below, the number of verbal and written requests for enforcement information increased by 17% in FY2002, as compared to prior fiscal year, but did not reach the record levels of FY1998. The number of verbal and written requests decreased following the implementation of the TSBP web site in FY1999.

OPEN RECORDS REQUESTS HANDLED BY ENFORCEMENT DIVISION — FY98 through FY02

| 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 |
| FY98 | 1063 | 1538 | 452 | 2730 | 1515 | 4268 | 126 | 356 | | |
| FY99 | 544 | 841 | 413 | 4953 | 957 | 5794 | 80 | 483 | -37% | +36% |
| FY00 | 168 | 177 | 339 | 2078 | 507 | 2255 | 42 | 188 | -47% | -61% |
| FY01 | 124 | 125 | 276 | 3642 | 400 | 3767 | 33 | 314 | -21% | +67% |
| FY02 | 82 | 82 | 385 | 2121 | 467 | 2203 | 39 | 184 | +17% | -42% |

The decrease in the number of verbal requests helped to reduce the workload on the TSBP legal staff, in that they were responsible for answering all telephonic open records requests on licensees subject to disciplinary action. The written requests were handled by division staff. However, General Counsel reviewed numerous TSBP responses to open records requests for legal compliance with the Public Information Act.

9. To provide verbal and written information to Board staff and customers, through compliance inspections, display of the TSBP exhibit at meetings, public speaking engagements, and responses to surveys and questionnaires, as needed and required throughout FY2002.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. **COMPLIANCE INSPECTIONS**
The division conducted 2,581 inspections in FY2002 (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 7,765 callers.
- C. **WRITTEN INFORMATION**
During FY2002, division staff mailed 400 packets of information to TSBP customers.

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D. PROFESSIONAL DISPLAY

The division displayed the TSBP exhibit at the Texas Society of Health-System Pharmacists (TSHP) Annual Meeting (April 12-15, 2002) and the Texas Pharmacy Association (TPA) Annual Meeting (June 6-9, 2002). The display at the TSHP meeting focused on TSBP services, and the display at the TPA meeting focused on changes to Generic Substitution laws and rules.

E. PRESENTATIONS (PUBLIC SPEAKING ENGAGEMENTS)

| Date | PRESENTATIONS Name of Association / Presentation and Location of Meeting | Staff Person | Attendance (Approx.) |
|-------------|---|-------------------------|---------------------------------|
| 10/18/01 | Walgreens - Houston | Heidi Holmes | 31 |
| 10/25/01 | Walgreens - Houston | Heidi Holmes | 29 |
| 10/26/01 | Tarrant County Pharmacy Association - Fort Worth | Cy Weich | 75 |
| 11/14/01 | UT College of Pharmacy students regarding Intern rotation with TSBP - Austin | Allison Benz | 25 |
| 01/22/02 | UH College of Pharmacy students regarding Impaired Pharmacists - Houston | Allison Benz | 100 |
| 02/11/02 | Texas Southern University Prescription Practice Class - Houston | Iona Grant | 120 |
| 02/23/02 | Texas Southern University Preceptor's Conference - Houston | Iona Grant | 75 |
| 04/18/02 | College of the Mainland - Texas City | Heidi Holmes | 30 |
| 04/18/02 | Walgreens - Houston | Heidi Holmes | 40 |
| 04/18/02 | Good Neighbor Pharmacies/Amerisource Bergen - Weslaco | Mike Ethridge | 48 |
| 07/16/02 | Pharmacist Interns | Heidi Holmes | 40 |
| | | TOTAL | 588 |

F. SURVEYS / QUESTIONNAIRES

Division Staff responded to questionnaires and/or surveys from the following agencies:

- Legislative Budget Board — Division staff, in cooperation with other divisions, submitted data to LBB with regard to the number of written requests for information that are handled by TSBP each month.
- Oklahoma Board of Pharmacy — Division Director completed a survey regarding salaries of pharmacists employed by TSBP.
- Washington Board of Pharmacy – Division Director completed a survey regarding TSBP's procedures for handling complaints involving dispensing errors.
- Health Professions Council — Division Director, with input from TSBP's Executive Director and General Counsel, completed surveys regarding the agency's complaint process and procedures regarding public access to complaint information.
- Sunset Advisory Commission – Division Director completed a survey requesting data about complaints received/resolved by TSBP.

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G. TECHNICAL ASSISTANCE TO BOARD MEMBERS

- Division Director worked with Ashish Patel, R.Ph., a graduate student in the University of Texas College of Pharmacy, who conducted a customer service survey in the fall of 2001. Based upon Mr. Patel's work, Division Director analyzed survey results, read all comments written on the surveys and summarized all suggestions for improvement. The analysis of the survey results and the summary of suggestions was presented to the Board at its May 2002 meeting. Division Director worked with the Executive Director and other Division Directors to implement/accomplish many of the suggestions. In compliance with Chapter 2113 of the Government Code, Division Director drafted the report to the Governor and Legislative Budget Board regarding the TSBP Customer Service Satisfaction Survey.
- Division Director assisted in the development of the FY2003 Calendar of Events, as well as proposed Goals and Objectives for FY2003. These proposals were subsequently presented to and approved by the Board at its meetings held in May 2002 and August 2002, respectively.
- Division Director and Assistant Division Director made presentations at all Board meetings held in FY2002. Presentations included information about proposed Agreed Board Orders and reports regarding the number of active/pending complaints.
- Division Director assisted in the review/editing of drafts of minutes of four Board meetings.
- Division staff assisted with the orientation of new Board Members (see New Objective #3).
- Division Director assisted in preparation for presentations before the following Interim Committees: Senate Interim Committee on Health and Human Services (regarding the abuse of Hydrocodone) and House Interim Committee on Insurance (regarding medical malpractice insurance and liability claims).

H. TECHNICAL ASSISTANCE TO BOARD STAFF

- Division staff assisted Director of Professional Services, as follows:
 - (a) Division staff assisted with the *TSBP Newsletter*, as follows:
 - authored eight articles for the three *TSBP Newsletters* that were published during FY2002;
 - provided the following information for publication in *TSBP Newsletter* - descriptions of disciplinary actions and statistics regarding confidential disciplinary orders; and
 - served on the *TSBP Newsletter* committee.
 - (b) Division Director attended a meeting of the Board-appointed Task Force

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on Pharmacy Technicians.

- (c) Division Director attended a meeting regarding the implementation of S.B. 768. The attendees at this meeting developed recommendations for rules concerning dispensing directives for generic substitution.
- (d) Division staff assisted in the development, review, and evaluation of the Texas question pool for the Multistate Jurisprudence Exam administered by the National Association of Boards of Pharmacy.
- Division staff assisted Director of Administrative Services and Licensing, as follows:
 - (a) Staff Compliance Officers provided technical assistance with regard to Class B and Class D Pharmacy licenses (see Ongoing Objective #11);
 - (b) Division Director and Assistant Division Director assisted TSBP's Licensing Division, with respect to;
 - eligibility for licensure and internship (from individuals who had checked "yes" on the attest questions on TSBP applications); and
 - eligibility of individuals wishing to serve as preceptors.
 - (c) Division staff assisted with the preparation and review of the agency's LAR and Strategic Plan (which included the agency's Workforce Plan).
 - (d) Division staff reviewed hundreds of applications from persons who were applying for registrations to provide remote pharmacy services; and
 - (e) Division staff served on the in-house TSBP web site committee.
- Division staff assisted the Legal Division as follows:
 - (a) At the request of TSBP General Counsel, Division Director or Assistant Division Director reviewed drafts of Preliminary Notice Letters (PNLs) prior to the PNLs being finalized and mailed.
 - (b) Division staff served as expert witnesses for several formal disciplinary hearings conducted by the State Office of Administrative Hearings.
 - (c) Division staff attended 21.5 days of informal conferences.
- Division staff assisted with orientations of new TSBP employees, as well as University of Texas College of Pharmacy Intern Jon Pate, regarding division activities, such as Compliance inspections; the complaint process; investigations of complaints; monitoring licensees and responding to inquiries for enforcement records. New employees included: Sarah Guevara, Amy Herring, Lisa Ake, Mary Helen Oviedo, Richard Thompson, and Wayne Jones.

