



Texas State Board of Pharmacy

Annual Report FY2005

Oren M. Peacock, Jr., R.Ph.
President

Gay Dodson, R.Ph.
Executive Director/Secretary

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Board Mission

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

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Board Members

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

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

Kim A. Caldwell, R.Ph.
Treasurer
Plano
10/27/97 – 8/31/09

Roger W. Anderson, Dr.P.H., R.Ph.
Lewisville
11/10/99 – 8/31/05

Juliette F. Bartlett-Pack, Ph.D.
Public Member
Houston
1/13/03 – 8/31/07

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

W. Benjamin Fry, R.Ph., FIACP, FACS
San Benito
4/14/04 – 8/31/09

Doyle E. High, R.Ph.
Austin
12/19/01 – 8/31/07

Marcelo Laijas, Jr.
Public Member
Floresville
4/14/04 – 8/31/09

Office of the Executive Director**Executive Director**

Gay Dodson, R.Ph.

Executive Assistant

Kay Wilson, C.P.S.

Receptionist

Estella Casarez

Administrative Services & Licensing**Division Director**

Cathy Stella, P.H.R.

Chief Accountant

Jane Bennett

Accountant II

Mary Helen Oviedo

Accountant IV

Sandra Morton

Staff Services Officer II

Robbi Dana

Purchaser

Darlene Guthrie

Information Resources Manager

Steve Rapp

Web Technician

Todd Hayek

Licensing Administrator

Carol Willess

Licensing Specialists

Lisa Ake

Rachel Glass

Diana Ruedas

Melinda Uballe

Misty Whitcomb

Professional Services**Division Director**

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

Administrative Assistant

Retta Cole

STAFF

Legal

General Counsel

Kerstin Arnold, J.D.

Assistant General Counsel

Julie Hildebrand, J.D.

Stephanie Chambers, J.D.

Legal Assistants

Jing Belfiglio

Georgienne Nassauer

Cheryl Sepulveda

Enforcement

Division Director

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

Chief Investigator

Joe Lewis

Chief of Compliance

Ben Santana, R.Ph.

Compliance Specialist

Vacant

Program Specialist

Janelle Nastri

Enforcement Specialist

Patty Galan

Senior Enforcement Officer

Amy Schroeder

Enforcement Officers

Jill Kier

Linda Yazdanshenas

Division Specialist

Sherry Stevenson, C.P.S.

Enforcement Technicians

Cynthia Fazin

Yvette Muniz

Noreen Trevino

In-House Investigator

Melissa Weeden

Senior Investigator

Robert Ebrom

Investigators

Lea Chapa

Sarah Guevara

Wayne Jones

Gordon Lunsford

Tara Rike

Senior Compliance Officers

Mike Ethridge, R.Ph.

Iona Grant, R.Ph.

Compliance Officer

Paul Holder, Pharm.D.

Compliance Inspectors

Susan Furnas

David Meryman

Chris Schuttler

Administrative Assistants

Becky Damon

Diane Torres

Note: The organizational structure reflects the organization as of August 31, 2005.

Board-Appointed Task Forces

Task Force on Patient Counseling

Carrie Sacky, R.Ph. (Chair), Mesquite

Mike Sanchez, R.Ph., Edinburg

Bethany Boyd, R.Ph., Allen

Eric Kauffman, R.Ph., The Woodlands

A. J. Patel, R.Ph., Austin

Melissa Knoblauch, R.Ph., Lewisville

Anne Ziesmer, R.Ph., Desoto

Fred Brinkley, R.Ph., Austin

Dennis Wiesner, R.Ph., San Antonio

Board Member Liaisons

Mike Brimberry, R.Ph., MBA, Austin

Oren M. Peacock, Jr., R.Ph., Sachse

(Sept. 1, 2004 – Aug. 31, 2005)

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 (FY2005-2009)

- # We will establish and implement reasonable standards for pharmacist and pharmacy technician education and practice, and for the operations of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas [Texas Pharmacy Act (Occupations Code, Sec. 551-566, 568-569)].

- # We will assertively and swiftly enforce all laws relating to the practice of pharmacy to ensure that the public health and safety are protected from the following: incompetent pharmacists and pharmacy technicians; unprofessional conduct, fraud, and misrepresentation by licensees; and diversion of prescription drugs from pharmacies; and to promote positive patient outcomes through the following: reduction of medication errors by encouraging or requiring licensees to implement self-assessment programs and continuous quality improvement programs, including peer-review processes; and enforcement of rules relating to patient counseling and drug regimen review, including prevention of misuse and abuse of prescription drugs. [Texas Pharmacy Act (Occupations Code, Sec. 555-569), and Health and Safety Code, Chapter 483, Dangerous Drugs.]

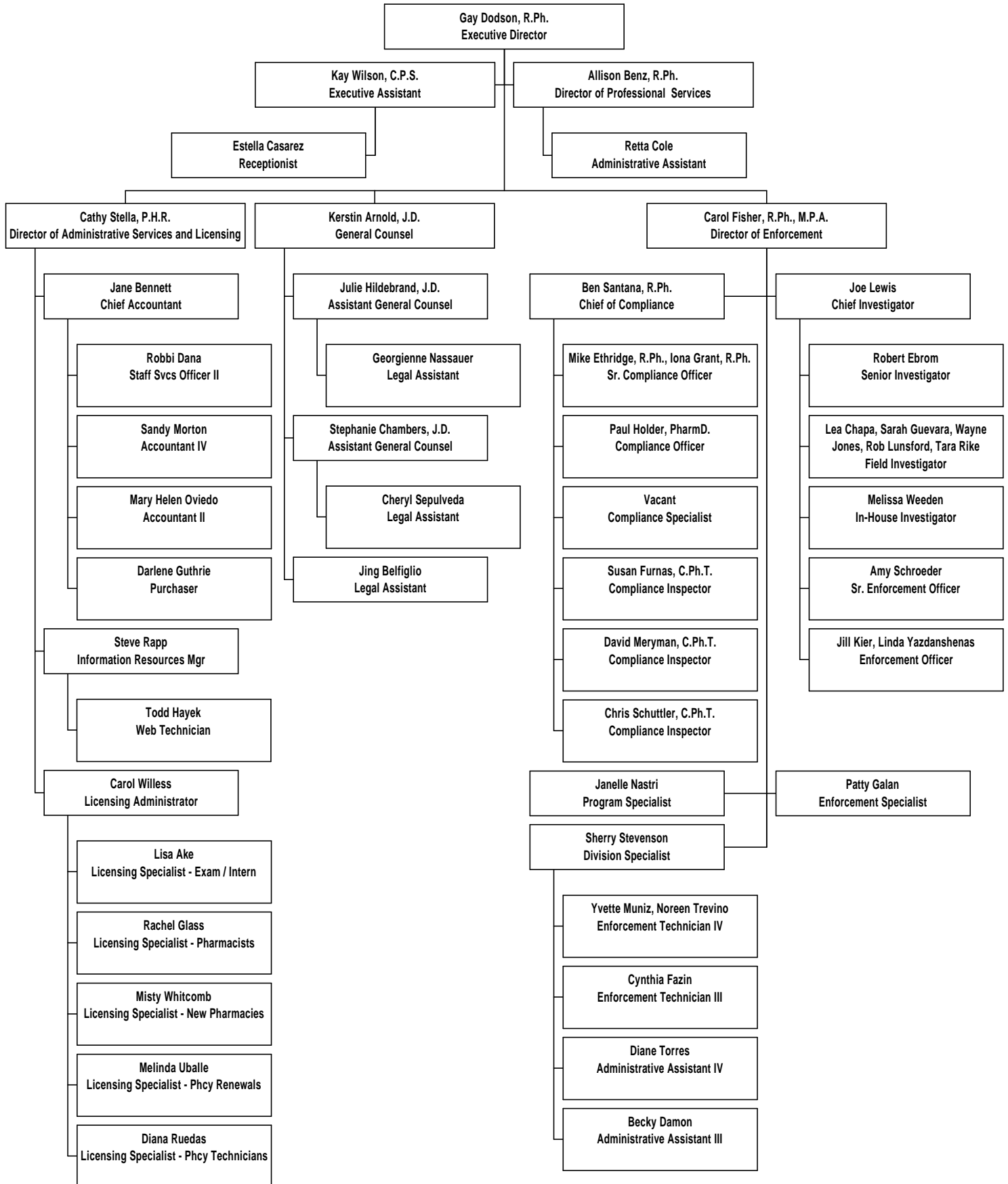
- # We will establish and implement policies governing purchasing and public works contracting that foster meaningful and substantive inclusion of historically underutilized businesses (HUBs).

Board Structure

The Board's functional structure at the end of FY2005 was composed of the Office of the Executive Director and four Divisions:

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

TEXAS STATE BOARD OF PHARMACY
Fiscal Year 2005



FY2005 Fiscal Report

FY2005 FISCAL REPORT

The attached report represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2005 (September 1, 2004 - August 31, 2005). 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 *"FY2005 Annual Financial Report."*

It is important to note that as of October 31, 2005, the agency was able to expend an additional \$26,961 for the Enhanced Performance Award, bringing that total expenditure to \$92,000, and the new unexpended balance to only \$7,320 for FY2005.

This is the first time in the agency's history, that the agency was eligible to implement the Enhanced Compensation Program. Agency eligibility is based on the attainment of at least 80 percent of key performance targets in fiscal year 2004 and certification that at least 70 percent of the audited key measures are accurate. During fiscal year 2004, the agency attained or exceeded all of its 11 established key performance targets. As a result of this achievement, a one-time award was given to all eligible employees who contributed to the achievement of the agency's FY2004 performance measures.

Financial Statement – Fiscal Year 2005

September 1, 2004 – August 31, 2005

		Budget	Expended	Remaining Budget	Percent Remaining
1008	(a) Professional Fees & Svcs (Other)	15,447.00	15,447.00	0.00	0.00%
1008	(b) Professional Fees & Svcs (TPA)	94,500.00	94,500.00	0.00	0.00%
3002	Gas, Other Fuels & Lubricants	17,809.18	17,809.18	0.00	0.00%
3003	Vehicles - Maintenance	8,736.32	8,735.32	1.00	0.01%
3004	Consumable Supplies & Materials	22,061.78	22,049.73	12.05	0.05%
3005	Postage	32,929.86	32,929.86	0.00	0.00%
3006	Telephone	30,771.92	30,614.54	157.38	0.51%
3014	Subscriptions	11,141.42	11,141.42	0.00	0.00%
3015	Postage - Newsletter	3,235.97	3,235.97	0.00	0.00%
3018	Travel - Board Members (Service)	15,934.55	15,920.55	14.00	0.09%
3019	Travel - Board Members (Conference)	5,362.18	3,838.59	1,523.59	28.41%
3020	Travel - Board Members (Conf-Out Of St.)	2,281.02	2,281.02	0.00	0.00%
3027	Travel - State Vehicle	1,796.95	1,796.95	0.00	0.00%
3028	Travel - Staff (Service)	70,390.57	70,390.57	0.00	0.00%
3038	Travel - Staff (Conference)	9,000.00	8,609.07	390.93	4.34%
3039	Travel - Staff (Conf Out Of State)	5,000.00	4,924.31	75.69	1.51%
3516	Membership Fees & Dues	1,998.00	1,998.00	0.00	0.00%
3518	Administrative Support Service	26,890.51	26,890.51	0.00	0.00%
3521	Criminal Investigative Expense	356.63	356.63	0.00	0.00%
3534	Freight & Delivery Service	2,234.00	2,233.62	0.38	0.02%
3535	Maint & Repair - Furn & Equip	2,914.33	2,914.33	0.00	0.00%
3536	Rental of Furn & Equip	10,042.75	10,039.65	3.10	0.03%
3537	Rental of Space	2,469.84	2,469.84	0.00	0.00%
3538	Bonds & Insurance	4,766.00	4,766.00	0.00	0.00%
3539	Maintenance & Repair-Building	3,205.33	3,196.67	8.66	0.27%
3540	Reproduction & Printing	22,008.06	22,008.06	0.00	0.00%
3541	Printing - Newsletter	4,964.00	4,963.14	0.86	0.02%
3545	Computer Expenses (Northrop)	153,647.25	153,647.25	0.00	0.00%
3550	Hearing Expenses	704.14	704.14	0.00	0.00%
3570	Registration Fees	14,510.99	14,510.99	0.00	0.00%
3571	Board Member Registration	3,652.00	3,652.00	0.00	0.00%
3581	F & E - Not Inventoried/Capitalized	15,870.10	15,840.10	30.00	0.19%
3582	F & E - Under \$5,000 Inventoried	12,352.44	12,275.00	77.44	0.63%
3586	Computer Equip-Inventoried, Not	7,682.00	7,682.00	0.00	0.00%
3588	Books & Recorded Materials	2,167.58	2,167.58	0.00	0.00%
3590	Miscellaneous (HPC Transfer and Fees)	34,090.83	34,090.83	0.00	0.00%
3595	Awards	997.25	981.55	15.70	1.57%
5001	Purchase of Vehicles	43,497.00	43,497.00	0.00	0.00%
7001	Exempt Salaries	70,000.00	69,999.96	0.04	0.00%

FINANCIAL STATEMENT – FISCAL YEAR 2005

7002	Classified Salaries - Full Time	2,180,840.55	2,180,840.55	0.00	0.00%
7017	Merit Bonus	65,039.00	65,039.00	0.00	0.00%
7048	Enhanced Performance Bonus	92,000.00	92,000.00	0.00	0.00%
7020	Hazardous Pay	3,668.00	3,668.00	0.00	0.00%
7021	Overtime Pay	6,159.93	6,159.93	0.00	0.00%
7022	Longevity	34,920.00	34,920.00	0.00	0.00%
7025	Compensatory Per Diem	9,450.00	4,440.00	5,010.00	53.02%
7047	Retention Bonus	6,000.00	6,000.00	0.00	0.00%
7219	TexasOnLine Fee	193,141.00	193,141.00	0.00	0.00%
7947	State Office of Risk Management	9,465.47	9,465.47	0.00	0.00%
	TOTAL ADMIN, LIC & ENF	3,388,103.70	3,380,782.88	7,320.82	0.22%

Executive Director's Summary

This FY2005 Annual Report reflects the objectives accomplished and activities conducted by the agency necessary to implement its *Strategic Plan*. The agency continued to enjoy an excellent reputation with a broad range of customers as a consumer protection advocate and also has the support of its activities by the regulated profession.

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

AGENCY FY2005 SIGNIFICANT ACCOMPLISHMENTS

1. The agency accomplished or partially accomplished 100% of its 96 objectives [92 accomplished (95.8%) and four partially accomplished (4.2%)].
2. The agency met or exceeded all (100%) of its 13 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board.
3. The 79th Texas Legislature passed a number of bills that will significantly impact the agency and the practice of pharmacy in Texas, including S.B. 410 (Sunset) and S.B. 492 (Pharmacy Compounding). (See New Objective #1 for details).
4. A Post-Procurement and Payment audit was conducted by the Texas Building and Procurement Commission, resulting in a 93.04% agency compliance rating.
5. As reflected in the chart below, the agency resolved more complaints in FY2005 than in any of the prior five fiscal years. See Enforcement Ongoing Objective #3 for details.

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY00	1,577		1,513		96%	220 Days	
FY01	1,683	+7%	1,667	+10%	99%	262 Days	+19%
FY02	1,836	+9%	2,137	+28%	116%	221 Days	-16%
FY03	1,935	+5%	1,887	-12%	98%	153 Days	-31%
FY04	4,475	+131%	3,018	+60%	67%	118 Days	-23%
FY05	3,086	-31%	3,327	+10%	108%	196 Days	+66%

EXECUTIVE DIRECTOR

6. TSBP entered significantly more disciplinary orders in FY2005 than in any prior fiscal year.

Fiscal Year	Number of Board/ Default Orders		Number of Agreed Board Orders		Total Number of Orders		% Change from Previous Year	% Agreed or Default Orders
FY2001	4		141		145		--	97%
	Pharmacists	4	91		95			
	Pharmacies	0	50		50			
FY2002	2		179		181		25%	99%
	Pharmacists	2	131		133			
	Pharmacies	0	48		48			
FY2003	4		209		213		18%	98%
	Pharmacists	3	139		142			
	Pharmacies	1	70		71			
FY2004*	6		463		469		120%	99%
	Pharmacists	6	149		155			
	Pharmacies	0	80		80			
	Technicians	0	234		234			
FY2005**	11		541		552		18%	99%
	Pharmacists	7	112		119			
	Pharmacies	1	52		53			
	Technicians	3	377		380			
Totals	21		1,534		1,560		281% increase over 5 years	5 year average 99%

* FY2004 was the 1st year the agency entered disciplinary orders on pharmacy technicians.

** FY2005 was the 1st year the agency entered default orders.

7. The following TSBP Board Members and staff were appointed to offices, received honors, or received recognition in FY2005.
- A. Board Member Kim A. Caldwell, R.Ph., was named Director of Division of Clinical and Economic Performance of the Centers for Beneficiary Choice, Centers for Medicare and Medicaid Services.
 - B. Board Member W. Benjamin Fry, R.Ph., was named the 2005 University of Houston College Of Pharmacy Distinguished Alumnus.
 - C. Board Member Oren M. Peacock, Jr., R.Ph., served on the NABP Executive Committee and was appointed to serve as NABP Executive Committee Liaison to the Task Force to Develop Recommendations to Best Reduce Medication Errors in Community Pharmacy Practice.
 - D. Executive Director Gay Dodson, R.Ph., was appointed chair of the NABP Committee on Law Enforcement Legislation.

AGENCY

FY2005 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Although TSBP closed/resolved more complaints in FY2005 than in the prior fiscal year, the average time to resolve a complaint increased from 118 days in FY2004 to 196 days in FY2005. This 66% increase in the average time to close a complaint was due to the fact that, in FY2004, TSBP delayed the investigation/resolution of most complaints not involving a pharmacy technician's application for registration, because the funding for the pharmacy technician registration program did not provide for the Enforcement Division to have any additional employees in FY2004. As a result of this situation, the pending complaints became a year older, which, in turn, had a negative impact on the agency's average complaint resolution time in FY2005.
2. The addition of pharmacy technician registration continues to tax the resources of the agency as indicated below.

Increases in Workload Caused by the Pharmacy Technician Registration Program				
	FY 2003	FY2004	FY2005	% Change over 3 years
Administrative Services and Licensing Division				
Total Number of Licensees	27,568	50,289	55,432	101%
Number of Telephone Calls Received	10,000	19,737	20,600	106%
Number of Email Inquiries Answered	4,000	10,880	13,000	225%
Enforcement Division				
Number of Complaints Received	1,893	4,436	3,086	63%
Number of Complaints Resolved	1,887	3,018	3,327	76%
Number of Telephone Calls Received	6,706	8,661	7,995	19%
Number of Disciplinary Orders Entered that Required Monitoring	185	444	531	187%
Number of Days to Resolve a Complaint	153	118	196	28%
Legal Division				
Number of Disciplinary Orders Entered	213	469	552	159%
Number of Days of Informal Conferences	23.5	30	30	28%
Number of Preliminary Notice Letters Mailed	240	652	618	158%

FY2005 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 provide testimony, attend public hearings, and provide any fiscal or technical information, as required by the 79th Legislature, and to review all legislation introduced by the 79th Legislature and monitor the progress of any legislation that has a potential impact on TSBP operations or the practice of pharmacy throughout FY2005.*

Status: **ACCOMPLISHED**

Comment: During this fiscal year, the following was accomplished in regard to this objective:

- A. A total of 6,208 bills were introduced in the 79th Regular Legislative Session, and the Regular, 1st, and 2nd Called Sessions. The Executive Director reviewed or assigned a staff member to review each of these bills. A total of 442 bills that affected the agency or the practice of pharmacy were tracked and monitored as follows.

79 th Texas Legislature, Regular Session					
		Session		TSBP Monitored	
		Filed	Passed	Filed	Passed
House					
	Bills	3,592	876	309	38
	Joint Resolutions	102	5	1	0
	Concurrent Resolutions	250	171	0	0
	Resolutions	2316	2,270	0	0
	House Total	6,260	3,322	310	38
Senate					
	Bills	1,892	512	117	35
	Joint Resolutions	43	4	0	0
	Concurrent Resolutions	43	27	0	0
	Resolutions	1,100	1,095	1	1
	Senate Total	3,078	1,638	118	36
Regular Session Totals		9,338	4,960	428	74

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79 th Texas Legislature, 1 st Called Session				
	Session		TSBP Monitored	
	Filed	Passed	Filed	Passed
House				
Bills	118	1	7	1
Joint Resolutions	16	0	0	0
Concurrent Resolutions	22	3	0	0
Resolutions	447	428	0	0
House Total	603	432	7	1
Senate				
Bills	84	1	3	0
Joint Resolutions	11	0	0	0
Concurrent Resolutions	1	0	0	0
Resolutions	144	141	0	0
Senate Total	240	142	3	0
1st Called Session Totals	843	574	10	1
79 th Texas Legislature, 2 nd Called Session				
	Session		TSBP Monitored	
	Filed	Passed	Filed	Passed
House				
Bills	70	1	3	0
Joint Resolutions	15	0	0	0
Concurrent Resolutions	13	12	0	0
Resolutions	256	250	0	0
House Total	354	263	3	0
Senate				
Bills	38	2	1	0
Joint Resolutions	9	0	0	0
Concurrent Resolutions	0	0	0	0
Resolutions	138	138	0	0
Senate Total	185	140	1	0
2nd Called Session Totals	539	403	4	0
Grand Total	10,720	5,937	442	75

B. The Executive Director met with Legislators or others or testified before Legislative committees a total of 29 times as follows.

Date	Legislator or Committee
10/28/04	Crystal Methamphetamine Crisis Management Session
10/29/04	Meeting with Texas Legislative Council regarding Compounding
11/10/04	Telephone conversation with Representative Corte's office regarding RPhs refusing to fill prescriptions based on moral beliefs
11/16/04	Sunset Public Hearing on Licensing Reorganization Project
12/6/06	Telephone conversation with Senator Eltife's office regarding filling Rx's for the morning after pill
12/14/04	Sunset Decision Meeting on Licensing Reorganization Project
1/20/05	Orientation with Chris Cronn, Governor's Policy and Budget Office

EXECUTIVE DIRECTOR

Date	Legislator or Committee
2/9/05	Meeting with Senator Armbrister regarding peace officer status for TSBP investigators
2/16/05	Meeting with Senator Williams' staff regarding peace officer status for TSBP investigators
2/21/05	Meeting with Senator Van de Putte regarding SB 492 (Compounding)
3/7/05	Meeting with Representative Truitt's office regarding SB 410 (Sunset)
3/10/05	Meeting with Senator Whitmire's office regarding SB 410 (Sunset)
3/14/05	Meeting with Representative Delisi's office regarding HB 1457 (Compounding)
3/15/05	Telephone conversation with Senator Van de Putte's office regarding SB 610 (study of the cost effectiveness of importing Canadian drugs)
3/16/05	House Public Health Committee Meeting regarding HB 836 (generic substitution) and HB 1457 (Compounding)
3/23/05	Meeting with Representative Deshotel's office regarding HB 2238 (pharmacy license applications)
3/24/05	Meeting with Representative Hochberg's office regarding HB 173 (Canadian Pharmacies)
3/30/05	House Public Health Committee Hearing on HB 2145, HB 2146 and HB 2147 (Changing Rx orders, referral by PBMs to pharmacies they own, and counseling by Texas RPh)
4/12/05	Senate Government Organization Hearing on SB 410 (Sunset)
4/13/05	House State Affairs Committee Hearing on SB 16
4/13/05	House Public Health Committee Hearing on HB 1040 (Sunset)
4/15/05	Meeting with Chris Cronn of the Governor's office regarding legislation affecting TSBP
4/20/05	House Public Health Committee Hearing on HB 820 and HB 173 (Canadian Pharmacies)
4/25/05	Senate Government Organization Hearing on SB 410 (Sunset)
4/26/05	Senate Health and Human Services Committee Hearing on HB 836
4/28/05	House Public Health Committee Hearing on HB 2053 (faxed copies of Schedule II Rx's to be original for hospice patients)
5/31/05	Telephone conversation with Representative Paxton's office regarding the Canadian Pharmacy bill
6/1/05	Telephone conversation with Representative Gattis's office regarding HB 836 (generic substitution)
6/27/05	Telephone conversation with Megan Renfrew of the Maine Governor's office regarding the Canadian Pharmacy bill

C. During the 79th Session, the following significant legislation that affected the agency or the practice of pharmacy was passed.

(1) SB 410 (Sunset/Canadian Pharmacies). Significant provisions are as follows:

(a) General Provisions

- Extends the Board of Pharmacy until 8/31/17;
- Abolishes the dedication of the Board of Pharmacy fund;
- Specifies that the Governor will designate the president of the Board;

EXECUTIVE DIRECTOR

- Allows licensees/registrants to request that their home addresses be kept confidential; and
 - Removes the statutory prohibition against licensed pharmacists who are salaried faculty members at a college of pharmacy from serving on the Board.
- (b) Provisions relating to Class E (Out-of-State) Pharmacies.
- Are now subject to the same grounds for discipline as in-state pharmacies; and
 - Amends the handling of complaints against Class E pharmacies to allow the TSBP to take action immediately, rather than after referral and action by the Board in the home state.
- (c) Amends the grounds for discipline of a pharmacist to include:
- Failure to adequately supervise a task delegated to a pharmacy technician;
 - Improperly delegating a task to a pharmacy technician; and
 - Violating a disciplinary order including a contract with PRN.
- (d) Pharmacy Technicians
- Expands the range of disciplinary actions to include the same actions available for Pharmacists and Pharmacies; and
 - Requires registration of pharmacy technician trainees before they may begin work in a pharmacy. (Note: This provision will increase the number of licensees by approximately 6,000 – 8,000 per year as well as increasing the number of complaints and number of disciplinary orders.)
- (e) Canadian Pharmacies
- Requires TSBP to “designate at least one and no more than ten Canadian pharmacies” as having passed inspection to dispense prescription drugs to residents of Texas; and
 - Requires TSBP to maintain an Internet website to enable residents of Texas to conveniently order prescription drugs from these “designated” Canadian pharmacies.

