



Texas State Board of Pharmacy

Annual Report FY2010

W. Benjamin Fry, R.Ph., FIACP, FACA
President (9/01/09 - 1/05/10)

Jeanne Waggener, R.Ph.
President (1/06/10 - 8/31/10)

Gay Dodson, R.Ph.
Executive Director/Secretary

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Austin, Texas 78701
512/305-8000
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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

Jeanne D. Waggener, R.Ph.
President
Waco
8/10/06 - 8/31/11

Alice G. Mendoza, R.Ph.
Vice President
Kingsville
8/10/06 - 8/31/11

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

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

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

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

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

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

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

Office of the Executive Director**Executive Director**

Gay Dodson, R.Ph.

Executive Assistant

Becky Damon

Receptionist

Debra Dukes

Administrative Services & Licensing**Division Director**

Cathy Stella, P.H.R.

Chief Accountant

Jane Bennett

Accountant II

Chantell Solomon

Accountant III

Sandra Morton

Staff Services Officer II

Robbi Dana

Purchaser

Darlene Guthrie

Information Resources Manager

Steve Rapp

Network Specialist

Todd Hayek

Licensing Administrator

Carol Willess

Licensing Specialists

Estella Casarez

Rachel Glass

Diana Ruedas

Melinda Uballe

Misty Whitcomb

Cheryl Gray

Marcie Alvarez

Professional Services**Division Director**

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

Senior Administrative Assistant

Leslie Kacer

Enforcement

Division Director

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

Assistant Director of Enforcement

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

Chief of Investigations

Robert Ebrom

Chief of Compliance

Ben Santana, R.Ph.

Enforcement Program Specialist

Janelle Nastri

Enforcement Specialists

Annette Porterfield, Ph.T.R.

George Redmond

Elaine Naivar, Ph.T.R.

Brandy Plummer

David Gomez

Darrell Montgomery, Ph.T.R.

Deb Beal

Enforcement Officers

Katherine Hayden, Ph.T.R.

Linda Yazdanshenas

Cynthia Fazin

Enforcement Technicians

Yvette Muniz

Noreen Trevino

Griselda Lopez, Ph.T.R.

Senior Staff Investigator

Melissa Weeden

Investigative Case Manager

Vacant

Enforcement Program Administrator

Robert Rivera, Ph.T.R.

Enforcement Program Officer

Nelma Sanchez, Ph.T.R.

Investigators (7)

Senior Compliance Officers

Mike Ethridge, R.Ph.

Iona Grant, R.Ph.

Compliance Specialist

Jessica Rodriguez, Ph.T.R.

Compliance Inspectors

Karen Guenther, Ph.T.R.

David Meryman, Ph.T.R.

Adrienne Bauer, Ph.T.R.

Lisa Stone, Ph.T.R.

Chris Schuttler, Ph.T.R.

Administrative Assistants

Demetria Williams

Barbara Jamieson, Ph.T.R.

Marianne Holden

Legal

General Counsel

Kerstin Arnold, J.D.

Litigation Counsel

Julie Hildebrand, J.D.

Staff Attorney

Caroline Hotchkiss, J.D.

Vacant

Legal Program Specialist

Sharanya Rao

Legal Assistant**Hearings Coordinator**

Ann Driscoll, Ph.T.R

Legal Assistants

Cheryl Sepulveda

Tabatha Lowden

Lisa Ake

Kelly Clark

Cherylee Watkins

Note: The organizational structure reflects the organization as of August 31, 2010.

ANNUAL REPORT FY2010

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 (FY2009-2013)

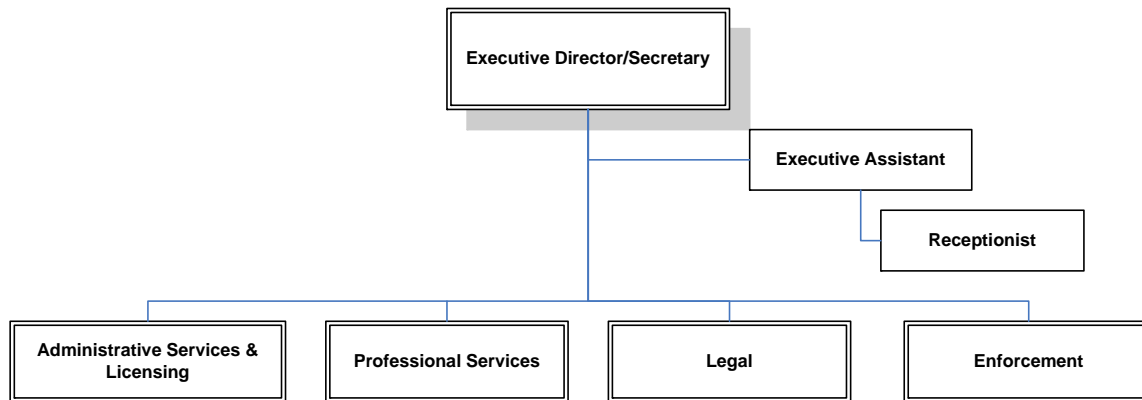
- We will establish and implement reasonable standards for pharmacist and pharmacy technician education and practice, and for the operation of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas [Texas Pharmacy Act (Occupations Code, Sec. 551-566, 568-569)].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

Board Structure

The Board's functional structure at the end of FY2010 was composed of the Office of the Executive Director and four Divisions:

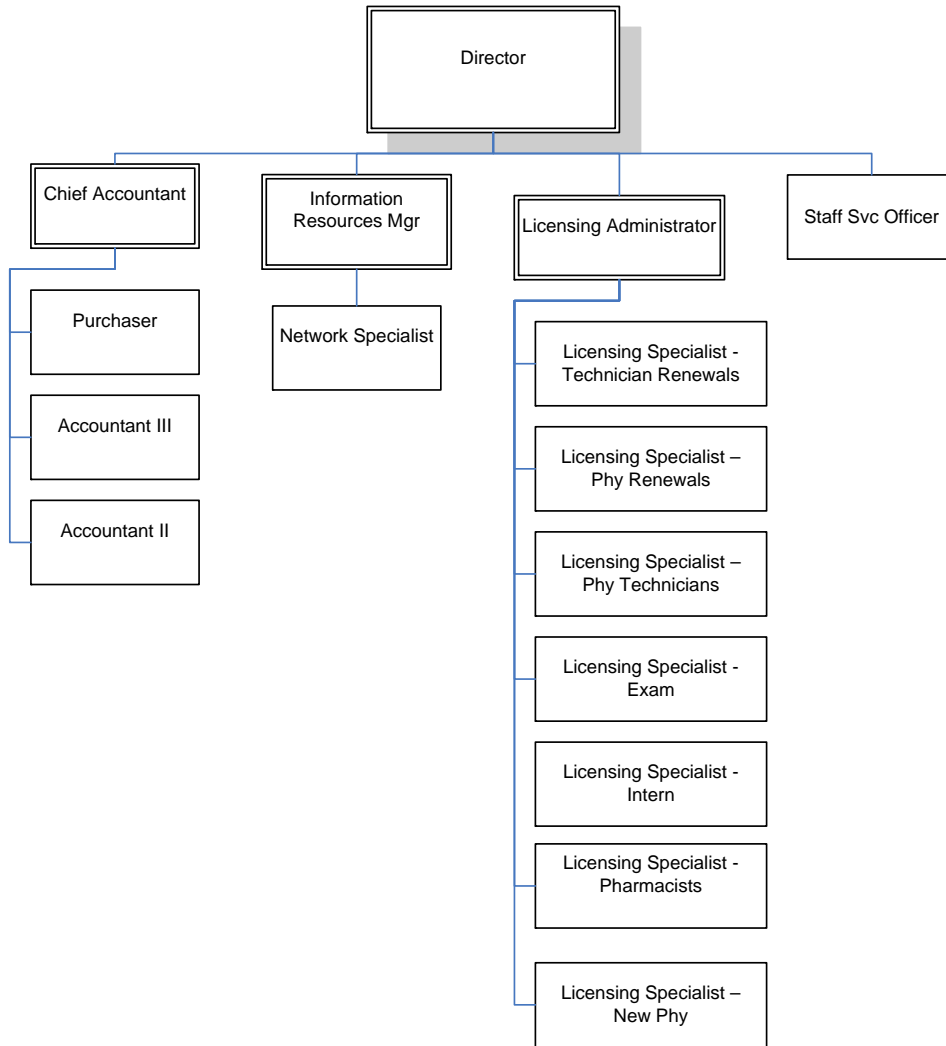
- Division of Administrative Services and Licensing;
- Division of Professional Services;
- Division of Enforcement; and
- Division of Legal Services.

Texas State Board of Pharmacy
Fiscal Year 2010



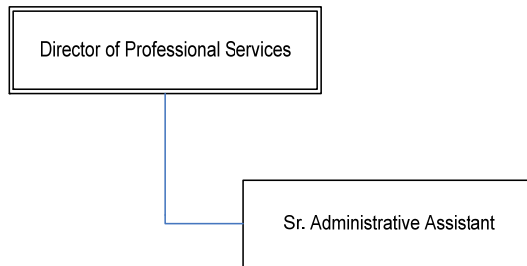
August 2010

Texas State Board of Pharmacy
Administrative Services & Licensing Division
Fiscal Year 2010

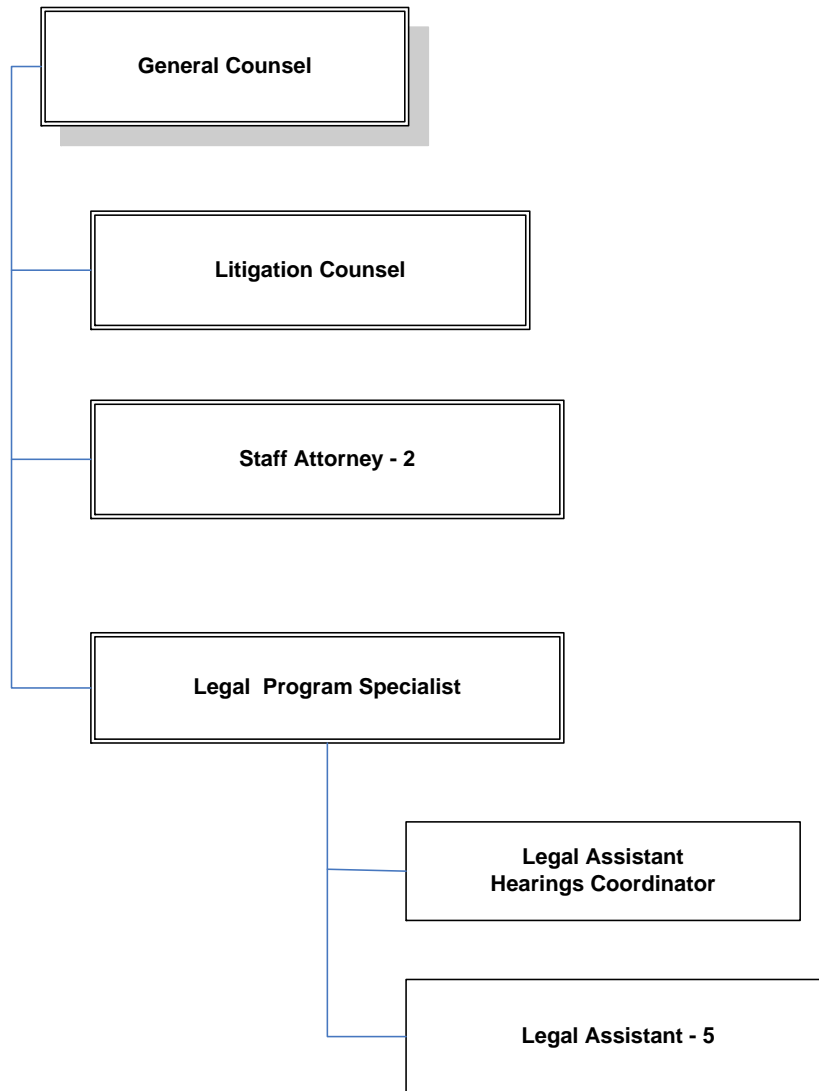


September 2009

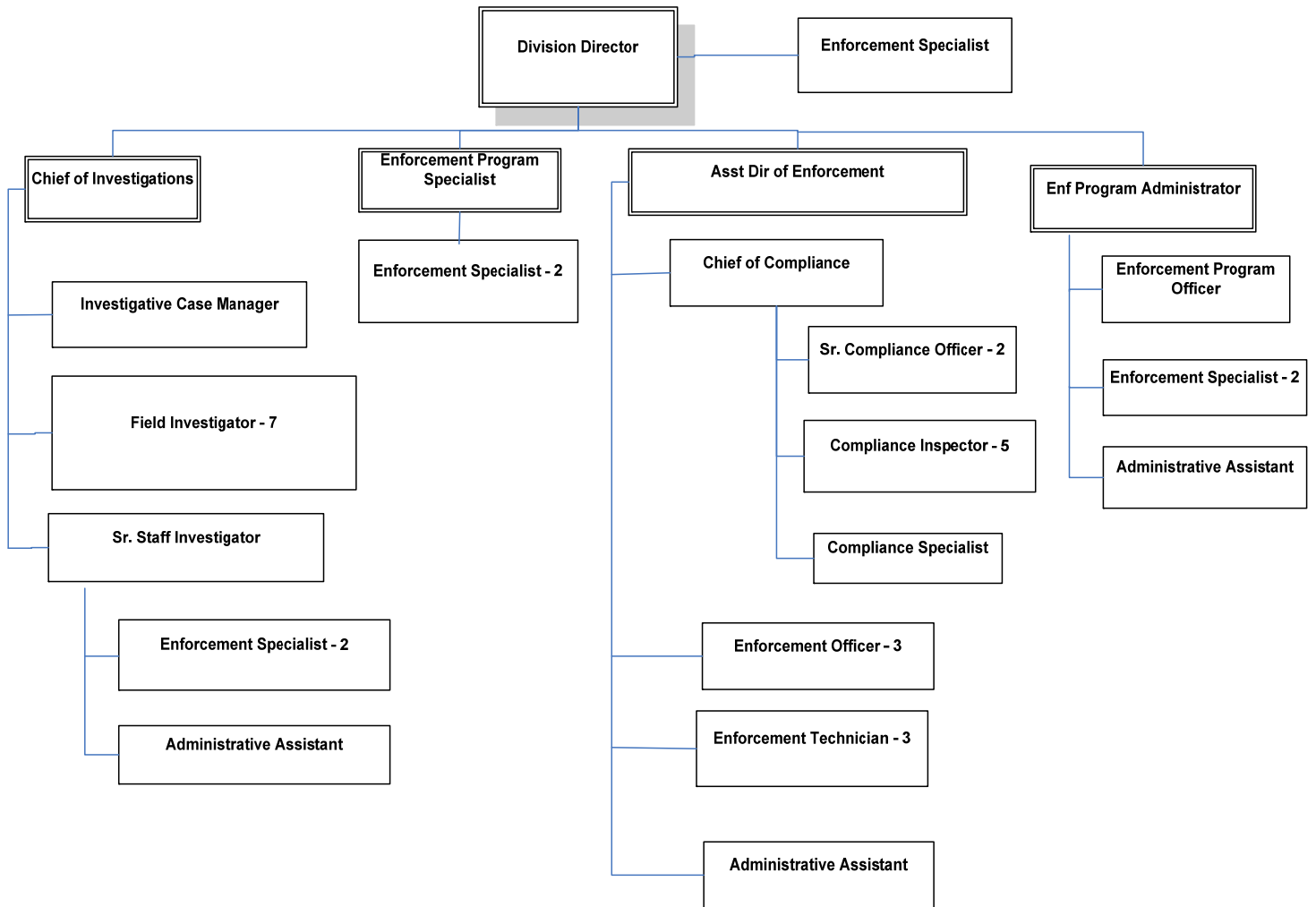
Texas State Board of Pharmacy
Professional Services Division
Fiscal Year 2010



Texas State Board of Pharmacy
Legal Division
Fiscal Year 2010



Texas State Board of Pharmacy
Enforcement Division
Fiscal Year 2010



FY2010 Fiscal Report

FY2010 FISCAL REPORT

The attached report represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2010 (September 1, 2009 - August 31, 2010). 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 *"FY2010 Annual Financial Report."*

It is important to note that as of August 31, 2010, the unexpended balance for FY2010 was approximately \$6,998 or .12% under budget. The primary sources of this unexpended balance were in the testing of compounded products, merit pay, lapsed salaries and conference travel. These items were targeted for reduction as a result of mandatory budget reductions from the Senate and House leadership that all agencies submit recommendations to achieve a 5% budget savings for fiscal year 2010/11.