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I. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS

- Division staff responded to 50 requests for complaint/disciplinary information from 23 different boards of pharmacy, as well as 37 requests from the Texas Department of Health.
- Division Director responded to requests from the Sunset Advisory Commission regarding the agency's complaint process and the HPC Complaint Study Committee.
- Division Director responded to a request from Texas Board of Podiatric Examiners regarding TSBP costs related to SOAH Hearings.
- Division Director provided information to the Texas State Board of Dental Examiners regarding TSBP's computerized complaint tracking system.
- Division staff notified various agencies regarding disciplinary orders entered by the Board (e.g., DEA, DPS, TDH, MHMR, HHS, and NABP).
- Division staff assisted the Director of the Pharmacy Recovery Network (PRN) program. (See Ongoing Objective #12.)
- Division staff assisted the Health Professions Council. (See Ongoing Objective #13.)
- Investigative staff assisted numerous other law enforcement agencies. (See Ongoing Objective #7.)
- Division staff assisted Curtis Burch, R.Ph., Texas Drug Vendor Program, by providing statistics regarding patient counseling violations (i.e., number of closed complaints and disciplinary orders entered involving licensees who failed to provide written or verbal counseling or drug regimen review; and number of Warning Notices issued during compliance inspections).

10. To provide technical assistance to the Administrative Services and Licensing Division regarding interpretation of the laws and rules relating to the licensing of pharmacies and pharmacists throughout FY2002.

Status: ACCOMPLISHED

Comment: Staff Compliance Officers Milton Jez, R.Ph., and Ben Santana, R.Ph., assisted the Licensing Division in the following areas:

| Number | Activity |
|--------|--|
| 21 | New Class D (Clinic) Pharmacy applications |
| 4 | New Class B (Nuclear) Pharmacy applications |
| 50 | Petitions for Expanded Formularies for Class D (Clinic) Pharmacies |
| 16 | Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies |
| 10 | Notifications of Temporary Locations for Class D (Clinic) Pharmacies |

11. To serve as liaison for the Board to the Pharmacy Recovery Network (PRN) of the Texas Pharmacy Association and to monitor non-financial contractual obligations of PRN throughout FY2002.

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Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. Board Member Donna Rogers served as an ex-officio member of the TX-PRN State Committee throughout FY2002.
- B. The TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY2002.
- C. TSBP requested an independent audit be conducted on the data provided to TSBP (financial data and performance measure data). This audit was conducted on November 20, 2001, and the results of the audit were reported to the Board at its meeting held May 7-8, 2002.
- D. Throughout FY2002, Division Director and Assistant Division Director reviewed monthly activity reports submitted to TSBP by TX-PRN Director.
- E. Assistant Division Director attended one TX-PRN State Advisory Committee meeting on February 23, 2002.
- F. Throughout FY2002, Assistant Division Director worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

12. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to division activities throughout FY2002.

Status: **ACCOMPLISHED**

Comment: Division staff participated in the following activities:

- A. HPC Annual Report – Division Director submitted agency enforcement performance data to be incorporated in the HPC Annual Report.
- B. HPC General Meetings – Division Director attended two meetings of the Council (September 19, 2001, and May 1, 2002) to discuss the status of the HPC Complaint Study Committee.
- C. HPC Complaint Process Study Committee – Division Director spent significant time and effort on this project, as chair of the HPC Committee. (See New Objective #2.)

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- D. 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 FY2002, TSBP mailed 735 complaint forms to individuals requesting forms on the HPC toll-free complaint hotline and 789 complaint forms to individuals who called the TSBP voice mail complaint line. The number of requests for complaint forms received in FY2002, as compared to the four previous fiscal years, is depicted in the following chart.

COMPLAINT FORMS PROCESSED BY ENFORCEMENT DIVISION (FY98 through FY02)

| Fiscal Year | Requests for Complaint Forms Via HPC 800# | % Change | Requests for Complaint Forms via TSBP Voice Mail | % Change |
|-------------|---|----------|--|----------|
| FY98 | 742 | | 209 | |
| FY99 | 836 | +13% | 361 | +73% |
| FY00 | 1,498 | +79% | 603 | +67% |
| FY01 | 851 | -43% | 725 | +20% |
| FY02 | 735 | -14% | 789* | +9% |

* Increase from FY98 to FY02 = +278%

13. 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 FY2002.

Status: **ACCOMPLISHED**

Comment: In FY2002, division staff attended several team meetings, division staff meetings, general staff meetings, and in-house training sessions. Division Staff Meetings were held on December 5, 2001, February 20, 2002, May 14, 2002, and August 19, 2002. General Staff Meetings were held on December 6, 2002, and August 20, 2002. Investigator Dwayne Darter made a presentation on Verbal Judo to the staff of the Enforcement and Legal Divisions on May 15, 2002.

Division staff also attended the following joint training sessions (with other agency staff) on the following dates:

- December 5, 2001 – Training to Detect/Prevent Discrimination/Sexual Harassment
- December 6, 2001 – Building Better, More Effective Teams

In addition, division staff attended the following programs, seminars, or events:

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| Carol Fisher, R.Ph., M.P.A. | |
|------------------------------------|--|
| 10/30/01 | Communications for Bioterrorism; Preparedness & Response (Austin) |
| 1/9/02 | Best Practices in State Government; Focus: Customer Service Survey (Austin) |
| 1/11/02 | CLEAR Annual Meeting (San Antonio) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 2/22/02 | BioTech Drugs & Generic Equivalents (Austin) |
| 2/24/02 | Medications in Recovery; PRN Spring Seminar (Austin) |
| 3/10/02 | Defensive Driving Course (Austin) |
| 4/13-14/02 | TSHP Annual Meeting (Galveston) |
| 6/8-9/02 | TPA Annual Meeting (Corpus Christi) |
| 7/19/02 | Best Practices in State Government; Survey on Organizational Excellence (Austin) |

| Allison Benz, R.Ph., M.S. | |
|----------------------------------|---|
| 10/2/01 | Strategic Planning Seminar - Professional Development Center (Austin) |
| 12/5/01 | EEO Training |
| 2/20/02 | "Personal Safety Training for Regulators," FDA Satellite presentation at TDH Offices (Austin) |
| 2/22/02 | BioTech Drugs & Generic Equivalents (Austin) |
| 2/23/02 | PRN Advisory Committee Meeting (Austin) |
| 2/24/02 | Medications in Recovery; PRN Spring Seminar (Austin) |
| 2/26/02 | Defensive Driving Course (Austin) |
| 8/17/02 | UT 20th Annual Preceptor Orientation and Training Conference (Salado) |
| 8/27/02 | Manager as Coach - UT Professional Development Seminar (Austin) |

| Milton Jez, R.Ph. | |
|--------------------------|--|
| 10/4/01 | UT Post-Graduate Seminar (Austin) |
| 10/13/01 | SWPRN Meeting (Corpus Christi) |
| 12/13/01 | CAPA Meeting - Medication Errors (Austin) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 2/22/02 | BioTech Drugs & Generic Equivalents (Austin) |
| 2/24/02 | Medications in Recovery; PRN Spring Seminar (Austin) |
| 6/5-9/02 | TPA Annual Meeting (Corpus Christi) |