EXECUTIVE DIRECTOR

- (2) S. B. 492 – Pharmacy Compounding. The bill:
- Allows Class A and Class C Pharmacies to compound prescription drugs for “Office Use” by a practitioner;
 - Allows Class A Pharmacies to compound prescription drugs for a Class C Pharmacy;
 - Allows Class C Pharmacies to “prepackage” prescription drugs for use by other Class C pharmacies under common ownership; and
 - Clarifies that TSBP may inspect pharmacies relative to components used in compounding and sample these items.
- (3) H. B. 836 – Generic Substitution. The bill:
- Requires pharmacists to offer the patient the option of paying the lower price or the co-pay amount, if the price of a Rx is lower than the co-pay amount;
 - Requires pharmacists or their agents, before delivery of a Rx to a patient, to ask the patient to choose between the generic and the brand prescribed. (Allows mail service an option of including the notification on an Rx order form); and
 - Changes the wording of the generic sign and requires TSBP to furnish the new sign to pharmacies.
- (4) S.B. 1188 – Return of Prescription Drugs. The bill:
- Amends Section 562.1085 of the Pharmacy Act to allow return of sealed, unopened containers, not in original manufacturer’s containers, of prescription drugs from nursing homes; and
 - Allows the agency to delay implementation until a waiver is obtained from FDA allowing the return of drugs not in an original manufacturer’s container.
- (5) S.B. 286 – Board Member Training. The bill requires:
- New Board Members must complete training in Open Meetings and Open Records within 90 days of taking the Oath of Office; and
 - Current Board members must complete the training by January 1, 2007.

EXECUTIVE DIRECTOR

2. To direct the submission of, provide testimony for, and monitor the progress of the agency's Legislative Appropriations Request and corresponding performance measures for FY2006-2007.

Status: ACCOMPLISHED

Comment:

- A. The agency was successful in obtaining:
 - Additional appropriation to fund 4% across-the-board pay raise for all classified employees in FY2006 and a 3% pay raise in FY2007;
 - Additional appropriation to fund \$7,500 annual pay increase for the Executive Director; and
 - Contingency Appropriation Riders for Senate Bill 410 (Agency Sunset Bill), which appropriates an additional \$362,411 over the biennium for the purpose of implementing the provisions of this bill. These appropriations were contingent on the agency assessing fees sufficient to generate \$431,539 in excess of \$8,272,000 (Comptroller of Public Accounts biennial revenue estimate). Also, the Number of Full-Time Equivalent Positions was increased by three over the biennium.

- B. The Executive Director testified regarding the agency's Legislative Appropriations Request before Legislative committees a total of seven times as follows.

Date	Legislator or Committee
9/13/04	Senate Finance Committee Hearing on TSBP Legislative Appropriations Request
1/20/05	Meeting with staff of the Governor's Budget and Planning Office regarding legislative session
1/31/05	Senate Finance Committee Hearing on TSBP Legislative Appropriations Request
2/8/05	House Appropriations Committee Subcommittee on Regulatory Hearing on TSBP Legislative Appropriations Request
2/22/05	House Appropriations Committee Mark-up on TSBP Legislative Appropriations Request
2/23/05	Senate Finance Committee Mark-up on TSBP Legislative Appropriations Request
3/17/05	House Appropriations Committee Hearing regarding Executive Director salaries
4/26/05	Conference Committee Hearing on SB 1

Objectives (Ongoing)

- To manage and monitor the agency's performance and operational efficiency throughout FY2005.*

Status: ACCOMPLISHED

Comment: The agency accomplished or partially accomplished 100% of its 96 objectives [92 accomplished (95.8%) and four partially accomplished (4.2%)]. The agency also met or exceeded all (100%) of its 13 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board as indicated below.

Performance Measure	FY05 Projected Performance	FY05 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%	96.40%	Met
Percent of Licensees Who Renew Online	23%	75%	Exceeded
Percent of New Individual Licenses Issued Online	10%	75%	Exceeded
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	800	897	Exceeded
Number of Licenses Renewed (Individuals)	11,650	11,593	Met
Efficiencies			
Average Licensing Cost Per Individual License Issued	\$19.37	\$11.04	Exceeded
Average Licensing Cost Per Facility License Issued	\$40.82	\$37.41	Exceeded
Explanatory			
Total Number of Business Facilities Licensed	5,900	6,107	Exceeded

EXECUTIVE DIRECTOR

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 the following: incompetent pharmacists; unprofessional conduct; fraud; and misrepresentation by licensees; and diversion of prescription drugs from pharmacies; and to promote positive patient outcomes through the following: reduction of medication errors by encouraging or requiring licensees to implement self-assessment programs and continuous quality improvement programs, including peer review processes; and enforcement of rules relating to patient counseling and drug regimen review, including prevention of misuse and abuse of prescription drugs.

Outcome (Results/Impact)			
Percent of Jurisdictional Complaints Resulting in Disciplinary Action	10%	16.45%	Exceeded
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	1,700	3,288	Exceeded
Efficiencies			
Average Time for Jurisdictional Complaint Resolution	250	197	Exceeded
Explanatory			
Number of Jurisdictional Complaints Received	1,800	3,047	Exceeded
B.1.2. Strategy: Peer Assistance - Operate a peer assistance program.			
Output (Volume)			
Number of Licensed Individuals Participating in a Peer Assistance Program	135	148	Exceeded

* Within a 5% variance, TSBP's actual performance was either: equivalent to projected performance (AMet@); or better than projected performance (AExceeded@).

2. *To coordinate the development of proposed goals and objectives and budget for FY2005, based on the Strategic Plan and projected budget, for submission to the Board two weeks prior to the 2005 Annual Policy Meeting.*

Status: ACCOMPLISHED

Comment: The *TSBP 2005 Goals and Objectives* and FY2005 operating budget were submitted to the Board as scheduled and were approved by the Board at its August 9-10, 2005, Board Business Meeting.

EXECUTIVE DIRECTOR

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 FY2005.*

Status: ACCOMPLISHED

Comment: The agency's Enforcement, Compliance, Investigations, and Legal staffs worked extensively with federal, state, and local regulatory agencies. (See Enforcement Division's Ongoing Objective #4, Legal Division's Ongoing Objective #5, and Professional Services Division's Ongoing Objective #9 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 FY2005.*

Status: ACCOMPLISHED

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

5. *To personally participate and represent Board policies and programs to local, state, and national pharmacy, health-related, and consumer organizations during FY2005.*

Status: ACCOMPLISHED

Comment:

- A. The Executive Director gave 34 interviews with the press concerning a number of issues as follows:

Date	Media/Subject
9/4/04	Telephone interview with Jim Whittenburg regarding pharmacists refusing to fill prescriptions based on moral beliefs
9/20/04	Telephone interview with WFAA TV Dallas regarding regulations governing pharmacists
10/26/04	Telephone interview with Rich Marini of the San Antonio Express News regarding pharmacists administering immunizations
11/3/04	Telephone interview with Tandy Patton of WOAI TV San Antonio regarding pharmacists refusing to fill prescriptions based on moral beliefs
11/10/04	Telephone interview with Guillermo X. Garcia of the San Antonio Express News regarding pharmacists refusing to fill prescriptions based on moral beliefs
11/14/04	On camera interview with Rudy Koski of KVUE TV Austin, regarding abandonment of pharmacy records
1/31/05	Telephone interview with Jeremy Ragowski of KHOU TV Houston regarding compounding

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Date	Media/Subject
2/1/05	Telephone interview with Sheryl Thompson of ASHP regarding an FDA recall
2/3/05	Telephone interview with Emily Akin of KPRC TV Houston regarding out-of-date OTC medications
2/15/05	Telephone interview with Diane Smith of the Fort Worth Star Telegram regarding illegal use of steroids
2/17/05	On camera interview with Brandy Ralston of KENS TV San Antonio regarding recycling of prescription drugs by patients
2/17/05	Telephone interview with Ashley Gardner of the Texarkana Gazette regarding abuse of OTC cold medications
2/22/05	Telephone interview with Glenn Evans of the Longview News Journal regarding Internet pharmacy
3/2/05	Telephone interview with Julie Dickerson of the Fort Worth Star Telegram regarding careers in pharmacy
3/8/05	Telephone interview with National Public Radio regarding pharmacists refusing to fill prescriptions based on moral beliefs
3/16/05	Telephone interview with Judy Vatterrott of Life Advocates Houston regarding pharmacists dispensing emergency contraceptives
3/21/05	Telephone interview with Cheryl Thompson of ASHP regarding contamination of sterile products
3/30/05	Telephone interview with the Abilene Reporter News regarding the shortage of pharmacists
5/16/05	Telephone interview with Stephanie Strom regarding recycling of drugs in nursing homes
6/1/05	Telephone interview with Shern-Min Chow of Channel 11 TV Houston regarding pharmaceutical diversion
6/9/05	Telephone interview with Michael Slattery of Texas Monthly regarding verification of agency contact information
6/10/05	Telephone interview with Ford Atkinson of Fox News Houston regarding release of confidential patient information
6/13/05	Telephone interview with Houston Press regarding SB 939 passed during the 78 th Legislative Session (ratio of pharmacists to technicians)
6/27/05	Telephone interview with the Houston Press regarding a pharmacy selling prescription drugs to other states
7/1/05	Telephone questions from WOAI Radio San Antonio regarding whether pharmacists are required to wear gloves when counting pills
7/6/05	On camera interview with Olga Campos of KVUE TV Austin regarding mail service pharmacies
7/14/05	Telephone interview with KLBK Radio Austin regarding medication errors
7/14/05	Telephone interview with Olga Campos of KVUE TV Austin regarding generic drugs
8/4/05	Telephone interview with Clare Osborn of the Austin American Statesman regarding abuse of Oxycontin
8/5/05	Telephone interview with Houston Chronicle regarding pseudoephedrine

EXECUTIVE DIRECTOR

Date	Media/Subject
8/16/05	Telephone interview with Stephanie Patrick of Pulse regarding pharmacy compounding
8/18/05	On camera interview with Sema Mathur of KEYE TV Austin regarding a pharmacist's right to refuse to dispense a prescription
8/25/05	Telephone interview with Brandy Ralston of KENS TV San Antonio regarding pharmacy technician schools
8/30/05	Telephone interview with the Fort Worth Star Telegram regarding implementation of the Canadian Pharmacy bill

B. The Executive Director gave 14 presentations to 1,450 persons, as indicated below.

Date	Name of Association/Location of Meeting	Attendance (Approximate)
9/11/04	University of Texas=51 st Annual Postgraduate Pharmacy Seminar B Austin	500
9/18/04	West Texas Pharmaceutical Association-s 27 th Annual Fall Continuing Education Program B Lubbock	40
10/4/04	University of Texas Law Class B Austin	100
10/8/04	Texas Federation of Drug Stores Annual Meeting B San Antonio	50
10/19/04	CHRISTUS Health Pharmacy Resource Group B Dallas	30
10/20/04	Texas Department of Human Services Vendor Drug Program Regional Pharmacists B Austin	20
10/23/04	Texas Pharmacy Association's Academy of Consultant Pharmacists B Austin	20
10/29/04	University of Texas Pharmacy Week Presentation	100
3/5/05	El Paso Society of Health-System Pharmacists Frontiers of Pharmacy Seminar B El Paso	60
4/9/05	Texas Society of Health-System Pharmacists 56 th Annual Meeting and Seminar, Board Update and Forum B Austin	100
4/10/05	Texas Society of Health-System Pharmacists 56 th Annual Meeting and Seminar, Technician Presentation B Austin	50
4/29/05	West Texas Pharmaceutical Association's Annual Meeting B Odessa	40
7/8/05	Texas Pharmacy Association-s 126 th Annual Meeting, Board Update and Forum B San Antonio	300
8/20/06	Lubbock Society of Health-System Pharmacists B Lubbock	40
Total		1,450

EXECUTIVE DIRECTOR

C. The Executive Director attended 44 meetings or conferences representing the agency as indicated below.

Date	Meeting
9/8 – 9/9/04	University of Texas Pharmaceutical Foundation Advisory Council Meeting
9/12/04	Conference call with Medco Health
9/15 – 9/17/04	Technician Informal Disciplinary Conferences
9/21/04	Meeting with representative of a manufacturer regarding regulation of wholesalers
9/29/04	Meeting with Cardinal Health Personnel
9/29/04	Meeting with representatives of the Texas Society of Health-System Pharmacists to discuss legislative session
9/30/04	Meeting with representatives of a mail service pharmacy to discuss merger
10/5 – 10/6/04	Technician Informal Disciplinary Conferences
10/21/04	Informal Disciplinary Conferences
10/26/04	Technician Informal Disciplinary Conferences
10/28/04	Crystal Methamphetamine Crisis Management
11/18 – 11/19/04	NABP Taskforce on Active/Associate Membership
11/30/04	State Employees Charitable Campaign Policy Committee Meeting
12/8 – 12/9/04	Informal Disciplinary Conferences
12/10/04	Meeting with ProChoice of Texas regarding pharmacists right to refuse to fill prescriptions
12/14/04	Meeting with staff of the Texas Department of Insurance regarding drug utilization review
12/15 – 12/16/04	Technician Informal Disciplinary Conferences
12/29/04	Meeting with representatives of Purdue Pharma
1/11 – 1/12/05	Informal Disciplinary Conferences
1/18/05	Technician Informal Disciplinary Conferences
1/24/05	Meeting with mail service company regarding merger
1/25/05	State Employee's Charitable Campaign Policy Committee meeting
1/27 – 1/28/05	NABP Law Enforcement and Legislation Committee meeting, Chicago
2/1/05	Technician Informal Disciplinary Conferences
2/4/05	Meeting with representatives of CVS regarding pharmacy technicians
2/20/05	Meeting with manufacturer representative regarding wholesale distributors
2/28/05	Meeting with Purdue Pharma regarding controlled substance regulations

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Date	Meeting
3/1 – 3/3/05	Informal Disciplinary Conferences
3/9/05	Telephone conference with representatives from Colorado concerning pharmacy compounding
3/17/05	State Employees Charitable Campaign Policy Committee Meeting
3/31/05	Tour of automated dispensing system at HEB
4/15/05	State Employees Charitable Campaign Policy Committee Meeting
6/1/05	State Employees Charitable Campaign Policy Committee Meeting
6/7 – 6/9/05	Informal Disciplinary Conferences
6/14/05	Technician Informal Disciplinary Conferences
6/27/05	Meeting with QVL Pharmacy regarding change of ownership
7/12 – 7/14/05	Informal Disciplinary Conferences
7/18/05	Meeting with PRN staff
7/19/05	Technician Informal Disciplinary Conferences
7/20/05	Meeting with representatives of University of Incarnate Word Feik School of Pharmacy
7/27/05	Meeting with attorney regarding complaint
8/4/05	Meeting with Pharmerica regarding automated dispensing system
8/17/05	Technician Informal Disciplinary Conferences
8/30/05	State Employees Charitable Campaign Policy Committee, Rules Subcommittee meeting

6. *To act as the Board's liaison to the pharmacy professional associations throughout FY2005.*

Status: ACCOMPLISHED

Comment: The Executive Director attended 15 meetings of professional associations and committees of the associations to serve as a liaison for the Board as follows.

Date	Name of Association/Location of Meeting
9/18/04	West Texas Pharmaceutical Association Fall CE Meeting B Lubbock
9/23-9/25/04	NABP/AACP District 6 Meeting B Galveston
10/8/04	Texas Federation of Drug Stores Annual Meeting B San Antonio
10/23/04	Texas Pharmacy Association's Dedication of the Founders Court – Austin
10/23/04	Texas Pharmacy Association's Academy of Consultant Pharmacists Meeting – Austin

EXECUTIVE DIRECTOR

Date	Name of Association/Location of Meeting
11/29/04	Texas Pharmacy Practice Coalition Meeting
1/21/05	Meeting with pharmacy lobbyist regarding legislative session
2/3/05	Meeting with representatives of TSHP and TMA regarding pharmacists carrying out prescription orders
2/3/05	Meeting with representative of the Texas Municipal Police Association regarding peace officer status for TSBP investigators
2/16/05	Meeting with representatives from TSHP regarding the legislative session
3/5/05	El Paso Society of Health-System Pharmacists Frontiers of Pharmacy Seminar B El Paso
4/5/05	Meeting with TPA representatives regarding legislative session
4/8 – 4/10/05	Texas Society of Health-System Pharmacists Annual Meeting and Seminar – Austin
4/29/05	West Texas Pharmaceutical Association's Annual Meeting B Odessa
7/7 – 7/9/05	Texas Pharmacy Association's Annual Meeting – San Antonio

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 FY2005.*

Status: ACCOMPLISHED

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

Date	Activity
9/3/04	Interviews for Health Professions Council Administrative Officer
9/10/04	Interviews for Health Professions Council Administrative Officer
9/20/04	Health Professions Council Meeting
12/1/04	Health Professions Council Meeting
6/13/05	Health Professions Council Meeting

EXECUTIVE DIRECTOR

8. *To continue to support and participate in the Texas Pharmacy Congress throughout FY2005.*

Status: ACCOMPLISHED

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

Date	Activity	Attendee
9/27/04	Conference call with Texas Pharmacy Congress committee to examine criteria for membership	Gay Dodson, R.Ph.
11/30 – 12/1/04	Texas Pharmacy Congress Meeting – Austin	Gay Dodson, R.Ph.
2/22 – 2/23/05	Texas Pharmacy Congress Meeting – Houston	Allison Benz, M.S., RPh.
5/5 – 5/6/05	Texas Pharmacy Congress meeting – Austin	Gay Dodson, R.Ph.
8/2 – 8/3/05	Texas Pharmacy Congress Meeting – Lubbock	Gay Dodson, R.Ph.

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

Status: ACCOMPLISHED

Comment: The agency entered into a contract with the University of Texas Center for Social Work Research, to develop an online survey form, survey the attitudes and opinions of TSBP customers, and provide a statistical analysis of the data collected. Data collection began in on May 24, 2005, with a report to be available in FY2006.

10. *To continue to participate in the University of Texas Center for Social Work Research Survey of Organizational Excellence, review of the survey results by an Agency Change Team (ACT), and implementation of appropriate recommendations of ACT throughout FY2005*

Status: ACCOMPLISHED

Comment: The agency participated in the Survey of Organizational Excellence in the fall of 2004 with the results received by the agency in early 2005. The following persons were assigned to the Agency Change Team: Julie Hildebrand, facilitator; Retta Cole, Wayne Jones, Iona Grant, Janelle Nastri, Mary Helen Oviedo, Todd Hayek, and Georgienne Nassauer. The ACT team was charged with reviewing the results of the survey, identifying areas where TSBP could improve, and making recommendations to the Executive Director to improve TSBP performance. The final report of the ACT team was presented to the Executive Director on August 11, 2005. Management’s Response to the ACT Report was presented and discussed with the staff at the August 24, 2005, staff meeting. Of the 16 items identified by the ACT team, five were implemented; five could not be implemented because of funding or legal problems; and six had previously been implemented or management’s position was clarified.

EXECUTIVE DIRECTOR

11. *To recommend changes to the Texas Pharmacy Act and rules, which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Board for consideration for action throughout FY2005.*

Status: ACCOMPLISHED

Comment: The agenda for each meeting of the Board included discussion of possible suggestions for changes to the Pharmacy Act. An extensive list was developed during the Sunset Review process. The Board was kept up to date on the progress of these recommendations. The Sunset bill that passed the legislature included 17 of these 37 suggested changes (46%).

12. *To maintain a staff development program by encouraging Executive Office staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2005.*

Status: ACCOMPLISHED

Comment: Division staff participated in professional and interpersonal development seminars, cross training and on-the-job training throughout FY2005 as follows:

Gay Dodson	
9/23 – 9/25/04	National Association of Boards of Pharmacy – 6 th District Meeting – Galveston
10/7/04	Legislative Communications Seminar
11/4/04	Governor's Training Seminar for Appointees
11/16 – 11/17/04	Milbank Memorial Fund Conference on Methamphetamine – San Francisco
1/6/05	Telicon Legislative Seminar – Austin
2/2/05	Microsoft Word Training – Austin
2/10/05	EAP Training "Stretch and Relax to Beat Stress" – Austin
4/7/05	Pharmacy Legislative Issues Overview (Texas Pharmacy Lobby Day) – Austin
4/8 – 4/10/05	Texas Society of Health-System Pharmacists Annual Meeting and Seminar – Austin
5/21 – 5/24/05	National Association of Boards of Pharmacy Annual Meeting – New Orleans
7/7 – 7/9/05	Texas Pharmacy Association's Annual Meeting – San Antonio
8/19/05	Employees Retirement System Seminar "Ready Set Retire"

EXECUTIVE DIRECTOR

Kay Wilson	
9/23 – 9/25/04	National Association of Boards of Pharmacy – 6 th District Meeting – Galveston
10/19/04	Texas Women's Conference – Austin
12/2/04	Orientation to EAP – Austin
2/10/05	EAP Training "Stretch and Relax to Beat Stress" – Austin
2/22/05	EAP Training "Stress Management, Personal and Professional Resilience" – Austin
2/24/05	Introduction to Word 2002 – Austin
3/24/05	Word 2002 Intermediate – Austin
6/15/05	Word Headers and Footers – Austin
8/19/05	Employees Retirement System Seminar "Ready Set Retire" – Austin
8/25/05	EAP Training "Parenting Skills" – Austin

Estella Casarez	
2/22/05	EAP Training "Stress Management, Personal and Professional Resilience" – Austin
2/24/05	Introduction to Word 2002 – Austin
3/24/05	Word 2002 Intermediate – Austin
5/20/05	Word 2002 Advanced – Austin
6/2/05	TBPC Recycling Training – Austin
8/5/05	EEO Training – Austin
8/18/05	Proofreading Workshop – Austin
8/30/05	First Class Customer Service – Austin

EXECUTIVE DIRECTOR

13. *To conduct periodic reviews and annual evaluations of Division Directors, the Executive Assistant, and the Receptionist, and to monitor evaluations of employees in all Board Divisions throughout FY2005.*

Status: ACCOMPLISHED

Comment: Performance evaluations were conducted for the Division Directors and the Division Employees as indicated below.

Employee	Date of Evaluation	Person Conducting Evaluation
Allison Benz	8/26/05	Gay Dodson
Cathy Stella	8/24/05	Gay Dodson
Estella Casarez	8/3/05	Kay Wilson
Kerstin Arnold	8/29/05	Gay Dodson
Carol Fisher	8/31/05	Gay Dodson
Kay Wilson	8/19/05	Gay Dodson

14. *To provide the Board-s Executive Committee information necessary to conduct performance evaluation of the Executive Director by August 31, 2005.*

Status: ACCOMPLISHED

Comment: A self and staff evaluation of the Executive Director were presented to the Board at its August 2005 meeting. The Board conducted the performance evaluation at this meeting.

Administrative Services and Licensing Division

FY2005 SIGNIFICANT ACCOMPLISHMENTS

1. The Division accomplished or partially accomplished 100% of its objectives (28 accomplished and one partially accomplished).
2. The Division met or exceeded 100% of the performance measures required to be submitted to the Legislative Budget Board.
3. Eligible division employees received an enhanced compensation award for their direct contributions towards the agency achievement of meeting 100% of its key performance measures in FY2004.
4. As computer virus and hacker activity continued to dramatically increase, the agency was been successful in keeping security incidents extremely low with minimal impact to the agency. Our success is directly related to upgrading anti-virus and anti-spyware software regularly, implementing automatic updates, weekly scans, and taking an assertive stance towards user passwords and systems access.
5. Significant efficiencies and/or benefits, primarily for Board customers, have been, or will be, gained through the implementation of a number of projects that included:
 - Conversion of the agency word processing system from WordPerfect to WORD. This conversion saved the agency an estimated \$10,000 in WordPerfect new licensing/software upgrade costs.
 - Continued imaging of all pharmacist records; and
 - Implementation of an online address/employment change for pharmacists.
6. Successful implementation of the Initial Pharmacist Licensing by Exam, Score Transfer and/or Reciprocity applications, and the Initial Pharmacy applications has resulted in all fee-paying applications of the agency being available electronically on Texas Online. FY2005 adoption rates to Texas Online were as follows:

Pharmacist New	= 36%
Pharmacist Renew	= 78%
Pharmacy Technician New	= 92%
Pharmacy Technician Renew	= 92%
Pharmacy Renew	= 02%

Total Adoption Rate All Licenses = 75%
7. The agency's website continued to provide accurate and concise information to Board customers. As evidenced by the comments from external customers, it appears that the website is easily navigable and serves our customers well.

FY2005 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The actions of the 78th Texas Legislature continued to negatively affect the agency's budget, which can be directly linked to employee dissatisfaction and ultimately, to employee turnover. These actions included:
 - reducing the budgets of state agencies, which, in many cases, meant a reduction or elimination of merit pay for outstanding performance;
 - significant increases to out-of-pocket costs for health coverage by all state employees;
 - reduced state contribution of health care coverage for part-time employees;
 - implementing a 90-day waiting period for health insurance and state retirement contribution for new state employees;
 - increasing the minimum age for retiree insurance; and
 - allowing a lump sum incentive payment for eligible retirees, which must be paid out of agency appropriations, thus reducing the funds available to the agency.

2. The successful implementation of the initial registration and ongoing renewal of Pharmacy Technicians did not come without a price. The following chart shows some of the increase in workload requirements, which affected not only Licensing, but Administrative Services as well.

Increase in Workload Caused by the Pharmacy Technician Registration Program
--

	Total Number of Licensees	% Increase	Telephone Calls Received	% Increase	E-Mail Inquiries Answered	% Increase	Checks Returned due to Insufficient Funds or Improper Data	% Increase
FY2003	27,364	--	10,000	--	4,000	--	16	--
FY2004	50,289	84%	19,737	97%	10,880	172%	158	888%
FY2005	55,432	10%	20,600	5%	13,000	19%	94	<41%>
Cumulative Increase		103%		107%		228%		488%

Administrative Services and Licensing Division

FY2005 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, pharmacy technician registration system, and the ongoing renewal of licenses and registrations.