TEXAS STATE BOARD OF PHARMACY
EXPENDITURES - Fiscal Year 2010 - 4th Quarter
as of November 2010

Code	Description	Budget	Expended	Capital Bdgt & Forfeiture Funds UB	Remaining Budget	Percent Remaining
1008	(a) Professional Fees & Svcs (Other)	39,555.38	39,150.38		405.00	1.02%
1010	(b) Professional Fees & Svcs (TPA)	133,301.00	133,301.00		0.00	0.00%
3002	Gas, Other Fuels & Lubricants	30,324.02	30,324.02		0.00	0.00%
3003	Vehicles - Maintenance	10,107.92	10,107.92		0.00	0.00%
3004	Consumable Supplies & Materials	35,966.81	35,966.81		0.00	0.00%
3005	Postage	48,309.10	48,309.10		0.00	0.00%
3006	Telephone	40,313.24	40,313.24		0.00	0.00%
3014	Subscriptions	10,324.98	10,324.98		0.00	0.00%
3015	Postage - Newsletter	0.00	0.00		0.00	0.00%
3018	Travel - Board Members (Service)	23,940.51	23,940.51		0.00	0.00%
3019/20	Travel - Board Mbr Conference	10,864.74	10,864.74		0.00	0.00%
3027	Travel - State Vehicle	959.91	959.91		0.00	0.00%
3028	Travel - Staff (Service)	81,764.38	81,764.38		0.00	0.00%
3038	Travel - Staff (Conference)	2,799.66	2,799.66		0.00	0.00%
3039	Travel - Staff (Conf Out Of State)	3,658.08	3,658.08		0.00	0.00%
3516	Membership Fees & Dues	1,563.00	1,563.00		0.00	0.00%
3517	Administrative Support Service & Other	1,560.00	1,531.00		29.00	1.86%
3518	Administrative Support Service	31,879.90	27,879.12		4,000.78	12.55%
3518(b)	HPC Shared Regulatory Database Migration	943,228.00	943,228.00		0.00	0.00%
3521	Criminal Investigative Expense	276.94	276.94		0.00	0.00%
3534	Freight & Delivery Service	3,918.71	3,668.71		250.00	6.38%
3535	Maint & Repair - Furn & Equip	6,740.00	6,143.43		596.57	8.85%
3536	Rental of Furn & Equip	6,448.23	6,448.23		0.00	0.00%
3537	Rental of Space	3,372.00	2,976.12		395.88	11.74%
3538	Bonds & Insurance	4,884.00	4,884.00		0.00	0.00%
3539	Maint & Repair - Building	13,894.16	13,894.16		0.00	0.00%
3540	Reproduction & Printing	36,926.74	36,639.15		287.59	0.78%
3541	Printing - Newsletter	0.00	0.00		0.00	0.00%
3545	Computer Expenses (DIR)	193,366.04	193,366.04		0.00	0.00%
3550	Hearing Expenses	350.00	218.75		131.25	37.50%
3570	Registration Fees	7,324.00	7,324.00		0.00	0.00%
3571	Board Member Registration	5,345.00	5,345.00		0.00	0.00%
3581	F & E - Not Capitalized or Inventoried	45,402.39	44,926.40		475.99	1.05%
3586	Cap Bdgt Project - F&E - Inventoried	52,390.33	9,489.71	42,900.62	0.00	0.00%
3588	Books & Recorded Materials	600.00	569.50		30.50	5.08%
3590	Miscellaneous (HPC Transfer and Fees)	23,699.43	23,649.25		50.18	0.21%
3595	Awards	1,622.00	1,470.13		151.87	9.36%
5000	Vehicles	51,713.74	51,713.74		0.00	0.00%
7001	Exempt Salaries	106,500.00	106,500.00		0.00	0.00%
7002/7047	Classified Salaries - Full Time	3,358,053.13	3,358,053.13		0.00	0.00%
7020	Hazardous Pay	2,780.00	2,780.00		0.00	0.00%
7021	Overtime Pay	10,530.82	10,530.82		0.00	0.00%
7022	Longevity	64,100.00	64,100.00		0.00	0.00%
7023	Lump Sum Termination Payment	5,387.00	5,193.24		193.76	3.60%
7024	Death Termination Pay	517.78	517.78		0.00	0.00%
7025	Compensatory Per Diem	5,280.00	5,280.00		0.00	0.00%
7219	Texas Online Fee	247,191.00	247,191.00		0.00	0.00%
7947	State Office of Risk Management	5,225.27	5,225.27		0.00	0.00%
7984	Unemployment Compensation	3,869.74	3,869.74		0.00	0.00%
	Controlled Substance Forfeiture Funds UB)	100,001.50	805.00	99,196.50	0.00	0.00%
	TOTAL ADMIN, LIC & ENF	5,818,130.58	5,669,035.09	142,097.12	6,998.37	0.12%

Office of the Executive Director

This FY2010 Annual Report reflects the objectives accomplished and activities conducted by the agency necessary to implement its *Strategic Plan*. The agency continued to enjoy an excellent reputation with a broad range of customers as a consumer protection advocate and also has the support of its activities by the regulated profession.

The numerous accomplishments achieved by TSBP staff are highlighted at the beginning of each division report. Although specific activities are highlighted under each Division Director's Objectives, TSBP experienced the following major accomplishments and disappointments/constraints in FY2010.

FY2010 SIGNIFICANT ACCOMPLISHMENTS

1. The agency accomplished or partially accomplished all (100%) of its 88 objectives [85 accomplished (96.6%) and 3 partially accomplished (3.4%)]. In addition, the agency also met or exceeded all of the 10 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board (LBB). (See Executive Director Ongoing Objective #1 for additional details).
2. When comparing FY2010 to FY2009, TSBP reduced the average complaint resolution time by 29 days (i.e., on average, complaints were resolved approximately one month faster than in the prior fiscal year). As reflected in the chart below, the FY2010 average complaint resolution time (182 days) was not only a 14% improvement over FY2009, but represented the fastest average time in the past five fiscal years (see Enforcement Ongoing Objective #3 for further information regarding complaints that were closed by TSBP in FY2010).

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY06	3,550	+15%	3,387	+2%	95%	207 Days	+6%
FY07	5,849	+65%	4,980	+47%	85%	185 Days	-11%
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%
FY09	5,290	-8%	6,182	+15%	117%	211 Days	+8%
FY10	5,702	+8%	5,512	-11%	97%	182 Days	-14%

3. TSBP entered more disciplinary orders in FY2010 than in any previous year, as reflected in the chart below (See Legal Ongoing Objective #1 for more details).

Numbers of Disciplinary Orders FY2006 – FY2010				
Year	Pharmacists	Pharmacies	Pharmacy Technicians	Total
FY06	144	63	268	475
FY07	213	87	348	648
FY08	171	82	310	563
FY 09	207	127	403	737
FY 10	217	127	464	808
% 5-year Increase (FY2006 – FY2010)				70%

OFFICE OF THE EXECUTIVE DIRECTOR

4. The agency maintained a high level of information technologies system availability and security (nearly 100%) in a highly volatile environment.
5. Agency Staff gave 45 presentations to approximately 4,065 individuals during FY2010. (See Enforcement Ongoing Objective #7, Professional Services Ongoing Objective #4, and Executive Director Ongoing Objective #5 for more details).
6. The following TSBP Board Members and staff were appointed to offices, received honors, or received recognition in FY2010.
 - A. Board President Jeanne D. Waggener, RPh. was appointed as a member of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act.
 - B. Board Vice-President Alice G. Mendoza, R.Ph. was appointed as a member of the Subcommittee on Hospital Pharmacy of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act.
 - C. Board Treasurer Dennis F. Wiesner, R.Ph. was appointed a member of the Subcommittee on Community Pharmacy of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act.
 - D. Board member Buford T. Abeldt, Sr., R.Ph. was appointed a member of the National Association of Boards of Pharmacy's Committee on Law Enforcement and Legislation.
 - E. Board member W. Benjamin Fry, R.Ph., FIACP, FACA. was appointed to serve as chair the Subcommittee on Community Pharmacy of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act.
 - F. Board member L. Suzan Kedron was appointed as a member of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act.
 - G. Board Member Joyce A. Tipton, R.Ph., MBA was appointed as a member of the National Association of Boards of Pharmacy's Committee on Constitution and Bylaws.
 - H. Board Member Charles F. Wetherbee was appointed to the National Association of Boards of Pharmacy's Committee on Law Enforcement and Legislation.
 - I. Executive Director/Secretary Gay Dodson, R.Ph.:
 - was appointed to serve as chair of the Subcommittee on Other Pharmacy Environments of the National Association of Boards of Pharmacy's Task Force to Review and Recommend Revisions to the Controlled Substances Act; and
 - on April 10, 2010, received the Texas Society of Health-System Pharmacists' Distinguished Service Award.

OFFICE OF THE EXECUTIVE DIRECTOR

FY2010 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The Pharmacy Technician Registration & Enforcement Program continues to grow resulting in the following increases in workload as indicated below.

- A. The Administrative Services and Licensing Division has experienced a 52% increase in the number of licensees/registrants since FY2005.

Number of Licensees FY2005 – FY2010							
Number	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	Percent Increase since FY2005
Licensed Pharmacists	22,661	23,323	23,939	24,586	25,507	26,551	17%
Licensed Pharmacies	6,107	6,201	6,315	6,424	6,516	6,762	11%
Registered Pharmacy Technicians	26,664	30,091	32,106	32,914	33,927	36,134	36%
Registered Pharmacy Tech Trainees	--	--	10,399	18,093	17,657	13,829	33% (since FY07)
Registered Interns	804	822	886	925	1,052	2,451	205%
Total Licensees	56,236	60,437	73,645	82,942	84,659	85,727	52%

- B. The Enforcement Division experienced an 8% increase in the number of complaints received during FY2010, as compared to FY2009. As in past years, over half of the complaints opened by TSBP are due to criminal background checks on applicants for registration as pharmacy technicians/trainees (See Enforcement Division Ongoing Objective #3 for more details).

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY06	3,550	+15%	3,387	+2%	95%	207 Days	+6%
FY07	5,849	+65%	4,980	+47%	85%	185 Days	-11%
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%
FY09	5,290	-8%	6,182	+15%	117%	211 Days	+8%
FY10	5,702	+8%	5,512	-11%	97%	182 Days	-14%

OFFICE OF THE EXECUTIVE DIRECTOR

- C. The agency entered more disciplinary orders in FY2010 than in any previous year with the number of orders entered on pharmacy technicians and pharmacy technician trainees continuing to be more than 50% as shown in the chart below. (See Legal Ongoing Objective #1 for more details).

Year	Numbers of Disciplinary Orders FY2006 – FY2010			Total
	Pharmacists	Pharmacies	Pharmacy Technicians	
FY06	144 (30%)	63 (13%)	268 (57%)	475
FY07	213 (33%)	87 (13%)	348 (54%)	648
FY08	171 (30%)	82 (15%)	310 (55%)	563
FY 09	207 (28%)	127 (17%)	403 (55%)	737
FY 10	217 (27%)	127 (16%)	464 (57%)	808
% 5-year Increase (FY2006 – FY2010)				70%

2. Although the TSBP was successful in obtaining additional appropriations for the requested exceptional items during the 81st Legislative Session, the state's fiscal crisis required an immediate 5% reduction in the agency budget as directed by the Legislative Leadership. This resulted in significant reductions or elimination of the amount budgeted for following:
- A. Pharmacy Recovery Network;
 - B. Testing of compounded products;
 - C. Merit pay to eligible employees;
 - D. Salaries;
 - E. Conference travel; and
 - F. Other operating expenses.

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

3. Throughout FY2010, TSBP Compliance Field staff continued to discover numerous individuals performing technician duties without an active registration. These cases were referred to the TSBP Legal Division. In FY2010, TSBP entered 129 disciplinary orders for this violation in as compared to 100 orders entered in FY2009, a 29% increase.

FY2010 ANNUAL REPORT

GOAL

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

Objectives (New)

- 1. To direct the development and implementation of the new licensing, enforcement, and administration database system throughout FY2010.**

Status: **ACCOMPLISHED**

Comment: The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) and migrate to a Shared Regulatory Database System began in FY2008. In FY2009, a vendor was selected and implementation of the project began in FY2010. It quickly became apparent that an overriding challenge of this project was to effectively convert the agency data from our custom system that was built more than 20 years ago, to a common off-the-shelf system that could be shared by six agencies and would meet the unique requirements of each agency.

Throughout all of FY2010, Agency staff worked with the Regulatory Database Project (RDB) Project Team (Health Professions Staff, Versa and VAX programmers), to identify and map all tables, rules and data to the new regulatory system and to design and configure the Versa Regulatory System and the Versa Online System. The RDB project was not completed by the initial target date of August 31, 2010, and as a result the project continues into FY2011. Although the final success of this project cannot be judged until its completion, the enormous amount of time, energy and effort displayed by the TSBP staff, indicate the high level of commitment to the success of this project. For additional details on Division activities, see Licensing and Administrative Services New Goal #1, Professional Services New Goal #1, Enforcement New Goal #1, and Legal New Goal #1.

- 2. To review and implement legislation passed by the 81st Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2010.**

Status: **ACCOMPLISHED**

Comment: A chart containing the action steps to implement provisions of bills passed during the 2009 Legislative Session was developed with timelines for action. An updated chart was presented to the Board at each meeting showing progress of the implementation.

The following was accomplished during FY2010 regarding this objective:

OFFICE OF THE EXECUTIVE DIRECTOR

A. S.B. 1 (Appropriations Act) – This bill provided funding for the agency including the following new items:

- (1) A new Shared Regulatory Database (see New Objective #1 for details on this project);
- (2) Merit and equity increases for certain staff;
- (3) An annual increase to the salary of the ED of \$1,500;
- (4) 10 additional staff (2 in the field);
- (5) Testing additional compounded products; and
- (6) Leveling the funding for Professional Recovery Network.

In implementing the provisions of the bill the following activities occurred.

- A timeline for remodeling and acquiring additional agency space to accommodate the new staff was established. The agency was able to secure and move into space for our accounting staff on the 2nd floor of Tower 3. TSBP is sharing this space with the accounting staff of the Texas Medical Board and the Texas Board of Nursing.

B. H.B. 19 (Prescription Labeling) – This bill amended the Texas Pharmacy Act to require that:

- (1) a "beyond-use date" be placed on the prescription label or on a "flag" label attached to the dispensing container. (Note: the bill required the rules to be adopted by January 1, 2010); and
- (2) the statement "*Do not flush unused medications or pour down a sink or drain*" be placed on the prescription label or on information provided with the prescription. (Note: the bill required the rules to be adopted by July 1, 2010).

To implement the provisions of the bill the Board:

- adopted rules at the November 9-10, 2009, meeting to require a beyond use date to be placed on the prescription container and the rules became effective on December 6, 2009; and
- adopted rules at the May 4, 2010, meeting that require the placing of the statement "*Do not flush unused medications or pour down a sink or drain*" on the prescription label or on information provided with the prescription. To allow time for updates of pharmacy software to be modified to comply with the rules, the effective date of the rules was delayed until January 1, 2011.

C. HB 963 (Eligibility of Applicants for Licenses) – This bill required all regulatory agencies to adopt by September 1, 2010, rules for conducting a preliminary evaluation of person's eligibility to be licensed within 90-days of an applicants request for the evaluation. To implement the provisions of the bill by the required deadline, the Board voted to propose rules at the May 4-5, 2010, meeting. The rules were adopted at the August 10-11, 2010, meeting and they became effective on September 14, 2010.

D. H.B. 1357 (Licensing of Freestanding Emergency Clinics) – This bill amended the Health and Safety Code to add a new Chapter 254 for the licensing and regulation of "Freestanding Emergency Medical Care Facilities" by the Department of State Health Services. The bill did not amend the Controlled Substances or Dangerous Drug Acts to allow these facilities to possess drugs.

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Because there was no provision for these facilities to possess prescription drugs, TSBP was asked to adopt rules creating a new class of pharmacy in these centers that would allow the possession of prescription drugs. The Board adopted rules to create a new Class F Pharmacy at the February 9-10, 2010, meeting and they became effective on March 11, 2010.

E. H.B. 1409 (Flu shots to patients over 7-years of age) – This bill amended the Texas Pharmacy Act to allow a pharmacist to administer an influenza vaccination to a patient over seven years of age without an established physician-patient relationship. To implement the provisions of this bill, the Board adopted the rules at the November 9-10, 2009, meeting and they became effective on December 6, 2009.

F. H.B. 1924 Rural Hospitals and Tech-Check-Tech – This bill amended several sections of the Texas Pharmacy Act to allow:

- (1) a pharmacy technician to perform certain duties without the direct supervision of a pharmacist; and
- (2) a pharmacy technician to verify the accuracy of work performed by another pharmacy technician if the patient's orders have previously been reviewed and approved by a pharmacist and the hospital has an ongoing "clinical pharmacy program."

To implement the provisions of the bill the Board:

- appointed a task force to make recommendations for rules to implement the Rural Hospital provisions of the bill. The task force presented recommended rules to the Board at the February 9-10, 2010, meeting and the Board voted to propose the rules at the February meeting. The rules were adopted at the May 21, 2010, meeting and they became effective on May 30, 2010.
- The Board adopted rules to implement the Tech-Check-Tech provisions of the bill at the February 9-10, 2010, meeting and they became effective on March 11, 2010.

G. H.B. 2730 (Transition Plan for Controlled Substance Prescription Monitoring Program) – This bill establishes an "Interagency Council" composed of representatives of the Department of Public Safety, Texas State Board of Pharmacy, and Texas Medical Board. The Interagency Council was charged with developing a transition plan for the orderly transfer from the Department of Public Safety to the Texas State Board of Pharmacy of records and regulatory functions relating to dispensing controlled substances by prescription, including the Prescription Monitoring Program. The report of the committee is due to the legislature by January 1, 2011.

The Interagency Council held three meetings during FY 2010 and is on schedule to provide the report to the Legislature by the deadline of January 1, 2011.

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H. S.B. 381 (Pharmacists Authority to Sign Prescriptions) – This bill amends the Medical Practices Act to allow a physician to delegate to a pharmacist the authority to sign a prescription for dangerous drugs. TSBP is required consult with the Texas Medical Board and to adopt rules by December 1, 2009.

To implement the provisions of the bill:

- TSBP staff met with representative of the Texas Medical Board to discuss a draft of rules to implement the bill. The Board voted to propose this draft of rules at the August 11-12, 2009, meeting. The Board voted to adopt the rules at the November 9-10, 2009, meeting and they became effective on December 6, 2009.
- The TSBP Website was modified to publish a list of pharmacists authorized to sign prescription drug orders under the written protocol of a physician.

I. S.B. 646 (Study Regarding the use of Confidential Patient Information) – This bill requires the Board to conduct a study on the license, transfer, use, and sale of prescription information records containing patient-identifiable and practitioner-identifiable information by pharmacy benefit managers, insurers, electronic transmission intermediaries, pharmacies, and other similar entities for the purpose of advertising, marketing, or promoting pharmaceutical products.

To implement the provisions of the bill:

- A meeting with the bill sponsor, Senator Van de Putte, was held on November 24, 2009, to discuss her expectations for the study.
- A meeting with Dr. Marvin Shepherd of the University of Texas College of Pharmacy was held on December 16, 2009, to discuss the study and the contract for service.
- Because survey responses were slow, Senator Van de Putte suggested that we submit a preliminary report by August 1, 2010. TSBP received a preliminary report from Dr. Shepherd on July 23, 2010. A preliminary report was filed with the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the appropriate standing committees of the legislature on August 1, 2010.

J. S.B. 650 (TSBP Peace Officers Authority to Carry Weapons and Make Arrest) – This bill amended the Texas Pharmacy Act to allow TSBP investigators who are commissioned peace officers to carry weapons and make arrests.

To implement the provisions of the bill:

- TSBP notified the US Department of Justice of the law change so that TSBP may be designated as an agency that is eligible to share in seized funds. During the first quarter of FY2010 the agency was notified that we are now eligible to share in seized funds.

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- Chief Investigator Robert Ebrom, Director of Enforcement, Carol Fisher, General Counsel Kerstin Arnold, and the Executive Director developed Policies and Procedures to be followed by TSBP peace officers who carry weapons and make arrests.