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| Ben Santana, R.Ph. | |
|---------------------------|--|
| 11/21/01 | Defensive Driving Course (Austin) |
| 12/10/01 | Fraud in the 21st Century (Austin) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 2/22/02 | BioTech Drugs & Generic Equivalents (Austin) |
| 3/25/02 | EEO Training |
| 6/5-9/02 | TPA Annual Meeting (Corpus Christi) |

| Amy Herring | |
|--------------------|--|
| 12/10/01 | Fraud in the 21st Century (Austin) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 5/9/02 | Defensive Driving Course (Austin) |
| 5/20-22/02 | CLEAR Training (Austin) |
| 6/5-9/02 | TPA Annual Meeting (Corpus Christi) |
| 6/22/02 | Texas Pharmacy Law Symposium (Austin) |

| Sarah Guevara | |
|----------------------|--|
| 9/11/01 | AASHP Meeting - Antibiotic Resistance (Austin) |
| 12/10/01 | Fraud in the 21st Century (Austin) |
| 2/12/02 | AASHP Meeting - Fluoroquinolones |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 2/26/02 | Defensive Driving Course (Austin) |
| 4/12-16/02 | TSHP Annual Meeting (Galveston) |
| 5/20-22/02 | CLEAR Training (Austin) |
| 6/22/02 | Texas Pharmacy Law Symposium (Austin) |
| 6/26/02 | AASHP Meeting - Low Molecular Weight Heparins (Austin) |

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| Korena Schaaf | |
|----------------------|--|
| 11/18-19/01 | Executive Women in Texas Government (Austin) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 2/26/02 | Defensive Driving Course (Austin) |
| 3/23/02 | Texas Pharmacy Law Symposium (Austin) |
| 4/12-16/02 | TSHP Annual Meeting (Galveston) |
| 8/9/02 | Resigned |

| Sherry Stevenson | |
|-------------------------|--|
| 11/26/01 | Power Builder Demonstration (In-House) |
| 5/9/02 | Defensive Driving Course (Austin) |

| Janelle Nastri | |
|-----------------------|--|
| 1/8/02 | The Administrative Professionals Conference (Austin) |
| 5/9/02 | Defensive Driving Course (Austin) |
| 6/22/02 | Texas Pharmacy Law Symposium (Austin) |
| 7/9/02 | Cardiovascular Pharmacology (Austin) |

| Patty Galan | |
|--------------------|--|
| 2/28/02 | Business Grammar for Busy Professionals (Austin) |

| Diane Torres | |
|---------------------|--|
| 2/28/02 | Business Grammar for Busy Professionals (Austin) |

| Angela Hicks | |
|---------------------|-----------------------------------|
| 3/25/02 | EEO Training (Austin) |
| 5/9/02 | Defensive Driving Course (Austin) |

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| Joe Lewis | |
|------------------|--|
| 1/30/02 | Asset Forfeiture (Austin) |
| 1/31/02 | Racial Profiling (Austin) |
| 2/1/02 | Cultural Diversity (Austin) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 7/22-26/02 | DEA Academy - Drug Diversion (Quantico, VA) |
| 7/29/02 - 8/2/02 | DEA Academy - Drug Diversion (Quantico, VA) |

| Robert Ebrum | |
|---------------------|--|
| 9/11-13/01 | CLEAR Basic Training (San Antonio) |
| 9/18/01 | Intoxilyzer Training (Floresville) |
| 10/4/01 | Intoxilyzer Training (Floresville) |
| 1/30/02 | Asset Forfeiture (Austin) |
| 1/31/02 | Racial Profiling (Austin) |
| 2/1/02 | Cultural Diversity (Austin) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 8/12-16/02 | TNOA Conference (Corpus Christi) |

| Johnny Martin | |
|----------------------|---------|
| 12/31/01 | Retired |

| Dwayne Darter | |
|----------------------|--|
| 9/11-13/01 | CLEAR Basic Training (San Antonio) |
| 9/18/01 | Digital Camera Training (Austin) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 8/20-21/02 | Conference National Association of Drug Diversion Investigators (NADDI) (Fort Worth) |
| 8/30/02 | Asset Forfeiture (Arlington) |
| 8/30/02 | Racial Profiling (Arlington) |
| 8/30/02 | Armed on Flights (Arlington) |

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| Richard Klemme | |
|-----------------------|--|
| 9/11-13/01 | CLEAR Basic Training (San Antonio) |
| 9/18/01 | Digital Camera Training (Austin) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |

| Anita Ann Arnet | |
|------------------------|--|
| 9/11-13/01 | CLEAR Basic Training (San Antonio) |
| 9/18/01 | Digital Camera Training (Austin) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 8/12-16/02 | TNOA Conference (Corpus Christi) |

| Wayne Jones | |
|--------------------|---|
| 3/4-8/02 | Orientation (Austin) |
| 3/25/02 | EEO Training (Austin) |
| 4/17-18/02 | Advanced Diversion Investigation Training (Waco) |
| 5/20-22/02 | CLEAR Basic Training (Austin) |
| 6/3-4/02 | Covert Investigation Training (Odessa) |
| 7/22/02 - 8/2/02 | DEA Academy - Drug Diversion (Quantico, VA) |
| 8/12-16/02 | TNOA Conference (Corpus Christi) |
| 8/30/02 | Asset Forfeiture and Racial Profiling (Arlington) |

| Melissa Weeden | |
|-----------------------|------------------------------------|
| 9/11-13/01 | CLEAR Basic Training (San Antonio) |
| 11/5/01 | Computer Training - Excel (Austin) |

| Cy Weich, R.Ph. | |
|------------------------|--|
| 10/6/01 | Defensive Driving (Austin) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 2/22/02 | BioTech Drugs & Generic Equivalents (Austin) |
| 4/12-16/02 | Texas Society of Health-System Pharmacists Annual Meeting (Galveston) |
| 6/5-9/02 | Texas Pharmacy Association Annual Meeting (Corpus Christi) |

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| Carol Willess | |
|----------------------|--|
| 1/23-25/02 | Texas State Agency Business Administrators Association Mid-Winter Conference (Kernville) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 4/12-16/02 | Texas Society of Health-System Pharmacists Annual Meeting (Galveston) |
| 5/9/02 | Defensive Driving (Austin) |
| 6/5-9/02 | Texas Pharmacy Association Annual Meeting (Corpus Christi) |
| 7/10/02 | Texas State Agency Business Administrators Association Summer Conference (San Antonio) |

In addition, Ms. Willess completed two college level courses at Austin Community College.

| Mike Ethridge, R.Ph. | |
|-----------------------------|--|
| 1/15/02 | Medical Treatment of Aggression (CTSHP) (San Antonio) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 2/22/02 | BioTech Drugs & Generic Equivalents (Austin) |
| 4/9/02 | BioTechnology and Medications (CTSHP) (San Antonio) |
| 4/19-21/02 | South Texas Education Fair - Region D (San Antonio) |
| 6/5-9/02 | Texas Pharmacy Association Annual Meeting (Corpus Christi) |

| Iona Grant, R.Ph. | |
|--------------------------|--|
| 11/31/01 | Review of Depressive Mood Disorders (Houston) |
| 4/5/02 | Defensive Driving (Houston) |
| 6/5-9/02 | Texas Pharmacy Association Annual Meeting (Corpus Christi) |

| Heidi Holmes, R.Ph. | |
|----------------------------|--|
| 9/10-13/01 | CLEAR - Basic Investigator Training (San Antonio) |
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 2/22/02 | BioTech Drugs & Generic Equivalents (Austin) |
| 4/12-16/02 | Texas Society of Health-System Pharmacists Annual Meeting (Galveston) |
| 4/30/02 | Treating Anemia (Houston) |

ENFORCEMENT

| Richard Thompson, R.Ph. | |
|--------------------------------|--|
| 2/20/02 | Personal Safety for Field Personnel; Part I (Conflict Management) (Austin) |
| 4/30/02 - 5/1/02 | Defensive Driving (Breckenridge) |
| 6/5-9/02 | Texas Pharmacy Association Annual Meeting (Corpus Christi) |
| 6/15/02 | AIDS Vaccines - Internet |
| 7/20/02 | Glycomics Research - Internet |
| 8/16/02 | Blocking Disease Causing Gene Expansion - Internet |

14. To conduct periodic reviews and annual evaluations of all employees under the supervision of this division during FY2002.