Objectives (New)

1. *To assist the Executive Director, in cooperation with other Divisions, in: preparing testimony, attending public hearings, and providing any fiscal or technical information as required by the 79th Texas Legislature; and reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the progress of this legislation throughout FY2005.*

Status: **ACCOMPLISHED**

Comment: The Division Director reviewed and analyzed 110 pieces of legislation that had a potential impact on agency operations. Of particular note were several provisions in the agency's Sunset Bill that impacted not only the agency's licensing activities, but its budget activities as well. Division Director and Chief Accountant also maintained constant contact with the Legislative Budget Board (LBB) and Governor's Office of Budget, Planning and Policy (GBO) to review and discuss the agency *Legislative Appropriations Request* for FY2006-2007. A total of 32 fiscal notes were researched and submitted to the LBB.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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

Senate Finance Committee Budget Hearing	September 13, 2004 & January 31, 2005
House Appropriations Subcommittee on Regulatory Agencies Budget Hearing	February 8, 2005
House Appropriations Committee Markup	February 22, 2005
Senate Finance Committee Markup	February 23, 2005
Conference Committee Session	April 26, 2005

2. *To monitor the progress of the agency's Legislative Appropriations Request and corresponding performance measures for FY2006/2007.*

Status: ACCOMPLISHED

Comment: A summary of legislative action affecting the agency's FY2006/2007 budget included:

- A. Additional appropriation to fund a 4% across-the-board pay raise for all classified employees in FY2006 and a 3% pay raise in FY2007.
- B. Additional appropriation to fund a \$15,000 pay increase to the Executive Director.
- C. Legislative directive to increase state employee longevity and hazardous duty without corresponding increase to agency appropriations.
- D. Legislative directive to increase meals and lodging for board members and staff, without corresponding increase to agency appropriation.
- E. Contingency Appropriation Riders for Senate Bill 410 (Agency Sunset Bill), which appropriates an additional \$362,411 over the biennium for the purpose of implementing the provisions of this bill. These appropriations were contingent on the agency assessing fees sufficient to generate \$431,539 in excess of \$8,272,000 (Comptroller of Public Accounts biennial revenue estimate). Also, the Number of Full Time Equivalent Positions was increased by three over the biennium.
- F. The General Revenue-Dedicated Pharmacy Board Operating Account was abolished and future revenues collected by the agency will be appropriated out of the General Revenue Fund.

3. To coordinate the conversion of the agency word processing system from WordPerfect to WORD, throughout FY2005.

Status: ACCOMPLISHED

Comment: To accomplish this goal, a committee was assigned to steer the conversion from WordPerfect to Word. The committee was composed of staff representing each of the divisions within the agency. These committee members were responsible for distributing information to and collecting data from their respective areas. Bi-weekly meetings were held throughout the course of the conversion.

Conversion officially began in October 2004 with a general staff meeting. A project timeline and goals were presented to all agency staff along with a "survey of existing skills" designed to assess training needs. Data on the volume of documents to be converted was also collected.

The first quarter of 2005 was dedicated to staff training. Employees were strongly encouraged to attend the training necessary to complete their job functions and to make good use of the manuals provided to each employee. The following training options were made available to agency staff:

- Word 2002 manuals
- Word 2002 training CDs
- Links to free online training
- Free classroom training through TDI and local libraries
- Contracted offsite Introductory, Intermediate and Advanced classroom training through MicroAssist

In total, TSBP staff attended 544 hours of Word 2002 training in preparation for the conversion from Word Perfect.

Over the second quarter of 2005 employees were asked to utilize their new skills in Word and to convert any necessary documents over from WordPerfect. A document conversion coordinator was assigned to assist the division representatives with this task.

The project was officially deemed "complete" August 31, 2005. Employees were instructed to no longer use WordPerfect and Information Systems was asked to begin removal of the application from staff computers.

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 FY2005.*

Status: **ACCOMPLISHED**

Comment: All accounting policies were reviewed and procedures were implemented or revised as required. These policies ranged from security procedures for USAS/USPS, calculations of various oversight agencies assessments, certifications, appropriation modifications, and a number of accounting/budget transactions.

2. *To prepare and submit all required accounting and fiscal reports/reconciliations in compliance with all applicable state statutes throughout FY2005.*

Status: **ACCOMPLISHED**

Comment: The Texas Internal Audit Act requires all agencies to conduct a formal risk assessment and submit an annual Risk Assessment Report to the Office of the State Auditor (SAO). In response to this legislation, the agency implemented an annual process to assess the risk and possible exposure of fraud, and implemented crucial fraud prevention measures. The annual Risk Assessment Report was submitted by the due date to the SAO.

The agency submitted the Annual Financial Report (AFR) to the Office of the Comptroller for the year ending August 31, 2004, by the due date of October 1, 2004. The Annual Report of Non-Financial Data was submitted on December 31, 2004, 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.

Finally, 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.

3. *To review and recommend to the Executive Director additional sources of spendable revenue and to assess fees charged for Board services throughout FY2005.*

Status: **ACCOMPLISHED**

Comment: A quarterly operating budget was presented to the Board at each of the regularly scheduled business meetings and recorded as such in the official minutes of the Board meeting. Revenue projections were made and closely monitored to ensure that expenditures did not exceed the required amount of revenue collected.

Revenue projections were completed for FY2006/2007 to comply with the new appropriations and contingent appropriations as a result of riders relating to capital budget, employee benefits and pay raises, and the implementation of the agency's Sunset Bill (SB 410). Recommended fees for initial licensure and renewal of pharmacy and pharmacist licenses, as well as pharmacy technician fees, were presented and approved by the Board Members in May 2005.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

4. *To assess the material needs of the agency and supervise the purchasing and supply activities in accordance with all Building and Procurement Commission rules and procedures throughout FY2005.*

Status: ACCOMPLISHED

Comment: A Post-Procurement and Payment audit, for the period April 2004, was conducted by the Texas Building and Procurement Commission (TBPC), resulting in a 93.04% compliance rating. In addition, the Chief Accountant continued to review all specifications, product tabulations, and purchase requisitions for compliance with agency policies and procedures and TBPC rules. This oversight ensured that the appropriate procurement method was identified, the agency received the best value for the product or service purchased, and that funds were always available.

5. *To increase the efficiency and productivity of Board office operations by managing and coordinating space needs and on-site maintenance of the Board's office facilities throughout FY2005.*

Status: ACCOMPLISHED

Comment: As a result of the passage of the General Appropriations Act, 79th Regular Session, which added three new positions in FY2006, a timeline and action plan were developed to convert existing conference room space to office space. Meetings with the Texas Building & Procurement Space Planning Division were initiated to develop floor plans and construction bids to commence in FY2006.

6. *To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2005.*

Status: ACCOMPLISHED

Comment:

- A. All newly hired and current employees received Equal Employment Opportunity/Sexual Harassment Training as required by state law.
- B. Division directors continued to review and revise employee position descriptions, with a resulting three reclassifications submitted and approved.
- C. 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.
- D. The agency received 741 applications for employment during this fiscal year, which resulted in 11 new hires and three promotions. (Note: Providing EEO information by applicants is strictly voluntary. 135 applicants did not provide the information.)

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

E. The following table reflects the agency's EEO profile for employees hired, promoted, or terminated during FY2005, as well as an applicant profile report.

Agency EEO Data	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	5	0	0	0	0	0	0	0	5	5
Professional	5	9	0	1	1	0	0	0	6	10	16
Para-Prof	5	12	0	1	0	9	0	1	5	23	28
Admin Support	0	1	0	0	0	4	0	0	0	5	5
TOTALS	10	27	0	2	1	13	0	1	11	43	54

New Hires	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	1	0	0	0	0	0	0	0	1	1
Professional	1	1	0	0	0	0	0	0	1	1	2
Para-Prof	0	2	0	0	0	0	0	1	0	3	3
Admin Support	0	2	0	0	0	3	0	0	0	5	5
TOTALS	1	6	0	0	0	3	0	1	1	10	11

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

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

Applicants	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	4	0	2	1	0	0	0	1	6	7
Professional	4	2	0	2	0	4	0	0	4	8	12
Para-Prof	42	50	4	28	8	33	5	2	59	113	172
Admin Support	25	201	12	59	5	97	2	14	44	371	415
TOTALS	71	257	16	91	14	134	7	16	108	498	606

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

7. *To manage the information resource needs (data processing, telecommunication, and website) of the agency throughout FY2005.*

Status: ACCOMPLISHED

Comment:

- A. Security and system availability remained a top priority, with 8,769 viruses caught, 1,922 attacks blocked, and 92,451 spam and junk email diverted.
- B. Completed testing and importing of remaining Pharmacist paper files to the imaging system.
- C. All necessary hardware/software were replaced in accordance with the agency's Life Cycle Schedule.
- D. Web server Access database upgraded to MySQL, creating a much more stable environment for the web server.
- E. Major systems upgrades completed to primary domain controller and email server. They were upgraded from NT4 to Win2003; Exchange 5.5 upgraded to Exchange 2003; and OWA enabled for remote access to email.

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 FY2005.*

Status: ACCOMPLISHED

Comment: The agency was successful in maintaining its certification status with regard to its Records Retention Schedule (RRS). Agency staff destroyed 211.01 cubic feet of records in accordance with the TSBP record retention schedule, and 204 cubic feet of records were sent to the State Library for storage. The imaging of pharmacist files continued with 42,932 pages scanned into the imaging system.

9. *To provide verbal and written information to Board staff and customers throughout FY2005 including, by the assigned due dates, the preparation of:*

- A. Legislative Budget Board (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 FY2005.

Status: ACCOMPLISHED

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Comment: This objective was accomplished as follows:

A. Statutorily Required Reports

Report Title	Recipient(s)	Division Reporting
FTE State Employees	State Auditor	Administration
Governmental Employees Quarterly Report	Texas Workforce Commission	Administration
Deferred Compensation (457) Plan Confirmation of Reconciliation	Employees Retirement System	Administration
Employer's Quarterly Federal Tax Return	Internal Revenue Service	Administration
Retirement Contributions Reconciliation Report	Employees Retirement System	Administration
Annual Financial Report	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor	Administration
Non-Financial Annual Report	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor	Administration
Recycled Materials Expenditures	Texas Building & Procurement Commission	Administration
Historically Underutilized Business Progress Reports	Governor's Office; Lt. Governor; Speaker of House; Texas Building & Procurement Commission	Administration
Encumbrance Reports	State Comptroller; State Auditor; Legislative Budget Board	Administration
State Use Report	Texas Building & Procurement Commission	Administration
Non-Resident Bidders	Legislative Budget Board	Administration
EEO Information Report	Texas Workforce Commission	Administration
Minority Hiring Practices	Texas Workforce Commission	Administration
Membership & Training Report	Legislative Budget Board	Administration
Risk Management – Losses	Office of Risk Management	Administration
Performance and Funds Mgmt. Reports	Legislative Budget Board	Administration Enforcement
Contract Workforce Report	State Auditor; Legislative Budget Board; Governor	Administration
Open Records Online Monthly Report	Legislative Budget Board	All
Resource Efficiency Plan and Updates	Comptroller	Administration
FY05 Risk Assessment	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor, Sunset Advisory Commission	Administration

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

B. Other Surveys and Questionnaires:

Report Title	Recipient(s)	Division Reporting
Texas Online Questionnaire	Legislative Budget Board	Licensing
Space Utilization Survey	Texas Building & Procurement Commission	Administration
SORM Report	SORM	Administration
Records Retention Recertification	Texas State Library	All
Fraud Prevention Plan	Office of the Governor	All
Texas Online Report	Legislative Budget Board	Administration
Security Assessment	Department of Information Resources	Information Resources
Survey regarding At-Will Employment	University of Texas at San Antonio	Human Resources
Revenue Projections for Contingent Appropriations	State Comptroller	Administration
Statistics on State Mandated Training	Department of Information Resources	Administration
Occupational Licensing Survey	Texas Online	Licensing
Agency Fee/Revenue Survey	Legislative Budget Board	Administration
Return to Work Retirees Survey	Office of State Auditor	Human Resources
Statewide Process Survey	Department of Information Resources	Information Resources
Revenue/Fee/Budget/Licensee/Salaries/ Turnover Information	Senate	Administration
Agency Information	Senate Office of Human Resources	Administration
Dispensing Error Information	House Appropriations Committee	Enforcement
License Statistics	House Appropriations Committee	Licensing
Historically Underutilized Business Statistics	House Appropriations; Mexican American Legislative Caucus	Administration
Fiscal Size-Up Information	Legislative Budget Board	All
Classification System Recommended Changes	Office of State Auditor	Administration

C. Types and numbers of surveys/questionnaires/reports completed by all Divisions:
 The Administrative Services Division answered approximately 1,727 telephone calls and responded to 3,268 emails to Board customers. See Licensing Services Ongoing Objective #1, Professional Services Ongoing Objective #11, Legal Services Ongoing Objective #8 and Enforcement Ongoing Objective #6. In addition, the agency reported approximately 22,517 requests for information, both written and electronic, to the Texas Building & Procurement Commission.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

10. *To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2005.*

Status: ACCOMPLISHED

Comment: Division staff participated in the following activities:

- A. Health Professions Council (HPC) Annual Report - Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
- B. The agency continued to participate in several HPC centralized services, such as the Courier Service and Copy Center; Shared Employee Training; Shared Information Resource Technology staff; and use of the imaging system.

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 FY2005.*

Status: ACCOMPLISHED

Comment: Division staff participated in the following activities:

Cathy Stella, Division Director
Texas Online Occupational Licensing Steering Committee and Workgroup Meetings
Orientation for new staff members and interns
Fraud Prevention Seminar
79 th Legislature Agency Budget Hearings
Texas State Human Resources Association
Customer Service Survey Overview – UT Center for Social Work Research
Risk Assessment Meetings
Board Meeting and President Briefings
EAP Presentations on various issues
Texas Online/Bearing Point Meetings to implement New Pharmacy Application; Exam & Reciprocity
All Staff Meetings; Division meetings; Northrop Grumman meetings
Introduction to WORD Training

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Jane Bennett, Chief Accountant
Annual Financial Report Seminar
USAS User Meetings
Internal Audit Meetings
All staff meetings; financial staff meetings
SORM User Meetings
AFR Training
Small Agency Task Force Meetings
EAP Presentations
Board meetings re: Internal Operating Budget and LAR
SPA Users Group Meeting
Texas Online Meetings
Introduction to WORD Training
Telicon Training
Assessing Financial Controls Training
Governor's Budget & Planning Meeting
79 th Legislature Agency Budget Hearings

Robbi Dana, Employee Relations Coordinator
Insurance Summer Enrollment Training
Fiscal Note Training
Texas Human Resources Association Meeting
New staff orientation
EAP Presentations
Introduction to WORD Training
Intermediate WORD Training
Advanced WORD Training
Basics of Purchasing Rules & Guidelines
Scott & White Meeting for Coordinators

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Sandy Morton, Accountant
Expenditure Approvals Seminar
Orientation new staff members
EAP Presentations
Introduction to WORD Training
Leave Policies & Practices
USPS User Group Meetings

Darlene Guthrie, Purchaser
TXMAS Training
HUB Training
Recycle Training
Surplus Property Training
EAP Presentations
Antitrust Laws Seminar
Online ISM – Ethics Training
Planning Services Meeting
Online CTP Review Course
Negotiation No-No's
Procurement Manual Update Training
State Use Reporting Training
Prompt Payment Seminar
Comptroller Brown Bags
Texas State Use Program

Mary Helen Oviedo, Accountant
Recycling Online Training
Introduction to WORD Training
Intermediate WORD Training
Advanced WORD Training
EAP Presentations
Comptroller Brown Bag Trainings
Fundamentals of Expenditures & Approvals
Comptroller Advance Excel Training
Texas Building & Procurement Brown Bag Trainings

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Carol Willess, Licensing Program Specialist
Internship Program Training
EAP Presentation - Personal and Professional Resilience
New Staff Orientation
Co-Chair WORD Conversion Committee
Chaired Licensing Staff Meetings
Online Training in New Adobe Professional
TSBP Newsletter Committee
2005 Texas State Agency Business Administrators Association Meeting Summer Conference Texas State Agency Business Administrator's Association Mid-Winter Conference
NAPLEX & MPJE Orientation to students of Texas Southern University, University of Houston and Texas Tech University
Intern Orientation to Texas Southern University, University of Houston, Texas Tech University
Introduction, Intermediate and Advanced Microsoft WORD Training
Customer Service Overview – UT Center for Social Work Research

Lisa Ake, Exam/Intern Specialist
NAPLEX & MPJE Orientation to students of Texas Southern University, University of Houston and Texas Tech
Intern Orientation to Texas Southern University, University of Houston, Texas Tech University
Windows XP Training
EAP Presentations
Introduction to WORD Training
Licensing Staff Meetings

Steve Rapp, Information Resource Manager
New staff orientation for new hires
EAP Presentations
Co-Chair of WORD Conversion Project
Monthly SSATF IT Meetings
TASSCC Conference
Exchange Security Training
Introduction to WORD Training
Intermediate WORD Training
Advanced WORD Training
Wireless Security Training

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Todd Hayek, Network Specialist
Access Forms & Reports Class
Introduction to WORD Training
Intermediate WORD Training
Advanced WORD Training
EAP Presentations
DIR Portal Seminar

Rachel Glass, Pharmacist Licensing Specialist
EAP Presentations
Texas Women-s 2005 Conference
Introduction to WORD Training
Intermediate WORD Training
Texas Pharmacy Law Symposium
Licensing Staff Meetings

Misty Whitcomb, Pharmacy Licensing Specialist
EAP Presentations
Licensing Staff Meetings
Intermediate WORD Training
Advanced WORD Training

Melinda Uballe, Pharmacy Licensing Specialist
Introduction to WORD Training
Personal & Professional Resilience
EAP Presentations
Licensing Staff Meetings
Intern Orientation to Texas Southern University, University of Houston, Texas Tech University

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Diana Martinez-Ruedas, Pharmacy Technician Registration Specialist
EAP Presentations
Licensing Staff Meetings
Open Enrollment Insurance Fair
TBPC Recycle Program Online Training
Wellness – Health Fest
Effective Communication Skills Seminar
WORD 2002 Mail Merge Features
Intermediate and Advanced WORD Training
WORD Special Features Training
Time Management & Stress Reduction Workshop

12. *To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2005.*

Status: ACCOMPLISHED

Comment: The Division achieved a 100% completion rate of evaluations scheduled for this fiscal year. All 12 employees were evaluated in August 2005 and 14 position descriptions were reviewed and revised.

13. *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 FY2005.*

Status: PARTIALLY ACCOMPLISHED

Comment: The following policies and procedures were updated or formulated:

- A. Purchasing Procedures
- B. New Reconciliation Procedures for Texas Online Subscription Fees and Office of Patient Protection Fees
- C. Pharmacy Technician Registration Procedures
- D. New Policy Regarding Charitable Sales on State Premises

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

14. *To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2005.*

Status: ACCOMPLISHED

Comment: Significant efficiencies and/or benefits, primarily for Board customers, have been, or will be, gained through the implementation of a number of projects that included:

- Conversion of the agency word processing system from Word Perfect to WORD. This conversion saved the agency an estimated \$10,000 in Word Perfect new licensing/software upgrade costs.
- Active computer virus monitoring and timely hardware/software replacement;
- Continued imaging of all pharmacist records;
- Implementation of an online address/employment change for interns, pharmacist applicants, and pharmacists;
- Implementation of the online initial Pharmacy application and Exam/Reciprocity applications; and
- Implementation of an electronic match of Guaranteed Student Loan Defaulters for pharmacy technicians.

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 FY2005.*

Status: ACCOMPLISHED

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

16. *To prepare and submit a report on the accomplishment of Division objectives for incorporation into the agency's FY2004 Annual Report to be presented to the Board by its May 2005 Board Meeting.*

Status: ACCOMPLISHED

Comment: The division's first draft of the FY2004 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 May 2005 Board meeting.

17. *To assist the Executive Director in surveying agency customers regarding the quality of service delivered by the agency as specified in Chapter 2113 of the Government Code; and in cooperation with other Divisions, to analyze survey results, including the review of comments and suggestions by agency customers.*

Status: ACCOMPLISHED

Comment: Division Director attended a Customer Service Overview presented by the University of Texas Center for Social Work Research, which detailed an online electronic Customer Service Survey that met the legislative requirements of the Government Code. In consultation with other divisions, a contract was approved for this organization to survey the attitudes and opinions of TSBP customers and provide a statistical analysis of the data collected. Data collection began in FY2005, with a report to be available in FY2006.

Objectives (Ongoing) - Licensing

- To coordinate the collection of licensing data for Key Performance Targets required under the 2006-2007 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2005.*

Status: ACCOMPLISHED

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

PERFORMANCE MEASURES	TARGET FY05	ACCOMPLISHED FY05	Key or Non Key (K-NK)	Expectations
Percent of Licensees with No Recent Violations	99%	96.40%	K	Met
Percent of Licenses Who Renew Online	23%	75.00%	K	Exceeded
Percent of New Individual Licenses Issued Online	10%	75.00%	K	Exceeded
Individuals Examined (examinations administered)	1500	1742	NK	Exceeded
Number of Licenses Renewed (Individuals)	11,650	11,593	K	Met
Number of New Licenses Issued to Individuals	800	897	K	Exceeded
Average Licensing Cost Per Individual License Issued	\$19.37	\$11.04	K	Exceeded
Average Licensing Cost Per Facility License Issued	\$40.82	\$37.41	K	Exceeded
Average Cost Per Exam Administered	\$65.12	\$65.34	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	22,000	22,661	NK	Exceeded
Total Number of Business Facilities Licensed	5,900	6,107	K	Exceeded
Pass Rate	89%	85.82%	NK	Met

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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

WORKLOAD	STATISTIC
Changes of Address/Employment	4,646
Telephone Calls Received	20,600
Email Inquires Answered	13,000
Missing Item, delinquent, reminder letters sent	8,753

2. To determine the eligibility of all pharmacist applicants applying to take the NAPLEX and Texas Pharmacy Jurisprudence Examination for initial licensing or licensing by reciprocity throughout FY2005.

Status: ACCOMPLISHED

Comment: Staff continued to present the NAPLEX & MPJE Orientation to students of Texas Southern University, University of Houston and Texas Tech University, in addition to an Intern Orientation to these same schools.

The following statistics relate to all applicants who were determined eligible and received a score for the NAPLEX and MPJE in FY2005:

JURISPRUDENCE (MPJE)	Total Exams Administered
Candidates Passing	968 (88.64%)
Candidates Failing	124 (11.36%)
TOTAL EXAMS JURISPRUDENCE	1092 (100.0%)

NAPLEX	Total Exams Administered
Candidates Passing	527 (81.08%)
Candidates Failing	123 (18.92%)
TOTAL EXAMS NAPLEX	650 (100.0%)

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

NEW PHARMACISTS LICENSED - FY05	
Graduates of Texas Colleges of Pharmacy	394 (43.92%)
Graduates of Out-of-State Colleges of Pharmacy	425 (47.38%)
Credentialed by the Foreign Pharmacist Equivalency Committee	78 (8.70%)
Total	897 (100%)

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Regarding reciprocity (license transfer) in and out of Texas, 284 candidates were licensed by reciprocity in FY2005, 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 2005, Texas saw the most requests for licensure transfer into the state with 437, and 325 requests to transfer to other states.

Finally, the agency began working on placing the Exam, Score Transfer and Reciprocity applications on Texas Online. This action will result in all agency fee-paying applications being available online.

3. *To provide staff support to the Examination Retake Committee and any other advisory committee related to licensing issues as required in FY2005.*

Status: ACCOMPLISHED

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

4. *To issue an initial and/or renewal certificate to all pharmacy license applicants on receipt of the required fees and all required documents according to the following guidelines throughout FY2005:*

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

Status: ACCOMPLISHED

Comment: The following chart 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 five 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 FY05	
Class A (Community)	4,307
Class B (Nuclear)	38
Class C (Institutional)	948
Class D (Clinic)	444
Class E (Non-Resident)	370
TOTAL	6,107

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

A total of 4,433 change documents were processed as follows:

PHARMACY APPLICATIONS PROCESSED	
Pharmacy Renewals	2,608
New Opens	405
Change of Ownership	507
Change of Location	211
Change of Name	262
Closings	355
Changes of Managing Officers	85
TOTAL	4,433

Finally, the agency placed into production the initial pharmacy application to Texas Online. This action resulted in placement of all agency fee-paying applications online.

- 5. *To issue renewal certificates to all pharmacist candidates within four working days of receipt of the required fee and all required documents throughout FY2005.***

Status: ACCOMPLISHED

Comment: The agency renewed 11,593 pharmacist licenses on a biennial basis during FY2005. Approximately 78% of eligible pharmacists renewed their licenses online. The average processing time to issue a renewal license from receipt of a completed application was two business days. The total population of licensed pharmacists for this fiscal year is as follows:

PHARMACISTS LICENSED – FY05	
Active Status	21,335
Inactive Status*	1,326 **
TOTALS	22,661

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

** Of the above number, 319 pharmacists have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as A exempt.@

- 6. *To issue a pharmacist license by examination, score transfer, or reciprocity within an average of ten working days after the date the agency receives the examination results throughout FY2005.***

Status: ACCOMPLISHED

Comment: The agency issued 897 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. Barring any other requirements that might be due for initial licensure, candidates received notice of their new licenses within an average of eight business days of their examination date.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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

Status: ACCOMPLISHED

Comment: 804 new intern registrations were issued in FY2005 and all interns were certified within an average of 11 business days after receipt of all required documents. A total of 1,710 pharmacist preceptors were certified within three days of receipt of required documents.

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 renewal, in cooperation with the Enforcement team, throughout FY2005.*

Status: ACCOMPLISHED

Comment: Of the total number of audits initiated (218), 100% of the audits were closed or referred to Enforcement.

9. *To issue initial and/or renewal certificates to all pharmacy technician candidates within an average of four working days of receipt of the required fee and all required documents throughout FY2005.*

Status: ACCOMPLISHED

Comment: The agency issued 5,826 new registrations to pharmacy technicians and renewed 10,058 registrations on a biennial basis during FY2005, bringing the total population of active registered technicians for this fiscal year to 26,644. Approximately 92% of pharmacy technicians applied or renewed their registrations online. The average processing time to issue a renewal license from receipt of a completed application was two business days.

The agency implemented two quality control checks including:

- A. Quarterly electronic criminal history background check of all active pharmacy technicians; and
- B. Quarterly electronic match of Guaranteed Student Loan Defaulters that are registered as pharmacy technicians in Texas.

Professional Services Division

FY2005 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of the Division's 18 Objectives for FY2005. (17 objectives were accomplished and one was partially accomplished.)
2. The Texas version of the Multi-State Pharmacy Jurisprudence Examination (MPJE) continues to be an effective licensing tool to determine competency with respect to pharmacy law. With the assistance of pharmacist personnel from the Enforcement Division to review, develop, and evaluate questions, the MPJE continues to progress and remain a viable instrument.
3. Division Director gave 17 presentations during FY2005 to over 1,000 pharmacists, pharmacy students, and pharmacy technicians.
4. Division Director worked closely with Network Specialist Todd Hayek and Information Systems Manager Steve Rapp to keep the TSBP web page updated.
5. Division staff, consisting of two individuals, prepared and mailed or emailed 2,452 pieces of information during FY2005.