- K. S.B. 904 (Authority for Physicians to Issue Multiple Prescriptions for Schedule II Controlled Substances on the Same Date and Making Carisoprodol (Soma®) a Schedule IV Controlled Substance). – This bill amended the Texas Controlled Substances Act to allow a physician to issue multiple prescriptions to one patient authorizing the patient to receive a total of 90-days supply of a Schedule II drug and to make Carisoprodol (Soma®) a Schedule IV controlled substance. TSBP notified licensees of the changes in the Controlled Substances Act through the TSBP Website, Newsletter, presentations, and posts on Twitter and Facebook.
- L. S.B. 1058 (Annual Report to Legislature) – This bill amends Chapter 53 of the Occupations Code to require all health licensing agencies to annually report certain activities to the chairs of the House and Senate with primary oversight of the agency. Since all of the members of the Health Professions Council (HPC) are required to submit this report, HPC formed a committee to recommend a standard format for the report. Carol Fisher, Director of Enforcement, was TSBP's representative on the committee. The committee adopted a standard report and agreed that HPC would submit the report for all HPC members. The first report was submitted to the House and the Senate Committees by the February 1, 2010, due date.
- M. S.B. 1127 (Confidentiality of Compounded Sample Testing Results) – This bill amended the Texas Pharmacy Act to make reports, records, formulas, and test results of samples of products compounded by pharmacies and obtained by the Board confidential and not subject to the Texas Open Records Act. To implement the bill internal procedures were modified to comply with the provisions of the bill.
- N. (S.B. 1853 Pharmacy Technician Disciplinary Actions) – This bill amended the Texas Pharmacy Act to:
- (1) Specify that the Board may discipline a pharmacy technician if the technician has:
 - Performed a duty only a pharmacist may perform;
 - Used alcohol or drugs in an "intemperate" manner;
 - Engaged in negligent, unreasonable, or inappropriate conduct when working in a pharmacy;
 - Violated a disciplinary order;
 - Been convicted of a criminal offense that requires registration as a sex offender; or
 - Been disciplined by a pharmacy or other health regulatory board.
 - (2) Specify that a disciplinary action affecting the registration of a pharmacy technician trainee remains in effect if the trainee obtains registration as a pharmacy technician; and
 - (3) Give the Board the authority on probable cause, to order a pharmacy technician to submit to a mental or physical evaluation.

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To implement the provisions of the bill:

- Draft rules were presented to the Board for consideration at the February 9-10, 2010, meeting. The Board voted to propose rules at this meeting and the rules were published in the March 26, 2010, issue of the Texas Register.
- The Board adopted the rules at the May 4-5, 2010, meeting and they became effective on September 14, 2010.

3. To assist and participate with the Board in updating and preparing the TSBP Strategic Plan for FY2011-2015 and submitting the plan to the Governor's Office of Budget, Planning, and Policy and Legislative Budget Board by the due date.

Status: ACCOMPLISHED

Comment: Strategic Plan for FY2011-2015 – The Strategic Plan was the product of the following:

- A. Overall review of the 2009-2013 Strategic Plan by the Board Members and agency staff (Internal Assessment) with a significant amount of input provided regarding changes and updates to specific issues; and
- B. Comments solicited from key pharmacy professional organizations, consumer advocacy groups, governmental agencies, and academic institutions.

The agency researched the trends and resulting issues expected to have the most significant impact on the profession and the agency over the next five years. Board Members worked with staff to develop issue statements as follows:

- (1) Policy Issue #1 – The Changing Focus of Pharmacy Practice – Board Members Suzan Kedron and Buford Abeldt, R.Ph. and Executive Director Gay Dodson, R.Ph.;
 - (2) Policy Issue #2 – Increased Use of Technology in the Practice of Pharmacy – Board Member Alice Mendoza, R.Ph. and Director of Professional Services Allison Benz, R.Ph., MS.;
 - (3) Policy Issue #3 – Pharmacy Personnel and Working Conditions – Board Member Jeanne Waggener, R.Ph. and Assistant Director of Enforcement Paul Holder, R.Ph., PharmD; and
 - (4) Policy Issue #4 – To Maintain the Agency's Leadership Position in Pharmacy Practice Regulation and Establish a Key Leadership Position for Addressing Public Needs – Board Member Dennis Wiesner, R.Ph. and Director of Administrative Services and Licensing Cathy Stella, PHR.
- C. The Board approved the updated Strategic Plan at the May 2010 Board Business Meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

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4. **To direct the preparation of a proposed budget for the FY2012-2013 biennium for review and approval by the Board at the FY2010 Board Budget Meeting.**

Status: ACCOMPLISHED

Comment: At a meeting on March 19, 2010, the Executive Committee reviewed and approved staff's recommendations for increased funding needed:

- A. to restore the 5% budget reductions ordered in FY2010;
- B. for six new staff positions to maintain services;
- C. for an increase in salary for the chief investigator; and
- D. to operate the regulatory database system.

The Executive Committee recommendations were reviewed and approved by the Board at its May 4-5, 2010, meeting.

5. **To direct the preparation and submission of the agency's Legislative Appropriation Request for FY2012-2013 and corresponding performance measures by the due date.**

Status: ACCOMPLISHED

Comment: The Legislative Appropriation Request (LAR) was submitted to the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy by the due date of August 2, 2010. The LAR included the items approved by the Board in May 2010.

6. **To direct the development and implementation of an educational program on pharmacy technicians, including registration requirements, performance of duties, and disciplinary process.**

Status: ACCOMPLISHED

Comment: The Director of Professional services with assistance from Licensing and Legal staff developed a brochure to educate pharmacy technicians and technician trainees on their responsibilities, the role of the Board, and various rules and regulations. However, due to budget constraints caused by the mandated 5% cut, the brochure was not printed and mailed. However, the brochure was posted on the TSBP website.

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

Status: ACCOMPLISHED

Comment: On January 28-29, 2010, the Executive Director, along with the Division Directors and other agency staff, participated in the orientation of two new Board Members (Joyce A. Tipton, R.Ph., MBA, and Charles Wetherbee, public member). W. Benjamin Fry, R.Ph., was re-appointed and did not participate in orientation.

Objectives (Ongoing)

1. To manage and monitor the agency's performance and operational efficiency throughout FY2010.

Status: ACCOMPLISHED

Comment: The agency accomplished or partially accomplished all (100%) of its 88 objectives [85 accomplished (96.6%) and 3 partially accomplished (3.4%)]. In addition, the agency also met or exceeded 100% of the 10 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board (LBB) as indicated below.

Performance Measure		FY10 Projected Performance	FY10 Performance Attained	Projected Target Met?*
A. GOAL: MAINTAIN STANDARDS				
	Outcome (Results/Impact)			
	Percent of Licensees with No Recent Violations	95%	95.70%	Exceeded
	Percent of Licensees Who Renew Online	84%	89.05%	Exceeded
	A.1.1. STRATEGY: LICENSING			
	Output (Volume)			
	Number of New Licenses Issued to Individuals	1,140	1,394	Exceeded
	Number of Licenses Renewed (Individuals)	12,759	13,500	Exceeded
	Explanatory			
	Total Number of Business Facilities Licensed	6,615	6,762	Exceeded
B. GOAL: ENFORCE REGULATIONS				
	Outcome (Results/Impact)			
	Percent of Complaints Resulting in Disciplinary Action	15.0%	14.5%	Met
B.1.1. STRATEGY: ENFORCEMENT				
	Output (Volume)			
	Number of Jurisdictional Complaints Resolved	4,980	5,463	Exceeded
	Efficiencies			
	Average Time for Jurisdictional Complaint Resolution	180	182	Met
	Explanatory			
	Number of Jurisdictional Complaints Received	5,000	5,661	Exceeded
B.1.2. STRATEGY: PEER ASSISTANCE.				
	Output (Volume)			
	Number of Licensed Individuals Participating in a Peer Assistance Program	160	158	Met

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

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2. To coordinate the development of proposed goals and objectives and budget for FY2011 based on the *Strategic Plan* and projected budget, for submission to the Board two weeks prior to the August 2010 meeting.

Status: ACCOMPLISHED

Comment: A proposed budget, including revenue projections, and Goals and Objectives for the agency was presented and approved at the August 10-11, 2010, Board Business Meeting.

3. To direct TSBP's "*lead agency approach*" to help assure coordination of TSBP activities with those of other state and federal agencies involved in the regulation of the practice of pharmacy throughout FY2010.

Status: ACCOMPLISHED

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

4. To review all federal statutes, regulations, and policies that may impact the regulation of the practice of pharmacy and make timely recommendations to the Board for implementation of any required Board actions throughout FY2010.

Status: ACCOMPLISHED

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

5. As the Executive Director of the Board, throughout FY2010, to:

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

Status: ACCOMPLISHED

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Comment:

A. The Executive Director:

(1) Gave 16 presentations to 2,430 persons, as indicated below.

Date	Name of Association/Location of Meeting	Attendance (Approximate)
9/12/2009	University of Texas Pharmacy Practice Seminar – Austin	500
9/23/2009	HEB Pharmacy Conference – San Antonio	250
9/24/2009	Texas A&M Health Science Center Irma Lerma Rangel College of Pharmacy Students – Kingsville	100
9/23/2009	HEB Pharmacy Conference – San Antonio	250
10/3/2009	Central Texas Society of Health-System Pharmacists – San Antonio	100
10/5/2009	University of Texas College of Pharmacy Law Students – Austin	60
10/8/2009	Vendor Drug Regional Pharmacists – Austin	15
10/14/2009	Texas Federation of Drug Stores Annual Meeting – Austin	30
12/3/2009	Capitol Area Pharmacy Association – Austin	60
2/13/2010	Texas Osteopathic Medical Association – Dallas	10
3/6/2010	El Paso Area Society of Health-System Pharmacists – El Paso	100
4/9/2010	Texas Pain Advocacy and Information Network – Austin	30
4/11/2010	Texas Society of Health-System's Annual Seminar – Galveston	100
4/14/2010	University of the Incarnate Word Feik School of Pharmacy – San Antonio	75
7/16/2010	Texas Pharmacy Association's Annual Meeting – Austin	250
8/28/2010	University of Texas Pharmacy Practice Seminar – Austin	500
Total		2,430

(2) Attended 38 meetings or conferences representing the agency as indicated below.

Date	Meeting
9/2/2009	Meeting with representatives of the Texas Department of State Health Services regarding the new Free Standing Emergency Medical Care Facilities
9/9/2009	Meeting with representatives of the Texas Organization of Rural and Community Hospitals regarding implementation of HB 1924 (Technician duties in Rural Hospitals)
9/15/2009	Meeting with representatives of the Lone Star Circle of Care regarding Class D Pharmacies

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Date	Meeting
9/18/2009	Tour of Cardinal Health Nuclear Pharmacy
9/21/2009	TSBP's Task Force on Nuclear Pharmacy
10/5/09	Meeting with staff of Senator Kel Seliger regarding the implementation of HB 1924 (Technician duties in Rural Hospitals)
10/12/09	Conference call with representatives of McKesson Patient Relationship Solutions regarding a pharmacy based clinical trial recruitment program
10/12/2009	Meeting with representatives of IMS Health regarding implementation of S.B. 646 (Study of the sale of patient or physician identifiable information)
10/16/2009	Meeting with Hunter Pharmacy Services regarding electronic supervision of pharmacy technicians
11/12/2009	Meeting with staff of Senator Tommy Williams regarding implementation of H.B. 2730 (Plan to transfer the prescription monitoring program from the Texas Department of Public Safety to the Texas State Board of Pharmacy)
11/12/2009	Meeting with representatives of the Texas Department of Health and Human Services and the Texas Medicaid and Healthcare Partnership's concerning and Immunizations
11/24/2009	Conference Call with Senator Leticia Van de Putte and Marv Shepherd, Ph.D., regarding implementation of SB 646 (Study of the sale of patient or physician identifiable information)
12/7/2009	TSBP Task Force on Class C Pharmacies
12/7/2009	TSBP Class C Task Force Meeting – Austin
12/16/2009	Meeting with Marvin Shepherd, PhD regarding implementation of S.B. 646 (Study of the sale of patient or physician identifiable information) – Austin
1/13/2010	Meeting with Mark Wiles of the Legislative Budget Board (LBB) regarding LBB activities – Austin
1/20/2010	Meeting of the Interagency Council regarding implementation of H.B. 2730 (Plan to transfer the prescription monitoring program from the Texas Department of Public Safety to the Texas State Board of Pharmacy) – Austin
1/26/2010	Meeting of the Texas Commission on Environmental Quality Task Force regarding implementation of S.B. 1757 (study by the TCEQ of methods for disposing of unused pharmaceuticals so that they do not enter a wastewater system) – Austin
2/17/2010	Meeting with Houston District Attorney, DEA, and local law enforcement agencies regarding pain clinics – Houston
2/26/2010	Meeting of the Texas Commission on Environmental Quality Task Force regarding implementation of S.B. 1757 (study by the TCEQ of methods for disposing of unused pharmaceuticals so that they do not enter a wastewater system) – Austin
3/5/2010	University of Texas College of Pharmacy Advisory Committee meeting – Austin
3/11/2010	TSBP Task Force on Nuclear Pharmacy – Austin
3/30/2010	University of the Incarnate Word Feik School of Pharmacy Dean's Advisory Committee Meeting – San Antonio
4/27/2010	Meeting with staff of the Legislative Budget Board regarding Medication Therapy Management by Pharmacists – Austin

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Date	Meeting
5/5/2010	Meeting of the Texas Commission on Environmental Quality Task Force regarding implementation of S.B. 1757 (study by the TCEQ of methods for disposing of unused pharmaceuticals so that they do not enter a wastewater system) – Austin
5/6/2010	Inaugural Oath and Hooding Ceremony for the University of the Incarnate Word Feik School of Pharmacy – San Antonio
5/10/2010	Conference Call with staff of the Texas Commission on Environmental Quality Task Force regarding implementation of S.B. 1757 (study by the TCEQ of methods for disposing of unused pharmaceuticals so that they do not enter a wastewater system) – Austin
5/13/2010	Meeting with staff of the Texas Department of Public Safety regarding the Drug Enforcement Administration's new rules for Electronic Prescribing of Controlled Substances – Austin
5/13/2010	Meeting of the Interagency Council regarding implementation of H.B. 2730 (Plan to transfer the prescription monitoring program from the Texas Department of Public Safety to the Texas State Board of Pharmacy) – Austin
5/14/2010	Inaugural Graduation Ceremony for the Texas A&M Health Science Center Irma Lerma Rangel College of Pharmacy – Kingsville
5/21/2010	Conference call with representatives of Express Scripts regarding licensing – Austin
5/27/2010	Meeting of the Texas Commission on Environmental Quality Task Force regarding implementation of S.B. 1757 (study by the TCEQ of methods for disposing of unused pharmaceuticals so that they do not enter a wastewater system) – Austin
6/3/2010	Meeting with Kalese Hammond of the Governor's Budget, Policy and Planning Office – Austin
6/23/2010	Meeting of the Interagency Council regarding implementation of H.B. 2730 (Plan to transfer the prescription monitoring program from the Texas Department of Public Safety to the Texas State Board of Pharmacy) – Austin
7/28/2010	Meeting with representatives of the Consumer Healthcare Products Association regarding possible legislation during the 2011 Texas Legislative Session
8/5/2010	Meeting of the Interagency Council regarding implementation of H.B. 2730 (Plan to transfer the prescription monitoring program from the Texas Department of Public Safety to the Texas State Board of Pharmacy) – Austin
8/18/2010	Presentation of the TSBP Legislative Appropriations Request to the staff of the Legislative Budget Board and the Governor's Office of Budget, Policy, and Planning – Austin
8/31/2010	Phone interview with staff from the federal Government Accountability Office regarding dialysis centers – Austin

- B. The Executive Director attended 5 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
9/30-10/2/2009	National Association of Boards of Pharmacy/American Association of Colleges of Pharmacy District 6, 7, & 8 Meeting – New Orleans, Louisiana
9/19/2009	Pre-meeting conference call for the National Association of Boards of Pharmacy Task Force on Prescription Monitoring Programs – Austin
10/28-29//2009	National Association of Boards of Pharmacy Task Force on Prescription Monitoring Programs – Mount Prospect, Illinois

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Date	Name of Association/Location of Meeting
10/14/2010	Meeting with the Texas Federation of Drug Stores (TFDS) board regarding TSBP suggested changes to the Pharmacy Act
5/22-25/2010	National Association of Boards of Pharmacy's Annual Meeting – Anaheim, California

- C. The Executive Director continued to serve as Vice-Chair of the Health Professions Council and attended 20 meetings of the Council as follows:

Date	Activity
9/14/2009	Health Professions Council Meeting
12/15/2009	Meeting of the Shared Regulatory Database Project Executive and Steering Committee
1/14/2010	Meeting of the Shared Regulatory Database Project Executive Committee
1/19/2010	Meeting of the Shared Regulatory Database Project Steering Committee
2/11/2010	Meeting of the Shared Regulatory Database Project Executive Committee
2/16/2010	Meeting of the Shared Regulatory Database Project Steering Committee
3/9/2010	Meeting of the Shared Regulatory Database Project Executive Committee
3/12/2010	Meeting of the Shared Regulatory Database Project Steering Committee
3/23/10	Meeting with the Shared Regulatory Database Project Manager
4/5/2010	Meeting of the Shared Regulatory Database Project Executive Committee
5/17/2010	Meeting of the Shared Regulatory Database Project Executive Committee
5/19/2010	Meeting of the Shared Regulatory Database Project Steering Committee
5/27/2010	Meeting of the Health Professions Council Administrative Committee
5/27/2010	Meeting of the Health Professions Council Budget Committee
6/4/2010	Meeting of the Health Professions Council Administrative Committee
6/11/2010	Meeting of the Shared Regulatory Database Project Executive Committee
6/21/2010	Meeting of the Shared Regulatory Database Project Executive Committee
6/24/2010	Meeting of the Shared Regulatory Database Project Steering Committee
7/19/2010	Meeting of the Shared Regulatory Database Project Executive Committee
8/9/2010	Meeting of the Shared Regulatory Database Project Executive Committee

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- D. The Executive Director attended 6 meetings of the Texas Pharmacy Congress as follows:

Date	Activity
9/1/2009	Texas Pharmacy Congress Meeting – Houston
11/2-3/2009	Texas Pharmacy Congress Meeting – Austin
2/3-4/2010	Texas Pharmacy Congress Meeting – San Antonio
5/17-18/2010	Texas Pharmacy Congress Meeting – Austin
8/2/2010	Joint Committee on Internship Programs Meeting – Austin
8/2-3/2010	Texas Pharmacy Congress Meeting – Austin

6. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations throughout FY2010.

Status: ACCOMPLISHED

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

7. To maintain a staff development program by encouraging Executive Office staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training and to conduct periodic reviews and annual evaluations of Division Directors and Executive Office staff and to monitor evaluations of employees in all Board Divisions throughout FY2010.

Status: PARTIALLY ACCOMPLISHED

Comment: In FY2009, Division staff attended General Staff Meetings that were held in December 2009, March 2010, June 2010, and August 2010. In conjunction with quarterly General Staff Meetings, Division staff participated in staff training, as listed below:

- 9/2/2009 – Pandemic Flu Training (presented by SORM)
- 10/27/2009 – Office Etiquette (presented by EAP)
- 12/8/2009 – Stress Management (presented by EAP)
- 2/23/2010 – Employee Assistance Programs (presented by EAP)
- 5/11/2010 – Seven Habits of Highly Effective People – Habit Five Communication

Evaluations of the Division Directors and Executive Assistant were not conducted as scheduled during FY2010.

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8. To provide the Board information necessary to conduct performance evaluation of the Executive Director by August 31, 2010.

Status: ACCOMPLISHED

Comment: A self and staff evaluation of the Executive Director were presented to the Board at its May 2010 meeting. The Board conducted the performance evaluation at this meeting.

9. To prepare a report on the accomplishments of the Office of the Executive Director and direct the preparation and submission of the agency's *FY2009 Annual Report* to be presented to the Board at the May 2010 meeting.