Status: **ACCOMPLISHED**

Comment: Formal performance reviews were conducted as follows:

Enforcement Division Staff Members

| Employee | Date of Evaluation | Evaluation By |
|---------------------------|-----------------------------------|---|
| Allison Benz, R.Ph., M.S. | June 17, 2002 | Carol Fisher, R.Ph., M.P.A. Director of Enforcement |
| Joe Lewis | July 8, 2002 | Carol Fisher, R.Ph., M.P.A. Director of Enforcement |
| Cy Weich, R.Ph. | May 16, 2002 | Carol Fisher, R.Ph., M.P.A. Director of Enforcement |
| Sherry Stevenson | June 17, 2002 | Carol Fisher, R.Ph., M.P.A. Director of Enforcement |
| Milton Jez, R.Ph. | June 19, 2002 | Allison Benz, R.Ph., M.S. Asst. Director of Enforcement |
| Ben Santana, R.Ph. | June 18, 2002 | Allison Benz, R.Ph., M.S. Asst. Director of Enforcement |
| Korena Schaaf | October 30, 2001 June 20, 2002 | Allison Benz, R.Ph., M.S. Asst. Director of Enforcement. |
| Sarah Guevara | June 20, 2002 | Allison Benz, R.Ph., M.S. Asst. Director of Enforcement |
| Amy Herring | June 20, 2002 | Allison Benz, R.Ph., M.S. Asst. Director of Enforcement |
| Janelle Nastri | June 18, 2002 | Allison Benz, R.Ph., M.S. Asst. Director of Enforcement |
| Carol Willess | May 16, 2002 | Cy Weich, R.Ph. Chief Compliance Officer |

ENFORCEMENT

| Employee | Date of Evaluation | Evaluation By |
|----------------------|---------------------------|--|
| Iona Grant, R.Ph. | May 16, 2002 | Cy Weich, R.Ph. Chief Compliance Officer |
| Mike Ethridge, R.Ph. | May 16, 2002 | Cy Weich, R.Ph. Chief Compliance Officer |
| Heidi Holmes, R.Ph. | May 16, 2002 | Cy Weich, R.Ph. Chief Compliance Officer |
| Robert Ebrom | July 15, 2002 | Joe Lewis, Chief Investigator |
| Dwayne Darter | July 16, 2002 | Joe Lewis, Chief Investigator |
| Richard Klemme | July 15, 2002 | Joe Lewis, Chief Investigator |
| Anita Arnet | July 15, 2002 | Joe Lewis, Chief Investigator |
| Melissa Weeden | July 12, 2002 | Joe Lewis, Chief Investigator |
| Patty Galan | July 11, 2002 | Sherry Stevenson Sr. Administrative Assistant |
| Diane Torres | July 11, 2002 | Sherry Stevenson Sr. Administrative Assistant |
| Angela Hicks | June 24, 2002 | Sherry Stevenson Sr. Administrative Assistant |

Other activities related to division personnel are listed below:

- A. The division began FY2002 with three vacant positions: two in-house enforcement officers (these positions were filled in September 2001) and the West Texas Compliance Officer (this position was filled in February 2002 following an eight-month vacancy). The division also experienced turnover in two positions during FY2002: Johnny Martin, Senior Investigator, (retired in December 2001), and Korena Schaaf, Enforcement Officer (resigned in August 2002). Accordingly, the division posted and/or filled five positions during FY2002. Division staff developed orientation schedules/orientation manuals and conducted orientations for four new staff members (Enforcement Officers Sarah Guevara and Amy Herring, Field Compliance Officer Richard Thompson, and Field Investigator Wayne Jones), and for Jon Pate, Intern.
 - B. Division Director updated the job description for the Field Compliance Officer position, to clarify that the employee in this position was required to reside in the region where the inspections were conducted.
 - C. Division Director updated the job description for Diane Torres, Administrative Assistant.
15. To destroy records in accordance with the agency's record retention plan throughout FY2002; to update the division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2002.

Status: **PARTIALLY ACCOMPLISHED**

ENFORCEMENT

Comment: The following activities relate to this objective:

- A. Records Management
During FY2002, division staff destroyed 56.25 cubic feet of records, in accordance with the TSBP record retention schedule.
- B. Policies and Procedures
Division Director updated procedures relating to investigation of complaints involving thefts or losses of prescription drugs and/or records. However, because the division Policy and Procedure Manuals with regard to inspections and complaints were not updated during FY2002, this objective was only partially accomplished.

16. To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2002.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. Division staff made several recommendations for changes to enhance the agency's computerized complaint tracking system and associated reports.
- B. Division staff assisted in the revision of various TSBP forms (e.g., application for reinstatement, change of PIC form, field Compliance Officer's quarterly activity reports).
- C. Division Director recommended that the format of all disciplinary orders requiring the licensee to obtain additional continuing education (CE) be changed to clarify that the CE must be in compliance with TSBP rules relating to CE.
- D. Division staff, in cooperation with other agency staff, recommended procedures for handling inspections of emergency kits in nursing homes, in the event that the Texas Department of Human Services, Long Term Care Division, agreed to enter into an inter-agency contract to conduct the inspections.
- E. Following input by Board Members at the May 2002 Board Meeting, division staff implemented new internal procedures relating to the TSBP complaint process, including the format of dismissal (warning) letters and circumstances where a dismissal letter is not warranted.
- F. Division Director worked with the Executive Director and other Division Directors to establish an Agency Change Team (ACT committee), for the purpose of reviewing agency operations and making recommendations for improvement.
- G. Division Director drafted a new customer service satisfaction survey to be used in FY2003 and recommended that the agency mail a survey to every customer at the point of service. Through this procedure, the agency will be able to survey over time and at less cost.

ENFORCEMENT

17. To recommend changes to the Texas Pharmacy Act and rules, which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2002.

Status: **ACCOMPLISHED**

Comment: Division Director assisted in the development of amendments to TSBP rules regarding applications for new pharmacy licenses to help ensure that pharmacy owners intend to operate a bona-fide pharmacy.

- A. TSBP promulgated a rule to prohibit a pharmacy from being located in a personal residence.
- B. TSBP promulgated a rule to limit the number of months a pharmacy owner can hold a pharmacy license without operating a bona-fide pharmacy.
- C. TSBP amended its rules regarding continuing education, in order to allow pharmacists to claim hours earned during the process of obtaining a non-ACPE-accredited degree from a college of pharmacy.

18. To prepare and submit a report on the accomplishment of division objectives, for incorporation into the agency's *FY2001 Annual Report* to be presented to the Board by its May 2002 Board meeting.

Status: **ACCOMPLISHED**

Comment: The division's first draft of the FY2001 Annual Report was submitted to the Executive Director by the due date. The final draft of the TSBP Annual Report was presented to and approved by the Board at its meeting held in May 2002.