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FY2005 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. TSBP experienced a 36% increase in the number of requests for agency records in FY2005, as compared to FY2004.
2. Division Director received and responded to 1,564 emails during FY2005. This was 379 (32%) more emails, as compared to FY2004.
3. Three issues of the Newsletter were published on the TSBP web page during FY2005 and only one issue was printed. The print issue (Spring/Summer 2005) was mailed only to pharmacies.

Professional Services Division

FY2005 ANNUAL REPORT

Goal

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

Objectives (New)

1. *To assist the Executive Director, in cooperation with other Divisions, in:*
 - A. *preparing testimony, attending public hearings, reviewing legislation, and providing any fiscal or technical information as required by the 79th Texas Legislature; and*
 - B. *reviewing all legislation introduced by the 79th Texas Legislature that has an impact on the practice of pharmacy or agency operations and monitor the progress of this legislation throughout FY2005.*

Status: ACCOMPLISHED

Comment:

- A. The following public hearings were attended by the Division Director in order to provide support to the Executive Director:
 - P September 13, 2004 Senate Finance Committee Budget Hearing
 - P March 22, 2005 Senate Committee Hearing on S.B. 492
- B. The Division Director reviewed the introduction of new legislation and monitored the progress of legislation as assigned by the Executive Director throughout FY2005.

Objectives (Ongoing)

- To assist the Board, throughout FY2005, 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: At the Board’s February 2005 meeting, the Board agreed to modify the procedures for the review of internship programs. The Board also modified the date of program approval to the February Board meeting, beginning in FY2006. Based on the Board’s modifications, the Division Director sent a “Questionnaire on Texas Colleges of Pharmacy Internship Programs” to the four Texas colleges of pharmacy. Responses were received and reviewed by the Director of Professional Services. The responses were presented to the Board on August 9, 2005, resulting in approval of the internship programs for the 2005-2006 academic year.

- 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 pool. The Division Director and pharmacist personnel from the Enforcement Division participated in the following activities in support of the MPJE program:

Date	Activity	Personnel
1/20 - 1/23/05	MPJE Texas Item Pool Review, Scottsdale, AZ	Allison Benz, Ben Santana
5/2005	Texas Item Writing Workshop, Austin, TX	Allison Benz, Mike Ethridge, Iona Grant, Paul Holder, Ben Santana
6/2 – 6/5/2005	MPJE Item Writing Workshop, Chicago, IL	Allison Benz

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3. *To publish an Internet version of the Newsletter during FY2005, 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 Allison Benz, serving as the Managing Editor, and Senior Administrative Assistant Retta Cole, serving as Editorial Assistant, coordinated publication of the following three Internet issues of the *Newsletter* during FY2005:

- P Fall 2004
- P Winter 2005
- P Spring/Summer 2005*

The Newsletter Planning Committee, consisting of members from each of the agency's Divisions, met prior to publication of each issue to provide input on the articles included in the *Newsletter*.

*Three issues of the *Newsletter* were published on the TSBP web page during FY2005 and one of the three issues (Spring/Summer 2005) was printed and mailed only to pharmacies.

Every Issue Contained	Significant Articles in FY2005
President's Column	Sunset Review
Adopted Rules and Summaries	Pharmacy Technicians
Disciplinary Actions	Are your technicians registered? How can you be sure?
Compliance Reminders	Pediatric Prescriptions – Use Caution
Complaint Corner	Now that you're registered – What's next?

Throughout FY2005, an email subscription to the *Newsletter* was available on the TSBP website. Subscribers provided an email address and were notified when a *Newsletter* was available on the web.

4. *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.*

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

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manner, usually during the same Board meeting. The Division Director drafted 16 rules and assisted others in drafting four additional rules as follows:

Rules
Drafted:
Amendments to ' 291.34 regarding Records (Electronic Prescription Transfer)
Amendments to ' 295.8 regarding Continuing Education Requirements
Amendments to ' 291.33 regarding Patient Counseling
Amendments to ' 291.20 regarding Remote Pharmacy Services
Amendments to ' 295.13 regarding Drug Therapy Management
Amendments to ' 291.104 regarding Generic Substitution
Amendments to ' ' 309.2, 309.3, 309.7 regarding Generic Substitution
Amendments to ' 297.3 regarding Technician Registration Requirements
Amendments to ' 291.26 regarding Sterile Compounding
Amendments to ' 291.37 regarding Centralized Dispensing
Amendments to ' 309.4 regarding Generic Substitution
Amendments to ' 291.73 regarding Personnel
Amendments to ' 291.74 regarding Absence of a Pharmacist
Assisted the Legal Division in drafting:
Amendments to ' 281.25 regarding Notice and Service
Amendments to ' 281.42 regarding Failure to Attend Hearing and Default
Amendments to ' 281.22 regarding Contested Cases
Amendments to ' 291.57 regarding Disciplinary Guidelines
Amendments to ' 281.80 regarding Technician Disciplinary Action

- 5. *To coordinate the updating of the Texas State Pharmacy Law reference manual and provision of the updates to the publisher of the manual and to NABP for inclusion in NABPLAW during FY2005.***

Status: ACCOMPLISHED

Comment:

Law Reference

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

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Law Reference Updates

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

- # October 4, 2004
- # January 5, 2005
- # March 9, 2005
- # June 27, 2005
- # August 31, 2005

NABPLAW Updates

Updates to NABPLAW were submitted as requested to the National Association of Boards of Pharmacy (NABP) on the following dates during FY2005:

- # September 17, 2004
- # January 24, 2005
- # March 10, 2005
- # June 23, 2005

NABP Survey of Pharmacy Law Updates

The NABP publication, Survey of Pharmacy Law, is updated annually. During FY2005, the update was completed by the Division Director and returned to NABP in July 2005.

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

Status: **ACCOMPLISHED**

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

RULE SUBMISSIONS TO THE TEXAS REGISTER

During FY2005, 39 submissions to the *Texas Register* were made that proposed, adopted, reviewed, repealed, or withdrew Texas Pharmacy rules. This represents a 49% decrease from the number of submissions for FY2004. Division staff met 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:

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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
§283.9	Amendments	FY2004	FY2004	9/3/2004	10/4/2004
§291.34	Amendments	FY2004	FY2004	9/3/2004	10/4/2004
§297.7	Amendments	FY2004	FY2004	9/3/2004	10/4/2004
Chapter 291 (§§291.71-291.76)	Rule Review	FY2004	FY2004	9/3/2004	10/4/2004
Chapter 291 (§291.21)	Rule Review	FY2004	FY2004	9/3/2004	10/4/2004
Chapter 295 (§295.11)	Rule Review	FY2004	FY2004	9/3/2004	10/4/2004
§297.2	Amendments	9/24/2004	10/4/2004	11/26/2004	1/5/2005
§291.26	Amendments	9/24/2004	10/4/2004	11/26/2004	1/5/2005
§§281.25, 281.42	Amendments	12/24/2004	1/5/2005	3/4/2005	3/10/2005
§291.34	Amendments	12/24/2004	1/5/2005	3/4/2005	3/10/2005
§295.8	Amendments	12/24/2004	1/5/2005	3/4/2005	3/10/2005
Chapter 291 (§291.20)	Rule Review	12/24/2004	1/5/2005	3/4/2005	3/10/2005
Chapter 291 (§291.23)	Rule Review	12/24/2004	1/5/2005	3/4/2005	3/10/2005
Chapter 295 (§295.13)	Rule Review	12/24/2004	1/5/2005	3/4/2005	3/10/2005
§291.20	Amendments	3/4/2005	3/10/2005	6/3/2005	6/27/2005
§291.33	Amendments	3/4/2005	3/10/2005	6/3/2005	6/27/2005
§295.13	Amendments	3/4/2005	3/10/2005	6/3/2005	6/27/2005
§§309.2, 309.3, 309.7	Amendments	3/4/2005	3/10/2005	6/3/2005	6/27/2005
§291.104	Amendments	3/4/2005	3/10/2005	6/3/2005	6/27/2005
Rule Review Plan	Published			6/17/2005	
§281.80	Amendments	6/17/2005	6/27/2005	FY2005	8/31/2005*
§291.26	Amendments	6/17/2005	6/27/2005	FY2005	8/31/2005*
§§291.31, 291.33	Amendments	6/17/2005	6/27/2005	Withdrawn	Withdrawn
§291.73	Amendments	6/17/2005	6/27/2005	FY2005	8/31/2005*
§291.74	Amendments	6/17/2005	6/27/2005	FY2005	8/31/2005*
§297.3	Amendments	6/17/2005	6/27/2005	FY2005	8/31/2005*

* Advance Notice

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TEXAS REGISTER - OPEN MEETING SUBMISSIONS

During FY2005, 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 – 9/3/04 Election of Officers	9/3/04
Open Meeting – 9/24/04 Board Meeting	9/13/04
Open Meeting – 11/9/04 Board Meeting	10/26/04
Open Meeting – 5/10/05 Board Meeting	4/25/05
Open Meeting – 7/8/05 Board Forum	6/27/05
Open Meeting – 8/9/05 Public Hearing	7/27/05
Open Meeting – 8/9/05 Board Meeting	7/27/05

7. *To review and monitor the Texas Register for activities of other agencies that would impact the policy and procedures of the Board throughout FY2005.*

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 circulated to appropriate staff as indicated:

Date	Rules from Other Agencies	Action
9/13/04	Proposed Rules from the Texas Department of Information Resources	Reported to Director of Administrative Services & Licensing; Information Systems Manager
10/13/04	Adopted Rules from the Texas Building and Procurement Commission	Reported to Director of Administrative Services & Licensing
10/21/04	Proposed Rules from the Texas State Library and Archives Commission	Reported to Director of Administrative Services & Licensing
11/30/04	Adopted Rules from the Texas Department of Information Resources	Reported to Director of Administrative Services & Licensing; Information Services Manager
2/16/05	Adopted Rules from the Texas Department of Public Safety	Reported to Board Members/Staff
3/18/05	Proposed Rules from the Texas Building and Procurement Commission	Reported to Director of Administrative Services & Licensing
3/21/05	Proposed Rules from the Employees Retirement System of Texas	Reported to Director of Administrative Services & Licensing

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Date	Rules from Other Agencies	Action
3/30/05	Adopted Rules from the Texas State Library and Archives Commission	Reported to Director of Administrative Services & Licensing
5/12/05	Proposed Rules from the Employees- Retirement System of Texas, Texas Building and Procurement Commission, and Texas State Library and Archives commission	Reported to Director of Administrative Services & Licensing
6/17/05	Adopted Rules from the Texas Employees Retirement System of Texas	Reported to Director of Administrative Services & Licensing
7/15/05	Proposed Rules from the Texas Department of Information Resources	Reported to Director of Administrative Services & Licensing; Information Systems Manager
8/8/05	Proposed Rules from the Texas State Office of Administrative Hearings	Reported to General Counsel

8. *To provide professional staff support to Board-appointed task forces, and complete other special projects as assigned, throughout FY2005.*

Status: ACCOMPLISHED

Comment: During FY2005, there were no task force meetings. However, the Division Director continued to work with the Task Force on Patient Counseling by email, finalizing rules to be presented to the Board. The Task Force on Pharmacy Compounding was appointed during the Summer 2005 and the Division Director worked on organizing meetings to be held in FY2006.

9. *To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2005.*

Status: ACCOMPLISHED

Comment:

- A. Division Director assisted the Texas Department of Public Safety in the review and approval of plans from seven Texas pharmacies to dispense prescriptions for Schedule II controlled substances issued by out-of-state practitioners.
- B. Senior Administrative Assistant Retta Cole maintained close contact with *Texas Register* staff as needed to prepare and publish rules in the *Texas Register*.

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C. The Division Director had contact with numerous agencies as indicated below:

Agency
Texas Department of State Health Services, Long Term Care Division
Texas Department of State Health Services, Drugs and Medical Devices Division
Texas Department of State Health Services, Facility Licensure
Texas Vendor Drug Program
Texas Department of Insurance
Texas Department of Public Safety, Official Prescription Program
Texas Department of Aging and Disabilities
Texas Department of Health and Human Services
Texas Office of the Attorney General
Texas Workforce Commission
U.S. Census Bureau, Dallas Regional Office
U.S. Food and Drug Administration, State Relations
U.S. Federal Probation Office
California Office of the Attorney General

State Boards of Pharmacy
Arkansas Board of Pharmacy
Colorado Board of Pharmacy
Illinois Board of Pharmacy
Maine Board of Pharmacy
Maryland Board of Pharmacy
Mississippi Board of Pharmacy

10. *To respond to open records requests throughout FY2005, in accordance with the procedures set forth in the Texas Public Information Act.*

Status: ACCOMPLISHED

Comment: As indicated in the chart below, TSBP experienced a 36% increase in the number of requests for records in FY2005, as compared to FY2004. On average, inquiries in FY2005 asked for more information (greater number of licensees per request) as compared to FY2004 (57% increase in the number of licensees who were the subjects of inquiry).

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OPEN RECORDS REQUESTS C FY01 through FY05

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
FY01	124	125	276	3,642	400	3,767	33	314	-21%	+67%
FY02	82	82	385	2,121	467	2,203	39	184	+17%	-42%
FY03	108	108	452	1,569	560	1,677	47	140	+20%	-24%
FY04	116	116	412	599	528	715	44	60	-6%	-57%
FY05	114	114	606	1,010	720	1,124	60	94	+36%	+57%

11. 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 FY2005.

Status: ACCOMPLISHED

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

A. The Division mailed 2,452 pieces of written information as indicated in the following chart:

Written Information	
Packets of Information	41
Memos Regarding Rules & Open Meetings	786
Letters	53
Emails	1,564
Surveys	8
TOTAL	2,452
AVERAGE PER MONTH	204

B. The Division Director gave 17 presentations and served as a resource on 23 occasions as indicated in the following charts:

Date	Group	Attendance (Approx.)
9/21/04	University of Texas 1 st Semester Pharmacy Students, Austin	135
9/23/04	Tom Thumb/Randall's Managers Meeting, Austin	65
9/26/04	North Texas Education Fair, Dallas	50
10/1/04	Texas Tech School of Pharmacy, Amarillo	60

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Date	Group	Attendance (Approx.)
10/8/04	McNeill High School Health Careers Class, Round Rock	16
11/3/04	Texas Southern University College of Pharmacy, 1 st Semester Class	75
11/4/04	West Texas Education Fair, El Paso	30
11/10/04	University of Texas College of Pharmacy – Preceptor Open House	35
11/20/04	Texas Pharmacy Association Academy of Pharmacy Technicians	75
12/1/05	Texas Pharmacy Congress	25
1/13/05	Caremark Pharmacy Staff, San Antonio	45
1/27/05	University of Houston 1 st Year Students	130
2/23/05	Texas Pharmacy Congress, Houston	25
3/5/05	South Texas Education Fair, Corpus Christi	85
4/23/05	East Texas Education Fair, The Woodlands	85
4/28/05	Dallas Area Pharmacists	20
5/7/05	American Association of Pharmacy Technicians – Alamo Chapter, San Antonio	60
TOTAL		1,016

Date	Resource
9/1/04	Texas Society of Health-System Pharmacists Preceptor Task Force
9/21/04	Representative of Pfizer
9/28/04	Representatives of HEB
9/29/04	Representatives of Cardinal Health
9/30/04	Representatives of Rx.com
10/6/04	Office of Patient Protection meeting
10/27/04	Office of Patient Protection meeting
11/10/04	Office of Patient Protection meeting
11/17/04	Texas Department of State Health Services Hospital Rules Work Group meeting
11/30/04	Joint Committee on Internship Programs
12/14/04	Representatives of Texas Department of Insurance
1/12/05	Texas Department of State Health Services Hospital Rules Work Group meeting
1/28/05	Representatives of Medco
2/9/05	Representative of Scriptpro
2/18/05	Representatives of Target

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2/22/05	Joint Committee on Internship Programs
3/2/05	Texas Department of State Health Services Hospital Rules Work Group meeting
5/5/05	Joint Committee on Internship Programs
6/1/05	Texas Department of State Health Services Hospital Rules Work Group meeting
6/27/05	Representative of QVL
7/20/05	Representatives of University of Incarnate Word School of Pharmacy
8/2/05	Joint Committee on Internship Programs
8/4/05	Representatives of Parmerica

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

Date	Training	Personnel
9/27/04	Orientation to Professional Services Division	Jeff Harrison, Pharmacist-Intern
12/3/04	Rules from November 2004 Board Meeting	Enforcement Staff
1/4/05	Orientation to Professional Services Division	Becky Damon, Cynthia Fazon, Misty Whitcomb, Julie Gray, Paul Holder, Susan Furnas
1/7/05	Review of Internship and Preceptor Requirements	Melinda Uballe, Carol Willess, Lisa Ake, Diana Rudeas
1/10/05	Overview of TSBP Laws and Rules	Paul Holder, Susan Furnas
2/25/05	Rules from February 2005 Board Meeting	Enforcement Staff
3/29/05	Orientation to Professional Services Division	Meredith Podraza, Pharmacist-Intern
5/17/05	Rules from May 2005 Board Meeting	Enforcement Staff
7/18/05	Orientation to Professional Services Division	Anna Hodges, Pharmacist-Intern; Kim Tangu, Pharmacist-Intern; Elida Olivari, Volunteer
8/19/05	Orientation to Professional Services Division	Shawn Sams, Pharmacist-Intern
8/24/05	Rules from August 2005 Board Meeting	Enforcement Staff

Other Activities

- P The Division Director assisted the Enforcement Division in the review and processing of over 150 complaints involving pharmacy technician applicants.
- P The Division Director routinely answered questions concerning the laws and rules, including their applicability to specific situations, for Enforcement and Licensing staff.
- P The Division Director assisted the Enforcement Division in answering calls routed to the Compliance Hotline.

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- P The Division Director monitored a portion of the website for currentness of the information presented. Changes and/or updates were forwarded to Network Specialist Todd Hayek.
- P The Division Director served on the agency Wellness Committee.
- P The Division Director organized “Pharmacy Week” activities during October 2004 for in-house staff.
- P Division Staff assisted other divisions by creating, updating, and/or changing over 29 forms and documents used by other divisions of the agency.
- P The Division Director processed ten notifications of Drug Therapy Management from pharmacists and nine requests for exemption from technician certification. During FY2005 Board Rule 295.13 regarding Drug Therapy Management by a Pharmacist under Written Protocol of a Physician was amended to no longer require pharmacists to notify TSBP when initiating drug therapy management.
- P Senior Administrative Assistant Retta Cole served on the “Word is Perfect” (Word Conversion) committee and assisted with staff training.

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 FY2004.*

Status: ACCOMPLISHED

Comment: Division staff completed the following education activities:

Retta Cole	
10/19/04	Texas Conference for Women
12/2/04	Orientation to EAP; EAP presentation
1/05	Basic Word Training Class
2/22/05	Stress Management; EAP presentation
2/05	Intermediate Word Training Class
3/05	Advanced Word Training Class

Allison Benz	
9/23 – 9/25/04	NABP/AACP Region VI meeting, Galveston
10/7/04	Legislative Communications Training
12/2/04	Orientation to EAP; EAP presentation
12/9/04	Developing an Effective mental Health Crisis Response Program; Bioterrorism Series
12/13/04	Texas Building and Procurement Commission On-line Recycling Training program

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1/6/05	Telicon Legislative Training Seminar, Advanced
2/2/05	Word 2002 Introduction Training
2/10/05	Stretch & Relax to Beat Stress; EAP Training
3/30/05	Agency Programmers & You. Working Together to Respond to Public Information Requires; Public Information Coordinators presentation
4/7/05	Legislative Overview
4/8-4/9/05	Texas Society of Health-System Pharmacists Annual meeting, Austin
5/24/05	Open Records Requests for Human Resource Documents; Public Information Coordinators presentation
7/6 – 7/10/05	Texas Pharmacy Association Annual meeting, San Antonio
8/23/05	Legislative Updates to the Public Information Act; Public Information Coordinators presentation
8/23/05	USP 797 In-house Training
8/25/05	Parenting Skills; EAP presentation

- 13. *To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2005.***

Status: ACCOMPLISHED

Comment: The annual review for Senior Administrative Assistant Retta Cole occurred on August 26, 2005.

- 14. *To destroy records in accordance with the agency-s record retention plan throughout FY2005; to update the Division's Policy and Procedure Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2005.***

Status: PARTIALLY ACCOMPLISHED

Comment: During FY2005, the Division accomplished this goal as follows:

- A. Records Management

Records in the possession of the Division scheduled for destruction during FY2005 under the approved Record Retention Schedule were identified.

- B. Policies and Procedures

The policies and procedures for handling Open Records requests were reviewed during FY2005 .

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15. *To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2005.*

Status: ACCOMPLISHED

Comment: Division Director made suggestions to keep the TSBP web site current and up to date. Division Director also developed a “wallet brochure” about TSBP to be provided at meetings or presentation with information about TSBP, a “Top 10 List for Operating a Pharmacy” and recommended pharmacist-interns be included in quarterly background checks.

16. *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 FY2005.*

Status: ACCOMPLISHED

Comment: Division Director recommended changes to Board Rules, specifically §291.20, §291.33, and §295.13, following the scheduled rule review of those rules.

17. *To prepare and submit a report on the accomplishment of Division objectives for incorporation in the agency's FY2004 Annual Report to be presented to the Board by its May 2005 Board Meeting.*

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2004 Annual Report was submitted to the Executive Director by the due date. Senior Administrative Assistant Retta Cole combined the various Divisions' reports into one report that was presented and approved by the Board at its May 2005 meeting.

Enforcement Division

FY2005 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of the Division's 17 Objectives for FY2005 (16 objectives were accomplished and one objective was partially accomplished).
2. TSBP met or exceeded, within a 5% variance, all six Key Measures as set forth in the FY04-05 Appropriations Act (see Ongoing Objective #1 for further details).
3. As reflected in the chart below, TSBP closed more complaints in FY2005 than in prior fiscal years (see Ongoing Objective #3 for further information regarding complaints that were closed by TSBP in FY2005; see also Significant Constraints #1).

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY00	1577		1513		96%	220 Days	
FY01	1683	+7%	1667	+10%	99%	262 Days	+19%
FY02	1836	+9%	2137	+28%	116%	221 Days	-16%
FY03	1935	+5%	1887	-12%	98%	153 Days	-31%
FY04	4475	+131%	3018	+60%	67%	118 Days	-23%
FY05	3086	-31%	3327	+10%	108%	196 Days	+66%

4. 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 #4 for further details).
5. Division staff continued to implement and refine the new program that required new pharmacies to be inspected before receiving a pharmacy license. During FY2005, Field Compliance staff conducted 63 pre-inspections.
6. Division staff spent significant time and effort responding/handling approximately 8,000 telephone calls received via the Compliance Queue Phone Line. Division staff also spent time and effort assisting Board Members, the Executive Director, other Board staff and other agencies/organizations (see Ongoing Objective #6 for further details).
7. Division Director and Chief of Compliance served as preceptors for six students from three Texas colleges of pharmacy (see Ongoing Objective #8 for further details).

8. During FY2005, Division staff made a conscientious effort to purge old complaint files in accordance with the agency's approved record retention schedule. More records were destroyed in FY2005 (72 cubic feet) than in any prior fiscal year (see Ongoing Objective #13 for further details).
9. Division staff made nine presentations to over 1,200 individuals during FY2005 (see Ongoing Objective #6 for further details).
10. Although the Division filled 11 positions in FY2005, there was a turnover of only two positions in FY2005. The Division ended FY2005 with only one vacant position. The 12 positions involved are described below:
 - As a result of funding appropriated by the 78th Texas Legislature, the Enforcement Division was able to hire four new employees: one field investigator, one field compliance inspector, one in-house investigator, and one administrative assistant;
 - The Division began FY2005 with three vacant positions: Staff Compliance Officer (formerly the Assistant Director of Enforcement position); one field investigator; and one field compliance officer;
 - Three Division employees were promoted into the new/vacant positions; and
 - Two Division employees (field investigators) resigned.

Although the activities of advertising, interviewing, and selection of the one vacant position (Compliance Specialist) were accomplished in FY2005, this position was not officially filled until September 1, 2005 (FY2006). See Ongoing Objective #12 and Significant Constraints #4 for further information regarding personnel changes.

FY2005 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Although TSBP closed/resolved more complaints in FY2005 than in the prior fiscal year, TSBP's average complaint time increased from 118 days in FY2004 to 196 days in FY2005. This 66% increase in the average time to close a complaint was due to the fact that, in FY2004, TSBP delayed the investigation/resolution of all complaints not involving a pharmacy technician's application for registration. TSBP was forced to delay the investigation/resolution of complaints not involving a technician's application for registration because the funding for the pharmacy technician registration program did not provide for the Enforcement Division to have any additional employees in FY2004. As a result of this situation, the pending complaints became a year older, which, in turn, had a negative impact on the agency's average complaint resolution time in FY2005. See Significant Accomplishment #3 and Ongoing Objective #3 for further information regarding complaints that were closed in FY2005.
2. The most common type of consumer complaint was a complaint in which the complainant alleged that a dispensing error was committed by a pharmacist and/or pharmacy (see Ongoing Objective #3 for a trend analysis indicating the number of dispensing error complaints closed during the past five years).
3. Because the Compliance field staff team was not fully staffed in FY2005, the team fell short of its goal to inspect 2,000 pharmacies during FY2005. The Compliance field staff inspected 1,927 pharmacies (96% of the goal), missing the target by only 73 pharmacies (see Ongoing Objective #2 for further details regarding inspections).
4. Division staff continued to spend significant time/efforts monitoring compliance with the terms of disciplinary orders that were entered by TSBP in FY2005. A massive number of the disciplinary orders entered in FY2005 required some type of monitoring (531 orders or 96% of the total number of orders entered in FY2005). Monitoring the following types of orders was extremely labor-intensive:
 - 61 disciplinary orders involved a dispensing error, which generally required the licensee to submit proof of additional hours of continuing education (orders on pharmacists) or policies and procedures relating to quality assurance programs, including peer review procedures (orders on pharmacies); and
 - 86 disciplinary orders involving technicians who were required to undergo an evaluation by a mental health professional before their registrations would be granted.
5. In FY2005, Division staff spent an extraordinary amount of time and effort advertising for nine vacant positions, which required reviewing/evaluating 481 applications and conducting 46 interviews (see Significant Accomplishments #8 and Ongoing Objective #12 for further information regarding personnel changes).