Status: ACCOMPLISHED

Comment: The final draft of the Annual Report for FY2009 was presented to and approved by the Board at the May 2010 Board meeting.

Administrative Services and Licensing Division

FY2010 SIGNIFICANT ACCOMPLISHMENTS

1. The Division accomplished or partially accomplished 100% with 26 (96%) accomplished and one (4%) partially accomplished.
2. The agency was successful in obtaining additional appropriations for all the requested exceptional items during the 81st Legislative session. These included:
 - a. An annual increase to the executive director's salary of \$1,500;
 - b. Addition of 10 new FTE's to assist in the Pharmacy Technician Trainee Program and ongoing registration of Pharmacy Technicians.
 - c. Increase to the Pharmacy Recovery Network.
 - d. Increase to the testing of compounded products;
 - e. Merit increases to eligible employees;
 - f. Equity increases to eligible employees; and
 - g. One-time funding to implement the Shared Regulatory Project.
3. The Division met or exceeded 100% of the Key Performance Measures required to be submitted to the Legislative Budget Board.
4. The agency maintained a high level of information technologies system availability (nearly 100%) and security in a highly volatile environment.

FY2010 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The Pharmacy Technician Registration & Enforcement Program continues to grow resulting in the following increases in workload caused by the Pharmacy Technician Registration Program which began in mid FY2004, and the Pharmacy Technician Trainee Program that began in October 2006 (FY2007).

WORKLOAD INCREASES							
Number	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	Percent Increase since FY05
Licensed Pharmacists	22,661	23,323	23,939	24,586	25,507	26,551	17%
Licensed Pharmacies	6,107	6,201	6,315	6,424	6,516	6,762	11%
Registered Pharmacy Technicians	26,664	30,091	32,106	32,914	33,927	36,134	36%
Registered Pharmacy Tech Trainees	--	--	10,399	18,093	17,657	13,829	33% (since FY07)
Registered Interns	804	822	886	925	1,052	2,451	205%
Total Licensees	56,236	60,437	73,645	82,942	84,659	85,727	52%

2. Although the TSBP was successful in obtaining additional appropriations for the requested exceptional items during the 81st Legislative session, the state's fiscal crisis required an immediate 5% reduction in the agency budget as directed by the Legislative Leadership. This resulted in significant reductions or elimination of the following appropriations:

- Pharmacy Recovery Network.
- Testing of compounded products;
- Merit pay to eligible employees;
- Salaries;
- Conference travel and;
- Other operating expenses

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

FY2010 ANNUAL REPORT

GOAL

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

Objectives (New)

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

1. Developing and implementing a new licensing, enforcement, and administration database system throughout FY2010.
2. Reviewing and implementing legislation passed by the 81st Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2010;
3. Updating and preparing the *TSBP Strategic Plan for FY2011-2015* and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date;
4. Preparing a proposed budget for the FY2012-2013 biennium for review and approval by the Board at the 2010 Board Budget meeting;
5. Preparing the *TSBP Legislative Appropriation Request for FY2012-2013* and corresponding performance measures by the due date;
6. Developing and implementing an educational program on pharmacy technicians including registration requirements, performance of duties, and disciplinary process; and
7. Conducting the orientation of new Board Members within 90 days of appointment by the Governor.

Status: ACCOMPLISHED

Comment: These objectives were accomplished as follows:

1. Regulatory Database System

The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) and migrate to a Shared Regulatory Database System, began in FY2008. In FY2009, a vendor was selected and implementation of the project began in FY2010. It quickly became apparent that an overriding challenge of this project was to effectively migrate all agency data from custom systems that were built more than 20 years ago, to a common off-the-shelf

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system that could be shared by six agencies and would meet the unique requirements of each agency.

Throughout all of FY2010, Division staff worked with the RDB Project Team (Health Professions Staff, Versa and VAX programmers), to identify and map all tables, rules and data to the new regulatory system. In concert with the mapping of data, was the design and configuration of the Versa Regulatory System and the Versa Online System. The Regulatory Database Project (RDB) did not complete on schedule and continues into FY2011. Although the final success of this project cannot be judged until its completion, the enormous amount of time, energy and effort displayed by the TSBP staff, indicate the high level of commitment to the success of this project.

2. Implementing Legislation

Division staff presented to the Executive Director and Board, the additional appropriations passed by the 81st Texas Legislature. These included:

- Increase to the Executive Director salary of \$1,500 a year.
- Addition of 10 new FTE's to assist in the Pharmacy Technician Trainee Program and ongoing registration of Pharmacy Technicians.
- Increase to the Pharmacy Recovery Network.
- Increase to the testing of compounded products;
- Merit increases to eligible employees;
- Equity increases to eligible employees; and
- One-time funding to implement the Shared Regulatory Project.

In early FY2010, at the direction of the Legislative Leadership, the agency was required to reduce its FY2010-2011 appropriations by 5%. This resulted in significant reductions or elimination of the following appropriations:

- Pharmacy Recovery Network;
- Testing of compounded products;
- Merit pay to eligible employees;
- Salaries;
- Conference travel; and;
- Other operating expenses

3. Strategic Plan for FY2011-2015

- A. Overall review of the *2009-2013 Strategic Plan* by the Board Members and agency staff (Internal Assessment) with a significant amount of input provided as to changes, issues, and updates that need to be addressed; and
- B. Comments solicited from key pharmacy professional organizations, consumer advocacy groups, governmental agencies, and academic institutions.

The agency researched the trends and resulting issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years. The Board Members worked with staff to develop Issue Statements and approved the final *Strategic Plan* at the May 2010 Board Business Meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

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4. Proposed Budget for FY2012-2013

The Executive Committee reviewed staff's recommendations for the exceptional items contained in the *Legislative Appropriation Request* (LAR) in March 2010. The full Board met in May 2010 to review and approve the agency's LAR for FY2012-2013. The Board Members were apprised of the exceptional items requested in the LAR, which included restoration of the 5% budget reductions of FY2010-2011, 6 new positions to maintain services, reclassification of the chief investigator, and an increase to the annual fee anticipated to maintain the regulatory database.

5. Legislative Appropriation Request for FY2012-2013 (LAR)

The *Legislative Appropriation Request* was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy (GBO) by the due date of August 2, 2010. The LAR included the items approved by the Board in May 2010.

6. Educational Program for Pharmacy Technicians

Division staff, with assistance from licensing and legal staff, developed a brochure to educate pharmacy technicians and technician trainees, on their responsibilities, the role of the Board, and various rules and regulations. Due to budget constraints, the brochure was not printed and mailed as planned, but was posted on the TSBP website.

7. Orientation of New Board Members

On January 28-29, 2010, Division staff, along with the Executive Director and other agency staff, participated in the orientation of two new Board Members (Joyce Tipton, R.Ph., and Charles Wetherbee, consumer member). W. Benjamin Fry, R.Ph., was re-appointed and did not participate in the orientation.

Objectives (Ongoing) - Administrative Services

1. To prepare a proposed budget for FY2011 for submission to the Board two weeks prior to the 2010 Board Budget Meeting.

Status: ACCOMPLISHED

Comment: A proposed budget, including revenue projections and fee recommendations, was presented and approved at the August 2010 Board Business Meeting. See Comments under Ongoing Objective #3 for additional information.

2. To prepare and submit all required accounting and fiscal reports/reconciliations in compliance with all applicable state statutes throughout FY2010.

Status: ACCOMPLISHED

Comment: The agency submitted the Annual Financial Report (AFR) and the Annual Report of Non-Financial Data, to the Office of the Comptroller for the year ending August 31, 2010 by the due dates. The AFR was reviewed by the Comptroller's Office as part of the statewide annual financial report and found to be in compliance.

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All financial reports and reconciliations for the fiscal year were completed and reported on a periodic basis to the Executive Director/Secretary.

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A post payment audit of certain payroll, travel, and purchase transactions of the agency, that processed during the period Dec. 1, 2008, through Nov. 30, 2009, was conducted. Issues concerning expenditure processing (1 instance, no dollar value), longevity pay underpayment (1 instance of \$100) and loss of earned interest (1 instance of \$243) were reported. The agency submitted to the Texas Comptroller of Public Accounts, a corrective action plan that addressed these instances.

3. **To review and recommend to the Executive Director additional sources of spendable revenue and to assess fees charged for Board services throughout FY2010.**

Status: ACCOMPLISHED

Comment: A quarterly operating budget was presented to the Board at each of the regularly scheduled business meetings and recorded as such in the official minutes of the Board meeting. A decrease to the initial licensure and renewal of pharmacy and pharmacist licenses, as well as pharmacy technician fees, was proposed in May 2010 and adopted in August 2010 with an effective date of December 2011. The purpose of proposing/adopting rules this early is to provide the Comptroller of Public Accounts a Biennial Revenue Estimate for FY2012-13, that allows fees to be as low as possible while covering the baseline budget for FY2012-13.

4. **To assess the material needs of the agency and supervise the purchasing and supply activities in accordance with all Texas Procurement and Support Services rules and procedures throughout FY2010.**

Status: ACCOMPLISHED

Comment: An audit of the agency's purchasing activities was conducted in conjunction with the post payment audit noted under Objective #2. Two documentation issues requiring informal corrective action were noted in this audit.

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

Division staff, with input from General Counsel, developed a Request for Proposal for providers of pharmacy technician certification examination and the selection of the provider for the examination to be used by the agency.

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 FY2010.**

Status: ACCOMPLISHED

Comment: As a result of the passage of the General Appropriations Act, 81st Regular Session which added ten new positions (8 in-house), the implementation of an

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Office Buildout Project Plan was implemented in September 2009. A coordinated effort of the Medical Board, Board of Nurse Examiners, and Pharmacy Board, resulted in additional shared office space for the Accounting/Personnel staff of those boards. The joint relocation of these staff, along with the relocation of other FTE's, allowed for the assimilation of the 8 new FTE's to be located at the Austin central office. The Office Buildout Project involved a tremendous amount of planning and cooperative effort on the part of all staff and successfully concluded in December 2009.

6. To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2010.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- 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 five resulting reclassifications submitted and approved.
- C. The agency reviewed its Employee Handbook of Personnel Policies and Procedures and distributed revised policies to all employees. Five employee complaints were filed, and there were no employment discrimination or other charges initiated with the Texas Commission on Human Rights.
- D. The agency received 585 applications for employment during this fiscal year, which resulted in five new hires and one promotion. (Note: providing EEO information by applicants is strictly voluntary. 49 applicants did not provide the information).
- E. The agency had eight employees that terminated employment with the agency, resulting in a turnover rate of 11.4%. This compares to the overall statewide turnover rate of the state of 14.6%.

The following table reflects the agency's EEO profile for employees hired, promoted, or terminated during FY2010, as well as an applicant profile report.

Texas State Board of Pharmacy
EEO Data as of August 31, 2010

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	2	2	1	0	1	7	13	20
Para-Prof	10	19	1	0	0	11	0	0	11	30	41
Admin Support	0	3	0	3	0	6	0	0	0	12	12
TOTALS	15	36	1	5	2	18	0	1	18	60	78

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New Hires

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	0	0	0	1	0	1	0	0	0	2	2
Para-Prof	4	2	0	0	0	2	0	0	4	4	8
Admin Support	0	2	0	1	0	4	0	0	0	7	7
TOTALS	4	4	0	2	0	7	0	0	4	13	17

Promotions

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	0	0	0	0	0	0	0	0	0	0	0
Para-Prof	0	4	1	0	1	0	0	0	2	4	6
Admin Support	0	0	0	0	0	1	0	0	0	1	1
TOTALS	0	4	1	0	1	1	0	0	2	5	6

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	2	0	0	0	0	0	0	0	2	2
Para-Prof	0	2	0	0	0	1	0	0	0	3	3
Admin Support	0	1	0	0	0	2	0	0	0	3	3
TOTALS	0	5	0	0	0	3	0	0	0	8	8

Applications

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		Not Provided	GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F		
Administrators	0	0	0	0	0	0	0	0	0	0	0	0
Professional	15	11	4	1	1	5	0	1	20	18	6	44
Para-Prof	91	63	11	19	28	22	6	8	136	112	25	273
Admin Support	31	115	5	40	11	41	2	5	49	201	18	268
TOTALS	137	189	20	60	40	68	8	14	205	331	49	585

7. To manage the information resource needs (data processing, telecommunication, and Web site) of the agency throughout FY2010.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- A. The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) and migrate to a Shared Regulatory Database System, began in FY2008. A consensus was developed between TSBP and five other agencies, the Department of Information Resources, & the Health Professions Council, to develop a plan to migrate all six agencies to a shared system that could meet the unique requirements of each agency, while at the same time allowing the sharing of expenses. In FY2009, a vendor was selected and implementation of the project began in FY2010.

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The Regulatory Database Project (RDB) did not complete on schedule and continues into FY2011. Although the final success of this project cannot be judged until its completion, the agency project team worked tirelessly throughout the year towards a successful migration and implementation which will hopefully, result in a product and process that will benefit all stakeholders involved.

- B. The network was extended to the second floor of Tower 3, Hobby Building, for the implementation of the Office Buildout Project, which required coordinated networking for TSBP, Medical and Nurses Boards.
 - C. The legislative appropriations request for information resource technologies, was submitted to the LBB, and the Technology Resource Planning document was submitted for agency Strategic Plan.
 - D. Successful DIR sponsored penetration testing of agency firewall.
 - E. Maintained a high level of system availability (nearly 100%) and security in a highly volatile environment.
 - F. All critical equipment was replaced in a timely manner.
 - G. Reporting and tracking of IT expenditures and budgets; submission of Planned Procurement Schedule; Information Resources Development Review to DIR/LBB; monthly completion of SIRS reports.
 - H. Continued imaging importing for pharmacists, pharmacy technicians and pharmacy technician complaint files.
8. **To serve as the Agency Records Retention Manager to the Texas State Library, in maintaining a Records Retention Program for the economical and efficient management of agency records throughout FY2010.**

Status: ACCOMPLISHED

Comment: Agency staff destroyed 629 cubic feet of records in accordance with the TSBP records retention schedule, and 68 cubic feet of records were sent to the State Library for storage.

The agency continues to save valuable square footage by imaging files. The pharmacist, pharmacy technician and closed technician complaint imaging project continued with 130,471 images scanned into the imaging system.

9. **To serve as the Agency Risk Manager by annually assessing areas of agency risk exposures and recommending procedures to control these exposures throughout FY2010.**

Status: ACCOMPLISHED

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

- 10. To provide verbal and written information to Board staff and customers throughout FY2010 including, by the assigned due dates, the preparation of the LBB Performance and Funds Management Report and other special reports as requested by LBB, legislative committees, legislators, and others, in conjunction with other Divisions as necessary.**

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

Report Title	Recipient(s)	Division Reporting
Strategic Plan	Governor's Office; Legislative Budget Board	All
Legislative Appropriations Request	Governor's Office; Legislative Budget Board	All
FTE State Employees	State Auditor	Administration
Governmental Employees Quarterly Report	Texas Workforce Commission	Administration
Employer's Quarterly Federal Tax Return	Internal Revenue Service	Administration
Retirement Contributions Reconciliation Report	Employees Retirement System	Administration
Annual Financial Report	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor	Administration
Non-Financial Annual Report	Governor's Office; Legislative Budget Board; State Auditor	Administration
Recycled Materials Expenditures	Texas Comptroller of Public Accounts	Administration
Historically Underutilized Business Progress Reports	Governor's Office; Lt. Governor; Speaker of House; Texas Building & Procurement Commission	Administration
Encumbrance Reports	State Comptroller; State Auditor; Legislative Budget Board	Administration
State Use Report	Texas Comptroller of Public Accounts	Administration
EEO Information Report	Texas Workforce Commission	Administration
Minority Hiring Practices	Texas Workforce Commission	Administration
SORM 200	Office of Risk Management	Administration
Performance and Funds Mgmt.	Legislative Budget Board	All

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Report Title	Recipient(s)	Division Reporting
Reports		
Contract Workforce Report	State Auditor; Legislative Budget Board; Governor	Administration
Open Records Online Monthly Report	Office of Attorney General	All
Texas Online Customer Agreement Monthly Report	Texas Online	Administration
Fleet Management Report	Texas Comptroller of Public Accounts	Administration
FY10 Risk Assessment	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor, Sunset Advisory Commission	Administration
Veterans Workforce Summary Report	Comptroller	Administration
Space Utilization Survey	Texas Facilities Commission	Administration
SORM Report	SORM	Administration
Agency Fee/Revenue Survey	Legislative Budget Board	Administration
Professional and Consultant Services Report	Legislative Budget Board	Administration
TexFlex Reconciliation Report	Employees Retirement System	Administration
Annual Debt Report	Office of Attorney General	Administration
Procurement Plan	Comptroller	Administration
Audit Corrective Action Plan	State Auditor	Enforcement and Administration

11. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2010.

Status: **ACCOMPLISHED**

Comment: Division staff participated in the following activities:

- A. Active participant in the implementation of the joint agency/HPC project to replace the TSBP database system and migrate to a Shared Regulatory Database System (see Comments under Objective #7).
- B. Health Professions Council Annual Report - Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
- C. Continued participation in several HPC centralized services, such as the Courier Service; Shared Employee Training; Shared Information Resource Technology staff; posting of position descriptions, and use of the imaging system.

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12. To manage employees under the supervision of the Division throughout FY2010, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.

Status: NOT ACCOMPLISHED

Comment:

- A. Division Director updated and/or reviewed any revised position descriptions for compliance with all personnel statutes.
- B. Division Director conducted regular staff team meetings for division staff.
- C. Division staff participated in personal development seminars and participated in all-staff training, as listed below:
 - October 27, 2009 – Cube Etiquette (in-house staff only)
 - December 8, 2009 – Introduction to Stress Management
 - February 23, 2010 – Employee Assistance Program
 - May 11, 2010 – 7 Habits of Highly Effective People – Habit 5 -- Communication
- D. Division Director was unable to conduct the annual evaluation of Division employees until October 2010 (FY2011).

13. To update the Agency Personnel Handbook and the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2010.

Status: ACCOMPLISHED

Comment: This objective was accomplished by updating various accounting policies and licensing business processes.

14. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2010.

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. In particular, division staff contributed to the development of new rules relating to the following:

- §281.66 Concerning Fingerprinting of Applicants for Reinstatement
- §291.151 Concerning Free-Standing Emergency Medical Care Centers (Class F)

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- §291.153 Concerning New Class of Pharmacy (Class G)
- §291.155 Concerning Prescription Pick-up Pharmacy (Class H)
- §§291.6, 295.5, 297.4 Concerning License Fees for Pharmacies, Pharmacies, Technicians and Technician Trainees
- §281.11 Concerning Criminal History Evaluation Letter
- §281.66 Concerning Application Fee for Pharmacist and Pharmacy Technician Reinstatement Applicants

- 15. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2009 Annual Report* and submit to the Executive Director by the due date.**

Status: **ACCOMPLISHED**

Comment: The Division's first draft of the FY2009 *Annual Report* was submitted to the Executive Director by the due date. The final draft of the Annual Report for FY2009 was presented to and approved by the Board at the May 2010 Board Meeting.