ENFORCEMENT

LEGAL DIVISION

FY2002 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished all of the division's objectives for FY2002.
2. The division sent more Preliminary Notice Letters in FY2002 as compared to FY2001, with the division increasing the number of PNLs mailed to 244 in FY2002 from 197 in FY2001 (24% increase). The division dramatically decreased the number of days to mail PNLs after the case review date from 112.5 days in FY2001 to 74 days in FY2002.
3. The division conducted 21.5 days of Informal Conferences in FY2002 as compared to 16.5 days in FY2001, which is approximately a 30% increase. This significant increase in Informal Conference days was accomplished with no increase in staff, and allowed the division to resolve a large number of disciplinary cases.
4. The Legal Assistants were trained to prepare the first draft of simple Preliminary Notice Letters to allow the Attorneys more time to focus on hearing preparation.
5. Division staff updated sample formats for common types of Preliminary Notice Letters (PNL) and Agreed Board Orders to continuously strive to improve clarity and comprehension by licensees.
6. The division was able to resolve three cases which were set for administrative hearing at the State Office of Administrative Hearings (SOAH) prior to actually proceeding to hearing. One case was settled at a mediated settlement conference at SOAH, one at a settlement conference held by the agency, and the third through extensive negotiations with the licensees' attorneys. This case involved particularly voluminous documentation and discovery. These resolutions saved the agency considerable resources both in time and expenditures.
7. Three contested administrative hearings were conducted. Two of the hearings resulted in Proposals for Decisions (PFD) issued by the Administrative Law Judges in favor of TSBP, and in each case, the Board adopted a Board Order accepting the PFD. The third hearing was pending the issuance of a PFD at the end of FY2002.
8. TSBP entered significantly more disciplinary orders in FY2002 than in FY2001. As indicated in the chart below, 98.9% of the disciplinary cases were settled through the entry of Agreed Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and costs.

| FISCAL YEAR | NUMBER OF BOARD ORDERS (BOs) | NUMBER OF AGREED BOARD ORDERS (ABOs) | NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs) | % ABOs OF TOTAL ORDERS |
|--------------|------------------------------|--------------------------------------|--|-------------------------|
| FY98 | 5 | 179 | 184 | 97.3% |
| FY99 | 0 | 108 | 108 | 100% |
| FY00 | 0 | 126 | 126 | 100% |
| FY01 | 4 | 141 | 145 | 97% |
| FY02 | 2 | 179 | 181 | 98.9% |
| TOTAL | 11 | 733 | 744 | 5 YR. AVG. 98.6% |

LEGAL DIVISION

FY2002 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The increased workload generated by the Enforcement Division (i.e. more investigations) has also significantly increased the amount of work required for the Legal Division to avoid a backlog of cases.

LEGAL DIVISION

FY2002 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)

1. To assist the Executive Director in updating and preparing the *TSBP Strategic Plan* for the 2003-2007 period, and submitting the plan to the Governor's Office of Budget & Planning and the Legislative Budget Board by the due date.

Status: ACCOMPLISHED

Comment: General Counsel reviewed the policy issues for the *TSBP Strategic Plan* for 2003-2007 and reviewed the draft of revisions to the issues prior to presentation at the February 2002 Board meeting. The draft was approved at the Board's May 2002 meeting.

2. To assist the Executive Director, in cooperation with other divisions, in reviewing and implementing legislation passed by the 77th Texas Legislature that affects agency operations throughout FY2002, including the following:

- S.B. 768 relating to pharmacist continuing education, emergency medication kits in nursing homes, and development of a "Dispensing Directive" for generic substitution on prescriptions;
- S.B. 98 relating to the provision of pharmacy services in a nursing home through an automated pharmacy system;
- S.B. 65 relating to the provision of pharmacy services in a rural health clinic through a telepharmacy system;
- H.B. 99 relating to the adoption of rules regarding the sale and delivery of drugs by use of electronic media;
- H.B. 2408 relating to a study by the Health Professions Council of the complaint procedures of certain health care regulatory entities;

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. On October 16, 2001, General Counsel attended a meeting of interested parties on implementation of the dispensing directive of S.B. 768, and subsequently assisted the Executive Director in the review of new rules.

LEGAL

- B. General Counsel, in conjunction with other TSBP staff, met with Jim Lehrman, Deputy Commissioner for Long Term Care and various staff of the Texas Department of Human Services (DHS), to discuss the possibility of TSBP and DHS entering into a contract, whereby TSBP would pay DHS to inspect emergency medication kits in nursing homes.
- C. General Counsel assisted the Director of Enforcement with preparation of a survey on the complaint procedures of the various HPC member agencies. The work of the HPC Study Committee was completed in FY2002.
- D. General Counsel reviewed new rules prior to adoption by the Board and publication in the *Texas Register*.

3. To assist the Executive Director, in cooperation with other divisions, in the orientation of new Board Members within 90 days of their appointment by the Governor.

Status: ACCOMPLISHED

Comment: General Counsel reviewed orientation materials and participated in the orientation of new Board Members, Mike Brimberry, R.Ph., and Angela Myres, on January 24-25, 2002.

4. To assist the Executive Director in the preparation of a proposed Budget for the FY2004-5 biennium.

Status: ACCOMPLISHED

Comment: General Counsel attended and participated in all budget planning meetings of the management staff of the agency.

Objectives (Ongoing)

1. To coordinate and monitor throughout FY2002 the receipt, assignment, and resolution of all cases accepted by the division.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

Division staff met approximately once a week to discuss the status of pending cases, to assess workload allocation, and determine the most effective strategies to complete cases in a timely and excellent manner.

Division staff maintained a database system to track the current status of all cases, which has increased efficiency in monitoring cases.

LEGAL

TOTAL ORDERS

| Date of Orders | Summary Suspensions | Board Orders | Agreed Board Orders | | Total Number of Orders |
|---------------------|---------------------|--------------|---------------------|--------------|------------------------|
| | | | Public | Confidential | |
| Nov. 14, 2001 | 0 | 0 | 26 | 14 | 40 |
| Feb. 5-6, 2002 | 0 | 1 | 29 | 12 | 42 |
| May 7-8, 2002 | 0 | 1 | 29 | 14 | 44 |
| Aug. 7, 2002 | 0 | 0 | 32 | 23 | 55 |
| TOTAL FY2002 | 0 | 2 | 116 | 63 | 181 |

SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS (FY2002)

| | | | <i>Pharmacist</i> | <i>Pharmacy</i> | <i>Total</i> | |
|--|-----------|--------------|-------------------|-----------------|--------------|-------|
| Licenses Removed | 23 | (13%) | | | | |
| Revoke | | | 16 | 2 | 18 | (10%) |
| Retire | | | 5 | 0 | 5 | (3%) |
| Suspensions | 50 | (28%) | | | | |
| Summary Suspension | | | 0 | 0 | 0 | (n/a) |
| Suspension | | | 10 | 0 | 10 | (6%) |
| Suspension/Fine | | | 0 | 0 | 0 | (n/a) |
| Suspension/Probation | | | 3 | 2 | 5 | (3%) |
| Suspension/Probation w/Conditions | | | 23 | 3 | 26 | (14%) |
| Suspension/Probation/Fine | | | 2 | 2 | 4 | (2%) |
| Suspension/Probation/Fine w/Conditions | | | 1 | 4 | 5 | (3%) |
| Restrictions | 14 | (8%) | 14 | 0 | 14 | (8%) |
| Other | 81 | (45%) | | | | |
| Fine | | | 10 | 11 | 21 | (12%) |
| Fine with Conditions | | | 4 | 1 | 5 | (3%) |
| Fine and Reprimand | | | 2 | 2 | 4 | (2%) |
| Fine, Reprimand with Conditions | | | 2 | 3 | 5 | (3%) |
| Reprimand | | | 18 | 11 | 29 | (17%) |
| Reprimand with Conditions | | | 10 | 7 | 17 | (8%) |
| Issuance License/Regist. | 3 | (2%) | | | | |
| Grant with Probation | | | 1 | 0 | 1 | (<1%) |
| Grant with Probation and Conditions | | | 0 | 0 | 0 | (n/a) |
| Grant with Reprimand | | | 2 | 0 | 2 | (1%) |
| Deny | | | 0 | 0 | 0 | (n/a) |

LEGAL

| | | | <i>Pharmacist</i> | <i>Pharmacy</i> | <i>Total</i> | |
|---------------------------------|------------|----------------|-------------------|-----------------|--------------|----------------|
| Reinstatements | 5 | (3%) | | | | |
| Grant | | | 0 | 0 | 0 | (n/a) |
| Grant with Probation/Conditions | | | 5 | 0 | 5 | (3%) |
| Deny | | | 0 | 0 | 0 | (n/a) |
| Modifications | 5 | (3%) | | | | |
| Grant | | | 5 | 0 | 5 | (3%) |
| Deny | | | 0 | 0 | 0 | (n/a) |
| TOTAL FY2002: | 181 | (102%)* | 133 | 48 | 181 | (101%)* |

| | | |
|---|-----|------|
| FY02 Orders Entered Against Pharmacist Licenses | 133 | 73% |
| FY02 Orders Entered Against Pharmacy Licenses | 48 | 27% |
| FY02 Total Disciplinary Orders | 181 | 100% |