Enforcement Division

FY2005 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 cooperation with other Divisions, in:*
 - A. *preparing testimony, attending public hearings, reviewing legislation and providing any fiscal or technical information as required by the 79th Texas Legislature; and*
 - B. *reviewing all legislation introduced by the 79th Texas Legislature that has an impact on the practice of pharmacy or agency operations and monitor the progress of this legislation throughout FY2005, including the legislation relating to the Sunset provisions of the Texas Pharmacy Act.*

Status: **ACCOMPLISHED**

Comment: Division Director assisted Executive Director through the following activities:

- A. Division Director worked with the Director of Administrative Services to update the agency's "Data Sheet" regarding enforcement performance measures accomplished and disciplinary sanctions imposed during FY2004; the Data Sheet was provided to the 79th Texas Legislature during TSBP's budget hearings. In addition, Division Director attended two budget hearings (Senate Finance on January 31, 2005, and House Appropriations Subcommittee/Regulatory on February 8, 2005).
- B. Upon the request of Representative DeShotel, Division Director prepared a special report regarding data on disciplinary orders entered between FY2000 and FY2004.

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- C. Division Director worked with the Director of Administrative Services to prepare fiscal notes on various bills, including the following:
- S.B. 410 and H.B. 1040 (Sunset bill);
 - S.B. 518 and H.B. 273 (bill regarding the inspection/approval of Canadian pharmacies);
 - S.B. 492 and S.B. 1457 (bill regarding the regulation of compounding pharmacies); and
 - S.B. 749 and H.B. 1336 (bill regarding the regulation of pharmacy benefit managers).
- D. Upon the Executive Director's request, Division Director reviewed and provided input on several pieces of legislation.

Objectives (Ongoing)

- To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2004-2005 Appropriations Act to Executive Director by specified due dates throughout FY2005; to assist in the preparation of applicable reports to the Legislative Budget Board and Governor's Office of Budget, Planning & Policy regarding performance measures.*

Status: ACCOMPLISHED

Comment: Throughout FY2005, Division staff collected data relating to enforcement and peer assistance performance measures. The statistical data was certified and submitted to the Legislative Budget Board (LBB) and Governor's Office of Budget, Planning & Policy (GBO) by the prescribed due dates, in conjunction with 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 FY2005. The other ten 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, all six key measures and four of seven non-key measures. Accordingly, TSBP met or exceeded 77% of the FY2005 projections for 13 enforcement-related performance measures.

Enforcement Performance Measure	FY05 Projected Performance	FY05 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
Outputs:				
Inspections	2,000	1,927	NK	Not Met
Jurisdictional Complaints Resolved	1,700	3,288	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	135	148	K	Exceeded
Number of Students Participating in a Peer Assistance Program	1	1	NK	Met
Efficiency:				
Average Cost per Jurisdictional Complaint Resolved	\$464.08	\$314.46	NK	Exceeded
Average Time for Jurisdictional Complaint Resolution	250	197	K	Exceeded

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Outcomes:				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	10%	16.45%	K	Exceeded
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	99%	96.40%	K	Met
Recidivism Rate of Those Receiving Disciplinary Action	6%	2.09%	NK	Met
Percent of Jurisdictional Complaints Resolved within Six Months	70%	60%	NK	Not Met
Recidivism Rate for Participants in Peer Assistance Program	20%	31%	NK	Not Met
One-Year Completion Rate for Participants in Peer Assistance Program	78%	79%	NK	Met
Explanatory:				
Jurisdictional Complaints Received	1,800	3,047	K	Exceeded

* Within a 5% variance, TSBPs actual performance was either: equivalent to projected performance (AMet®); better than projected performance (AExceeded); or fell below projected performance ("Not Met").

2. *To monitor pharmacy inspections and pharmacists= practice by conducting 2,000 inspections, inspection-visits, and visits, including follow-up inspections to AWarning Notices@ throughout FY2005. To inspect pharmacies and monitor pharmacists= practice throughout FY2005, 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: PARTIALLY ACCOMPLISHED

Comment: The Compliance field staff fell short of its inspection goal to inspect 2,000 pharmacies during FY2005. The Compliance field staff inspected 1,927 pharmacies (96% of the goal), missing the target by only 73 pharmacies. This shortfall was because the Compliance field team was not fully staffed in FY2005. Two staff (one Compliance Officer and one Compliance Inspector) were hired in January 2005 to complete the field Compliance team of six members. Because the two new team members underwent an intensive three-month orientation and training period, they were not conducting inspections by themselves until mid-FY2005. Accordingly, during the first six months of the fiscal year, the Division only had four full-time Compliance staff inspecting pharmacies.

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

Inspections	1,599
Pre-Inspections	63
Partial-Inspections	221
Inspection-Visits	39
Audit	1
Other	4
Total FY05	1,927

The terms inspections, pre-inspections, partial-inspections, and inspection-visits are described as follows:

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

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Statistics for AWarning Notices@ issued as a result of these inspection/visits are outlined below:

FY05	# OF INSPECTIONS/ VISITS (% OF TOTAL)	# OF AWARNING NOTICES@ ISSUED*	# OF PHARMACIES RECEIVING AWARNING NOTICES@ (% RECEIVING A AWARNING NOTICE@)**
Class A Pharmacies	1,456	371	25%
Class B Pharmacies	159	32	20%
Class C Pharmacies	205	54	26%
Class D Pharmacies	107	16	15%
FY05 Totals	1,927	473	25%

* A pharmacy may be issued a AWarning Notice@ for non-compliance with more than one condition.
 ** This figure is the number and percentage of pharmacies receiving a AWarning Notice@ during an inspection/visit and is based on the number of inspections/partial-inspections/visits conducted for the particular class of pharmacy.

Conditions Receiving AWarning Notices@
 Percentages are based on the total number of AWarning Notices@ issued to Pharmacies in FY2005 (473). Note - Pharmacies may be issued a AWarning Notice@ for non-compliance with more than one condition.

Equipment	114 (12%)	Computer Records Non-Compliance	2
Balance Failed Insp	83	Records	41 (4%)
Equipment Insp Due (Not Balance)	31	Records Not Available	18
Insufficient Equipment	70	DEA Order Forms Incomplete	0
Pharmacy Technicians	257 (26%)	Absence of R.Ph. Record	7
No/Incomplete Training	185	Rx Not Separated	3
No/Improper Supervision	41	Rx Records not Numerical Order	2
Improper Registration	30	No Provision Log (Class D)	0
Supp. Personnel Name Tags	1	Invoices Not Separated/Retrievable	1
Inadequate Library	75 (8%)	Records for Non-Sterile Compounds	8
Counseling Area	1 (<1%)	Improper CV Procedures	1
Licenses	122 (12%)	Improper Refill Documentation	1
Licenses Not Posted	89	OBRA Violations	16 (2%)
Delinquent Licenses	33	Written Information Not Provided	0
Prescriptions	29 (3%)	No Patient Counseling	13
Lack Proper Information	10	PMR Absent or Incomplete	3
Prescription Label Incomplete	6	Sterile Pharmaceutical Violations	47 (5%)
Triplicate Non-Compliance	13	No/Incomplete QA/QC	6
Drug Stock/Environment	65 (7%)	No/Incomplete P&P Manual	15
Improper Environment	31	No/Inadequate Preparation Area	20
Out-of-Date Drug Stock	19	IV Preparation	2
Security	2	No DUR	3
Unsanitary	8	Absence of R.Ph. Pick-Up-Records	1
Improper Drug Storage	1	Improper Distribution	5 (<1%)
Area for Non-Sterile Compounding	0	No PIC	6 (<1%)
Violation of Limited Formulary	4	Dispensing	9 (1%)
Prohibited Drugs (Class D)	0	Improper Dispensing	2
Inventory	80 (8%)	Aiding and Abetting	2
No Annual Inventory	45	Illegal Dispensing	3
No Change of Ownership Inventory	5	Substitution Non-compliance	0
No Change of PIC Inventory	11	Out-of-State Rxs for Controlled Substances	1
Incomplete Inventory	18	Improper Emergency Room Dispensing	1
No Perpetual Inventory (Class C)	0	Notification Violation	18 (2%)
Improper Drug Destruction	1	Theft & Loss of C/S Not Reported	6 (<1%)
Improper Prepackaging Procedures	29 (3%)	Gray Market Diversion	0 (0%)
Computer Systems	45 (5%)	Improper Closing/Change of Ownership	4 (<1%)
Computer Records Incomplete	43	Improper Inpatient Procedures (Class C)	1 (<1%)

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

Purpose of Inspection (In Order of Priority)	Number of Inspections in FY03	Number of Inspections in FY04	Number of Inspections in FY05	% of FY05	3-Yr. Avg.	% of 3-Yr. Avg.
Complaint	55	41	49	3%	48	2%
Follow-up to Disciplinary Orders	44	58	186	10%	96	5%
Pre-Inspection	22	92	63	3%	59	3%
New Pharmacies	156	82	81	4%	106	5%
Change of Ownership	68	23	77	4%	56	3%
Preceptor	227	141	109	6%	159	8%
Follow-up to "Warning Notice"	53	27	65	3%	48	2%
Routine Inspections	1,886	1,068	1,281	66%	1,412	71%
Other	18	2	16	1%	12	1%
TOTAL	2,529	1,534	1,927	100%	1,997	100%

3. *To coordinate and monitor throughout FY2005, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants. To investigate complaints throughout FY2005, 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;

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- distributing prescription drugs pursuant to forged or altered prescriptions;
 - 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: In FY2004, TSBP experienced a massive increase in the number of complaints received due to the implementation of a new program to register all pharmacy technicians. TSBP continued to register pharmacy technicians in FY2005, but not at the record pace that was experienced in FY2004. Accordingly, TSBP experienced a 31% decrease in the number of complaints received in FY2005, as reflected in the chart below. However, this decrease allowed TSBP staff the time to close more complaints. As reflected in the chart below, TSBP closed 10% more complaints in FY2005 than in the prior fiscal year.

During FY2004, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technician's application for registration. This delay caused pending complaints to get older which had a negative impact on the agency's average complaint resolution time [i.e., the average complaint resolution time increased by 66% (from 118 days in FY2004 to 196 days in FY2005)].

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Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY00	1577		1513		96%	220 Days	
FY01	1683	+7%	1667	+10%	99%	262 Days	+19%
FY02	1836	+9%	2137	+28%	116%	221 Days	-16%
FY03	1935	+5%	1887	-12%	98%	153 Days	-31%
FY04	4475*	+131%	3018**	+60%	67%***	118 Days	-23%
FY05	3086	-31%	3327	+10%	108%	196 Days	+66%

* Of the 4,475 complaints received, 2,108 complaints (47%) were filed against pharmacy technicians (applicants for registration).

** Of the 3,018 complaints closed, 1,724 complaints (57%) were filed against pharmacy technicians (applicants for registration).

*** TSBP closed 1,724 of the 2,108 complaints filed against pharmacy technicians (82% closure rate).

The most common type of consumer complaint was a complaint in which the complainant alleged that a dispensing error was committed by a pharmacist and/or pharmacy. The following chart indicates the number of dispensing error complaints closed during the past five years:

**DATA ON DISPENSING ERROR COMPLAINTS
CLOSED FY01 - FY05**

Type of Dispensing Error	FY01	FY02	FY03	FY04*	FY05	5-Year Avg.
Wrong Drug/Strength or Wrong Directions for Use	189	213	152	122	126	160
Mislabeling	15	16	10	7	11	12
Dispensed Wrong Quantity	57	85	66	30	70	62
Dispensed Outdated Drug	6	12	4	5	3	6
Packaging/Delivery Error	17	24	10	8	14	15
Error + No Counseling	27	26	25	9	7	19
Total # Dispensing Error Complaints	311	376	267	181	231	273
Total # Complaints Closed	1,667	2,137	1,887	3,081	3,327	2,420
% Dispensing Error Complaints	19%	18%	14%	6%	7%	13%

* During FY04, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technician's application for registration. The majority of complaints closed in FY04 involved the implementation of the new technician registration program and thereby this data is skewed when compared to prior fiscal years.

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

Number of Complaints Handled Through Field Investigations FY2001 - FY2005					
Fiscal Year	Compliance Officers	%	Investigators	%	Total
FY01	100	34%	191	66%	291
FY02	59	21%	228	79%	287
FY03	76	31%	166	69%	242
FY04	37	17%	180	83%	217
FY05	107	46%	126	54%	233
5-Year Average	76	30%	178	70%	254

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

DATA ON COMPLAINTS CLOSED FY2003 - FY2005

Form of Complaints	FY03	FY04*	FY05	% of FY05	3-Yr. Avg.	% of 3-Yr. Avg.
Telephone	74	64	65	2%	68	2%
Letter	223	125	218	7%	189	7%
TSBP Complaint Form	224	171	230	7%	208	8%
HPC 800 #	84	44	93	3%	74	3%
Fax	97	65	64	2%	75	3%
Visit	16	10	3	<1%	10	<1%
Agency Report	48	19	25	<1%	31	1%
Inspection	26	10	22	<1%	19	<1%
Interoffice Referral	52	30	70	2%	51	2%
Licensure Application	127	1,844*	1,641	49%	1,204	44%
Data Bank	8	8	11	<1%	9	<1%
Theft/Loss Report	460	293	490	15%	414	15%
Investigation	88	106	68	2%	87	3%
Intra-Agency Referral	31	27	18	<1%	25	<1%
Malpractice Report	10	17	9	<1%	12	<1%
Press Clip	4	4	2	<1%	3	<1%
Email **	45	29	32	<1%	35	1%
Internet **	270	152	265	8%	229	8%
Other	0	0	1	N/A	0	0%
TOTAL	1,887	3,018	3,327	100%	2,744	100%

* During FY04, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technician's application for registration. The majority of complaints closed in FY04 involved the implementation of the new technician registration program and thereby, this data is skewed when compared to prior fiscal years.

** TSBP accepts complaints via email, as well as through the agency's website (Internet). TSBP makes a distinction between email complaints (where the complainant sends an electronic message/complaint to a TSBP employee) and Internet complaints (where the complainant completes the on-line TSBP complaint form). TSBP began accepting on-line complaints in the Spring of 2001. In FY2003, TSBP experienced a 49% increase in the number of on-line complaints that were filed as compared to FY2002.

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DATA ON COMPLAINTS CLOSED FY2003 - FY2005

Source of Complaints	FY03	FY04*	FY05	% of FY05	3-Yr. Avg.	% of 3-Yr. Avg.
Consumer	629	409	717	22%	585	21%
Government Agency	88	59	73	2%	73	3%
Pharmacist	99	56	44	1%	66	2%
Pharmacist (Self)	75	47	88	3%	70	3%
Applicant (Self)	87	41	102	3%	77	3%
Technician	N/A	7	7	<1%	N/A	N/A
Technician Applicant (Self)	N/A	1,099*	868	26%	N/A	N/A
TSBP	181	800	770	23%	584	21%
Doctor	65	28	45	1%	46	2%
Other Health Professional	28	23	17	<1%	23	<1%
NABP	16	11	10	<1%	12	<1%
PIC, Pharmacy Manager, or Supervisor	461	304	496	15%	420	15
Loss Prevention Officer (Corporate)	0	3	3	<1%	2	<1%
Manufacturing Rep.	4	4	1	<1%	3	<1%
Pharmacy Recovery Network (PRN)	4	7	6	<1%	6	<1%
Insurance Company	9	12	6	<1%	9	<1%
Attorney	10	10	8	<1%	9	<1%
Employee/Ex-Employee	17	9	14	<1%	13	<1%
Media	6	4	3	<1%	4	<1%
Drug Screening	86	67	41	1%	65	2%
Other	22	18	8	<1%	16	<1%
TOTAL	1,887	3,018	3,327	100%	2,744	100%

* During FY04, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technician's application for registration. The majority of complaints closed in FY04 involved the implementation of the new technician registration program and thereby, this data is skewed when compared to prior fiscal years.

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DATA ON CLOSED FY2003 - FY2005 COMPLAINTS

Subjects of Complaints	FY03	FY04*	FY05	3-Yr. Avg.
Licensees	1,633 (87%)	1,081 (36%)	1,544 (46%)	1,419 (52%)
Pharmacist	671	511	489	557
In-State Pharmacy	906	538	1,026	823
Out-of-State Pharmacy	56	32	29	39
Technicians	N/A	N/A	123 (4%)	41 (2%)
Applicants	104 (6%)	1,868 (62%)	1,604 (48%)	1,192 (43%)
Pharmacist	43	27	53	41
Pharmacy	7	6	22	12
Intern	54	29	66	50
Technician	N/A	1,806*	1,463	1,089
Non-Licensees	150 (8%)	69 (2%)	56 (2%)	92 (3%)
Doctor	20	13	7	13
Manufacturer	1	0	0	0
Wholesaler	2	1	1	1
Non-Licensed Facility or Person	76	45	34	52
Insurance Company/PBM	4	1	4	3
Pharmacy Technician	35	N/A	N/A	N/A
Out-of-State Facility	12	7	8	9
Other	0	2	2	1
TOTAL	1,887	3,018	3,327	2,744

* During FY04, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technicians application for registration. The majority of complaints closed in FY04 involved the implementation of the new technician registration program and thereby, this data is skewed when compared to prior fiscal years.

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NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2003 - FY2005

Alleged Violation	FY03	FY04*	FY05	3-Yr. Avg.	% of 3-Yr. Avg.
Diversion	22	18	11	17	<1%
Controlled Substances (C/S)	19	11	8		
Dangerous Drugs (D/D)	2	1	1		
Both (C/S & D/D)	1	6	2		
Unauthorized Dispensing	11	12	15	13	<1%
Controlled Substances	3	2	5		
Dangerous Drugs	7	7	6		
Both (C/S & D/D)	1	3	4		
Illegal Delivery	2	1	3	2	<1%
Controlled Substances	0	0	2		
Dangerous Drugs	1	0	0		
Both (C/S & D/D)	1	1	1		
Illegal Possession	4	0	1	2	<1%
Controlled Substances	2	0	0		
Both (C/S & D/D)	2	0	1		
Convictions	89	1,082	1,001	724	26%
Felony	15	16	34		
Misdemeanor	33	202*	130		
DWI / PI	38	409*	197		
Deferred Adjudication	3	131	195		
Offense on Application	N/A	324*	445		
Dispensing Error	267	181	240	229	8%
Wrong Drug/Strength	152	122	126		
Mislabeling	10	7	11		
Wrong Quantity	66	30	70		
Outdated Drug	4	5	3		
Packaging/Delivery	10	8	14		
Dispensing Error / Patient Counseling	25	9	7		
Patient Counseling	30	8	9	16	<1%

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Alleged Violation	FY03	FY04*	FY05	3-Yr. Avg.	% of 3-Yr. Avg.
Drug Regimen Review	22	14	12	16	<1%
Theft/Loss	469	303	499	424	15%
Aiding & Abetting	10	11	9	10	<1%
Action by Other Board	40	25	42	36	1%
Substitution	62	37	83	61	2%
Non-Compliance with Disciplinary Order	151	121	90	121	4%
Interference with Doctor/Patient Relationship	42	37	74	51	2%
Confidentiality	14	6	13	11	<1%
Failed to Keep Records	5	4	0	3	<1%
Impairment	28	22	21	24	<1%
Probable Cause	90	5	5		
Drug & Alcohol	4	6	1		
Drug	6	8	10		
Alcohol	3	1	2		
Physical	2	0	0		
Mental	4	2	3		
Negligence	1	0	0	0	0%
Unsafe Practice	6	3	2	4	<1%
Unprofessional Conduct	4	7	7	6	<1%
Gross Immorality	0	2	1	1	<1%
Fraud	36	774	652	487	18%
Fraud, Deceit & Misrepresentation	1	3	2		
Falsified Response to Warning Notice	0	0	1		
Falsified Application	23	758	636		
Filled/Passed Forged Prescription	6	11	9		
Insurance Fraud	3	1	2		
Medicare Fraud	3	1	2		
Changed Prescription	48	20	53	40	1%

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Alleged Violation	FY03	FY04*	FY05	3-Yr. Avg.	% of 3-Yr. Avg.
Non-Therapeutic Dispensing	21	13	17	17	<1%
Excessive Purchases of Controlled Substances	0	0	0	0	0%
Anabolic Steroids	2	0	0	1	<1%
Grey Market Diversion	3	2	2	2	<1%
Samples	0	6	2	3	<1%
Technician Violation	6	2	12	7	<1%
Improper Security	3	3	2	3	<1%
Problem with OTC Drug	1	2	1	1	<1%
Closed Pharmacy Improperly	19	4	6	10	<1%
Operating Pharmacy without License	3	4	9	5	<1%
Working Conditions	21	5	19	15	<1%
Delinquent License	6	2	5	4	<1%
Kickbacks	0	0	1	0	0%
No PIC	4	0	0	1	<1%
Recordkeeping Error	84	37	67	63	2%
Notification Violation	2	0	1	1	<1%
No Annual Inventory / No PIC Inventory	4	0	1	2	<1%
C-II Rx	4	1	1	2	<1%
Improper Rx-s Issued by Doctors	7	3	1	4	<1%
Advertising	59	12	13	28	1%
Overcharging	2	0	4	2	<1%
Billing Dispute	34	30	64	43	2%
Customer Service	52	29	49	43	2%
Hot Check	2	25	25	17	<1%
Accountability Audit Discrepancies (shortages/overages)	N/A	N/A	2	N/A	N/A
CE Audit	4	13	23	13	<1%
Default on Student Loans	0	0	0	0	0%
Other Allegations	164	121	147	144	5%
Texas Pharmacy Act	39	45	24		

ENFORCEMENT DIVISION

Alleged Violation	FY03	FY04*	FY05	3-Yr. Avg.	% of 3-Yr. Avg.
Texas Dangerous Drug Act	1	1	0		
Texas Controlled Substance Act	13	3	7		
Food Drug & Cosmetic Act	11	6	6		
TSBP Rule	59	45	90		
Other Laws/Rules	41	21	20		
Reinstatement	7	7	6	7	<1%
Modification	10	9	18	12	<1%
TOTAL	1,887	3,018	3,327	2,744	100%

* During FY04, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technician's application for registration. The majority of complaints closed in FY04 involved the implementation of the new technician registration program and thereby, this data is skewed when compared to prior fiscal years.

ENFORCEMENT DIVISION

**ACTION TAKEN BY TSBP
TO CLOSE COMPLAINTS FY2003 - FY2005**

	FY2003	FY2004*	FY2005	3-Yr. Avg.	% of 3-Yr. Avg.
Investigations Not Resulting in Disciplinary Action:	1,469	2,397	2,350	2,072	76%
Investigate + Dismissal (Warning) Letter	389	1,149	896	811	30%
Investigate + Complaint Closed with Verbal Warning	387	204	386	326	12%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	313	780	679	591	22%
Inspections	45	24	74	48	2%
Inspection + Warning Notice or Dismissal Letter	10	2	11	8	<1%
Application Withdrawn	N/A	N/A	15	N/A	N/A
Other **	325	238	289	284	10%
Investigations Resulting in Disciplinary Action:	236	515	717	489	18%
Agreed Board Order	213	446	523	394	14%
Board Order	7	15	12	11	<1%
Preliminary Notice Letter + Dismissal (Warning) Letter	1	0	1	1	<1%
PNL + Application Withdrawn (with or without Inf. Conf.)+	0	35	162	66	2%
PNL + Informal Conference + Dismissal Letter	10	10	6	9	<1%
PNL + Informal Conference + Case Dismissed	5	9	12	9	<1%
PNL + Case Dismissed	N/A	N/A	1	N/A	N/A
Referrals To:	108	57	73	79	3%
Medical Board	4	4	1	3	<1%
PRN Program	10	0	2	4	<1%
Supervisor	7	2	8	6	<1%
Other Agency	87	51	62	67	2%
No Action Because:	74	49	187	103	4%
No Violation	48	24	31	34	1%
No Jurisdiction	19	18	16	18	<1%
Insufficient Information	7	6	14	9	<1%
Other	0	1	126	42	2%
TOTAL	1,887	3,018	3,327	2,744	100%

* During FY04, TSBP delayed the investigation/resolution of complaints not involving a pharmacy technician's application for registration. The majority of complaints closed in FY04 involved the implementation of the new technician registration program and thereby, this data is skewed when compared to prior fiscal years.

+ FY04 was the first year to use the disposition code for PNL + Application Withdrawn.