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Objectives (Ongoing) - Licensing

16. To coordinate the collection of licensing data for *Key Performance Targets* required under the 2010-2011 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2010.

STATUS: ACCOMPLISHED

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

PERFORMANCE MEASURES	TARGET FY2010	ACCOMPLISHED FY2010	Key or Non Key (K-NK)	Expectations
Percent of Licensees with No Recent Violations	95%	95.70%	K	Exceeded
Percent of Licenses Who Renew Online	84%	89.05%	K	Exceeded
Percent of New Individual Licenses Issued Online	81%	79.24%	NK	Met
Number of New Licenses issued to Individuals (Pharmacists)	1,140	1,394	K	Exceeded
Number of Licenses Renewed (Individuals – Pharmacists)	12,759	13,500	K	Exceeded
Number of New Registrations Issued to Individuals (Technician and Trainee)	15,000	12,336	NK	Not Met
Number of Registrations Renewed (Technicians)	12,000	13,633	NK	Exceeded
Percent of New Licenses Issued within 10 days	98%	85%	NK	Not Met
Percent of Individual Licenses Issued within 7 days	98%	100%	NK	Exceeded
Total Number of Pharmacists Licensed	25,850	26,551	NK	Exceeded
Total Number of Facilities Licensed	6,615	6,762	K	Exceeded
Total Number of Individuals (Technicians & Trainees) Registered	50,000	49,963	NK	Met

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In addition to the above statistics, the division (Licensing) staff had the following workload statistics (numbers are approximate):

WORKLOAD	STATISTIC
Changes of Address/Employment/Name	10,025
Telephone Calls Received	35,797
E-Mail Inquiries Answered	15,598
Missing Item, delinquent, reminder, general correspondence letters sent	12,816
Customer Service Surveys sent	37,250

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

Status: ACCOMPLISHED

Comment: 2,451 new intern registrations were issued within the established timeframe.

A total of 3,374 pharmacist preceptors were certified within one to four days of receipt of required documents. At fiscal year-end, a total of 6,044 pharmacists were active preceptors.

- 18. To determine the eligibility of all pharmacist applicants applying to take the NAPLEX and Texas Pharmacy Jurisprudence Examination for initial licensing or licensing by reciprocity throughout FY2010.**

Status: ACCOMPLISHED

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

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

JURISPRUDENCE (MPJE)	Total Exams Administered
Candidates Passing	1,424 (92.05%)
Candidates Failing	123 (7.95%)
TOTAL EXAMS JURISPRUDENCE	1,547 (100%)
NAPLEX	Total Exams Administered
Candidates Passing	803 (87.09%)
Candidates Failing	119 (12.91%)
TOTAL EXAMS NAPLEX	922 (100%)

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

NEW PHARMACISTS LICENSED – FY2010	
Graduates of Texas Colleges of Pharmacy	529 (37.95%)
Graduates of Out-of-State Colleges of Pharmacy	703 (50.43%)
Credentialed by the Foreign Pharmacist Equivalency Committee	162 (11.62)%
Total	1,394 (100%)

Regarding reciprocity (license transfer) in and out of Texas, 437 candidates were licensed by reciprocity in FY2010, which is a 25% increase from FY2009. The National Association of Boards of Pharmacy reports that in calendar year 2010, the highest numbers of requests to transfer licensure to a state were seen for Texas with 985 requests. The number of requests to transfer to Texas showed a 53.9% increase from 2009 to 2010.

19. To provide staff support to the *Examination Retake Committee* and any other advisory committee related to licensing issues as required in FY2010.

Status: ACCOMPLISHED

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

20. To issue a pharmacist license by examination, score transfer, or reciprocity within an average of ten working days after the date the agency receives the examination results throughout FY2010.

Status: ACCOMPLISHED

Comment: The agency issued 1,394 new pharmacist licenses with an average turnaround time of seven business days from the download of the examination results.

21. To issue license renewals to all pharmacist candidates within an average of four working days of receipt of the required fee and all required documents throughout FY2010.

Status: ACCOMPLISHED

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Comment: The agency renewed 13,500 pharmacist licenses on a biennial basis during FY2010. Approximately 86% 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 FY2009	
Active Status	25,182
Inactive Status*	1,369**
TOTALS	26,551

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

**Of the above number, 451 pharmacists have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as "exempt."

- 22. To audit the pharmacists' compliance with continuing education and to initiate complaints on pharmacists who are not in compliance with the rules regarding pharmacists' mandatory continuing education for renewal, in cooperation with the Enforcement team, throughout FY2010.**

Status: ACCOMPLISHED

Comment: A total of 130 continuing education audits were completed and either closed or referred to Enforcement.

- 23. To issue initial registrations to all pharmacy technician trainee candidates within an average of four working days of receipt of the required documents throughout FY2010.**

Status: ACCOMPLISHED

Comment: The agency issued 7,414 new pharmacy technician trainee registrations during FY2010, bringing the total population of active technician trainees for this fiscal year to 13,829. The average processing time to issue a new registration from receipt of a completed application was two business days.

- 24. To issue initial and/or renewal registrations to all pharmacy technician candidates within an average of four working days of receipt of the required fee and all required documents throughout FY2010.**

Status: ACCOMPLISHED

Comment: The agency issued 4,922 new pharmacy technician registrations, and renewed 13,633 registrations on a biennial basis during FY2010, bringing the total population of active registered technicians for this fiscal year to 36,134. Approximately 92% of eligible applicants and pharmacy technicians applied for or renewed their registrations online. The average processing time to issue a new or renewal registration from receipt of a completed application was two business days.

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25. To issue an initial and/or renewal licenses to all pharmacy license applicants on receipt of the required fees and all required documents according to the following guidelines throughout FY2010:

- A. initial licenses to pharmacy license applicants within an average of 21 working days; and**
- B. renewal licenses to pharmacy license applicants within 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 six 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 two working days for a new pharmacy license. Approximately 24% of pharmacies applied or renewed their registrations online. The total number of active pharmacy licenses at the end of the fiscal year was as follows:

PHARMACIES ACTIVE FY2010	
Class A (Community)	4654
Class B (Nuclear)	37
Class C (Institutional)	1096
Class D (Clinic)	419
Class E (Non Resident)	542
Class F (FreeStanding Emergency Medical Centers)	14
TOTALS	6,762
Remote Pharmacies	1,382

A total of 5,120 change documents were processed as follows:

PHARMACY APPLICATIONS PROCESSED	
Pharmacy Renewals	3181
Remote (satellite) Licenses Issued	323
New Licenses Issued [new opens (406) and changes of ownership (105)]	511
Change of Location/Name	237
Closings	169
Change of Managing Officers	699
TOTAL	5120

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- 26. In cooperation with the Enforcement Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants for licensure and registration throughout FY2010, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2010.**

Status: ACCOMPLISHED

Comment: Fingerprint-based criminal background checks continued on all new interns, pharmacist applicants and all new pharmacy technician and technician trainee applicants. Approximately 16,000 FBI histories were received and stored in the TSBP consolidated pool within the Department of Public Safety's (DPS) secured database. In addition, quarterly DPS background checks were run on all individuals, once they are licensed or registered.

Professional Services Division

FY2010 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished all of the Division's 15 Objectives for FY2010.
2. Division Director drafted or assisted others in drafting 62 rules and preparing the rules for review by the Board. This represents a 100% increase as compared to FY2009.
3. Division staff, consisting of two individuals, prepared and mailed or emailed 1,445 pieces of information (an average of 120 per month) during FY2010.
4. Division Director gave 14 presentations during FY2010 to over 600 pharmacists, pharmacy students, and pharmacy technicians.

PROFESSIONAL SERVICES DIVISION

FY2010 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The continuously increasing workload presented a great challenge to the Division's two individuals, especially in meeting deadlines.

FY2010 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; 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)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2010:

1. **Developing and implementing a new licensing, enforcement, and administration database system throughout FY2010.**
2. **Reviewing and implementing legislation passed by the 81st Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2010.**
3. **Updating and preparing the TSBP Strategic Plan for FY2011-2015 and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date.**
4. **Preparing a proposed budget for the FY2012-2013 biennium for review and approval by the Board at the 2010 Board Budget meeting.**
5. **Preparing the TSBP Legislative Appropriation Request for FY2012-2013 and corresponding performance measures by the due date.**
6. **Developing and implementing an educational program on pharmacy technicians including registration requirements, performance of duties, and disciplinary process.**
7. **Conducting the orientation of new Board Members within 90 days of appointment by the Governor.**

Status: ACCOMPLISHED

Comment:

1. **New Regulatory Database System**

Division Director participated in numerous meetings regarding the implementation of the new system. Division staff participated in training sessions on the system. The new system is projected to "go-live" in FY2011.

PROFESSIONAL SERVICES DIVISION

2. Implementing Legislation

Division Director assisted with the implementation of new legislation passed by the 81st Texas Legislature through the development of new agency rules. In addition, Division Director educated Board customers, through telephone and email inquiries and presentations, on the changes in law made by the 81st Legislature.

3. Strategic Plan for FY2011-2015

Division Director, in consultation with Board Member Alice Mendoza, updated Policy Issue #2 of the Strategic Plan, relating to "Increased Use of Technology in the Practice of Pharmacy." The updated issue statements were presented to the Board at its February 2010 meeting. After the Board approved the Plan at its May 2010 meeting, the final Plan was delivered to the Governor's office by the due date.

4. Proposed Budget for FY2012-2013

Division Director worked with the Executive Director and the other Division Directors in the preparation of the proposed budget for FY2012-2013.

5. Legislative Appropriations Request FY2012-2013 (LAR)

Division Director worked with the Executive Director and the other Division Directors in the preparation of the FY2012-2013 Legislative Appropriations Request (LAR) and reviewed the final draft of the document, which was subsequently submitted to the Governor and the Legislative Budget Board by the due date. The LAR included the items approved by the Board in May 2010.

6. Educational Program Regarding Technicians

Division Director, with assistance from licensing and legal staff, developed a brochure regarding pharmacy technicians. Due to budget constraints, the brochure was not printed and mailed but was posted on the TSBP website. Division Director gave several presentations to pharmacy technician groups as noted in Ongoing Objective #4.

7. Orientation of New Board Members

On January 28-29, 2010, Division staff, along with the Executive Director and other agency staff, participated in the orientation of two new Board Members (Joyce Tipton, R.Ph., and Charles Wetherbee, public member). W. Benjamin Fry, R.Ph., was re-appointed and did not participate in the orientation.

PROFESSIONAL SERVICES DIVISION

Objectives (Ongoing)

1. **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: The Division Director spent a considerable amount of time drafting rules, assisting others in the drafting of rules, and preparing and presenting the rules for review by the Board. Changes required by the Board were made quickly to allow final review by the Board in a timely manner, usually during the same Board meeting. The Division Director drafted 21 rules and assisted others in drafting of 22 additional rules as follows:

RULES
Drafted:
§291.34 regarding Requirements for Electronic Prescriptions
§291.151 regarding Free-Standing Emergency Medical Care Center Pharmacies (Class F)
§§291.72 – 291.75 regarding Tech-Check-Tech (HB 1924)
§291.153 regarding Centralized Prescription Processing Pharmacies (Class G)
§§291.33, 291.104 regarding “Do Not Flush” on Prescription Information (HB 19)
§§291.72 – 291.75 regarding Rural Hospitals (HB 1924)
§291.121 regarding Emergency Medication Kits
§291.155 regarding Limited Prescription Pick-Up Pharmacy (Class H)
§291.151 regarding Licensing Requirements for Class F Pharmacies
§291.33 regarding Generic Substitution for Electronic Prescription Orders
§309.3 regarding Generic Substitution for Electronic Prescription Orders
§291.72 – 291.73 regarding Requirements for Tech-Check-Tech
§309.4 regarding Substitution of Drug Products
Assisted the Legal Division in Drafting:
§§291.32 – 291.33 regarding Remote Verification of Prescription Data Entry
§291.29 regarding Professional Responsibility of Pharmacists
§281.9 regarding Disciplinary Action (SB 853)
§281.64 regarding Sanctions for Criminal Offenses
§281.8 regarding Grounds for Discipline of Pharmacists
§281.11 regarding Criminal History Evaluation Letters (HB 963)
§281.12 regarding Rules Governing Cooperating Practitioners
§281.22 regarding Informal Disposition of a Contested Case
§281.64 regarding Sanctions for Criminal Offenses
§281.66 regarding Application Fee for Reinstatement Applications
§281.6 regarding Mental or Physical Examinations
§281.23 regarding Subpoenas
§281.31 regarding Burden of Proof
§281.60 regarding General Guidance
§281.63 regarding Considerations for Criminal Offenses
§281.64 regarding Sanctions for Criminal Offenses
Assisted the Licensing Division in Drafting:
§291.6 regarding Fees for Pharmacies
§295.5 regarding Fees for Pharmacists
§297.4 regarding Fees for Pharmacy Technicians and Pharmacy Technician Trainees
Assisted Enforcement Division in Drafting:
§291.133 regarding Compounding Sterile Preparations
§291.7 regarding Prescription Drug Recalls

PROFESSIONAL SERVICES DIVISION

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

Status: ACCOMPLISHED

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

RULE SUBMISSIONS TO THE *TEXAS REGISTER*

During FY2010, 62 submissions to the *Texas Register* were made that proposed, adopted, reviewed, repealed, or withdrew amendments or new Texas Pharmacy rules. This represents a 100% increase in the number of submissions as compared to FY2009 (31 submissions). Division staff met all deadlines for submissions to the *Texas Register*, monitored the submissions for action, and notified Board Members, TSBP staff, and other interested parties of the status of rules as follows:

Rules	Type of Action	Published in TxReg as Proposed	Memo to Staff and Others	Published in TxReg as Adopted	Memo to Staff and Others
§291.6	Amendments	FY2009	FY2009	9/4/09	10/2/09
§291.32	Amendments	FY2009	FY2009	9/4/09	10/2/09
§§291.72-291.76	Amendments	FY2009	FY2009	9/4/09	10/2/09
§295.5	Amendments	FY2009	FY2009	9/4/09	10/2/09
§295.8	Amendments	FY2009	FY2009	9/4/09	10/2/09
§297.4	Amendments	FY2009	FY2009	9/4/09	10/2/09
§§303.1, 303.2	Amendments	FY2009	FY2009	9/4/09	10/2/09
§§281.65, 281.66	Amendments	10/2/09	10/2/09	12/4/09	1/12/10
§291.8	Amendments	10/2/09	10/2/09	12/4/09	1/12/10
§291.28	Amendments	10/2/09	10/2/09	12/4/09	1/12/10
§§291.31, 291.33, 291.34	Amendments	10/2/09	10/2/09	12/4/09	1/12/10
§§291.72 – 291.75	Amendments	10/2/09	10/2/09	Withdrawn	withdrawn
§291.104	Amendments	10/2/09	10/2/09	12/4/09	1/12/10
§291.133	Amendments	10/2/09	10/2/09	12/4/09	1/12/10
§295.13	Amendments	10/2/09	10/2/09	12/4/09	1/12/10
§295.15	Amendments	10/2/09	10/2/09	12/4/09	1/12/10
§291.34	Amendments	12/25/09	1/12/10	3/5/2010	4/15/10
§§291.72 – 291.75	Amendments	12/25/09	1/12/10	3/5/2010	4/15/10
§291.151	New	12/25/09	1/12/10	3/5/2010	4/15/10
Chapter 291 (§§291.51 – 291.55)	Rule Review	12/25/09	1/12/10	3/26/10	4/15/10
Chapter 305 (§§305.1 – 305.2)	Rule Review	12/25/09	1/12/10	3/26/10	4/15/10
Chapter 309 (§§309.1 – 309.8)	Rule Review	12/25/09	1/12/10	3/26/10	4/15/10
§281.9	Amendments	3/26/10	4/15/10	5/21/10	7/5/10
§281.64	Amendments	3/26/10	4/15/10	5/21/10	7/5/10
§§291.7, 291.29	New	3/26/10	4/15/10	5/21/10	7/5/10
§§291.32, 291.33	Amendments	3/26/10	4/15/10	5/21/10	7/5/10
§§291.72 – 291.75	Amendments	3/26/10	4/15/10	5/21/10	7/5/10

PROFESSIONAL SERVICES DIVISION

Rules	Type of Action	Published in TxReg as Proposed	Memo to Staff and Others	Published in TxReg as Adopted	Memo to Staff and Others
§291.104	Amendments	3/26/10	4/15/10	5/21/10	7/5/10
§281.8	Amendments	6/25/10	7/5/10	FY2011	FY2011
§§281.11, 281.12	Repeal/New	6/25/10	7/5/10	FY2011	FY2011
§281.22	Amendments	6/25/10	7/5/10	FY2011	FY2011
§§281.64, 281.66	Amendments	6/25/10	7/5/10	FY2011	FY2011
§§291.6, 291.9	Amendments	6/25/10	7/5/10	FY2011	FY2011
§§291.51 – 291.55	Amendments	6/25/10	7/5/10	FY2011	FY2011
§291.121	Amendments	6/25/10	7/5/10	FY2011	FY2011
§291.151	Amendments	6/25/10	7/5/10	FY2011	FY2011
§291.153	New	6/25/10	7/5/10	FY2011	FY2011
§291.155	New	6/25/10	7/5/10	FY2011	FY2011
§295.5	Amendments	6/25/10	7/5/10	FY2011	FY2011
§297.4	Amendments	6/25/10	7/5/10	FY2011	FY2011
Chapter 281 (§§281.1 – 281.11, 281.13, 281.15, 281.17 – 281.22, 281.30 – 281.34, 281.60 – 281.66)	Rule Review	6/25/10	7/5/10	FY2011	FY2011
Chapter 311 (§§311.1 – 311.2)	Rule Review	6/25/10	7/5/10	FY2011	FY2011

OPEN MEETING SUBMISSIONS TO THE *TEXAS REGISTER*

Fifteen notices of open meetings scheduled during FY2010 were submitted by the Division to the *Texas Register* for publication. The submissions were as follows:

Type of Submission	Date Published
Open Meeting 9/21/09 – Task Force on Nuclear Pharmacies (Class B)	9/3/09
Open Meeting 11/9 – 11/10/09 Board Business Meeting	10/30/09
Open Meeting 12/7/09 Task Force on Rural Hospital Pharmacies	11/24/09
Open Meeting 1/20/10 Joint Committee Regarding HB 2730	1/11/10
Open Meeting 2/9 – 2/10/10 Board Business Meeting	1/28/10
Open Meeting 3/11/10 Task Force on Nuclear Pharmacies (Class B)	2/25/10
Open Meeting 3/19/10 Executive Committee	3/2/10
Open Meeting 5/4/10 Board Committee on Pharmacy Technician Certificate Exam	4/26/10
Open Meeting 5/4 – 5/5/10 Board Business Meeting	4/26/10
Open Meeting 5/13/10 Joint Committee Regarding HB 2730	5/5/10
Open Meeting 5/28/10 Disciplinary Panel Hearing	5/19/10
Open Meeting 6/23/10 Joint Committee Regarding HB 2730	6/14/10
Open Meeting 7/15/10 Board Forum	6/25/10
Open Meeting 8/5/10 Joint Committee Regarding HB 2730	7/27/10
Open Meeting 8/10 – 8/11/10 Board Business Meeting	8/2/10

PROFESSIONAL SERVICES DIVISION

Division Director 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
10/22/09	Department of Information Resources	Reported to Steve Rapp
1/12/10	Employees Retirement System	Reported to Staff

3. **To respond to open records requests throughout FY2010, 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 5% decrease in the number of requests for records in FY2010, as compared to FY2009.