* Due to rounding

NATURE OF VIOLATIONS*

| | <i>RPh</i> | <i>Phcy</i> | <i>Total</i> | <i>Total %</i> |
|--|------------|-------------|--------------|----------------|
| Diversion | | | | |
| Unauthorized Dispensing | 7 | 1 | 8 | 4% |
| Illegal Possession (C/S) | 2 | 0 | 2 | 1% |
| Non-Therapeutic Dispensing | 2 | 3 | 5 | 3% |
| Theft of Controlled Substances | 5 | 0 | 5 | 3% |
| Obtained C/S by Fraud | 4 | 0 | 4 | 2% |
| Allowed Person with Suspended Pharmacist License Access to Prescription Department | 1 | 1 | 2 | 1% |
| Convictions | | | | |
| Felony | 7 | 0 | 7 | 4% |
| Misdemeanor | 1 | 0 | 1 | <1% |
| Deferred Adjudication | 6 | 1 | 7 | 4% |
| Alcohol-Related | 2 | 0 | 2 | 1% |
| Audit Discrepancies | 9 | 9 | 18 | 10% |
| Drug | 5 | 9 | 14 | |
| Continuing Education | 4 | 0 | 4 | |

| LEGAL | | | | |
|---|------------|-------------|--------------|----------------|
| | <i>RPh</i> | <i>Phcy</i> | <i>Total</i> | <i>Total %</i> |
| Pharmacy Practice Deficiencies | | | | |
| Dispensing Errors | 10 | 10 | 20 | 11% |
| Dispensing Errors & No Counsel and/or No Drug Regimen Review | 7 | 9 | 16 | 9% |
| No Counsel and/or DRR | 4 | 3 | 7 | 4% |
| Unauthorized Substitution and No Counseling | 1 | 2 | 3 | 2% |
| Unprofessional Conduct | | | | |
| No Annual Inventory | 1 | 1 | 2 | 1% |
| Falsify Response to Warning Notice | 3 | 2 | 5 | 3% |
| Aiding and Abetting | 0 | 1 | 1 | <1% |
| Delinquent License | 0 | 1 | 1 | <1% |
| Possession of Samples, Misbranded Drugs and/or Institutional Drugs | 4 | 4 | 8 | 4% |
| Probable Cause | 7 | 0 | 7 | 4% |
| Action by Other Boards | 19 | 0 | 19 | 10% |
| Non-Compliance with Previously Entered Order | 18 | 0 | 18 | 10% |
| Other | | | | |
| Request for Revocation | 1 | 0 | 1 | <1% |
| Request for Retirement Modification | 2 | 0 | 2 | 1% |
| Reinstatement | 5 | 0 | 5 | 3% |
| TOTAL FY02: | 133 | 48 | 181 | 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.

- 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 case review, in accordance with priorities established for the Enforcement Division, throughout FY2002.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- During FY2002, division staff participated in 19 case and/or complaint review meetings. These meetings were held once or twice a month with participation by the Executive Director and Legal and Enforcement Division staff.

LEGAL

B. Division Staff mailed 244 Preliminary Notice Letters (PNLs) in FY2002, in accordance with the priorities established for the division, as compared to FY2001, when the division mailed 197 PNLs (24% increase). The division dramatically decreased the number of days to mail from 112.5 days in FY2001 to 74 days in FY2002 and significantly reduced the backlog of disciplinary cases.

3. To plan and conduct a minimum of 15 days of informal conference sessions in FY2002 to adjudicate violators of pharmacy laws/rules.

Status: **ACCOMPLISHED**

Comment: During FY2002, the division conducted 21.5 days of informal conferences for 209 licensees, as indicated in the chart below. As compared to FY2001, the number of conference days increased by 30%, and the number of licensees heard at informal conference increased by 50%.

INFORMAL CONFERENCES

| DATES OF INF. CONF. | # OF DAYS | # OF LICENSEES | # OF LICENSEES DISMISSED | BOARD MEMBER PARTICIPANT |
|----------------------------|--------------|-------------------|--------------------------------|--------------------------------|
| Sept. 5-6, 2001 | 2 | 22 | 6 | Rosemary Combs |
| Sept. 18, 2001 | ½ | 3 | 0 | Bill Pittman, R.Ph. |
| Oct. 23-25, 2001 | 3 | 30 | 7 | Donna Rogers, R.Ph. |
| Dec. 11-12, 2001 | 2 | 15 | 4 | Oren Peacock, R.Ph. |
| Jan. 15-17, 2002 | 3 | 33 | 9 | Rosemary Combs |
| 1st & 2nd Qtrs. | 10.5 | 103 | 26(25%) | |
| Feb. 27-28, 2002 | 2 | 23 | 8 | Doyle High, R.Ph. |
| April 10-12, 2002 | 2 ½ | 25 | 2 | Mike Brimberry, R.Ph. |
| June 12-13, 2002 | 2 | 20 | 0 | Roger Anderson, R.Ph. |
| June 27, 2002 | 1 | 5 | 0 | Donna Rogers, R.Ph. |
| July 9, 2002 | 1 | 4 | 1 | Mike Brimberry, R.Ph. |
| July 17-18, 2002 | 2 | 27 | 3 | Wiki Erickson |
| August 26, 2002 | ½ | 2 | 0 | Mike Brimberry, R.Ph. |
| 3rd & 4th Qtrs. | 11 | 106 | 14 (13%) | |
| TOTAL FY2002: | 21.5 | 209 | 40 (19%) | |

LEGAL

4. To refer disciplinary cases to the State Office of Administrative Hearings (SOAH) throughout FY2002, and file a complaint with SOAH within an average of 120 days of the date that the agency determines the case cannot be settled with an Agreed Board Order.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

At the onset of FY2002, two cases were ongoing at the State Office of Administrative Hearings (SOAH). The division filed formal Complaints at SOAH, within 120 days that the case failed to settle with an Agreed Board Order, for seven additional cases in FY2002.

Three cases were resolved without a full contested administrative hearing at SOAH. One case of these three cases was settled by Agreed Board Order following a Mediated Settlement Conference. The other two settled cases were resolved by Agreed Board Order prior to the hearing actually being conducted.

Three contested administrative hearings were conducted. Two of the hearings resulted in Proposals for Decisions (PFD) issued by the Administrative Law Judges in favor of TSBP, and in each case, the Board adopted a Board Order accepting the PFD. The other case was pending issuance of a PFD at the end of FY2002.

The other three cases were planned for hearing in FY2003.

In addition, two motions for rehearing were filed by Respondents following the entry of Board Orders revoking the licenses. Both were denied by the Board.

SOAH performed 83.9 hours of work for the TSBP in FY2002, totaling \$5,984.30 in direct hearings expenses and \$11,466.17 in total case expenses.

5. To research legal issues and when necessary, to draft requests for Attorney General Opinions throughout FY2002; 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; to provide technical 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 FY2002; and to provide legal advice regarding the administration of the agency.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

A. Liaison with the Office of Attorney General

 ■ Assistant Attorney General Assigned to TSBP

 (a) Division staff continued to serve as liaison with the OAG throughout FY2002. Joe Pitner served as the Assistant Attorney General assigned to TSBP from the OAG Administrative Law Division.