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

ENFORCEMENT DIVISION

**Report on Theft/Loss of Controlled Substances in Texas Pharmacies due to
Employee Pilferage
FY2005 (9/1/04 – 8/31/05)
A total of 264 reports involving 267 individuals**

CLASSIFICATION OF EMPLOYEE	Class "A"	Class "C"	Hospital Floor Stock	Total	%	DU	%
Registered Pharmacist	23	0	0	23	8.65%	159,796	19.45%
Registered Pharmacy Technician	60	5	0	65	24.44%	407,170	49.57%
Pharmacy Technician-in- Training	6	2	0	8	3.01%	30,698	3.74%
Physician	0	0	1	1	<1%	131	<1%
Registered Nurse	0	0	18	18	6.77%	2,679	<1%
Certified Registered Nurse Anesthetist	0	0	3	3	1.13%	38	<1%
Licensed Vocational Nurse	0	0	9	9	3.38%	3,419	<1%
Nurse's Aid	0	0	0	0	N/A	0	N/A
Delivery – In or Out of Pharmacy	21	0	0	21	7.89%	11,927	1.45%
Pharmacy Cashier – Pharmacy Clerk	7	0	0	7	2.63%	49,664	6.05%
Pharmacy Staff – Unidentified	43	5	0	48	17.98%	136,730	16.65%
Hospital Staff – Unidentified	0	0	10	10	3.76%	403	<1%
Hospital Staff – Pharmacy Staff	0	0	3	3	1.13%	103	<1%
Miscellaneous	43	8	0	51	19.55%	18,635	2.27%
TOTALS	203	20	44	267	100%	821,393	100%

ENFORCEMENT DIVISION

Report on Theft/Loss of Controlled Substances in Texas Pharmacies due to Employee Pilferage – by Individuals

CLASSIFICATION OF EMPLOYEE	FY2004		FY2005		% Change
	Total # of Individuals	%	Total # of Individuals	%	
Registered Pharmacist	19	4%	23	9%	+21%
Registered Pharmacy Technician	102	23%	65	24%	-36%
Pharmacy Technician-in-Training	9	2%	8	3%	-11%
Physician	0	N/A	1	<1%	+100%
Registered Nurse	34	8%	18	7%	-47%
Certified Registered Nurse Anesthetist	4	<1%	3	1%	-25%
Licensed Vocational Nurse	9	2%	9	3%	N/A
Nurse's Aid	0	N/A	0	N/A	N/A
Delivery – In or Out of Pharmacy	41	9%	21	8%	-49%
Pharmacy Cashier – Pharmacy Clerk	14	3%	7	3%	-50%
Pharmacy Staff – Unidentified	99	23%	48	18%	-52%
Hospital Staff – Unidentified	15	3%	10	4%	-33%
Hospital Staff – Pharmacy Staff	8	2%	3	1%	-63%
Miscellaneous	81	19%	51	20%	-37%
TOTALS	435	100%	267	100%	-39%

ENFORCEMENT DIVISION

Report on Theft/Loss of Controlled Substances in Texas Pharmacies due to Employee Pilferage – by Dosage Units

CLASSIFICATION OF EMPLOYEE	FY2004		FY2005		% Change
	Total # of Dosage Units	%	Total # of Dosage Units	%	
Registered Pharmacist	112,385	11%	159,796	19%	+42%
Registered Pharmacy Technician	518,688	50%	407,170	50%	-22%
Pharmacy Technician-in-Training	10,901	1%	30,698	4%	+182%
Physician	0	N/A	131	<1%	+131%
Registered Nurse	2,934	<1%	2,679	<1%	-9%
Certified Registered Nurse Anesthetist	137	<1%	38	<1%	-72%
Licensed Vocational Nurse	7,574	<1%	3,419	<1%	-55%
Nurse's Aid	0	N/A	0	N/A	N/A
Delivery – In or Out of Pharmacy	20,143	2%	11,927	1%	-41%
Pharmacy Cashier – Pharmacy Clerk	62,564	6%	49,664	6%	-21%
Pharmacy Staff – Unidentified	254,096	25%	136,730	17%	-46%
Hospital Staff – Unidentified	276	<1%	403	<1%	+46%
Hospital Staff – Pharmacy Staff	380	<1%	103	<1%	-73%
Miscellaneous	41,501	4%	18,635	2%	-55%
TOTALS	1,031,579	100%	821,393	100%	-20%

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4. *To provide technical assistance, maintain liaison, and coordinate joint investigations of pharmacists, interns, pharmacy technicians, and pharmacies, in line with the Alead agency approach,[@] with federal, state, and local law enforcement agencies, including health regulatory or administrative agencies, throughout FY2005.*

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

State/Local Agencies	Division and/or Location
Department of Public Safety	Austin, Webster, Jasper, Conroe, Bastrop, Houston, Katy, Palestine, Waco, Temple, Belton, Dallas, Bryan, College Station, Huntsville, San Angelo, Georgetown, Burnet, Ozona, San Antonio, Midland, Corpus Christi, Laredo, Beeville, Victoria, Karnes City, Kerrville, McAllen, Lubbock, Houston, Garland, Dallas, Sherman, Kaufman, Texarkana, Longview, Odessa, Midland, Tyler, Lufkin, Beaumont, Bay City, El Paso, Mc Kinney, Abilene, Lubbock, and Amarillo, Texas.
Sheriff's Offices	Jefferson County, Beaumont, Texas; Orange County, Orange, Texas; San Patricio, Sinton, Texas; Collin County, Mc Kinney, Texas; Denton County, Denton, Texas; Potter County, Amarillo, Texas; Hartley County, Channing, Texas; Williamson County, Georgetown, Texas; Travis County, Austin, Texas; Bell County, Belton, Texas; Tom Green County, San Angelo, Texas; Brazos County, Bryan, Texas; Burnet County, Burnet, Texas; Live Oak County, George West, Texas; George West County, Atascosa County, Jourdanton, Texas; Wilson County, Floresville, Texas; Dewitt County, Cuero, Texas; Fayette County, La Grange, Texas; Victoria County, Victoria, Texas; Bee County, Beeville, Texas; Karnes County, Karnes City, Texas; Colorado County, Columbus, Texas; San Patricio County, Sinton, Texas; Grayson County, Sherman, Texas; Ector County, Odessa, Texas; Cook County, Gainesville, Texas; Dallas County, Dallas, Texas; Tarrant County, Fort Worth, Texas; Montgomery County, Conroe, Texas; Harris County, Houston, Texas, Brazoria County, Angleton, Texas; Reagan County, Big Lake, Texas; and Walker County, Huntsville, Texas.
Police Departments	Texas - Galveston, Port Arthur, Vidor, Friendswood, Pearland, Cleburne, Mansfield, Desoto, Forney, Richardson, Austin, Sulphur Springs, South Padre Island, Plano, Dallas, Lubbock, Sherman, Denison, McKinney, Irving, Allen, Longview, Fort Worth, Denton, The Colony, Live Oak, Boerne, Pleasanton, Schulenburg, Kenedy, Karnes City, Beeville, Lewisville, San Antonio, Gonzales, Helotes, Georgetown, Temple, Round Rock, Bryan, Conroe, College Station, Lufkin, Waco, Midland, Odessa, Abilene, Bonham, Houston, League City, Baytown, Tyler, Amarillo, Marshall, North Richland Hills, Frisco, Ennis, Rowlett, Victoria, Mc Allen, Edinburg, Tyler, Athens, Canton, Harlingen, Carrollton, Woodville, and Palestine PD. Oklahoma - Durant, OK. Florida - Miami, FL.
District Attorneys= Offices	Johnson County, Cleburne, Texas; Williamson County, Georgetown, Texas; Travis County, Austin, Texas; Bell County, Belton, Texas; Tom Green County, San Angelo, Texas; Brazos County, Bryan, Texas; Burnet County, Burnet, Texas; Live Oak County, George West, Texas; George West County, Atascosa County, Jourdanton, Texas; Wilson County, Floresville, Texas; Dewitt County, Cuero, Texas; Fayette County, La Grange, Texas; Victoria County, Victoria, Texas; Bee County, Beeville, Texas; Karnes County, Karnes City, Texas; Colorado County, Columbus, Texas; San Patricio County, Sinton, Texas; Grayson County, Sherman, Texas; Ector County, Odessa, Texas; Cook County, Gainesville, Texas; Dallas County, Dallas, Texas; Tarrant County, Fort Worth, Texas; Montgomery County, Conroe, Texas; Harris County, Houston, Texas, Brazoria County, Angleton, Texas; and Walker County, Huntsville, Texas.

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State/Local Agencies	Division and/or Location
County Attorneys= Offices	Travis County, Austin, Texas; Grayson County, Sherman, Texas; and Harris County, Houston, Texas.
District Clerks= Offices	Collin County, McKinney, Texas; Cook County, Gainesville, Texas; Williamson County, Georgetown, Texas; Travis County, Austin, Texas; Brazos County, Bryan, Texas; Bell County, Belton, Texas; 81 st District Attorney Office, Jourdanton, Texas; Karnes County, Karnes City, Texas; Bexar County, San Antonio, Texas; Ector County, Odessa, Texas; Grayson County, Sherman, Texas; Harris County, Houston, Texas; Smith County, Tyler, Texas; Tarrant County, Fort Worth, Texas; Denton County, Denton, Texas; Dallas County, Dallas, Texas; and El Paso County, El Paso, Texas.
County Clerks= Offices	Fayette County, La Grange, Texas; Walker County, Huntsville, Texas; Collin County, McKinney, Texas; Cook County, Gainesville, Texas; Williamson County, Georgetown, Texas; Travis County, Austin, Texas; Brazos County, Bryan, Texas; Bell County, Belton, Texas; 81 st District Attorney Office, Jourdanton, Texas; Karnes County, Karnes City, Texas; Bexar County, San Antonio, Texas; Ector County, Odessa, Texas; Grayson County, Sherman, Texas; Harris County, Houston, Texas; Smith County, Tyler, Texas; Tarrant County, Fort Worth, Texas; Denton County, Denton, Texas; Dallas County, Dallas, Texas; Hayes County, San Marcos, Texas; Bell County, Belton, Texas; and El Paso County, El Paso, Texas.
Narcotic Task Force	Central Texas Narcotic Task Force, George West, Texas; Tri-County Task Force, Corpus Christi, Texas; Brazos Valley Narcotics Task Force; DEA Task Force in Houston, Texas; East Texas Task Force, Beaumont, Texas; 81 st Narcotic Task Force, Floresville, Texas; TNT Task Force, Sulphur Springs, Texas; 24 th and 25 th District Task Force, Seguin, Texas; Harris County Organized Crime Task Force, Houston, Texas; Hays County Narcotics Task Force, San Marcos, Texas; and the Multi-Narcotic Task Force in Dallas/Fort Worth, Texas.
Probation Office	Denton County, Denton, Texas.
Podiatric Medical Examiners	Austin, Texas.
Texas Rangers - DPS	Houston, New Braunfels and San Antonio, Texas
Office of Inspector General	Austin, Dallas and San Antonio, Texas.
Texas Alcoholic Beverage Commission	Houston, Dallas, Sherman, Bryan, Richmond, and Austin, Texas.
Texas Department of Criminal Justice	Huntsville, Karnes City, Austin, and Dallas, Texas.
Dental Board Examiners	Austin, Dallas, Houston, and Fort Worth, Texas.
Board of Medical Examiners	Houston, Austin, and Dallas, Texas.
Attorney General's Medicaid Fraud Control Units	Austin, Houston, Lubbock and Dallas, Texas.
Department of Human Health Service Commission	Austin, Fort Worth, Houston, and Dallas, Texas.
Other	Parkland Hospital Police Department, Dallas, Texas; Harris County Hospital District Police.

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Federal Agencies	Division and/or Location
Drug Enforcement Administration	Miami, Florida; Dallas, Texas; El Paso, Texas; Fort Worth, Texas; Houston, Texas; San Antonio, Texas; Tyler, Texas; and Waco, Texas.
United States Probation	Houston, Texas.
United States Attorney	Houston, Dallas, San Antonio, Tyler, and Beaumont, Texas.
United States Military	US Army, San Antonio, Texas; and US Air Force, San Antonio, Texas.
Veterans Affairs	Dallas and Fort Worth, Texas.
Department of Treasury	Farmers Branch, Texas.
Internal Revenue Service	Houston, Dallas, and Fort Worth, Texas.
Federal Bureau of Investigation	Sherman, San Antonio, Mc Allen, Bryan, Houston, and Dallas, Texas.
United States Food and Drug Administration/Office of Criminal Investigation	Austin, Dallas, San Antonio, and Houston, Texas.

Retail Pharmacies-Loss Prevention Departments	Division and/or Location
Tom Thumb	Dallas and Fort Worth, Texas.
Walgreens Company	Dallas, Fort Worth, Houston, and Austin, Texas; and Deerfield, Illinois.
CVS Pharmacy	Houston, Dallas and Fort Worth, Texas.
Wal-Mart	Dallas, Houston, and Fort Worth, Texas; and Bentonville, Arkansas.
Kroger	Dallas, Texas.

5. *To monitor compliance with all Board Orders and Agreed Board Orders, including rehabilitation Orders relating to impaired or recovering pharmacists, throughout FY2005.*

Status: ACCOMPLISHED

Comment: As indicated in the chart below, 96% of the 552 disciplinary orders that TSBP entered during FY2005 required some type of monitoring. Division staff monitored the receipt of licensure documents that were required to be submitted to TSBP (e.g., wall certificate of a revoked pharmacist license) and returned these documents as required (e.g., upon reinstatement of the license or completion of the suspension period). Division staff, in conjunction with Accounting staff, ensured that administrative penalties (fines) and probation fees were paid. Division staff also monitored the submission of other documents (e.g., required continuing education and policy/procedure manuals).

Monitoring the following types of orders was extremely labor-intensive:

- A. 61 disciplinary orders involved a dispensing error, which generally required the licensee to submit proof of additional hours of continuing education (orders on pharmacists) or policies and procedures relating to quality assurance programs, including peer review procedures (orders on pharmacies);

- B. 86 disciplinary orders involving technicians who were required to undergo an evaluation by a mental health professional before their registrations would be granted; and

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- C. 43 confidential rehabilitation disciplinary orders involving impaired/recovering pharmacists (see Ongoing Objective #5).

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

The following chart indicates the types of Orders entered in FY2005, which required the Division to monitor the licensee's compliance with the Order, in some manner.

TYPES OF TSBP DISCIPLINARY ORDERS ENTERED BY TSBP (FY2003-FY2005) THAT REQUIRED MONITORING						
Sanction	FY03 Orders (#)	FY04 Orders (#)	FY05 Orders (#)	% of FY05	3-Yr. Avg.	% of 3-Yr. Avg.
Revocation, Cancellation, and Retirement – Pharmacist/Pharmacy	17	20	12	2%	16	4%
Revocation – Technician	N/A	N/A	5	<1%	N/A	N/A
Suspension – Pharmacist	10	19	22	4%	17	4%
Suspension – Technician	N/A	221	286	52%	N/A	N/A
Restricted	5	5	4	<1%	5	1%
Rehabilitation Orders*	22	13	6	1%	14	3%
Reinstatement	4	5	2	<1%	4	<1%
Fines and/or Probation Fee Only	42	49	46	8%	46	11%
Continuing Education, Texas Jurisprudence Exam, and/or Pharmacy Law Course (could also include fines and/or probation fees)	43	48	38	7%	43	10%
Other, Pharmacist: Continuous Quality Improvement Program, Self Assessments (ISMP), Policies/ Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	42	51	24	4%	39	9%
Other, Technician: Report from Mental Health Professional	N/A	13	86	16%	N/A	N/A
TOTAL NUMBER OF ORDERS REQUIRING MONITORING	185	444	531	96%	387	94%
TOTAL NUMBER OF ORDERS NOT REQUIRING MONITORING	28	25	27	4%	27	6%
TOTAL ORDERS	213	469	552	100%	411	100%

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

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During FY2005, TSBP entered 43 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 (FY2003-05)						
Nature of Violation	FY03	FY04	FY05	% of FY05	3-Yr. Avg	% of 3-Yr. Avg.
Non-Compliance with ABO	18	20	11	26%	16	32%
Action by Other Boards	2	7	5	12%	5	10%
Audit Shortages	4	3	0	0%	2	4%
Alcohol-Related Conviction	3	4	1	2%	3	6%
Theft of Prescription Drugs	5	5	1	2%	4	8%
Created Fraudulent Rx or Obtained C/S By Fraud	2	4	1	2%	2	4%
Convictions	1	2	4	9%	2	4%
Deferred Adjudication	3	2	0	0%	2	4%
Illegal Possession of Controlled Substances	1	0	0	0%	0	0%
Unauthorized Refills of Controlled Substances	0	0	0	0%	0	0%
Probable Cause	4	5	6	14%	5	10%
Request for Modification of ABO	4	6	12	30%	7	14%
Request for Retirement or Revocation	0	0	0	0%	0	0%
Request for Reinstatement	1	2	2	5%	2	4%
TOTAL	48	60	43	102%*	50	100%

* Due to rounding.

Of the 43 confidential *pharmacist* Orders entered in FY2005, there were 15 Orders resulting in an impaired/recovering pharmacist being added to the number who were being monitored at the end of FY2005, as reflected in the chart below. However, 25 pharmacists were deleted from the list as a result of early termination of probation, successful completion of probation, death, revocation of license, or license expired. Accordingly, as of August 31, 2005, a total of 93 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:

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Impaired / Recovering Pharmacists Monitored By Enforcement Division (FY00 through FY05)

Fiscal Year	Total Orders*	Total New Orders**	Total Being Monitored+
FY00	35	18	82
FY01	36	21	85
FY02	63	35	97
FY03	48	23	102
FY04	58	26	103
FY05	43	15	93

* 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 that resulted in one individual being added to the list of impaired pharmacists to be monitored by the agency.

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

6. *To provide verbal and written information to Board staff and customers as needed or required throughout FY2005, to include providing technical assistance to other Divisions and responding to surveys and questionnaires.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

A. COMPLIANCE INSPECTIONS

The Division conducted 1,927 inspections in FY2005 (see Ongoing Objective #2).

B. TELEPHONE CALLS

Division staff provided technical assistance and answered questions regarding laws and rules governing the practice of pharmacy from approximately 7,995 callers.

C. WRITTEN INFORMATION

During FY2005, Division staff mailed 92 packets of information and 423 customer service surveys to TSBP customers.

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D. PRESENTATIONS (PUBLIC SPEAKING ENGAGEMENTS)

DATE	PRESENTATIONS Name of Association/Presentation and Location of Meeting	STAFF PERSON	ATTENDANCE (Approx.)
9/12/04	University of Texas 52nd Annual Pharmacy Practice Seminar	Carol Fisher and Joe Lewis	500
9/15/04	Drug Diversion – Gulf Port Crime Prevention Association	Rob Lunsford	40
9/16/04	Diversion Investigations – New DPS Narcotic Officers – Houston	Rob Lunsford	40
2/26/05	East Texas Pharmacy Association – Houston	Joe Lewis	150
6/15/05	Walgreens Inc. – Pharmacists and Interns – Houston	Joe Lewis	50
6/17/05	Walgreens Inc. – Interns – Austin	Joe Lewis	30
6/24/05	Walgreens Inc. – Pharmacists – Houston	Joe Lewis	50
7/8/05	TPA Annual Conference	Joe Lewis	320
7/8/05	Walgreens Pharmacy Managers Interns	Iona Grant	58
		TOTAL	1,238

E. SURVEYS/QUESTIONNAIRES

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

- (1) Legislative Budget Board (LBB) C 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. In addition, Division Director provided additional data and written report (explanatory comments) to the LBB analyst, in response to his question as to why TSBP had received an increase in the number of complaints in FY2003.

F. TECHNICAL ASSISTANCE TO BOARD MEMBERS AND EXECUTIVE DIRECTOR

- (1) Division Director assisted in the development of the proposed Goals and Objectives for FY2006, which were presented to/approved by the Board at its meeting held in August 2005.
- (2) Division Director made presentations at three of the five Board meetings held in FY2005 regarding the number of active/pending complaints.
- (3) Division Director assisted in the review/editing of drafts of minutes of three Board meetings. Director did not attend the Board meeting held in November 2004.
- (4) In the absence or at the request of the Executive Director, Division Director responded to inquires from the media (e.g., media in San Angelo about an on-site investigation in the West Texas area).

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- (5) Division Director met with the Executive Director, other Division Directors, and a representative from the UT School of Social Work to develop a new on-line version of a Customer Service Survey form and procedures relating to the survey process.

G. TECHNICAL ASSISTANCE TO BOARD STAFF

(1) Division of Professional Services

- (a) TSBP Newsletters B Division staff assisted with each issue of the TSBP Newsletter (e.g., authored articles such as the Compliance Reminders and Complaint Corner and provided applicable information regarding disciplinary orders entered by the Board).
- (b) Multi-State Pharmacy Jurisprudence Examination (MPJE) B Ben Santana, R.Ph., Chief of Compliance, assisted Director of Professional Services Division with reviewing the MPJE pool of questions in January 2005. Field Compliance Officers also assisted in developing additional new questions for the MPJE (see Professional Services Division's Ongoing Objective #2).

(2) Division of Administrative Services and Licensing

- (a) Agency Policies/Procedures – Division Director assisted Director of Administrative Services with updating the following documents: TSBP Record Retention Schedule and TSBP Risk Assessment.
- (b) Special Certificates – Division Director reviewed and approved the list of pharmacists who were eligible to receive certificates for being licensed as a pharmacist for 50 years.
- (c) Review Applications for Licensure/Registration B Division staff reviewed applications of any applicant with a criminal history or prior disciplinary action by another professional licensing board, and determined, in concert with the Executive Director and Legal Counsel, whether disciplinary action would be instituted to deny the application for licensure/registration. Division staff also assisted in the review of applications for a Class B or Class D Pharmacy license.

Number	Activity
19	New Class D (Clinic) Pharmacy applications
0	New Class B (Nuclear) Pharmacy applications
41	Petitions for Expanded Formularies for Class D (Clinic) Pharmacies
10	Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies
1	Notifications of Temporary Locations for Class D (Clinic) Pharmacies
4	Standard Class D Formularies Reviewed

ENFORCEMENT DIVISION

(3) Legal Division

- (a) Disciplinary Proceedings B At the request of TSBP General Counsel, Division Director reviewed drafts of Preliminary Notice Letters prior to these documents being finalized and mailed. Division staff also attended 16 days of informal conferences involving pharmacy technicians. In addition, Division Director served as an expert witness for six formal disciplinary hearing conducted by the State Office of Administrative Hearings.
- (b) Personnel – Division Director participated in two interviews for the new Legal Assistant position. In September 2004, Division Director assisted with the agency orientation for Jing Belfiglio, new Legal Assistant.

H. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS

- (1) Division staff notified various agencies regarding disciplinary orders entered by the Board (e.g., DEA, DPS, MHMR, HHS, NABP, HIP-DB, and Deans of the Texas colleges of pharmacy).

7. *To assist the Executive Director in surveying agency customers regarding the quality of service delivered by the agency as specified in Chapter 2113 of the Government Code; and in cooperation with other Divisions, to analyze survey results, including the review of comments and suggestions submitted by agency customers.*

Status: ACCOMPLISHED

Comment: In the Spring of 2005, the Executive Director, together with Division Directors, met with a representative of the UT School of Social Work to discuss the costs and procedures of conducting an online customer service survey. In May 2005, the Executive Director determined to discontinue distributing hard-copy customer service surveys. TSBP contracted with UT School of Social Work to begin conducting online surveys in June 2005. The responsibility of reviewing comments received from customers was transferred to Kay Wilson, Executive Assistant.

8. *In cooperation with the Executive Director and other Divisions, to provide internship experience to student pharmacist-interns upon requests from the Texas Colleges of Pharmacy, throughout FY2005.*

Status: ACCOMPLISHED

Comment: During FY2005, Division Director and Chief of Compliance served as preceptors to six students from three different Colleges of Pharmacy, as listed below:

- ? Jeff Harrison (September 27 – November 5, 2004) – University of Houston
- ? Meredith Podraza (March 28 – May 6, 2005) – University of Texas
- ? Elida Olivarri (June 6 – August 9, 2005) – University of Texas
- ? Anna Hodges Lopez (July 5 – August 12, 2005) – University of Texas
- ? Kim Tangu (July 5 – August 12, 2005) – Texas Southern University
- ? Shawn Sams (August 15 – September 23, 2005) – University of Texas

ENFORCEMENT DIVISION

9. *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 FY2005.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Board Member Ben Fry, R.Ph., served as an ex-officio member of the TX-PRN State Committee throughout FY2005.
- B. The TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY2005.
- 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 December 30, 2004, and the results of the audit were reported to the Board at its meeting held August 9-10, 2005 .
- D. Throughout FY2005, Division staff reviewed monthly activity reports submitted to TSBP by TX-PRN Director.
- E. Division staff attended two TX-PRN State Advisory Committee meetings (September 18, 2004, and April 2, 2005).
- F. Throughout FY2005, Enforcement Program Specialist Janelle Nastri worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.
- G. In July 2005, staff of the Enforcement and Legal Divisions conducted an orientation of agency operations with newly-appointed PRN Director Holly Johnston.

10. *To assist the Executive Director in developing and implementing the objectives of the Health Professions Council and/or the Office of Patient Protection pertinent to Division activities throughout FY2005.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Office of Patient Protection – Division Director served on the committee established by the Office of Patient Protection (OPP) to develop a uniform complaint form. This form was to be used by all consumers who wanted to file a complaint against any health professional. This committee also developed additional procedures and forms to be used by the OPP when interfacing with consumers who were filing complaints against various health professionals. However, these forms and procedures were never implemented, in that the 79th Texas Legislature did not fund the OPP for FY06-07 (i.e., the OPP was basically eliminated due to lack of funding).

ENFORCEMENT DIVISION

B. Health Professions Council (HPC)

- (1) HPC Annual Report B Division Director submitted agency Enforcement performance data to be incorporated in the HPC Annual Report.
- (2) HPC Toll-Free Complaint Hotline B 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 Azero out@ and speak to an HPC staff member for clarification of procedures. During FY2005, TSBP mailed 490 complaint forms to individuals requesting forms on the HPC toll-free complaint hotline and 422 complaint forms to individuals who called the TSBP voice mail complaint line, which represented a significant increase in the number of complaint forms being mailed by TSBP to potential complainants, as compared to FY2004. The number of requests for complaint forms received in FY2005, as compared to the four previous fiscal years, is depicted in the following chart.

COMPLAINT FORMS PROCESSED BY ENFORCEMENT DIVISION (FY01 through FY05)

Fiscal Year	Requests for Complaint Forms Via HPC 800#	% Change	Requests for Complaint Forms via TSBP Voice Mail	% Change
FY01	851		725	
FY02	735	-14%	789	9%
FY03	628	-15%	634	-20%
FY04	260	-59%	232	-63%
FY05	490	+88%	422	+82%

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 FY2005.*

Status: ACCOMPLISHED

Comment: In FY2005, Division staff attended several team meetings, Division staff meetings, and general staff meetings. Division Staff Meetings and General Staff Meetings were held on the following dates:

- November 30 – December 3, 2004;
- February 22 – 23, 2005;
- May 16 – 19, 2005; and
- August 23 – 24, 2005.