OPEN RECORDS REQUESTS FY06 through FY10

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
FY06	154	154	730	1,230	884	1,384	74	115	+23%	+22%
FY07	94	94	856	1,780	950	1,874	79	156	+7%	+35%
FY08	205	205	948	2,398	1,153	2,603	96	217	+22%	+39%
FY09	163	163	1,452	2,466	1,615	2,629	135	219	+40%	+1%
FY10	96	111	1,441	1,979	1,537	2,090	128	174	-5%	-21%

4. **To provide information to Board staff and customers, including responses to surveys and questionnaires, oral and written communication, and public speaking engagements, as needed and required throughout FY2010.**

Status: **ACCOMPLISHED**

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

- A. During FY2010, the Division sent out 1,445 pieces of written information (an average of 120 per month) including emails, packets of information, and information regarding rules and open meetings.
- B. The Division Director gave fourteen presentations to approximately 616 individuals as indicated in the following chart:

PROFESSIONAL SERVICES DIVISION

Date	Group	Attendance (Approx.)
9/8/09	Westlake High School Pharmacy Technician Program, Austin	10
9/12/09	West Texas Pharmacy Association meeting, Lubbock	80
10/15/09	University of Texas College of Pharmacy 1 st Semester students, Austin	125
11/3/09	Moody High School Pharmacy Technician Program, Corpus Christi	16
11/16/09	Austin Community College Pharmacy Technician Program, Austin	12
12/2/09	Remington College Pharmacy Technician Program, Dallas	75
2/24/10	Austin Community College Pharmacy Technician Program, Austin	15
2/25/10	El Paso Pharmacy Association Meeting, El Paso	70
3/3/10	McKesson Healthmart, Denton	15
3/25/10	Remington College Pharmacy Technician Program, Houston	35
3/26/10	San Jacinto College Pharmacy Technician Program, Austin	28
4/16/10	San Jacinto College Pharmacy Technician Program, Austin	25
4/24/10	West Texas Pharmacy Association, Abilene	80
7/14/10	Texas Pharmacy Association Technician Series, Austin	30
TOTAL		616

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

D. Other Activities

- The Division Director routinely answered questions from Enforcement and Licensing staff concerning the laws and rules, including their applicability to specific situations.
- The Division Director monitored the Website for currentness of the information presented. Changes and/or updates were forwarded to Network Specialist Todd Hayek. A Facebook and a Twitter were set up for TSBP and links posted on the TSBP website in late FY2009. By the end of FY2010, over 1,200 individuals “liked” TSBP on Facebook and over 500 individuals “followed” TSBP on Twitter.

5. To publish an Internet version of the *Newsletter* during FY2010, 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**

PROFESSIONAL SERVICES DIVISION

Comment: One issue of the *TSBP Newsletter* was published during FY2010. The issue featured a "Complaint Corner" article, Licensing Statistics, and Disciplinary Actions. Due to budget constraints, TSBP was unable to print and mail a copy of the *TSBP Newsletter* during FY2010.

Throughout FY2010, an email subscription to the Newsletter was available on the TSBP website. Individuals were able to subscribe to the Newsletter by providing an email address. Subscribers were notified by email when a Newsletter was available on the website. Over 3,000 individuals have subscribed to the email notification as of the end of FY2010.

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

Status: **ACCOMPLISHED**

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

Date	Activity	Personnel
October 2009	MPJE Texas Item Pool Review and National Item Pool Review, Austin	Allison Benz Kerstin Arnold
April 7-9, 2010	MPJE Texas Item Writing, Chicago, IL	Allison Benz

7. **To assist the Board, throughout FY2010, 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: In November 2009, the Division Director requested records from the Texas Southern University College of Pharmacy and Health Sciences, University of Houston College of Pharmacy, University of Texas College of Pharmacy, University of the Incarnate Word Feik School of Pharmacy, Texas Tech School of Pharmacy, and Texas A&M Health Science Center Irma Lerma Rangel College of Pharmacy. Records from all six colleges/schools were reviewed by the Division Director. The results of the review of the internship records were presented to the Board at its February 2010 meeting. In addition, a "Questionnaire on Texas Colleges of Pharmacy Internship Programs" was sent to all six colleges/schools of pharmacy. Responses were received and reviewed by the Division Director and subsequently presented to the Board during the February 2010 board meeting. The Board approved all of the internship programs for the 2010-2011 academic year.

PROFESSIONAL SERVICES DIVISION

8. To coordinate the updating of the Texas State Pharmacy Law reference manual and provision of the updates to the publisher of the manual and to NABP for inclusion in NABPLAW during FY2010.

Status: ACCOMPLISHED

Comment: Law Reference

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

Law Reference Updates

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

- October 2, 2009
- January 12, 2010
- April 15, 2010
- July 5, 2010

NABPLAW Updates

Although the National Association of Boards of Pharmacy (NABP) no longer requires Boards to provide updates for NABPLAW, updates were submitted to NABP during FY2010 as follows:

- September 9, 2009
- July 2, 2010

NABP Survey of Pharmacy Law Updates

The NABP publication, Survey of Pharmacy Law, is updated annually. During FY2010, the update was completed by the Division Director and returned to NABP by the due date.

9. To provide professional staff support to Board-appointed task forces and complete other special projects as assigned throughout FY2010.

Status: ACCOMPLISHED

Comment: The Division's staff provided professional staff support including communicating with task force members regarding meetings and setting up the meetings. There were seven task force meetings supported by the Division staff during FY2010 as follows:

September 21, 2009	Task Force on Nuclear Pharmacies
December 7, 2009	Task Force on Rural Hospital Pharmacies
January 20, 2010	Interagency Council Regarding HB 2730
March 11, 2010	Task Force on Nuclear Pharmacies
May 13, 2010	Interagency Council Regarding HB 2730

PROFESSIONAL SERVICES DIVISION

June 23, 2010
August 5, 2010

Interagency Council Regarding HB 2730
Interagency Council Regarding HB 2730

- 10. To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2010.**

Status: ACCOMPLISHED

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

- A. Division Director assisted the Texas Department of Public Safety (DPS) in the review and approval of plans from twenty-one Texas pharmacies to dispense prescriptions for Schedule II controlled substances issued by out-of-state practitioners.
- B. Division staff maintained close contact with *Texas Register* staff as needed to prepare and publish rules in the *Texas Register*.
- C. Division Director maintained contact with numerous state and federal agencies and other state boards of pharmacy.
- D. Division Director served as liaison to the federal Healthcare Integrity and Protection Data Bank (HIPDB). With assistance from Enforcement staff, 601 Adverse Action Reports were submitted to HIPDB during FY2010, as required by federal law.

- 11. To manage employees under the supervision of the Division throughout FY2010, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

Status: ACCOMPLISHED

Comment: Senior Administrative Assistant Sherry Stevenson retired on December 31, 2009. Senior Administrative Assistant Leslie Kacer was hired on December 1, 2009, and a performance review was conducted on July 22, 2010.

In FY2010, Division staff attended general staff meetings and in-house training sessions. General Staff Meetings were held in December 2009, February 2010, and May 2010. In conjunction with General Staff Meetings, Division staff participated in all-staff training, as listed below:

- 9/2/2009 – Pandemic Flu Training (presented by SORM)
- 10/27/2009 – Office Etiquette (presented by EAP)

PROFESSIONAL SERVICES DIVISION

- 12/8/2009 – Stress Management (presented by EAP)
- 2/23/2010 – Employee Assistance Programs (presented by EAP)
- 5/11/2010 – Seven Habits of Highly Effective People – Habit Five Communication

Division Director and Senior Administrative Assistant Leslie Kacer attended the Office of the Attorney General Open Government Conference December 14 - 15, 2009.

The Division Director served as co-chair on the agency's Wellness Committee in conjunction with the General Counsel. The TSBP Wellness Program was selected to participate in LeanWorks, a Center for Disease Control study. Each month the Division Director participated in a conference call conducted by the CDC that provided information on Wellness Programs. The Division Director and General Counsel incorporated numerous idea from the LeanWorks study, including adopting a mascot (Morty) and a slogan (Compounding Wellness). In addition, two TSBP Wellness Activities (e.g., Wellness Leave Policy and Blood Pressure & Glucose Monitoring) were recognized with Silver Awards by the Statewide Wellness Agency.

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

9/18/09	Flu Shots
10/12 – 10/13/09	Statewide Wellness Conference
12/8/09	Stress Management
12/11/09	Healthy Eating Tour at Whole Foods
Spring 2010	Get Fit Challenge
Summer 2010	Complaint Resolution Fitness Challenge

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

- 12. To destroy records in accordance with the agency's record retention plan throughout FY2010; and to update the Division's Policy and Procedure Manual as needed and submit any substantive revisions to the Executive Director/Secretary for approval throughout FY2010.**

Status: ACCOMPLISHED

Comment: During FY2010, the Division accomplished this goal as follows:

A. Records Management

Records in the possession of the Division scheduled for destruction during FY2010 under the approved Record Retention Schedule were identified and destroyed.

PROFESSIONAL SERVICES DIVISION

B. Policies and Procedures

The policies and procedures for handling Open Records Requests, submitting information to the *Texas Register*, and destroying records according to the Record Retention Schedule were reviewed in FY2010.

- 13. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2010.**

Status: ACCOMPLISHED

Comment: Division Director recommended amending the pharmacy rules to allow individuals to receive continuing education credit for attending programs presented by TSBP or courses offered by TSBP when the programs or courses are not ACPE accredited. The amendments became effective September 2009. During FY2010, 136 continuing education credit certificates were issued by the Division for programs presented by TSBP.

- 14. To prepare a report on the accomplishment of Division objectives, for incorporation in the agency's 2009 Annual Report, and submit to the Executive Director by the due date.**

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2009 *Annual Report* was submitted to the Executive Director by the due date. The final draft of the Annual Report for FY2009 was presented to and approved by the Board at the May 2010 Board Meeting.

Enforcement Division

FY2010 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 100% of its 14 Objectives for FY2010 (13 Objectives were accomplished and one Objective was partially accomplished).
2. TSBP met or exceeded 100% of the 11 enforcement-related performance measures for FY2010 (see Ongoing Objective #1 for further information regarding measures).
3. When comparing FY2010 to FY2009, TSBP reduced the average complaint resolution time by 29 days (i.e., on average, complaints were resolved approximately one month faster than in the prior fiscal year). As reflected in the chart below, the FY2010 average complaint resolution time (182 days) was not only a 14% improvement over FY2009, but represented the fastest average time in the past five fiscal years (see Ongoing Objective #3 for further information regarding complaints that were closed by TSBP in FY2010).

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY06	3,550	+15%	3,387	+2%	95%	207 Days	+6%
FY07	5,849	+65%	4,980	+47%	85%	185 Days	-11%
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%
FY09	5,290	-8%	6,182	+15%	117%	211 Days	+8%
FY10	5,702	+8%	5,512	-11%	97%	182 Days	-14%

4. Field Compliance staff conducted 2,449 pharmacy inspections, thereby exceeding the inspection goal for FY2010 (see Ongoing Objective #2 for further details regarding compliance inspections). This number of inspections included 158 pre-inspections of new pharmacies, a process to ensure that TSBP is issuing licenses to valid facilities.
5. During FY2010, Division staff responded to 18,794 telephone calls received via the Compliance Queue Phone Line and made 15 presentations to approximately 1,019 individuals. Field investigators also made 745 contacts with 266 law enforcement agencies (see Ongoing Objectives #5 and #7 for further details). In addition, Assistant Division Director served as preceptor to 14 students from six Colleges of Pharmacy (see Ongoing Objective #8 for further details).
6. Division staff continued to implement the program to convert paper complaint files to imaged records. Approximately 3,033 complaint files were scanned during FY2010.
7. The 81st Texas Legislature authorized funding for six enforcement positions, effective September 1, 2009. All positions were filled during FY2010. In addition, the Legislature passed several significant new laws which had an impact on the Division, including S.B. 650. This law amended the Texas Pharmacy Act to allow TSBP investigators to carry weapons/make arrests. As a result of this amendment, TSBP was able to receive \$100,000 in asset forfeiture from the Drug Enforcement Administration during FY2010.
8. Throughout FY2010, Division staff has referred hundreds of disciplinary cases to the Legal Division, including 71 cases in which technicians agreed to a voluntary revocation of their registrations in lieu of further disciplinary proceedings, which in turn, reduced the Legal Division's workload with respect to those particular cases.

ENFORCEMENT DIVISION

FY2010 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. TSBP experienced an 8% increase in the number of complaints received during FY2010, as compared to FY2009. Over half of the complaints opened by TSBP are due to criminal background checks on applicants for registration as a pharmacy technician (or technician trainee) or registered technicians/trainees.
2. Division staff resolved (closed) fewer complaints in FY2010 than in FY2009. This reduction was due to several factors, including the significant time and efforts that Division staff spent in FY2010 with the following duties/activities:
 - (a) Division staff devoted countless hours towards the development and implementation of a new regulatory database system (see New Objective #1 for further details);
 - (b) Division staff continued to spend significant time and efforts monitoring compliance with the terms of disciplinary orders that were entered by TSBP in FY2010; almost all of the disciplinary orders entered in FY2010 required some type of monitoring by Division staff; specifically, 698 Orders, or 86% of the 808 disciplinary Orders that TSBP entered during FY2010, required some type of monitoring (see Ongoing Objective #6 for further details);
 - (c) Division staff continued to assist the Executive Director and other Divisions on an extensive basis (see Ongoing Objective #7 for further details); and
 - (d) Division staff were extremely busy filling new and vacant positions throughout FY2010 (see Constraint #5 below and Ongoing Objective #11 for further details).
3. Division staff continued to collect samples of compounded preparations during FY2010. Although all tested sterile preparations (100%) sterile and free of endotoxins, test results show that 21 of the 86 samples tested (24%) failed to yield the acceptable potency results (see Ongoing Objective #2 for additional information regarding testing results).
4. As a result of additional funding granted by the 81st Texas Legislature, the agency was able to hire additional staff during FY2010. However, to accommodate new staff, TSBP was required to find additional space for offices. The accounting staff moved to the second floor within the Hobby Building, resulting in Enforcement Division staff not having easy access to accounting staff as in prior fiscal years. Other in-house staff were moved into the offices vacated by the accounting staff. These moves, which affected several Enforcement Division staff, occurred in November 2009.
5. Although the Division began FY2010 with no vacant positions, the Division experienced 20 staffing changes during FY2010, as a result of the following factors: six new positions funded by the 81st Texas Legislature, the loss of six employees (four resignations and two internal transfers – one to the Office of the Executive Director and one to the Legal Division), and three vacancies were created due to internal promotions within the Division (i.e., existing employees filling the new positions or positions vacated by persons who resigned). See Ongoing Objective #11 for further details regarding personnel changes. Two vacant positions were lapsed due to forced budget cuts imposed during FY2010 (e.g., one Administrative Assistant position was lapsed seven months and one Compliance Inspector position was vacant nine months).
6. Throughout FY2010, TSBP Compliance Field staff continued to discover numerous individuals performing technician duties without an active registration. These cases were referred to the TSBP Legal Division. TSBP entered 129 disciplinary orders in FY2010 for this violation, as compared to 100 orders entered in FY2009 for this violation.

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FY2010 ANNUAL REPORT

GOAL

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

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2010:

1. Developing and implementing a new licensing, enforcement, and administration database system throughout FY2010.
2. Reviewing and implementing legislation passed by the 81st Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2010;
3. Updating and preparing the *TSBP Strategic Plan for FY2011-2015* and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date;
4. Preparing a proposed budget for the FY2012-2013 biennium for review and approval by the Board at the 2010 Board Budget meeting;
5. Preparing the *TSBP Legislative Appropriation Request for FY2012-2013* and corresponding performance measures by the due date; and
6. Developing and implementing an educational program on pharmacy technicians including registration requirements, performance of duties, and disciplinary process.
7. Conducting the orientation of new Board members within 90 days of appointment by the Governor.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

1. New Regulatory Database System

The initial meeting to acquaint Division staff with the new RDB system occurred on September 23, 2009. Countless hours were spent during the following 11 months to develop configuration details, to test the configuration set-up, to test migrated data, to clean-up current computer data in preparation for migration, to

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prepare charts and tables for mapping migrated data, system training, and discussions/decisions regarding customization, when financially feasible, or if not financially feasible, to determine “work-around” solutions.

Meetings were held once a month in October and November 2009, and began weekly from December 2009 through March 2010. From April through August 2010, RDB system activities occurred almost on a daily basis. Three one-week long User Acceptance Testing (UAT) periods occurred during the first week of May and June and the last week of July 2010. Following the last testing session, the projected “go-live” date was postponed into FY2011. Although the new database system was not implemented during FY2010, the failure to “go-live” by August 31, 2010, was not due to lack of time and effort by TSBP staff.

2. Implementing Legislation

- A. With the review and approval of the Executive Director and General Counsel, Chief of Investigations prepared policies and procedure to implement S.B. 650 which allowed TSBP Investigators who are commissioned peace officers to carry weapons and make arrests.
- B. Assistant Division Director assisted in the implementation of S.B. 646 which mandated a study regarding the use of confidential patient information (e.g., liaison between Senator Van de Putte, the author of S.B. 646, and Dr. Marvin Shepherd/University of Texas, who is responsible for the study).
- C. Division staff educated licensees about new laws, including the following:
 - new labeling requirements (e.g., “beyond use date” and “do not flush unused medications or pour down a sink or drain”);
 - new Class F Pharmacy licenses (Freestanding Emergency Clinics);
 - amendments to immunizations by a pharmacist with regard to the age of the patient;
 - new law allowing technicians to perform certain duties in a rural hospital and in certain conditions, to allow a technician to check another technician;
 - new law requiring certification of certain pain clinics;
 - amendment to the Texas Controlled Substances Act that allow a physician to issue multiple prescriptions to one patient authorizing the patient to receive a 90-day supply of a Schedule II-drug; and
 - amendment to the Texas Controlled Substances Act that designated Carisoprodol as a Schedule IV controlled substance.Information about the new laws was disseminated by Compliance Field staff during compliance inspections and in-house staff when responding to telephone inquiries and e-mail questions.
- D. Division Director served as the agency’s representative to the Health Professions Council with respect to S.B. 1058.