LEGAL

- Appeals; Injunctions; Civil Litigation
 - (a) No disciplinary cases were appealed and no injunctions were filed during FY2002.
 - (b) General Counsel obtained and coordinated representation from OAG Administrative Law Division for motion filed by Pill Box Pharmacy in U.S. District Court.
 - (c) General Counsel coordinated referral to OAG Internet Crimes Division regarding online pharmacy selling veterinary drugs without a Texas pharmacy license.
 - (d) General Counsel requested representation from OAG Administrative Law Division in case involving an out-of-state Internet pharmacy licensed in Texas dispensing veterinary drugs without proper authorization, and provided assistance in drafting petition and discovery requests.
 - (e) General Counsel obtained representation from OAG Administrative Law Division and assisted in a matter involving a motion for subpoena in a child custody case seeking investigative information.
- Requests for AG Opinions
 - (a) Division staff drafted and filed three requests for open record decisions from the OAG regarding requests for confidential investigative information. The OAG issued letter rulings in favor of TSBP.

B. Legal Research and Advice on Agency Administration

- General Counsel reviewed the service level agreement with KPMG and the existing master contract with the Department of Information Resources to provide on-line renewal for pharmacy and pharmacist licensure renewals.
- General Counsel reviewed Request for Information/Bid for vendors to provide drug and alcohol screening services, and assisted with process to select new vendor and terminate services with previous vendor.
- General Counsel responded to proposal from the Texas Pharmacy Association Pharmacy Recovery Network (PRN) regarding modifications to TSBP contract with PRN .
- General Counsel reviewed website link disclaimer for publication on TSBP website.
- General Counsel reviewed and updated TSBP Disaster Recovery Plan.

LEGAL

- Division staff researched numerous issues, including the following issues:
 - (a) Importation of prescription drugs from foreign countries;
 - (b) Ability of state agencies to obtain criminal history records from Texas Department of Public Safety;
 - (c) Collateral attack on disciplinary order issued by another state board of pharmacy;
 - (d) Publication of pharmacy laws by vendor and related copyright issues;
 - (e) Ex parte contact;
 - (f) Internet practice issues and validity of prescriptions;
 - (g) 5th Amendment rights and applicability to administrative proceedings;
 - (h) Admissibility of email correspondence at SOAH hearing;
 - (i) Crimes involving moral turpitude;
 - (j) Limitations on patient refusal of generic substitution;
 - (k) Confidentiality of SSN, driver license number, and birth certificates of pharmacy owners in relation to proposed rule requiring such information from new pharmacy owners; and
 - (l) Use of term “Rx” by a business.

C. Technical Assistance to Local/State/Federal Prosecutors

- General Counsel provided information to Kendall County Attorney regarding effect of DWI prosecution on pharmacist’s license.
- Division staff attended the Health Care Fraud Working Group in Houston and provided information about TSBP disciplinary actions.
- General Counsel assisted federal prosecutor with the U.S. Attorney’s office on issues involving sample drugs.
- General Counsel provided information to OAG Medicaid Fraud Division on disciplinary actions against licensees.
- General Counsel assisted Assistant U.S. Attorney for the Northern District of Texas with the indictment of pharmacist involved in illegal Internet pharmacy practices.
- Division staff assisted U.S. Immigration and Naturalization Service with identifying individual, who was potentially in the United States illegally and had applied for a pharmacist license.

LEGAL

6. To review and monitor the *Texas Register* for Attorney General opinions.

Status: ACCOMPLISHED

Comment: Division Staff reviewed new opinions of the Office of the Attorney General and the Texas Ethics Commission for applicability to TSBP on a weekly basis, and disseminated any relevant material to appropriate agency personnel.

7. To assist with open records requests throughout FY2002, 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. Division staff was responsible for answering all telephonic open records requests on licensees subject to disciplinary action. Division staff responded to 87 verbal requests for complaint and disciplinary information in FY2002.
- B. General Counsel reviewed numerous written responses to open records requests, prepared by the Enforcement Division, for legal compliance with the Public Information Act.
- C. Division staff prepared three requests for open records decisions from the OAG, in regard to requests for information seeking documents considered to be confidential, i.e. investigative information. The OAG issued letter rulings in favor of TSBP.
- D. Division staff assisted the Enforcement Division by clarifying numerous open records requests by telephone with the requesters.

8. To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2002.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Surveys/Questionnaires and Other Correspondence
 - General Counsel completed survey from the State Office of Administrative Hearings regarding mediated settlement conference process.
 - General Counsel completed customer survey from the Texas Ethics Commission.
 - General Counsel completed customer satisfaction survey for Administrative Law Division of the Office of the Attorney General.
 - General Counsel responded to the Sunset Advisory Commission Survey on the State Office of Administrative Hearings.

LEGAL

B. Technical Assistance to Board Members and Board Staff

- Division staff assisted Board Members by conducting legal research on several issues (see Ongoing Objective #5).
- Division staff drafted several subpoenas to assist with the investigative work of the TSBP investigators.
- General Counsel provided legal advice and consultation on numerous personnel issues during FY2002, including:
 - (a) Reporting requirements for employment issues;
 - (b) Termination of employment;
 - (c) Acquisition of medical records from employee for use in determining return to work and sick leave pool eligibility issues;
 - (d) Americans with Disabilities Act issues;
 - (e) Family Medical Leave Act designation;
 - (f) Social Security disability payments;
 - (g) Fair Labor Standards Act compliance; and
 - (h) employee grievance and retaliation issues.
 - (i) 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*, including rules regarding generic substitution, prescription dispensing directive, pharmacist-in-charge responsibilities, pharmacy technicians, pharmacy applications and ownership, and centralized processing and filling of prescriptions.
- General Counsel continued to serve as the agency's Ethics Advisor and continued to assist Board Members and staff with legal and ethical issues.
- Division staff handled numerous legal questions from all staff regarding a myriad of issues.
- General Counsel reviewed numerous complaint files to verify accuracy of information and citations in warning letters drafted by Enforcement Division staff.
- General Counsel drafted and/or reviewed numerous letters for Enforcement Division regarding violations of federal and state law.

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- General Counsel assisted Director of Administrative Services and Licensing in developing procedure for new pharmacies that are not in operation, by reviewing requests for reasonable accommodation under the ADA for licensing examinations, and with issues relating to change of ownership applications for change in corporate entity by Randall's pharmacies.
- Division staff reviewed and tested the online renewal system on the Internet prior to implementation.
- General Counsel revised questions on pharmacist licensure and renewal applications regarding criminal offenses to clarify information sought by TSBP.
- Division staff prepared and conducted orientations of all new TSBP employees during FY2002 regarding the Legal Division, the legal process, ethics, and Public Information and Open Meetings Acts.
- Division staff made presentations at all Board meetings held in FY2002. Presentations included information about proposed Agreed Board Orders and proposed Board Orders following a SOAH proceeding.
- General Counsel assisted in the review and preparation of minutes of four regularly scheduled Board meetings.
- Division staff assisted the Licensing Division with respect to eligibility for licensure and internship (from individuals who had checked "yes" on the attest questions on the TSBP application) by either verifying accuracy of warning letters or by handling the cases through the legal process.
- Division staff developed a procedure to inform the Director of Enforcement 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.
- General Counsel participated in committee meetings to suggest and implement improvements to the TSBP website.
- Division staff assisted investigators by drafting depositions on written questions of a physician for use during investigation of whether harm resulted from a dispensing error.
- Division staff participated on a committee to develop articles for the TSBP Newsletter and drafted an article on alcohol and drug recognition and referral.
- General Counsel provided legal advice during meeting with practitioners with prescriptive authority regarding implementation of dispensing directive/new prescription format.

C. Technical Assistance to Other Agencies and Organizations

- General Counsel reviewed proposed rules for the State Office of Administrative Hearings (SOAH) which changed SOAH procedures and drafted comments regarding the cost of transcripts assessed to the agency.