ENFORCEMENT DIVISION

Carol Fisher, R.Ph., M.P.A.	
9/23-25/04	NABP-AACP 6th District Meeting – Galveston
10/9/04	Texas Conference for Women – Austin
12/2/04	Orientation to EAP; EAP Presentation; TSBP Headquarters
2/2/05	Word 2002 Introduction – Austin
2/22/05	Personal and Professional Resilience; EAP Presentation; TSBP Headquarters
3/18/05	Defensive Driving – Austin
2/05 – 4/05	Five Special Inspections (two inspections at mail-service pharmacies in 2/05; inspection of Script Pro Technology in 3/05; and two inspections at mail-service pharmacies in 4/05)
4/9-10/05	TSHP Annual Meeting – Austin
4/15/05	University of Texas College of Pharmacy Advisory Council
8/13/05	University of Texas Preceptor Conference - Salado
8/23/05	In-Service Training; Review of USP 797 Conference; TSBP Headquarters
8/25/05	Parenting Skills; EAP Presentation; TSBP Headquarters

Joe Lewis	
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
2/2/05	Word 2002 Introduction; MicroAssist Training Course – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
4/28/05	Investigative Approach to Violence Against Women
4/29/05	Special Investigative Topics
6/23/05	Insurance Fraud

Ben Santana, R.Ph.	
9/04	USP Chapter <797> - The New National Standard for Sterile Preparation (ISMP Presentation, cassette tapes) – Austin
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
4/8-11/05	Texas Society of Health-System Pharmacists 57th Annual Seminar – Austin
8/23/05	In-Service Training; Review of USP 797 Conference – TSBP Headquarters

ENFORCEMENT DIVISION

Sherry Stevenson	
10/19/04	Texas Conference for Women – Austin
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
2/2/05	Word 2002 Introduction; MicroAssist Training Course – Austin
2/10/05	Stretch and Relax to Beat Street (EAP Presentation) – TSBP Headquarters
2/15/05	Word 2002 Intermediate; MicroAssist Training Course – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
8/8 – 10/05	Texas Dept. of Public Safety; TLETS/NLETS Operators Course - Austin

Janelle Nastri	
9/19/04	Attachment, Separation and Loss: The Grief Process During Recovery (PRN Seminar) – Austin
12/2/04	EAP Training – Austin
1/19/05	Word 2002 Introduction; MicroAssist Training Course - Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – Austin
3/24/05	Word 2002 Intermediate; MicroAssist Training Course – Austin
4/3/05	Dual Diagnosis (PRN Seminar) - Austin
8/23/05	USP 797 Guidelines Training; Paul Holder – Austin
8/25/05	Parenting Skills (EAP Presentation) - Austin

Iona Grant, R.Ph.	
10/23/04	Updates and New Guideline on the Treatment of Hypertension, Texas Southern University - Houston
10/24/04	Year 2004 Infections Disease Management Update: Inpatient and Outpatient Management – Houston
12/1/04	797 Training – TSBP Headquarters
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
2/24/05	Word 2002 Basic; MicroAssist Training Course - Austin
4/8-11/05	Texas Society of Health-System Pharmacists 57th Annual Seminar – Austin
8/3-5/05	NADDI of Texas – State Drug Diversion Conference – Fort Worth
8/23/05	In-Service Training; Review of USP 797 Conference – TSBP Headquarters

ENFORCEMENT DIVISION

Mike Ethridge, R.Ph.	
9/14/04	Central Texas Society of Hospital Pharmacists (CTSHP) Education Program – San Antonio
10/8/04	Implementing USP 797 – San Antonio
12/1/04	USP Chapter <797> - The New National Standard for Sterile Preparation (ISMP Cassette Tape) – Austin
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
1/11/05	Appropriate Use of PPIs (CTSHP) - Austin
1/12/05	Hypertension (Bexar County Pharmaceutical Association – San Antonio)
2/7/05	Vasoactive Therapy (CTSHP) - Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
2/24/05	Word Basic I; Micro-Assist Training Course – Austin
3/4-6/05	TPA South Texas Education Fair & Nueces County Coastal Bend Pharmaceutical Association – Corpus Christi
8/23/05	In-Service Training; Review of USP 797 Conference – TSBP Headquarters

Susan Furnas	
1/13/05	Behavioral Course in Traffic Safety Education (National Traffic Safety Institute) – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
5/15/05	Identification and Treatment Recommendations for Patients with Difficult-to-Manage Allergic Asthma
7/7-10/05	Texas Pharmacy Association Annual Meeting & Expo 2005 – San Antonio
8/4-6/05	Practical Application of General Chapter <797> by USP – Pharmacy Workshop – U.S. Pharmacopeia – San Francisco, CA

Paul Holder, R.Ph., Pharm.D.	
1/26/05	Coastal Bend Pharmacy Association Meeting – Corpus Christi
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
4/8-11/05	Texas Society of Health-System Pharmacists 57th Annual Seminar – Austin
8/4-6/05	Practical Application of General Chapter <797> by USP – Pharmacy Workshop – U.S. Pharmacopeia – San Francisco, CA

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Sarah Guevara	
10/6/04	NADDI of Texas – State Drug Diversion Conference – Fort Worth
10/18-19/04	Texas Women’s Conference - Austin
12/1/4	USP Chapter <797> - The New National Standard for Sterile Preparation (ISMP Presentation, cassette tapes) - Austin
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
1/19/05	Word 2002 Introduction; MicroAssist Training Course – Austin
1/19/05	Understanding the Legislative Process (State Agency Council Meeting) – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
3/24/05	Word 2002 Intermediate; MicroAssist Training Course – Austin
4/8-11/05	Texas Society of Health-System Pharmacists 57th Annual Seminar - Austin
4/20/05	Sexual Assault Awareness (State Agency Council Meeting) – Austin
5/17/05	How to Say the Right Thing in Tough Situations; Tips and Techniques for Navigating Delicate Situations Like a Pro (State Agency Council Meeting) – Austin
8/23/05	In-Service Training; Review of USP 797 Conference – TSBP Headquarters

Chris Schuttler	
12/1/04	USP Chapter ,797. – The New National Standard for Sterile Preparation (ISMP Cassette Tape) – Austin
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
1/25-28/05	Basic Diversion Investigators School (Dept. of Public Safety & Drug Enforcement Agency) - Dallas
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
7/7-10/05	Texas Pharmacy Association Annual Meeting & Expo 2005 – San Antonio
8/3-5/05	NADDI of Texas – State Drug Diversion Conference – Fort Worth
8/23/05	In-Service Training; Review of USP 797 Conference – TSBP Headquarters

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David Meryman	
12/1/04	USP Chapter <797> - The New National Standard for Sterile Preparation (ISMP Cassette Tape) – Austin
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
1/13/05	Behavioral Course in Traffic Safety Education (National Traffic Safety Institute) – Austin
1/25-28/05	Basic Diversion Investigators School (Dept. of Public Safety & Drug Enforcement Agency) – Dallas
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
4/8-11/05	Texas Society of Health-System Pharmacists 57th Annual Seminar – Austin
7/7-10/05	Texas Pharmacy Association Annual Meeting & Expo 2005 – San Antonio
8/4-6/05	Practical Application of General Chapter <797> by USP – Pharmacy Workshop – U.S. Pharmacopeia – San Francisco, CA

Robert Ebrom	
8/30/04 – 9/2/04	Texas Narcotic Officers Association Training
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
1/13/05	Defensive Driving Class
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
2/24/05	Word 2002 Introduction; MicroAssist Training Course – Austin

Gordon R. Lunsford	
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
12/15/04	Cultural Diversity
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
6/28/05	Federal Emergency Management Agency – Basic Incident
7/5/05	Special Investigative Topics
8/13/05	International Terrorist Conference

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Wayne L. Jones	
10/6-8/04	National Association of Drug Diversion Investigator (NADDI) Training
11/4/04	Cultural Diversity
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
2/24/05	Word 2002 Introduction; MicroAssist Training Course – Austin
4/28/05	Investigative Approach To Violence Against Women
4/29/05	Special Investigative Topics
7/7/05	Current Drug Trends

Lea Foster Chapa	
9/04	Hired 9/13/04; followed by Initial Orientation and Field Training
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
12/4/04	TPA Pharmacy Law Seminar – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
8/29/05	Identity Theft

Tara M. Rike	
9/04	Hired 9/13/04; followed by Initial Orientation and Field Training
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
12/4/04	TPA Pharmacy Law Seminar – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
8/29/05	Identity Theft

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Melissa Weeden	
10/8/04	Texas Women's Conference
10/28/04	Texas Building and Procurement Commission Recycling Program – On-line Training Course
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
2/3/05	Word 2002 Intermediate; MicroAssist Training Course – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
5/20/05	Word 2002 Advanced; MicroAssist Training Course – Austin
8/8-9/05	TLETS Update Training

Amy Schroeder	
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
2/3/05	Word 2002 Intermediate; MicroAssist Training Course – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
3/3/05	Word 2002 Advanced; MicroAssist Training Course – Austin
8/23/05	In-Service Training; Review of USP 797 Conference – TSBP Headquarters

Jill Kier	
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
12/4/04	TPA Pharmacy Law Seminar – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
8/8-11/05	TLETS Training – DPS

Linda Yazdanshenas	
12/2/04	Orientation to EAP (EAP Presentation) – TSBP Headquarters
12/4/04	TPA Pharmacy Law Seminar – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
7/24-29/05	TLETS Training – DPS

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Patty Galan	
1/19/05	Word 2002 Introduction; MicroAssist Training Course – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – Austin
3/12/05	Texas Pharmacy Law Symposium, TPA – Austin
3/24/05	Word 2002 Intermediate; MicroAssist Training Course – Austin
4/3/05	Dual Diagnosis (PRN Seminar) - Austin

Diane Torres	
11/16/04	TexaSaver Fair – Austin
2/15/05	Word 2002 Intermediate; MicroAssist Training Course – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters

Yvette Muniz	
3/24/05	Word 2002 Intermediate; MicroAssist Training Course – Austin
4/8 – 9/05	TSHP Seminar – Austin
5/20/05	Word 2002 Advanced; MicroAssist Training Course - Austin

Cynthia Fazin	
12/10/04	Texas Dept. of Public Safety; NCIC/TCIC Policy and Procedures Training – Austin
2/15/05	Word 2002 Intermediate; MicroAssist Training Course – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
5/20/05	Word 2002 Advanced; MicroAssist Training Course – Austin
8/8 – 10/05	Texas Dept. of Public Safety; TLETS/NLETS Operators Course – Austin

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Noreen Trevino	
2/3/05	Word 2002 Intermediate; MicroAssist Training Course – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
2/28/05	Word Special/Advanced Features; MicroAssist Training Course – Austin
3/3/05	Word 2002 Advanced; MicroAssist Training Course – Austin
3/10/05	Texas Dept. of Public Safety; NCIC/TCIC Policy and Procedures Training – Austin
3/12/05	Texas Pharmacy Association; Law Review Class - Austin

Becky Damon	
2/3/05	Word 2002 Intermediate; MicroAssist Training Course – Austin
2/22/05	Stress Management; Personal and Professional Resilience (EAP Presentation) – TSBP Headquarters
5/20/05	Word 2002 Advanced; MicroAssist Training Course - Austin

12. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2005.

Status: ACCOMPLISHED

Comment: Formal performance reviews were conducted as follows:

Employee	Date of Evaluation	Evaluation By
Joe Lewis	August 10, 2005	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Ben Santana, R.Ph.	August 30, 2005	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Sherry Stevenson	August 30, 2005	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Janelle Nastri	August 26, 2005	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Iona Grant, R.Ph.	August 25, 2005	Ben Santana, R.Ph. Chief of Compliance
Mike Ethridge, R.Ph.	August 25, 2005	Ben Santana, R.Ph. Chief of Compliance
Sarah Guevara	August 30, 2005	Ben Santana, R.Ph. Chief of Compliance
Chris Schuttler	December 2, 2004*, and August 25, 2005	Ben Santana, R.Ph. Chief of Compliance
David Meryman	December 2, 2004*, and August 30, 2005	Ben Santana, R.Ph. Chief of Compliance
Paul Holder	August 25, 2005	Ben Santana, R.Ph. Chief of Compliance

ENFORCEMENT DIVISION

Employee	Date of Evaluation	Evaluation By
Susan Furnas	August 25, 2005	Ben Santana, R.Ph. Chief of Compliance
Robert Ebrom, Jr.	August 16, 2005	Joe Lewis, Chief Investigator
Gordon Lunsford	August 22, 2005	Joe Lewis, Chief Investigator
Wayne Jones	August 2, 2005	Joe Lewis, Chief Investigator
Anita Arnet	Resigned June 27, 2005	
Tara Rike	Hired September 10, 2004; Evaluation conducted August 26, 2005	Joe Lewis, Chief Investigator
Lea Foster-Chapa	Hired September 10, 2004; Resigned August 31, 2005	
Melissa Weeden	August 11, 2005	Joe Lewis, Chief Investigator
Amy Schroeder	August 23, 2005	Joe Lewis, Chief Investigator
Jill Kier	February 22, 2005*, and August 19, 2005	Joe Lewis, Chief Investigator
Linda Yazdanshenas	February 22, 2005*, and August 8, 2005	Joe Lewis, Chief Investigator
Patty Galan	August 4, 2005	Sherry Stevenson Sr. Administrative Assistant
Cynthia Fazin	August 4, 2005	Sherry Stevenson Sr. Administrative Assistant
Yvette Muniz	December 8, 2004*, and August 17, 2005	Sherry Stevenson Sr. Administrative Assistant
Becky Damon	August 5, 2005	Sherry Stevenson Sr. Administrative Assistant
Diane Torres	August 18, 2005	Sherry Stevenson Sr. Administrative Assistant
Noreen Trevino	Hired January 10, 2005; Evaluation conducted August 29, 2005	Sherry Stevenson Sr. Administrative Assistant

* New Employee Evaluation

Other activities related to Division personnel are listed below:

- A. During FY2005, Division Director developed job descriptions for two new positions [Enforcement Program Specialist and Enforcement Specialist (a new position authorized for FY2006)]. In addition, Division Director updated job descriptions for the following seven positions: Enforcement Division Specialist, Enforcement Administrator, Senior Enforcement Officer, Field Investigator, Compliance Specialist, Administrative Assistant III, and Administrative Assistant IV.

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B. The Division began FY2005 with three vacancies, not including the four new positions that the Division was able to hire as a result of the funding appropriated for the pharmacy technician registration program. In addition, the Division experienced two resignations (Field Investigator Anita Arnet in June 2005 and Field Investigator Lea Foster-Chapa in August 2005). Three of the nine positions were filled with current TSBP employees, which resulted in three additional vacancies due to promotions. During FY2005, 11 of the 12 vacancies were filled, as described below:

- ? September 2004 – *Tara Rike* and *Lea Foster-Chapa* began their employment as Field Investigators. Ms. Rike filled the vacant position in the Fort Worth-West Texas area and Ms. Foster-Chapa filled the new position in the Houston area. These two positions were offered in August 2004.
- ? October 2004 – *Cynthia Fazin* began her employment as an Enforcement Specialist, a new position, whose primary responsibility was conducting background investigations on pharmacy technicians. TSBP received 203 applications for this position and the Administrative Assistant III position described below; six interviews were conducted.
- ? November 2005 – *Becky Damon* began her employment as an Administrative Assistant III to replace Diane Torres, who was promoted to Administrative Assistant IV, one of the new positions authorized to implement the technician registration program.
- ? November 2005 – *Janelle Nastri* was promoted to Enforcement Program Specialist, a new position that had been reclassified. When former Assistant Director of Enforcement Allison Benz, R.Ph., was promoted to Director of Professional Services in September 2003, her position was reclassified to a Staff Compliance Officer (requiring potential applicants to be a pharmacist), but efforts to fill this position in FY2004 were unsuccessful. Accordingly, the position was reclassified to an Enforcement Program Specialist position, a non-pharmacist position, in FY2005 and posted as an internal posting only; three applications were received and three interviews were conducted.
- ? December 2004 – Following Ms. Nastri's promotion, the Division posted her position (Enforcement Administrator) as an internal posting only; four applications were received and three interviews were conducted. TSBP employee *Patty Galan* was selected to fill this position, effective December 1, 2004.
- ? January 2005 – Following Ms. Galan's promotion, the Division posted her position (Administrative Assistant IV); 149 applications were received and six interviews were conducted. *Noreen Trevino* was selected to fill this position, effective January 10, 2005.
- ? January 2005 – *Eugene Paul Holder, R.Ph., Pharm.D.*, began his employment as the Compliance Officer for the Dallas-East Texas area; five applications were received and two interviews were conducted.

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- ? January 2005 – *Susan Furnas, C.Ph.T.*, began her employment as Compliance Inspector for the West Texas area, increasing the field compliance staff to six; 18 applications were received and two interviews were conducted.
- ? August 2005 – *Sarah Guevara, C.Ph.T.*, was selected to fill the Austin/Central Texas Field Investigator position vacated by Anita Arnet’s resignation; 26 applications were received and four interviews were conducted.
- ? August 2005 – Following Ms. Guevara’s promotion, the Division posted her position (Compliance Specialist); 76 applications were received and 20 interviews were conducted. *Ann Driscoll* was selected to fill this position, effective September 1, 2005.

Although the Division filled 11 positions, there was a turnover of only two positions in FY2005, and the Division finished FY2005 with only one vacant position. However, the Division was extremely busy advertising for nine positions, reviewing/evaluating a total of 481 applications and conducting a total of 46 interviews.

- C. During FY2005, Division staff conducted orientations for the seven new Division staff mentioned above: Rike and Foster-Chapa (September 2004); Fazin and Damon (October-November 2004); and Trevino, Holder, and Furnas (January 2005).

13. *To destroy records in accordance with the agency-s record retention plan throughout FY2005; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2005.*

Status: ACCOMPLISHED

Comment: The following activities relate to this objective:

- A. Records Management

During FY2005, Division staff destroyed 72 cubic feet of records, in accordance with the TSBP record retention schedule. This performance represented a 136% increase over the prior fiscal year, as represented in the chart below:

	# of Cubic Feet of Records Destroyed	% Change
FY2001	34.00	
FY2002	56.25	+65%
FY2003	39.00	-31%
FY2004	30.50	-22%
FY2005	72.00	+136%

ENFORCEMENT DIVISION

B. Policies and Procedures

Division Director updated Section 10.4 of the Complaint Policy and Procedure Manual relating to the TSBP internal complaint worksheet.

14. *To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2005.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Chief of Compliance Ben Santana, R.Ph., implemented periodic meetings with the Enforcement staff who regularly respond to telephone inquiries on the Compliance Queue, in order to clarify confusing or difficult issues, which, in turn, helps ensure consistency of interpretation of pharmacy laws/rules.
- B. Chief of Compliance Ben Santana, R.Ph., recommended that when TSBP acknowledges the receipt of a complaint on a Class E (non-resident) pharmacy, TSBP enclose a complaint form from the state board of the state where the Class E pharmacy is located (if such complaint form is available on that state board's web site).
- C. Enforcement Specialist Yvette Muniz recommended that TSBP contact DEA and ask them to amend the DEA Form 106 to include a space for the pharmacy to fill in the pharmacy's license number (i.e., for Texas pharmacies, the pharmacy would provide the license number issued to the pharmacy by TSBP).

15. *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 FY2005.*

Status: ACCOMPLISHED

Comment:

- A. Division Director recommended that TSBP rules be amended to clarify the length of time that a pharmacy technician may be enrolled in a high school/GED program, to ensure that technicians obtain their high school diploma in a reasonable time period.
- B. Division Director recommended that TSBP rules be amended to clarify that the term "fraud, deceit and misrepresentation" includes falsification of a PTCB application.
- C. Chief of Compliance Ben Santana, R.Ph., recommended that TSBP rules be amended to require pharmacies to label prescription vials with the generic name of all generic products that are marketed under their own brand name; this change would assist prescribers who receive faxes from pharmacies for refill authorization, in that prescribers are familiar with generic names but may not be familiar with the generic's marketed brand name.

ENFORCEMENT DIVISION

- D. Chief of Compliance Ben Santana, R.Ph., recommended that TSBP rules be amended to address the costs that pharmacies may charge for patient records.

16. *To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2004 Annual Report, to be presented to the Board by its May 2005 Board meeting.*

Status: **ACCOMPLISHED**

Comment: The Division's first draft of the FY2004 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 2005.

FY2005 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished, or partially accomplished all of the Division's Objectives for FY2005 (15 accomplished and one partially accomplished).
2. During FY2005, the agency continued the initial registration process for all pharmacy technicians. The Division handled numerous disciplinary cases against the pharmacy technicians who were found to have had a criminal history, who falsified the registration application, or who had some other ground for disciplinary action. The Division initiated 411 disciplinary actions by mailing a Preliminary Notice Letter and entered 380 orders against pharmacy technicians during the fiscal year.
3. TSBP entered more disciplinary orders in FY2005 than in any prior fiscal year based in large part on the additional cases against pharmacy technicians but also on the cases against pharmacists and pharmacies. The Division entered 172 disciplinary actions against pharmacists and pharmacies and 380 against pharmacy technicians, for a total of 552 disciplinary actions.
4. 99% of the disciplinary cases against pharmacists and pharmacies and 99% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and expenditures.
5. The Division initiated disciplinary action by mailing Preliminary Notice Letters (PNL) in FY2005 to a large number of licensees and registrants. The Division mailed a total of 618 PNLs as compared to 652 in FY2004, with 207 PNLs mailed to pharmacists and pharmacies and 411 PNLs mailed to pharmacy technicians. The Division was consistent in the number of days to mail all PNLs after the case review date, which was 37.06 days in FY2005, as compared to 35.9 days in FY2004.
6. The Division conducted a total of 30 days of Informal Conferences for both pharmacists and pharmacies and for pharmacy technicians in FY2005, the same number of days as in FY2004. This large number of Informal Conference days allowed the Division to resolve a large number of disciplinary cases.

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7. The Division resolved three cases that were set for administrative hearings at the State Office of Administrative Hearings (SOAH) prior to proceeding to hearing. The cases were resolved through Agreed Board Orders (ABO) through negotiations with the licensees or their attorneys or through the SOAH Mediation process. These resolutions saved the agency considerable resources both in time and expenditures.

8. Eight administrative hearings were conducted at SOAH. These hearings involved preparing motions for summary judgment and numerous discovery documents (including interrogatories and requests for admission), preparing for trial and for witness examination, and conducting the hearings. Following the hearings, exceptions were filed and drafts of proposed orders were prepared. The extensive preparation for the hearings and the presentations to the Board required a considerable amount of time, and even with the increase in the number of hearings, the Division was able to maintain a fairly consistent number of cases resolved.

PHARMACISTS/PHARMACIES

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF DEFAULT ORDERS ENTERED BY BOARD	NUMBER OF AGREED BOARD ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% CHANGE IN DISCIPLINARY ORDERS	% ABOs OR DEFAULTS OF TOTAL ORDERS
FY01	4	0	141	145	15%	97%
FY02	2	0	179	181	25%	99%
FY03	4	0	209	213	17%	98%
FY04	6	0	229	235	10%	98%
FY05	2	5	165	172	-27%	99%
TOTAL	18	5	923	946	19% OVER 5 YRS.	5 YR. AVG. 98%

PHARMACY TECHNICIANS

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF AGREED BOARD ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% INCREASE IN DISCIPLINARY ORDERS	% ABOs OF TOTAL ORDERS
FY04	0	234	234	N/A	100%
FY04	3	377	380	62%	99.2%
TOTAL	3	611	614	N/A	99.5%

FY2005 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Due to the large number of disciplinary cases resulting from the pharmacy technician registration process, which began during FY2004, the Legal Division was focusing on pharmacy technician cases. The Legal Division was not receiving as many cases on pharmacist and pharmacy licenses because the Enforcement Division was also focusing on the pharmacy technician registration cases. Therefore, the Legal Division experienced a decline in the statistics reported for FY2005, because the division did not handle as many cases against pharmacies and pharmacists.
2. The pharmacy technicians appear to be generating a proportionately larger number of disciplinary cases filed at the State Office of Administrations Hearings than pharmacists and pharmacies. Therefore, the Legal Division will have to prepare for more hearings against pharmacy technicians in the coming fiscal years.

FY2005 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 cooperation with other Divisions, in:*
 - A. *preparing testimony, attending public hearings, reviewing legislation and providing any fiscal or technical information as required by the 79th Texas Legislature; and*
 - B. *reviewing all legislation introduced by the 79th Texas Legislature that has an impact on the practice of pharmacy or agency operations and monitor the progress of this legislation throughout FY2005.*

STATUS: ACCOMPLISHED

Comment: General Counsel participated in the legislative process as follows:

- A. General Counsel attended the following meetings:
 - (1) meetings with representative of various organizations, including pharmacy trade associations, to discuss legislative issues involving Sunset and other legislation;
 - (2) Senate Finance Hearing on January 31, 2005;
 - (3) meeting on February 9, 2005, with Sen. Armbrister's staff to provide information about TSBP peace officer requirements;
 - (4) meetings on March 7, 2005, and March 10, 2005, with staff of Sen. Whitmire and Rep. Truitt (sponsors of TSBP's Sunset bill) to answer questions about provisions of the bill;
 - (5) meeting on March 14, 2005, with staff of Rep. Delisi to answer questions regarding compounding bill;

LEGAL DIVISION

- (6) meeting on March 23, 2005, with staff of Rep. Deshotel's office regarding clarification of release of confidential information
- (7) meeting on March 24, 2005, with Rep. Hochberg to provide information on licensing of Canadian pharmacies.
- B. General Counsel reviewed Bills filed during the 79th legislative session for applicability to TSBP licensees and registrants and TSBP operation.
- C. General Counsel provided information to attorney with Legislative Council regarding licensing of and jurisdictional issues related to Canadian pharmacies.
- D. General Counsel assisted Executive Director as requested with any issues involving Sunset legislation and other pharmacy practice or agency related legislation and participated in meetings to implement legislation.
- E. General Counsel advised the Board to seek an opinion from the Attorney General regarding the implementation of the provisions of the Sunset bill that required the agency to authorize Canadian pharmacies to dispense prescriptions to Texas residents as to whether the newly passed law was preempted by federal law. She also drafted a letter to the Canadian Minister of Health to request an opinion about authority for TSBP to inspect Canadian pharmacies.

Objectives (Ongoing)

1. *To coordinate and monitor throughout FY2005 the receipt, assignment, and resolution of all cases accepted by the Division.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division staff met approximately once a month to discuss the status of pending cases, to assess workload allocation, and determine the most effective strategies to complete cases in a timely and efficient manner.
- B. Division staff maintained a database system to track the current status of all cases, which has increased efficiency in monitoring cases.
- C. TSBP entered a total of 552 disciplinary orders in FY2005, as reflected in the charts below.

TOTAL PHARMACIST/PHARMACY ORDERS

Date of Orders	Summary Suspensions	SOAH Board Orders	Default Board Orders	ABOs Entered by ED	Agreed Board Orders		Total Number of Orders
					Public	Confidential	
Sept. 24, 2004	0	0	0	0	2	0	2
Nov. 9-10, 2004	0	0	1	0	26	10	37
Feb. 8-9, 2005	0	1	1	1	23	8	34
May 10, 2005	0	1	1	3	32	9	46
Aug. 9-10, 2005	0	0	2	1	32	15	50
Aug. 25, 2005	0	0	0	3	0	0	3
TOTAL FY2005	0	2	5	8	115	42	172

LEGAL DIVISION

TOTAL PHARMACY TECHNICIAN ORDERS

Months in which Orders were entered/reported	Board Orders	ABOs Approved by ED & Reported to Board	Agreed Board Orders	Total Number of Orders
September 2004	0	0	103	103
November 2004	0	0	87	87
February 2005	0	72	15	87
May 2005	1	44	0	45
August 2005	2	54	2	58
TOTAL FY2005	3	170	207	380

The Division prepared for the presentation of Agreed Board Orders and Board Orders for approval at the four regularly scheduled Board meetings throughout the year, and also held an additional meeting in September 2004 for this purpose and began entering orders approved by the Executive Director throughout the year.