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3. Strategic Plan for FY2011-2015

Assistant Director of Enforcement Paul Holder, R.Ph., Pharm.D., worked with President Jeanne Waggener, R.Ph., to update Policy Issue #3 of the Plan, relating to Pharmacy Personnel and Working Conditions. The updated issue statements were presented to the Board at its February 2010 meeting. The Division Director assisted Director of Administrative Services with portions of the Plan. After the Board approved the Plan at its May 2010 meeting, the final Plan was delivered to the Governor's office by the due date.

4. Proposed Budget for FY2012-2013

Division Director prepared written justification for two additional Field Investigators and reclassification of Chief of Investigations. Division Director worked with the Executive Director and other Division Directors to prepare a proposed budget request for the TSBP Executive Committee's review and consideration at a meeting in March 2010. The Board approved the proposed budget at its May 2010 meeting.

5. Legislative Appropriations Request FY2012-2013 (LAR)

Division Director assisted with the review of the Administrator's Statement and prepared targets for enforcement-related performance measures to correspond with the agency's budget request. Upon the Governor's request, the Division Director worked with the Executive Director and other Division Directors to prepare a budget with a funding level at 90% of the agency's current funding. The final LAR was submitted to the Legislative Budget Board and Governor's Office by the due date. Division Director attended the public hearing relating to the agency's budget which was conducted by Legislature Budget Board staff and Governor's staff on August 18, 2010.

6. Educational Program Regarding Technicians

Division Staff continued to educate pharmacy technicians about registration process if the technician applicant has a criminal record.

7. Orientation of New Board Members

On January 28-29, 2010, Division staff, along with the Executive Director and other agency staff, participated in the orientation of two new Board Members (Joyce Tipton, R.Ph., and Charles Wetherbee, public member). W. Benjamin Fry, R.Ph., was re-appointed and did not participate in the orientation.

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Objectives (Ongoing)

- To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2010 – FY2011 Appropriations Act to the Executive Director by specified due dates throughout FY2010; to assist in the preparation of applicable reports to the Legislative Budget Board and Governor's Budget Office regarding performance measures.**

Status: **ACCOMPLISHED**

Comment: Throughout FY2010, Division staff collected data relating to enforcement and peer assistance performance measures. The data was certified and submitted to the Legislative Budget Board (LBB) and Governor's Office of Budget, Planning & Policy (GBO) by the prescribed due dates, in conjunction with licensing-related performance measures. Statistics regarding three enforcement-related performance measures (Number of Jurisdictional Complaints Resolved, Average Complaint Resolution Time, and Number of Individuals Participating in a Peer Assistance Program) were reported to the LBB and GBO on a quarterly basis throughout FY2010. The other eight measures were reported to the LBB and GBO at year-end (annual basis).

TSBP met or exceeded, within a 5% variance, 100% of the enforcement-related performance measures, which included six key performance measures and five non-key performance measures, as indicated in the chart below:

Enforcement-Related Performance Measure	FY10 Projected Performance	FY10 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
Outputs:				
Inspections	1,800	2,439	NK	Exceeded
Jurisdictional Complaints Resolved	4,980	5,463	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	160	158	K	Met
Efficiency:				
Average Time for Jurisdictional Complaint Resolution	180	182	K	Met
Outcomes:				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	15.0%	14.5%	K	Met
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	95.0%	95.7%	K	Met
Recidivism Rate of Those Receiving Disciplinary Action	6.0%	5.5%	NK	Met
Percent of Jurisdictional Complaints Resolved within Six Months	50.0%	67.0%	NK	Exceeded
Recidivism Rate for Participants in Peer Assistance Program	30.0%	19.4%	NK	Exceeded
One-Year Completion Rate for Participants in Peer Assistance Program	75.0%	84.1%	NK	Exceeded
Explanatory:				
Jurisdictional Complaints Received	5,000	5,661	K	Exceeded

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

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2. To monitor pharmacy inspections and pharmacists' practice by conducting 2,000 inspections, inspection-visits, and/or visits, including follow-up inspections to "Warning Notices" throughout FY2010. To inspect pharmacies and monitor pharmacists' practice throughout FY2010, according to the following priorities:
- A. pharmacists and pharmacies who are the subject of a complaint received by TSBP or a disciplinary order entered by TSBP;
 - B. new pharmacies or pharmacies with a recent change of ownership;
 - C. pharmacies that have received a "Warning Notice" (follow-up inspections);
 - D. requests for inspection by licensee;
 - E. pharmacies with a preceptor working in the pharmacy; and
 - F. routine inspections.

Status: ACCOMPLISHED

Comment: TSBP Compliance Field Staff conducted 2,449 inspections during FY2010. The term "inspections" includes inspections, pre-inspections, partial-inspections, and inspection-visits. These terms are described below:

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

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Statistics regarding these inspections are set forth below:

Total Inspections by Type	FY2008	FY2009	FY2010	% of FY10	3-Year Average	% of 3-Yr. Average
Inspections	1,603	1,688	2,033	83%	1,775	82%
Pre-Inspections	101	92	158	7%	117	5%
Partial-Inspections	142	124	196	8%	154	7%
Inspection-Visits	104	14	55	2%	58	3%
Attempted Inspections	91	90	0	0%	60	3%
Other	7	8	7	0%	7	0%
Audit	0	0	0	0%	0	0%
Total	2,048	2,016	2,449	100%	2,171	100%

Number of Inspections/Visits by Class	FY2008	FY2009	FY2010	% of FY10	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	1,563	1,604	2,056	84%	1,741	80%
Class B Pharmacies	4	1	4	<1%	3	0%
Class C Pharmacies	298	273	235	10%	269	12%
Class D Pharmacies	183	138	154	6%	158	7%
Total	2,048	2,016	2,449	100%	2,171	100%

Number of Warning Notices Issued by Class*	FY2008	FY2009	FY2010	% of FY10**	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	300	411	604	88%	438	85%
Class B Pharmacies	0	0	0	0%	0	0%
Class C Pharmacies	44	65	60	9%	56	11%
Class D Pharmacies	30	15	26	4%	24	5%
Total	374	491	690	100%	518	100%

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

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

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Conditions Receiving "Warning Notices" FY2010						
Percentages are based on the total number of "Warning Notices" issued to Pharmacies in FY2010. Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.						
Type of Violation	FY2008	FY2009	FY2010	3-Year Average	% FY2010	% 3-Year Average
Equipment	55	54	64	58	4%	5%
Balance Failed Inspection	42	43	46	44		
Equipment Inspection Due (Not Balance)	12	11	17	13		
Insufficient Equipment	1	0	1	1		
Pharmacy Technicians	133	178	313	208	18%	18%
No/Incomplete Training	100	150	262	171		
No/Improper Supervision	17	20	28	22		
Improper Registration	15	6	13	11		
No Name Tags	1	2	10	4		
Inadequate Library	26	57	85	56	5%	5%
Counseling Area	0	0	0	0	0%	0%
Licenses	92	133	251	159	15%	14%
Licenses Not Posted	82	130	235	149		
Delinquent Licenses	10	3	16	10		
Prescriptions	27	28	75	43	4%	4%
Lack Proper Information	8	17	53	26		
Prescription Label Incorrect	10	5	15	10		
Triplicate Non-Compliance	9	6	7	7		
Drug Stock/Environment	77	113	205	132	12%	11%
Improper Environment	0	36	80	39		
Out-of-Date Drug Stock	59	47	84	63		
Security	1	10	19	10		
Unsanitary	5	13	13	10		
Improper Drug Storage	4	3	8	5		
Area for Non-Sterile Compounding	3	3	1	2		
Violation of Limited Formulary	2	1	0	1		
Prohibited Drugs (Class D)	3	0	0	1		
Inventory	64	66	103	78	6%	7%
No Annual Inventory	39	43	68	50		
No Change of Ownership Inventory	3	0	3	2		
No Change of PIC Inventory	6	9	16	10		
Incomplete Inventory	16	14	16	15		
No Perpetual inventory (Class C)	0	0	0	0		
Improper Drug Destruction	0	0	0	0		
Improper Prepackaging Procedures	25	38	45	36	3%	3%

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Conditions Receiving "Warning Notices" FY2010 <i>Continued</i>						
Type of Violation	FY2008	FY2009	FY2010	3 Year Average	% FY2010	% 3-Year Average
Computer Systems	34	58	125	72	7%	6%
Computer Records Incomplete	31	52	123	69		
Computer Records Non-Compliance	3	6	2	4		
Records	45	67	100	71	6%	6%
Records Not Available	16	16	20	17		
DEA Order Forms Incomplete	0	0	0	0		
Absence of R.Ph. Record	2	0	2	1		
Rx Not Separated	5	10	3	6		
Rx Records not Numerical Order	3	11	20	11		
Improper Transfer of RX copies	0	0	1	0		
Invoices Not Separated/Retrievable	3	5	15	8		
Records for Non-Sterile Compounds	9	18	34	20		
No Written Information on Prescription	6	7	5	6		
Improper Refill Documentation	1	0	0	0		
OBRA Violations	54	67	51	57	3%	5%
Written Information Not Provided	0	0	5	2		
No Patient Counseling	52	63	43	53		
PMR Absent or Incomplete	2	4	3	3		
Sterile Pharmaceutical Violations	30	87	148	88	9%	8%
No/Incomplete QA/QC	2	9	6	6		
No/Incomplete P&P Manual	8	20	67	32		
No/Inadequate Preparation Area	14	44	57	38		
IV Preparation	1	7	12	7		
No DUR	1	5	3	3		
Absence of R.Ph. Pick-Up-Records	4	2	2	3		
Cytotoxic/Bio Procedures	0	0	1	0		
No/Incomplete Non-Sterile Cpd Records	9	18	34	20	2%	2%
Improper Distribution	9	2	6	6	0%	1%
No PIC	7	5	21	11	0%	1%
Dispensing	36	29	49	38	3%	3%
Improper Dispensing	6	7	17	10		
Aiding and Abetting	5	2	7	5		
Illegal Dispensing	2	2	2	2		
Substitution Non-Compliance	3	0	0	1		
Out-of-State Rxs for Controlled Substances	0	0	0	0		
Improper Emergency Room Dispensing	1	0	0	0		
Improper Automated Dispensing Procedures	17	18	20	18		
Improper Provision	2	0	3	2		
Improper Advertising	19	9	14	14	1%	1%

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Conditions Receiving "Warning Notices" FY2010 <i>Continued</i>						
Type of Violation	FY2008	FY2009	FY2010	3 Year Average	% FY2010	% 3-Year Average
Notification Violation	18	24	33	25	2%	2%
Theft & Loss of C/S Not Reported	4	7	4	5	0%	0%
Gray Market diversion	1	0	1	1	0%	0%
Improper Closing/Change of Ownership	2	0	0	1	0%	0%
Improper Inpatient Procedures (Class C)	1	2	0	1	0%	0%

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

Purpose of Inspection (In Order of Priority)	FY2008	FY2009	FY2010	% of FY10	3-Yr. Avg.	% of 3-Yr. Avg.
Complaint	114	123	137	6%	125	6%
Follow-up to Disciplinary Order	6	4	8	0%	6	0%
Pre-Inspection New	101	97	162	7%	120	6%
New Pharmacies	111	95	95	4%	100	5%
Change of Ownership	20	14	9	0%	14	1%
Preceptor	229	278	311	13%	273	13%
Follow-up to "Warning Notice"	31	72	119	5%	74	3%
Routine Inspections	1,326	1,205	1,538	63%	1,356	63%
Attempted Inspection	91	90	52	2%	78	4%
Other	19	38	18	1%	25	1%
Total	2,048	2,016	2,449	100%	2,171	100%

SUMMARY OF PROGRAM TO SAMPLE AND TEST COMPOUNDED PREPARATIONS

During Fiscal Year 2010, TSBP submitted for testing 86 compounded preparations from 62 different pharmacies. The preparations tested included 76 preparations containing only one active ingredient and 10 preparations containing 2 or more active components.

Sterile preparations collected in FY2010 revealed that 100% of the collected samples were sterile and free of endotoxins. Test results show that 21 of the 86 (24%) samples tested failed to yield the acceptable potency results. The potency results are described below:

(1) **Non-Sterile Preparations –**

Of the 86 samples that were collected, 58 (67%) were non-sterile compounded preparations. Potency problems were determined in 13 of the 58 preparations (23% failed potency test).

(2) **Sterile Preparations –**

Of the 86 samples that were collected, 28 (33%) were sterile compounded preparations. Potency problems were determined in 8 of the 28 preparations (29% failed potency test).

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The increase in total test failures in FY2010 compared with FY2009 may be due, in part, to the increase in the number of compounded preparations tested in 2010. During FY 2009, TSBP tested significantly fewer preparations due to mandated budget reductions. The overall failure rate of 24% is a significant increase over the 17% failure rate seen in FY2009, but is comparable to the 26% failure rate seen in FY2008, and to the overall 23% failure rate since compounded preparation testing began in FY2008.

The total of 86 compounded preparations tested this year represents an increase of 87% over the 46 preparations tested in FY2009. The compound testing program remains a useful tool in evaluating the accuracy of compounding performed by pharmacies within the state of Texas.

3. **To coordinate and monitor throughout FY2010, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants. To investigate complaints throughout FY2010, according to the following priorities:**
 - A. **Continuing threats to the public welfare requiring a temporary suspension;**
 - B. **Complaints filed against licensees/registrants who have a chemical, mental or physical impairment;**
 - C. **Complaints involving the diversion of prescription drugs, through the following illegal means:**
 - **theft of drugs;**
 - **delivering prescription drugs without a prescription;**
 - **dispensing prescription drugs pursuant to an invalid prescription, such as forged or fraudulent prescriptions, prescriptions dispensed following an Internet consultation, and unauthorized refills; and**
 - **failing to keep and maintain accurate records of purchases and disposals of prescription drugs (i.e., audit shortages).**
 - D. **Complaints against licensees/registrants who have been convicted of a felony involving offenses that involved drug laws or occurred while engaged in pharmacy practice;**
 - E. **Complaints against licensees/registrants who are registered sex offenders;**
 - F. **Complaints against licensees/registrants who have been convicted of a felony involving offenses not occurring while engaged in pharmacy practice;**
 - G. **Complaints involving applicants for licensure or registration (not including applications for reinstatement);**
 - H. **Complaints involving dispensing errors and malpractice reports;**

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

Status: **ACCOMPLISHED**

Comment: When comparing FY2010 to FY2009, TSBP reduced the average complaint resolution time by 29 days (i.e., on average, complaints were resolved approximately one month faster than in the prior fiscal year). As reflected in the chart below, the FY2010 average complaint resolution time (182 days) was not only a 14% improvement over FY2009, but represented the fastest average time in the past five fiscal years. This significant accomplishment was achieved despite the 8% increase in the number of complaints received during FY2010, as compared to FY2009. However, TSBP resolved (closed) fewer complaints during FY2010 as compared to FY2009, for the reasons previously explained in the Enforcement Division's Significant Disappointments/Constraints #2.

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY06	3,549		3,387		95%	207 Days	
FY07	5,849	+65%	4,980	+47%	85%	185 Days	-11%
FY08	5,737	-2%	5,360	+8%	93%	196 Days	+6%
FY09	5,290	-8%	6,182	+15%	116%	211 Days	+8%
FY10	5,702	-8%	5,512	-11%	97%	182 Days	-14%

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

DATA ON DISPENSING ERROR COMPLAINTS CLOSED FY06–FY10

Type of Dispensing Error	FY06	FY07	FY08	FY09	FY10	5-Year Avg.
Wrong Drug/Strength or Wrong Directions for Use	114	152	86	115	100	113
Mislabeled	13	15	13	11	8	12
Dispensed Wrong Quantity	58	58	41	125	60	68
Dispensed Outdated Drug	3	10	4	3	3	5
Packaging/Delivery Error	23	32	25	24	17	24
Error + No Counseling	7	10	2	3	5	5
Total # Dispensing Error Complaints	218	277	171	281	193	228
Total # Complaints Closed	3,387	4,980	5,360	6,182	5,512	5,084
% Dispensing Error Complaints	6%	6%	3%	5%	4%	5%

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 FY2006–FY2010					
Fiscal Year	Compliance Officers	%	Investigators	%	Total
FY06	128	41%	182	59%	310
FY07	105	26%	299	74%	404
FY08	147	29%	356	71%	503
FY09	151	33%	306	67%	457
FY10	167	32%	355	68%	522
5-Year Avg.	140	32%	300	68%	439

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

DATA ON COMPLAINTS CLOSED FY2008 – FY2010

Form of Complaints	FY08	FY09	FY10	% of FY10	3-Yr. Avg.	% of 3-Yr. Avg.
Telephone	69	68	53	1%	63	1%
Letter	181	219	181	3%	194	4%
TSBP Complaint Form	152	209	150	3%	170	3%
HPC 800 #	37	31	21	<1%	30	<1%
Fax	93	63	60	1%	72	1%
Visit	4	6	4	<1%	5	<1%
Agency Report	539	228	25	1%	264	5%
Inspection	56	71	98	2%	75	2%
Interoffice Referral	18	19	16	<1%	18	<1%
Licensure Application	3,004	2,802	2,511	46%	2,772	55%
Data Bank	5	9	8	<1%	7	<1%
Theft/Loss Report	583	636	447	8%	555	11%
Investigation	229	281	330	6%	280	6%
Intra-Agency Referral	10	9	10	<1%	10	<1%
Malpractice Report	2	4	3	<1%	3	<1%
Press Clip	6	14	0	0%	7	<1%
Email *	44	105	148	3%	99	2%
Internet *	326	583	406	7%	438	9%
DPS/quarterly **	n/a	823	1040	19%	n/a	n/a
Other	2	2	1	<1%	2	<1%
TOTAL	5,360	6,182	5,512	100%	5,064	100%

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

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

ENFORCEMENT DIVISION

DATA ON COMPLAINTS CLOSED FY2008 – FY2010

Source of Complaints	FY08	FY09	FY10	% of FY10	3-Yr. Avg.	% of 3-Yr. Avg.
Consumer	567	876	565	10%	669	12%
Government Agency	571	1,088	1,090	20%	916	16%
Pharmacist	51	48	45	1%	48	<1%
Pharmacist (Self)	81	88	79	1%	83	2%
Applicant (R.Ph. Self)	154	168	213	4%	178	3%
Technician	7	17	29	<1%	18	<1%
Technician (Self)	110	119	84	2%	104	2%
Applicant (Tech Self)	303	295	257	5%	285	5%
Technician Trainee	1	2	6	<1%	3	<1%
Tech Trainee (Self)	2	1	8	<1%	4	<1%
Applicant (Tech Trainee Self)	1,796	1,475	1,086	20%	1,452	26%
TSBP	859	1,031	1,254	23%	1,048	18%
Doctor	66	64	54	1%	61	1%
Other Health Professional	14	27	21	<1%	21	<1%
NABP	5	10	8	<1%	8	<1%
PIC, Pharmacy Manager, or Supervisor	595	678	499	9%	591	10%
Loss Prevention Officer (Corporate)	9	7	8	<1%	8	<1%
Manufacturing Rep.	0	2	2	<1%	1	<1%
Professional Recovery Network (PRN)	11	12	24	<1%	16	<1%
Insurance Company	4	1	2	<1%	2	<1%
Attorney	2	8	6	<1%	5	<1%
Employee/Ex-Employee	15	18	21	<1%	18	<1%
Media	9	13	1	<1%	8	<1%
Drug Screening Co.	119	111	117	2%	116	2%
Other	9	23	33	<1%	22	<1%
TOTAL	5,360	6,182	5,512	100%	5,685	100%

ENFORCEMENT DIVISION

DATA ON CLOSED FY2008 – FY2010 COMPLAINTS

Subjects of Complaints *	FY08	FY09	FY10	3-Yr. Average
Licensees (RPh/Pharmacy)	1,604 (30%)	1,990 (32%)	1,546 (28%)	1,713 (30%)
Pharmacist	565	762	678	668
In-State Pharmacy	991	1,173	832	999
Out-of-State Pharmacy	48	55	36	46
Registrants (Intern/Tech)	830 (15%)	1,444 (23%)	1,457 (26%)	1,244 (22%)
Intern	5	27	23	18
Technician	669	930	853	817
Technician Trainee	156	487	581	408
Applicants (Lic & Reg)	2,850 (53%)	2,671 (43%)	2,444 (44%)	2,655 (47%)
Pharmacist	72	106	130	103
Pharmacy	36	20	65	40
Intern	97	85	113	98
Technician	399	408	465	424
Technician Trainee	2,246	2,052	1,671	1,990
Non-Licensees	76 (1%)	77 (1%)	65 (1%)	73 (1%)
Doctor	25	42	29	32
Manufacturer	1	0	2	1
Wholesaler	0	0	2	1
Non-Licensed Facility or Person	31	23	15	23
Insurance Company/PBM	10	5	8	8
Out-of-State Facility	5	6	7	6
Other	4	1	2	2
TOTAL	5,360	6,182	5,512	5,685

- * A complaint may have one or two subjects (i.e., an individual and a facility); however, for data reporting purposes, TSBP selects a single code as the subject of the complaint; for complaints with dual subjects, the complaint is generally coded as being filed against the individual rather than the facility. EXAMPLES:
- (a) a complaint may be filed on both a pharmacist and a pharmacy (e.g., dispensing error committed by a pharmacist at a particular pharmacy); in this event, the complaint is coded as being filed against the pharmacist; and
 - (b) a complaint may be filed on both a technician and a pharmacy (e.g., theft of controlled substances by a technician at a pharmacy); in this event, the complaint is coded as being filed against the technician.