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- Division staff gave the following presentations during FY2002:
 - (a) Division staff coached a University of Texas mock trial team in preparation for mock trial competition.
 - (b) Division staff served as judges in mock trial competitions.
- General Counsel provided information regarding S.B. 768 (amendments of two-line prescription format) to law firm producing Texas Medical Jurisprudence Guide.
- Division staff attended State Agency Council meetings during FY2002.
- Division staff answered numerous questions from licensees, attorneys, and other members of the public regarding legal issues, including:
 - (a) scope of definition of practice of pharmacy;
 - (b) effect of deferred adjudication and/or probation for various crimes on intern registration and pharmacist licensure;
 - (c) availability of investigative information;
 - (d) Class E licensing requirements;
 - (e) lack of confidentiality of licensee information;
 - (f) Internet pharmacy practices; and
 - (g) refill notifications and implications on patient confidentiality.
- Division staff coordinated with the U.S. Drug Enforcement Agency regarding actions against illegal Internet pharmacy practices.
- Division staff assisted the Texas State Board of Medical Examiners on issues involving foreign drugs and FDA approval, and proposal of rules on new dispensing directive.
- General Counsel provided information to Florida Health Regulatory Authority regarding Internet pharmacy operations of pharmacy located in Florida.
- General Counsel coordinated with Louisiana State Board of Pharmacy regarding pharmacist licensure applications pending disciplinary action.
- General Counsel provided information to Maine Board of Pharmacy regarding previous disciplinary actions.
- General Counsel, in conjunction with the Executive Director, provided information and assistance to the Director of the Senate Committee on Health and Human Services regarding diversion of prescription painkillers, particularly hydrocodone.
- General Counsel assisted with orientation of analysts from Legislative Budget

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Board assigned to TSBP.

- General Counsel provided information to editor of NABP Newsletter regarding prosecution of Internet pharmacies and assisted with draft of article for NABP newsletter.

9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to division activities throughout FY2002.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. General Counsel served on the HPC Legal Committee, along with attorneys from other agencies. However, the committee did not meet because no issues were identified that had to be addressed outside an individual agency.
- B. General Counsel attended an HPC meeting regarding HIPAA and S.B. 11 implementation and impact on health professional licensing agencies.

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 FY2002.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. General Counsel assisted in coordination and development of staff training program on teambuilding presented by the Governor's Management Development Program at the December 2001 staff meeting.
- B. In FY2002, division staff attended several general staff meetings, and in-house training sessions. In addition, division staff attended the following programs, seminars, and events:

| Kerstin Arnold, J.D. | |
|----------------------|---|
| 10/16/01 | Inns of Court Presentation: Malpractice Liability (Austin) |
| 11/20/01 | Inns of Court Presentation: Local Rules for various Texas State and Federal Courts (Austin) |
| 01/02 | Inns of Court Meeting: Military Tribunals post 09/11/01 (Austin) |
| 02/20/02 | Inns of Court Meeting: Representing Clients after Enron (Austin) |
| 04/04/02 | TYLA National Trial Competition (Austin) |
| 04/16/02 | Inns of Court Presentation: Accessing Computer Data (Austin) |
| 05/15/02 | Verbal Judo Class (Austin) |
| 05/31/02 | Administrative Law (Austin) |
| 06/28/02 | 16 th Annual Advanced Administrative Law Seminar (Austin) |

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| Julie Hildebrand, J.D. | |
|-------------------------------|--|
| 09/27/01 | Seminar on Performance Reviews (Austin) |
| 12/11-13/01 | Open Government Conference (Austin) |
| 01/11-12/02 | Litigation Update (San Antonio) |
| 02/26/02 | Defensive Driving Course (Austin) |
| 04/05/02 | TYLA National Trial Competition (Austin) |
| 05/15/02 | Verbal Judo Class (Austin) |
| 05/31/02 | Administrative Law CLE (Austin) |
| 06/28/02 | 16 th Annual Advanced Administrative Law Seminar (Austin) |

| Lori Barta, J.D. | |
|-------------------------|---|
| 02/09/02 | 23 rd Annual Central Texas High School Mock Trial Competition (Austin) |
| 02/27/02 | Locke Liddell Interscholastic Mock Trial Competition (Austin) |
| 04/04/02 | TYLA National Trial Competition (Austin) |
| 05/09/02 | Defensive Driving (Austin) |
| 05/15/02 | Verbal Judo Class (Austin) |
| 07/11-12/02 | Advanced Discovery and Evidence (Houston) |

| Cheryl Sepulveda | |
|-------------------------|--|
| 01/08/02 | Conference for Administrative Professionals (Austin) |
| 02/26/02 | Defensive Driving Course (Austin) |
| 03/25/02 | EEOC Training (Austin) |

| Georgienne Nassauer | |
|----------------------------|--|
| 10/12/01 | National Seminar Group: Technical Writing Seminar (Austin) |
| 03/27-28/02 | SkillPath Seminar: Management Skills for Executive Secretaries and Administrative Assistants (Houston) |
| 05/09/02 | Defensive Driving (Austin) |

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11. To conduct periodic reviews and annual evaluations of all employees under the supervision of this division during FY2002.

Status: **ACCOMPLISHED**

Comment: Formal performance reviews were conducted as follows:

| Employee | Date of Evaluation | Evaluation By |
|------------------------|---------------------------|---------------------------|
| Julie Hildebrand, J.D. | July 12, 2002 | General Counsel |
| Lori Barta, J.D. | July 19, 2002 | General Counsel |
| Cheryl Sepulveda | July 15, 2002 | Assistant General Counsel |
| Georgienne Nassauer | July 15, 2002 | Assistant General Counsel |

Other activities related to division personnel are listed below:

- A. General Counsel conducted team meetings approximately once a week with division staff.
 - B. General Counsel drafted new performance measures for General Counsel position and reviewed performance measures for division staff.
 - C. General Counsel assisted Enforcement Division in hiring process for Compliance Officer position by reviewing job description and associated correspondence.
 - D. The division had a legal intern from the University of Texas School of Law who assisted with various research projects and preparation for SOAH hearings during the summer of 2002.
12. To destroy records in accordance with the agency's record retention plan throughout FY2002; to update the division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2002.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished as follows:

- A. Records Management

During FY2002, division staff destroyed records, in accordance with the TSBP record retention schedule, including those documents relating to the narrow therapeutic index drug lawsuit and settlement. In addition, division staff prepared all FY2002 Board Orders and Agreed Board Orders for microfiche by the State Library.

- B. Policies and Procedures

Division staff updated and maintained Disciplinary Notebooks and Index containing all Board Orders and Agreed Board Orders.

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13. To recommend policies and procedures to the Executive Director which will enhance the efficiency and effectiveness of the agency throughout FY2002.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. General Counsel participated in the task force to implement pharmacy technician registration.
- B. Division staff made revisions to the cover letters for Preliminary Notice Letters (PNL) to make the instructions easier to comprehend.
- C. Division staff prepared standard instructions for typing PNLs to make preparation of PNLs more uniform and efficient.
- D. Division staff suggested updating all agency staff following each Board meeting of significant items addressed at the meeting.
- E. Division staff compiled a summary of telephone call routing procedures to assist agency staff in determining which employee should handle particular types of calls and in routing calls.

14. To recommend changes to the Texas Pharmacy Act and rules, which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2002.

Status: ACCOMPLISHED

Comment: General Counsel or division staff made the following recommendations to amend the Texas Pharmacy Act as follows:

- A. Allow TSBP to access criminal history from Texas and other states on all applicants for licensure; and
- B. Modify procedure for temporary suspension hearings to allow a panel of the Board to hear such cases rather than the entire Board.

15. To prepare and submit a report on the accomplishment of division objectives, for incorporation into the agency's *FY2001 Annual Report* to be presented to the Board by its May 2001 Board meeting.

Status: ACCOMPLISHED

Comment: The division's first draft of the FY2001 Annual Report was submitted to the Executive Director by the due date. The final draft of the Annual Report was presented to and approved by the Board at its meeting held in May 2002.

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