Information regarding the disciplinary cases entered in FY2005 is set forth in the following charts:

LEGAL DIVISION

**SANCTIONS IMPOSED BY THE ENTRY OF
DISCIPLINARY ORDERS ON
PHARMACISTS AND PHARMACIES (FY2005)**

			Pharmacist	Pharmacy	Total	
Licenses Removed	12	(7%)				
Revoke			9	1	10	(6%)
Retire			2	0	2	(1%)
Suspensions	35	(20%)				
Suspension			17	0	17	(10%)
Suspension w/Conditions			4	0	4	(2%)
Suspension/Fine			0	0	0	n/a
Suspension/Probation			1	0	1	(< 1%)
Suspension/Probation w/Conditions			8	1	9	(5%)
Suspension/Probation/Fine			0	1	1	(< 1%)
Suspension/Probation/Fine w/Conditions			0	3	3	(2%)
Restrictions	4	(2%)	4	0	4	
Other	86	(50%)				
Fine			8	9	17	(10%)
Fine with Conditions			9	0	9	(5%)
Fine and Reprimand			1	8	9	(5%)
Fine, Reprimand with Conditions			13	10	23	(13%)
Reprimand			5	0	5	(3%)
Reprimand with Conditions			13	10	23	(13%)
Issuance License/Regist.	20	(12%)				
Grant with Suspension			1	0	1	(< 1%)
Grant with Probation			2	0	2	(1%)
Grant with Probation and Conditions			1	0	1	(< 1%)
Grant with Reprimand			0	0	0	n/a
Grant with Fine			6	10	16	(9%)
Deny			0	0	0	n/a
Reinstatements	2	(1%)				
Grant			0	0	0	n/a
Grant with Probation/Conditions			2	0	2	(1%)
Deny			0	0	0	n/a
Modifications	13	(8%)				
Grant			13	0	13	(8%)
Deny			0	0	0	n/a
TOTAL FY05:	172	(100%)	119	53	172	(100%)

FY05 Orders Entered Against Pharmacist Licenses	119	69%
FY05 Orders Entered Against Pharmacy Licenses	53	31%
FY05 Total Disciplinary Orders on Pharmacist/Pharmacy	172	100%

LEGAL DIVISION

**DISCIPLINARY ORDERS ON
PHARMACISTS AND PHARMACIES(FY2005)**

	NATURE OF VIOLATIONS*		Total	Total %
	RPh	Phcy		
Diversions	7	1	8	5%
Illegal Delivery	1	0	1	
Unauthorized Dispensing	1	0	1	
Theft of Controlled Substances	2	0	2	
Obtained C/S by Fraud	1	0	1	
No Valid Dr-Pt Relationship (Internet)	2	1	3	
Convictions	10	0	10	6%
Felony	5	0	5	
Misdemeanor	1	0	1	
Deferred Adjudication, Felony	3	0	3	
Alcohol-Related	1	0	1	
Audit Discrepancies	13	7	20	12%
Drug	3	7	10	
Continuing Education	10	0	10	
Practice Deficiencies	33	31	64	37%
Dispensing Errors	20	17	37	
Dispensing Errors & No Counsel and/or No Drug Regimen Review	11	13	24	
No Counsel and/or DRR	2	1	3	
Unprofessional Conduct	41	14	55	32%
Aiding and Abetting	2	2	4	
Falsified Application for Licensure	8	11	19	
Practicing/Delinquent License	1	0	1	
Falsify Response to W/N	1	1	2	
Probable Cause/Chemical Dependency	6	0	6	
Action by Other Boards	9	0	9	
Non-Compliance with Previously Entered Order	14	0	14	
Other				
Modification	13	0	13	8%
Reinstatement	2	0	2	1%
TOTAL FY05:	119	53	172	101% **

* 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.

** Due to rounding

LEGAL DIVISION

SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS
ON PHARMACY TECHNICIANS (FY2005)

	Total	Total %
Grant with no additional sanctions	1	>1%
Grant Registration subsequent to meeting certain conditions	44	12%
Grant Registration subsequent to meeting certain conditions followed by suspension	42	11%
Grant Registration followed by suspension	286	75%
Denial	5	1%
Revocation	2	1%
TOTAL FY05:	380	100%

DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS (FY2005)
NATURE OF VIOLATIONS*

	Total	Total %
Gross Immorality	65	17%
Immoral conduct	0	
with falsified application	0	
Engaging in felony	46	
with falsified application	19	
Engaging in sexually deviant behavior	0	
with falsified application	0	
Falsification	135	36%
Conviction	86	23%
Misdemeanor	27	
with falsified application	41	
Felony	7	
with falsified application	11	
Drug or Alcohol Dependency	17	4%
Drug or Alcohol Dependency	10	
with falsified application	7	
Violation of Drug Laws	77	20%
Misdemeanor	36	
with falsified application	21	
Felony	13	
with falsified application	7	
TOTAL FY05:	380	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.

LEGAL DIVISION

2. *To review all cases referred to the Division for potential disciplinary action; and if sufficient evidence exists to warrant action, to institute disciplinary proceedings against licensees within an average of 150 days of the date of the case review, in accordance with priorities established for the Enforcement Division, throughout FY2005.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. During FY2005, Division staff participated in 21 case and/or complaint review meetings. These meetings were held approximately twice per month with participation by the Executive Director and Legal and Enforcement Division staff.
- B. Division Staff mailed 618 Preliminary Notice Letters in FY2005, in accordance with the priorities established for the Division, as compared to FY2004, when the Division mailed 652 PNLs. Of these PNLs, 207 PNLs were mailed to pharmacists and pharmacies, and 411 PNLs were mailed to pharmacy technicians.
- C. The number of days to mail PNLs after the case review date in FY2005 was 37.1 days and remained consistent with the FY2004 number of 35.9 days. The number of days for PNLs to be sent to pharmacists and pharmacies averaged 82.2 days. PNLs to pharmacy technicians were sent in an average of 16.2 days from receipt of the case.
- D. Total resolution time for cases in FY2005 was 113.1 days from receipt of the case in the Legal Division to the entry of an Agreed Board Order. Case resolution for pharmacists and pharmacies averaged 222.9 days and for pharmacy technicians 73.2 days.

3. *To plan and conduct a minimum of 15 days of Informal Conference sessions in FY2005 to adjudicate violators of pharmacy laws/rules.*

Status: ACCOMPLISHED

Comment: During FY2005, the Division prepared for 30 days of Informal Conferences for 293 licensees/registrants, of which 246 licensees/registrants were heard before a panel, as indicated in the following charts. The number of conference days and the number of licensees heard at Informal Conferences remained relatively consistent with the number in FY2004 from 30 days and 333 licensees, due, in large part, to the disciplinary actions initiated against pharmacy technicians.

LEGAL DIVISION

INFORMAL CONFERENCES FOR PHARMACISTS/PHARMACIES

Dates of Informal Conference	# of Days	# of RPh/Phy Licensees	# of Technicians	# of Cases	# of Licensees Dismissed	Board Member Participant
Sept. 1-2, 2004	1 ½	11	0	9	1	Kim Caldwell, R.Ph.
Oct. 21, 2004	1	11	0	10	1	Oren Peacock, R.Ph.
Dec. 8-9, 2004	1 ½	16	0	12	3	Oren Peacock, R.Ph.
Jan. 11-12, 2005	1 ½	14	0	11	3	Doyle High, R.Ph.
1st & 2nd Qtrs.	5 ½	52	0	42	8 (15%)	
Mar. 1-3, 2005	2 ½	24	1	15	2	Rosemary Combs
April 12-14, 2005	2 ½	21	0	15	0	Ben Fry, R.Ph.
June 7-9, 2005	2 ½	19	2	19	1	Juliette Barlett-Pack Marcelo Lajjas
July 12-14, 2005	3	21	1	19	2	Kim Caldwell, R.Ph.
3 rd & 4th Qtrs.	10 ½	85	4	68	5 (6%)	
TOTAL FY2005:	16	137	4	110	13 (9%)	

INFORMAL CONFERENCES FOR PHARMACY TECHNICIANS

Dates of Informal Conference	# of Days	# of Registrants	# of No Shows	# of Dismissals
September 15-16, 2004	2	30	4	2
October 5-6, 2004	2	23	2	0
October 26, 2004	1	9	4	2
November 23, 2004	1	13	5	4
December 15, 2004	½	1	0	0
December 16, 2004	1	7	0	0
January 18, 2005	1	14	5	0
February 1, 2005	½	9	1	0
March 8, 2005	½	1	5	0
April 7, 2005	1	14	6	0
May 3, 2005	1	10	4	0
June 14, 2005	1	7	6	0
July 19, 2005	1	5	4	0
August 17, 2005	½	9	1	0
TOTAL FY2005:	14	152	47 (31%)	8 (5%)

LEGAL DIVISION

4. *To refer disciplinary cases to the State Office of Administrative Hearings throughout FY2005, 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:

- A. At the onset of FY2005, two cases were ongoing at the State Office of Administrative Hearings. The Division filed formal Complaints at SOAH, within 120 days that the case failed to settle with an Agreed Board Order, for 12 additional cases in FY2005.
 - B. Three cases were resolved prior to a full contested administrative hearing being conducted at SOAH. This resolution was beneficial in saving the agency both considerable time and effort in the alternative of preparing for and presenting a full contested case hearing.
 - C. Eight administrative hearings were conducted in FY2005. Five Proposals for Decisions (PFD) were issued by the Administrative Law Judges in those cases, and in each case, the Board essentially adopted the recommendations in the PFDs by Board Order. One case was dismissed by the ALJ when the applicant failed to appear at the hearing. Two cases were anticipating the return of a PFD at the end of FY2005.
 - D. The other three cases were planned for hearings in FY2006.
 - E. SOAH performed 152.15 hours of work on 14 cases for the TSBP in FY2005, totaling approximately \$9,452 in direct hearings expenses and \$17,169 in total case expenses. These SOAH hours reflect an approximate 364% increase over the 41.85 hours in FY2004.
5. *To research legal issues and when necessary, to draft requests for Attorney General Opinions throughout FY2005; 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 FY2005; 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

- (1) Assistant Attorney General Assigned to TSBP

Division staff continued to serve as liaison with the OAG throughout FY2005. Joe Pitner served as the Assistant Attorney General assigned to TSBP from the OAG Administrative Law Division.

LEGAL DIVISION

- (2) Appeals; Injunctions; Civil Litigation
 - (a) No disciplinary cases were appealed during FY2005.
 - (b) General Counsel provided information to Consumer Protection Division regarding case filed by the Attorney General against Patient Assistance Program.
 - (c) General Counsel coordinated with Assistant Attorney General regarding settlement of civil case against internet veterinary pharmacy allegedly dispensing without a valid practitioner-patient relationship.
- (3) Requests for AG Opinions
 - (a) No requests for open record decisions from the OAG were filed during FY2005.
 - (b) General Counsel requested an opinion whether federal law preempted the implementation of sections of SB410 regarding authorization by the board for certain Canadian pharmacies to dispense drugs to Texas residents. The opinion request was pending at the end of FY2005.

B. Legal Research and Advice on Agency Administration

- (1) General Counsel reviewed the Memorandum of Understanding between the Office of Patient Protection and the health licensing agencies for legal sufficiency and effectiveness
- (2) Division staff researched numerous issues, including the following issues:
 - a) Crimes of moral turpitude;
 - (b) Status of federal compounding law;
 - (c) Sex offender registration program and rehabilitative potential;
 - (d) Guaranteed Student Loan default requirements for registration renewal;
 - (e) Ex post facto application of law; and
 - (f) Use of TLETS to conduct criminal background checks on employment applications.
- (3) General Counsel served on the agency's Wellness Committee and conducted a survey of the agency staff to assess employee's use of wellness activities. She also served as agency coordinator for the Texas Roundup.

LEGAL DIVISION

- (4) General Counsel served as Fraud Coordinator and reviewed and submitted the TSBP Fraud Prevention and Protection Plan.
- (5) General Counsel participated in meetings and assisted the Administration Division with the development of the agency's Risk Management plan and the Customer Service Survey.

C. Technical Assistance to Local/State/Federal Prosecutors

- (1) General Counsel responded to requests for information from the U.S. Attorney's office and the Drug Enforcement Administration regarding the program for impaired pharmacists and other pending disciplinary action.
- (2) General Counsel assisted Medicaid Office of Investigations with information on closing of pharmacy.
- (3) General Counsel provided information to Dallas County Assistant District Attorney regarding prosecution of licensed pharmacist involved in fraudulent prescriptions.
- (4) General Counsel assisted Tyler District Attorney with information on practicing pharmacy without a license.
- (5) General Counsel responded to questions from the Texas State Board of Medical Examiners regarding reporting of dispensing errors by physicians, adulterated drugs, prescriptive authority of deceased physicians, and requirements for physician signatures on prescriptions.
- (6) General Counsel assisted Veteran's Administration Office of Inspector General with drafting allegations for nontherapeutic dispensing prosecution.
- (7) General Counsel coordinated with Collin County District Attorney's office regarding prosecution of an impaired pharmacist.
- (8) Division staff assisted various other states on pharmacy related issues, as follows:
 - (a) Arkansas Board of Pharmacy regarding licensing of pharmacists by reciprocity;
 - (b) Oklahoma Board of Pharmacy with information on actions taken against pharmacist also licensed in Oklahoma;
 - (c) Colorado Board of Pharmacy on compounding laws and rules for office use compounding;
 - (d) Louisiana Board of Pharmacy regarding disciplinary action against Class E pharmacy;

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 FY2005, 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 approximately 114 verbal requests for complaint and disciplinary information in FY2005.
- B. General Counsel reviewed written responses to open records requests, prepared by the Professional Services Division, for legal compliance with the Public Information Act in FY2005. In addition, the General Counsel assisted with clarifying certain open records requests requiring telephonic clarification, when legal issues were involved.
- C. General Counsel assisted the Division of Professional Services to resolve issues with confidential information being released in response to federal subpoena in a federal case at the request of an Assistant U.S. Attorney with the U.S. Department of Justice in Philadelphia.

8. *To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2005.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Surveys/Questionnaires and Other Correspondence
 - (1) General Counsel responded to Client Satisfaction Survey for the Office of Attorney General.
 - (2) General Counsel drafted various correspondence, e.g., a letter to NABP regarding correction of falsified applications and a form letter warning probationers about dilute samples resulting from random drug screens.
 - (3) Division staff completed survey for the State Office of Administrative Hearings regarding the effectiveness of the mediation process.

LEGAL DIVISION

B. Technical Assistance to Board Members and Board Staff

- (1) Division staff assisted Board Members and staff by conducting legal research on several issues (see Ongoing Objective #5).
- (2) Division staff drafted numerous subpoenas to assist with the investigative work of the TSBP investigators.
- (3) General Counsel and other Division staff provided legal advice and consultation on numerous personnel issues during FY2005, including:
 - (a) assisted with disciplinary actions for violations of employment policies and procedures;
 - (b) assisted with issues in various hiring processes;
 - (c) developed new policy for background checks on employment applications; and
 - (d) interviewed applicants for new positions.
- (4) General Counsel assisted the Division of Professional Services in the review/drafting of proposed rules and preambles for rules, and the review of rule submissions to the *Texas Register* for all rules either proposed or adopted during FY2005, including pharmacy compounding, pharmacy technician qualification and disciplinary grounds, pharmacy security requirements, and pharmacist-in-charge requirements.
- (5) General Counsel assisted in submitting disciplinary actions to the HIPDB national database.
- (6) General Counsel continued to serve as the agency's Ethics Advisor and continued to assist Board Members and staff with legal and ethical issues.
- (7) Division staff handled numerous legal questions from all staff regarding a myriad of issues.
- (8) General Counsel reviewed numerous complaint files for pharmacists and pharmacies and verified accuracy of information and citations in warning letters drafted by Enforcement Division staff regarding violations of federal and state law. In addition, General Counsel reviewed numerous complaint files on pharmacy technicians to determine type of violation and appropriate action, as previously determined by the Board.
- (9) Division staff made presentations at all Board meetings held in FY2005. Presentations included information about proposed Agreed Board Orders and proposed Board Orders following SOAH proceedings.
- (10) General Counsel assisted in the review and preparation of minutes of four regularly-scheduled Board meetings and an additional Board meeting.

LEGAL DIVISION

- (11) Division staff assisted the Licensing Division with respect to eligibility for licensure and internship by either verifying accuracy of warning letters or by handling the cases through the legal process, developed questions for on-line registration, and reviewed pharmacist applications requesting special testing accommodation under the Americans with Disabilities Act.
- (12) Division staff informed 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.
- (13) Division staff participated on a committee to develop articles for the TSBP Newsletter.
- (14) Division staff served as moderator and participated in the Agency Change Team, which met to formulate suggestions for improvements based on the results of the Survey for Organization Excellence, and she drafted final report to management staff summarizing the team's recommendations. General Counsel, as part of the management team, reviewed and discussed implementation of the recommendations.
- (15) Division staff assisted the Licensing Division with development of procedures for registration of pharmacy technicians in compliance with the Pharmacy Act and Board rules.
- (16) Division staff assisted the Enforcement Division with issues involving the monitoring of impaired pharmacists, including legal consultation on handling of dilute drug screens and interfacing with the PRN program.
- (17) Division staff updated the Disciplinary Index to all actions taken by TSBP on a quarterly basis following each Board meeting and converted the table to *Word*.
- (18) General Counsel provided training to the Compliance Officers and Inspectors on procedures to obtain affidavits, surrenders, and other investigative information and make referrals to the Legal Division on two occasions, and met with Investigators to respond to questions about legal process.

C. Technical Assistance to Other Agencies and Organizations

- (1) Division staff attended State Agency Council meetings during FY2005.
- (2) General Counsel answered inquiry from Governor's office regarding licensing of pharmacies with falsification of the application.
- (3) General Counsel provided information to the Texas Pharmacy Association regarding compounding laws and regulations.
- (4) General Counsel assisted the Professional Recovery Network with issues regarding mental health evaluations of pharmacy professionals.

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- (5) General Counsel provided information on pharmacy ownership requirements to Department of Health and Human Services.
- (6) General Counsel assisted Executive Director of the State Office of Administrative Hearings to prepare a fiscal note for legislation involving pseudoephedrine regulation.

D. Technical Assistance to the Legislature

- (1) General Counsel answered questions from various legislative offices regarding applications for pharmacy licensure involving individuals with criminal backgrounds and falsification issues, pharmacy discount coupons for prescription transfers, donations of previously dispensed drugs, and generic substitution.
- (2) General Counsel participated in various meetings with legislative staff to provide information about the legal interpretation of the law relating to office use compounding and testified about the issue before the Sunset Commission (see new objective above).
- (3) General Counsel provided information to various legislative offices regarding the status of registration process for pharmacy technicians with pending disciplinary action.

E. Technical Assistance to the Press and the Public

- (1) Division staff answered numerous telephone calls from pharmacist and pharmacy technician applicants regarding the application process and the associated disciplinary process, including providing information about denial of registration and options for Informal Conference.
- (2) Division staff answered numerous questions from licensees, attorneys, and other members of the public regarding legal issues, including:
 - (a) valid pharmacy locations;
 - (b) scope of definition of practice of pharmacy;
 - (c) licensing eligibility and requirements;
 - (d) effect of deferred adjudication and/or probation for various crimes on registration and licensure;
 - (e) subpoena authority; and
 - (f) automation utilized in pharmacies.

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- (3) General Counsel responded to numerous requests for information from the following television and newspaper reporters on issues including:
 - (a) Mitch Mitchell, Fort Worth Star Telegram, regarding legislation to allow pharmacist to refuse to fill abortion or contraceptive drugs;
 - (b) Roxanne, KVII TV in Amarillo, regarding legislation to allow pharmacist to refuse to fill abortion or contraceptive drugs;
 - (c) Janet St. James, WFAA TV in Dallas, regarding purchase of Vicodin from pharmacy in Arlington; and
 - (d) Mary Alice Robbins, Texas Lawyer, regarding Canadian rules.
- (4) General Counsel answered questions from members of the public about a pharmacist's ability to refuse to dispense a prescription on moral grounds.
- (5) General Counsel Provided advice and legal assistance in response to Hurricane Katrina, including development of procedure and application forms for temporary pharmacist license and temporary remote pharmacies.

9. *To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2005.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. General Counsel served as chair of the HPC Legal Committee, which includes attorneys from other agencies, and provided updates to HPC about Legal Committee activities as requested.
- B. General Counsel provided examples of rules regarding Negotiated Rulemaking to HPC for distribution at HPC meeting to other agencies wanting to pass rules on this issue.
- C. General Counsel analyzed S.B. 104 of the 78th Legislative Session to determine applicability of the provisions for the Texas State Board of Medical Examiners to other HPC agencies and prepared and presented a summary of the analysis to HPC.

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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 FY2005.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

In FY2005, 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	02/10/05	EAP Stretch and Relax to Beat Stress Class
	05/20/05	Advanced Word Class
	06/27/05	Pharmacy Law Seminar (Dallas)
	08/23/05	Presentation on USP 797
	08/25/05	EAP on Working Parents
Julie Hildebrand	10/18/04	Examination for Board of Legal Specialization in Administrative Law
	07/28-29/05	UT Administrative Law Conference
	08/23/05	Presentation on USP
	08/25/05	EAP on Working Parents
Stephanie Chambers	10/18-19/04	Texas Conference for Women
	2/15/05	Intermediate Word Class
	08/23/05	Presentation on USP 797
Cheryl Sepulveda	11/4/04	Word Introduction
	01/13/05	Word Class – Tips & Tricks
	02/2/05	Intro Word Class
	02/10/02	EAP Stretch and Relax to Beat Stress Class
	02/15/05	Intermediate Word Class
	02/28/05	Advanced Word Class
	03/04/05	Word Training – Advanced Class
Georgienne Nassauer	11/4/04	Word Introduction
	02/03/05	Intermediate Word Class
	02/10/02	EAP Stretch and Relax to Beat Stress Class
	05/20/05	Advanced Word Class
Jing Belfiglio	10/11/04	TLETS class
	10/1/04	Video training on “Professional Telephone Skills” and “Speaking without Fear or Nervousness”
	11/04/04	Word Introduction
	11/10/04	Managing Complex Documents with Word
	12/04/04	Pharmacy Law Seminar
	12/08/04	Word Class – Tips and Tricks
	02/14/05	Public Notary Seminar
	02/15/05	Intermediate Word Class
	02/28/05	Advanced Word Class
	03/04/05	Word Training – Advanced Class
	04/18/05	Word 2002 – Mail Merge

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11. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2005.

Status: ACCOMPLISHED

Comment: Formal performance reviews were conducted as follows:

Employee	Date of Evaluation	Evaluation By
Kerstin Arnold, J.D.	8/29/05	Executive Director
Julie Hildebrand, J.D.	8/29/05	General Counsel
Stephanie Chambers, J.D.	8/30/05	General Counsel
Cheryl Sepulveda	8/29/05	Assistant General Counsel
Georgienne Nassauer	8/30/05	Assistant General Counsel
Jing Belfiglio	N/A	General Counsel

Other activities related to Division personnel are listed below:

- A. General Counsel conducted team meetings approximately once a month with Division staff.
- B. The Division had a law clerk during the spring of 2005 from the University of Texas School of Law, who provided invaluable assistance during the absence of an Assistant General Counsel on parental leave. During the summer of 2005, the Division had a legal intern that assisted with the preparation of legal cases.
- C. General Counsel prepared and conducted orientations of all new TSBP employees and interns during FY2005 regarding the Legal Division, the legal process, ethics, and Public Information and Open Meetings Acts.
- D. A new legal assistant, Jing Belfiglio, was selected to fill the position and hired, effective September 14, 2004. She was trained in agency and Division policies and procedures by Division staff.
- E. Julie Hildebrand, Assistant General Counsel, obtained her certification from the Legal Board of Specialization in Administrative Law after passing a comprehensive examination.

12. *To destroy records in accordance with the agency's record retention plan throughout FY2005; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2005.*

Status: PARTIALLY ACCOMPLISHED

Comment: This objective was partially accomplished as follows:

A. Records Management

During FY2005, Division staff destroyed records, in accordance with the TSBP record retention schedule, including general correspondence.

B. Policies and Procedures

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

13. *To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2005.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division staff actively participated in the agency's conversion to *Word* word processing software from *WordPerfect* by converting all templates used in preparation of documents for the Division. General Counsel served on the conversion team and attended numerous meetings to facilitate the agency's progress and provide adequate support and training.
- B. Division staff recommended to the Board that the Executive Director be authorized to enter disciplinary orders against pharmacy technicians and against any applicant with a falsified application, in order to avoid further delay in the registration process. The Board approved this procedure at the November 2004 Board meeting, and Division staff developed summaries and charts to inform the Board members at subsequent meetings of the various types of orders entered by the Executive Director. In addition, Division staff implemented procedures to track orders entered and inform Enforcement staff of required processing and monitoring.
- C. Division staff actively participated in the development of procedures to handle the registration of pharmacy technicians by the agency deadline, and suggested numerous interim measures to ensure compliance with the procedures, including the use of a postcard to indicate continued authorization to perform technician duties pending the resolution of possible disciplinary action by the Enforcement and Legal Divisions. Division staff developed templates for various types of criminal violations for pharmacy technician applicants to expedite drafting of Preliminary Notice Letters and Agreed Board Orders. General Counsel, with input from the Executive Director and the Director of Enforcement, developed guidelines for disciplinary sanctions against pharmacy technicians.

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- D. Division staff drafted a document to address questions by pharmacy technicians with criminal backgrounds regarding eligibility for registration, and TSBP posted the questions and answers on the agency's website to reduce the number of telephone calls that staff was handling on this issue.

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 FY2005.*

Status: ACCOMPLISHED

Comment: General Counsel participated extensively in the legislative process during the 79th legislative session (see New Objective #1) to recommend various changes to the Sunset bill and other relevant legislation.

15. *To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2004 Annual Report to be presented to the Board by its May 2005 Board meeting.*

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2005 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 2005.