ENFORCEMENT DIVISION

NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2008 – FY2010

Alleged Violation	FY08	FY09	FY10	3-Yr. Avg.	% of 3-Yr. Avg.
Diversion	13	21	28	21	<1%
Controlled Substances (C/S)	8	12	17	12	<1%
Dangerous Drugs (D/D)	1	0	1	1	0%
Both (C/S & D/D)	4	0	2	2	0%
Internet Rxs	**	9	8	n/a	n/a
Unauthorized Dispensing	29	27	16	24	<1%
Controlled Substances	5	6	4	5	<1%
Dangerous Drugs	14	9	10	11	<1%
Both (C/S & D/D)	10	12	2	8	<1%
Illegal Delivery	0	1	5	2	0%
Controlled Substances	0	1	4	2	0%
Dangerous Drugs	0	0	1	0	0%
Both (C/S & D/D)	0	0	0	0	0%
Illegal Possession	4	4	17	8	<1%
Controlled Substances	0	0	14	5	<1%
Dangerous Drugs	4	0	2	2	0%
Both (C/S & D/D)	0	4	1	2	0%
Convictions/Criminal Offenses	2,583	2,480	2,160	2,408	42%
Felony	87	83	62	77	1%
Misdemeanor	366	363	332	354	6%
DWI/PI	471	501	560	511	9%
Deferred Adjudication	495	625	541	554	10%
Offense on Application	1,164	908	665	912	16%
Dispensing Error	171	281	193	215	4%
Wrong Drug/Strength	86	115	100	100	2%
Mislabeling	13	11	8	11	<1%
Wrong Quantity	41	125	60	75	1%
Outdated Drug	4	3	3	3	<1%
Packaging/Delivery	25	24	17	22	<1%
Dispensing Error and No or Improper Patient Counseling	2	3	5	3	<1%
No or Improper Patient Counseling	15	19	27	20	<1%
No or Improper Drug Regimen Review	11	18	18	16	<1%
Theft/Loss of C/S and/or D/D	597	620	416	544	10%
Aiding & Abetting	45	79	116	80	1%
Action by Other Board	44	65	66	58	1%
Non-Compliance with Substitution Rules	47	57	40	48	<1%
Non-Compliance with Disciplinary Order	234	257	329	273	5%
Non-Compliance with PRN Contract	1	3	9	4	<1%
Interference with Doctor/Patient Relationship	31	105	53	63	1%
Confidentiality	6	24	11	14	<1%
Failed to Keep Records	0	0	1	0	0%
Negligence	0	0	0	0	0%
Unsafe Practice	6	2	0	3	<1%
Compounding	3	6	3	4	<1%
Unprofessional Conduct	2	4	4	3	<1%
Gross Immorality	6	7	6	6	<1%
Fraud	632	779	838	750	13%
Fraud, Deceit & Misrepresentation	4	3	3	3	<1%
Falsified Response to Warning Notice	2	0	1	1	0%
Falsified Application	612	759	815	729	13%
Filled/Passed Forged Prescription	12	12	10	11	<1%
Insurance Fraud	0	3	5	3	<1%
Medicare Fraud	2	2	4	3	<1%

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Alleged Violation	FY08	FY09	FY10	3-Yr. Avg.	% of 3-Yr. Avg.
Impairment	35	31	27	31	<1%
Probable Cause	10	7	2	6	<1%
Drug & Alcohol	7	5	4	5	<1%
Drug	9	12	13	11	<1%
Alcohol	4	7	6	6	<1%
Physical	0	0	0	0	0%
Mental	5	0	2	2	0%
Changed Prescription	13	26	22	20	<1%
Non-Therapeutic Dispensing	22	7	13	14	<1%
Non-Therapeutic Prescribing (Doctor)	9	8	8	8	<1%
Excessive Purchases of Controlled Substances	4	5	0	3	<1%
Anabolic Steroids	0	0	0	0	0%
Grey Market Diversion	1	0	0	0	0%
Samples	0	0	2	1	0%
Technician Violation	8	7	6	7	<1%
Improper Security	1	1	1	1	<1%
Problem with OTC Drug	2	6	6	5	<1%
Closed Pharmacy Improperly	2	3	0	2	0%
Operating Pharmacy without License	11	4	4	6	<1%
Working Conditions	4	10	3	6	<1%
Delinquent License	14	17	20	17	<1%
Kickbacks	3	1	0	1	0%
No PIC	1	0	2	1	0%
Recordkeeping Error	50	85	60	65	1%
Notification Violation	0	0	0	0	0%
No Annual/PIC/DEA Inventory	0	3	0	1	0%
C-II Rx	4	3	1	3	<1%
Improper Rx's Issued by Doctors	0	0	0	0	0%
Advertising	5	9	4	6	<1%
Overcharging	3	0	1	1	0%
Billing Dispute	67	99	62	76	1%
Customer Service	88	92	53	78	1%
Hot Check	3	10	0	4	0%
Accountability Audit Discrepancies (shortages/overages)	16	25	19	20	<1%
CE Audit	7	1	5	4	<1%
Default on Student Loans	0	0	1	0	0%
Other Allegations	464	761	711	645	11%
Texas Pharmacy Act	44	31	23	33	1%
Texas Dangerous Drug Act	2	5	1	3	<1%
Texas Controlled Substances Act	68	73	92	78	1%
Food Drug & Cosmetic Act	6	7	8	7	<1%
TSBP Rule	71	113	118	101	2%
Other Laws/Rules	273	533	469	425	8%
Request Disciplinary Action	15	80	92	62	1%
Reinstatement	7	6	7	7	<1%
Modification	21	22	26	23	<1%
TOTAL	5,360	6,182	5,512	5,685	100%

** New violation code created in FY2009.

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ACTION TAKEN BY TSBP TO CLOSE COMPLAINTS FY2008 – FY2010

	FY08	FY09	FY10	3-Yr. Avg.	% of 3-Yr. Avg.
Investigations Not Resulting in Disciplinary Action:	4,079	4,581	4,050	4,237	75%
Investigate + Dismissal (Warning) Letter	1,407	1,420	1,277	1,368	24%
Investigate + Complaint Closed with Verbal Warning	315	508	328	384	7%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	1,544	1,499	1,318	1,454	26%
Investigate + Lost Jurisdiction (registration expired)	118	210	162	163	3%
Inspections	76	53	53	61	1%
Inspection + Warning Notice or Dismissal Letter	8	13	11	11	<1%
Application Withdrawn	85	122	78	95	2%
Other *	526	756	823	702	12%
Investigations Resulting in Disciplinary Action:	910	1,203	1,164	1,092	19%
Agreed Board Order	487	620	664	590	10%
Board Order	77	103	137	106	2%
Preliminary Notice Letter + Dismissal (Warning) Ltr.	0	0	1	0	0%
PNL + Application Withdrawn (with or without Informal Conference)	331	462	351	381	7%
PNL + Informal Conference + Dismissal Letter	7	2	0	3	<1%
PNL + Informal Conference + Case Dismissed	8	13	6	9	<1%
PNL + Case Dismissed	0	3	5	3	<1%
Referrals To:	63	112	97	91	2%
Medical Board	12	5	6	8	<1%
PRN Program	0	0	0	0	0%
Supervisor	1	21	13	12	<1%
Other Agency	50	86	78	71	1%
No Action Because:	308	286	201	265	5%
No Violation	5	11	12	9	<1%
No Jurisdiction	52	137	97	95	2%
Insufficient Information	5	10	11	9	<1%
Other **	246	128	81	152	3%
TOTAL	5,360	6,182	5,512	5,685	100%

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

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

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During FY2010, TSBP received 283 reports indicating that pharmacies experienced theft of 1,114,375 dosage units of controlled substances by 249 individuals. See chart below for additional details employee pilferage reports. The chart below is followed by two additional charts which provide a statistical comparison over the past three fiscal years, with regard to the number of number of suspects identified and the number of dosage units pilfered.

Reports Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2010 (9/1/2009 – 8/31/2010)

CLASSIFICATION OF EMPLOYEE	Class "A"	Class "C"	Hospital Floor Stock	Total	%	DU	%
Registered Pharmacist	14	6	0	20	8%	55,630	5%
Pharmacist Intern	1	1	0	2	1%	613	<1%
Registered Pharmacy Technician	39	2	0	41	17%	860,262	77%
Pharmacy Technician Trainee	13	3	0	16	6%	22,465	2%
Physician	0	0	0	0	0%	0	0%
Registered Nurse	0	37	0	37	15%	4,357	<1%
Certified Registered Nurse Anesthetist	0	0	0	0	0%	0	0%
Licensed Vocational Nurse	0	6	0	6	2%	193	<1%
Delivery – In or Out of Pharmacy	0	0	0	0	0%	0	0%
Pharmacy Cashier – Pharmacy Clerk	7	0	0	7	3%	14,359	1%
Pharmacy Staff – Unidentified	60	0	0	60	24%	63,640	6%
Hospital Staff – Unidentified	0	20	0	20	8%	402	<1%
Hospital Staff – Pharmacy Staff	0	7	0	7	3%	1,114	<1%
Miscellaneous*	26	7	0	33	13%	91,340	8%
TOTALS	160	89	0	249 **	100%	1,114,375	100%

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

** A total of 283 DEA Reports involving 249 individuals

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**Report Submitted to the Texas State Board of Pharmacy
Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies
Due to Employee Pilferage
FY2008 - FY2010 (by Individuals)**

CLASSIFICATION OF EMPLOYEE	FY08		FY09		FY10		% Change FY09-FY10
	Total # of Individuals	%	Total # of Individuals	%	Total # of Individuals	%	
Registered Pharmacist	17	5%	11	5%	20	8%	82%
Pharmacist Intern	0	0%	0	0%	2	<1%	0%
Registered Pharmacy Technician	83	25%	53	24%	41	17%	-23%
Pharmacy Technician-in-Training	0	0%	29	13%	16	6%	-45%
Physician	0	0%	0	0%	0	0%	0%
Registered Nurse	37	11%	50	23%	37	15%	-26%
Certified Registered Nurse Anesthetist	0	0%	0	0%	0	0%	0%
Licensed Vocational Nurse	9	3%	4	2%	6	2%	50%
Delivery – In or Out of Pharmacy	51	15%	0	0%	0	0%	-0%
Pharmacy Cashier – Pharmacy Clerk	4	1%	4	2%	7	3%	75%
Pharmacy Staff – Unidentified	49	15%	34	15%	60	24%	77%
Hospital Staff – Unidentified	26	8%	24	11%	20	8%	-17%
Hospital Staff – Pharmacy Staff	6	2%	2	1%	7	3%	250%
Miscellaneous *	52	16%	9	4%	33	13%	267%
TOTALS	334	100%	220	100%	249	100%	13%

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

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**Reports Submitted to the Texas State Board of Pharmacy
Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies
Due to Employee Pilferage
FY2008 - FY2010 (by Dosage Units)**

CLASSIFICATION OF EMPLOYEE	FY08		FY09		FY10		% Change FY09-FY10
	Total # of Dosage Units	%	Total # of Dosage Units	%	Total # of Dosage Units	%	
Registered Pharmacist	40,964	5%	13,408	2%	55,630	5%	315%
Pharmacist Intern	0	0%	0	0%	613	<1%	0%
Registered Pharmacy Technician	307,798	35%	304,283	54%	860,262	77%	183%
Pharmacy Technician-in-Training	0	0%	159,078	28%	22,465	2%	-86%
Physician	0	0%	0	0%	0	0%	0%
Registered Nurse	5,007	<1%	2,968	<1%	4,357	<1%	47%
Certified Registered Nurse Anesthetist	0	0%	0	0%	0	0%	0%
Licensed Vocational Nurse	894	<1%	468	<1%	193	<1%	-59%
Delivery – In or Out of Pharmacy	29,751	3%	0	0%	0	0%	0%
Pharmacy Cashier – Pharmacy Clerk	11,302	1%	14,901	3%	14,359	1%	-4%
Pharmacy Staff – Unidentified	409,287	46%	64,840	12%	63,640	6%	-2%
Hospital Staff – Unidentified	2,901	<1%	711	<1%	402	<1%	44%
Hospital Staff – Pharmacy Staff	22,385	3%	200	<1%	1,114	<1%	457%
Miscellaneous *	59,483	7%	1,608	<1%	91,340	8%	5580%
TOTALS	889,772	100%	562,465	100%	1,114,375	100%	98%

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

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4. **In cooperation with the Licensing Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants for licensure and registration throughout FY2010, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2010.**

Status: ACCOMPLISHED

Comments: Throughout FY2010, Division staff performed background checks, as follows:

- A. reviewed fingerprint-based criminal background information on all individuals referred by the Licensing Division staff; these individuals included all applicants for a pharmacist license (including applicants for re-licensure and reinstatement) and all applicants for registration (i.e., technician, technician trainee and intern);
- B. opened new complaints when TSBP received a report regarding arrest(s) on individuals who had been previously fingerprinted; during FY2010, TSBP received 219 such reports (as compared to FY2009 when TSBP received 18 such reports – over 1000% increase);
- C. conducted quarterly background checks on pharmacists, interns, and technicians/tech trainees; during FY2010, the agency opened 763 complaints due to the criminal history information provided on the quarterly reports (as compared to FY2009 when TSBP received 847 such reports – a 10% decrease).

Considering (B) and (C) together, the agency received 1,066 reports in FY2010, as compared to FY2009 when the agency received 865 reports (23% increase).

5. **To provide technical assistance, maintain liaison, and coordinate joint investigations of pharmacists, interns, pharmacy technicians, and pharmacies, in line with the "lead agency approach," with federal, state, and local law enforcement agencies, including health regulatory or administrative agencies, throughout FY2010.**

Status: ACCOMPLISHED

Comment: TSBP continued to provide assistance to other agencies, when requested, throughout FY2010. TSBP Field Investigators maintained liaison with law enforcement agencies across the State, totaling over 745 contacts with 266 agencies. In-house investigative staff made hundreds of contacts with courts and law enforcement agencies both in Texas and out of state while conducting criminal background checks.

6. **To monitor compliance with all Board Orders and Agreed Board Orders, including rehabilitation Orders relating to impaired or recovering pharmacists, throughout FY2010.**

Status: ACCOMPLISHED

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Comment: Almost all of the disciplinary orders entered in FY2010 required some type of monitoring by Division staff (i.e., 698 orders or 86% of the 808 disciplinary orders that TSBP entered during FY2010 required some type of monitoring). Monitoring included the following types of actions/activities:

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

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

The following charts indicate the types of Orders entered in FY2010, which required the Division to monitor the licensee's compliance with the Order, in some manner:

Total Number of Orders Entered by TSBP That Required Monitoring on Licensees (Pharmacists and Pharmacies), Interns, and Technicians (FY10)		
	FY10	% of FY10
Total Number of Orders on Licensees Requiring Monitoring	325	40%
Total Number of Orders on Technicians Requiring Monitoring	373	46%
Total Number of Orders Requiring Monitoring	698	86%
Total Number of Orders Not Requiring Monitoring	110	14%
Total Number of Orders Entered by TSBP in FY09	808	100%

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Types of TSBP Disciplinary Orders Entered on Licensees (Pharmacists and Pharmacies) and Interns That Required Monitoring (FY08-FY10)						
Sanction	FY08 Orders	FY09 Orders	FY10 Orders	% of FY10	3-Yr. Avg.	% of 3-Yr. Avg.
Revoke / Retire	26	25	15	4%	22	7%
Suspension	23	23	27	8%	24	8%
Restricted	4	6	7	2%	6	2%
Rehabilitation Orders*	18	19	19	6%	19	6%
Reinstatement	4	0	3	1%	2	1%
Fines or Probation Fees Only	67	84	107	31%	86	28%
Continuing Education, Texas Jurisprudence Exam, and/or Pharmacy Law Course (could also include fines and/or probation fees)	35	48	49	14%	44	14%
Continuous Quality Improvement Program, Self Assessments, Policies/ Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	56	96	97	28%	83	27%
Public Orders Requiring Drug Screens	5	3	1	<1%	3	1%
TOTAL NUMBER OF ORDERS ON LICENSEES REQUIRING MONITORING	238	304	325	95%	289	93%
TOTAL NUMBER OF ORDERS NOT REQUIRING MONITORING	15	30	19	6%	21	7%
TOTAL ORDERS	253	334	344	100%	310	100%

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

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Types of TSBP Disciplinary Orders Entered on Technicians That Required Monitoring (FY08 – FY10)						
Sanction	FY08 Orders	FY09 Orders	FY10 Orders	% of FY10	3-Year Average	% of 3-Year Average
Revoke	66	149	133	29%	116	30%
Suspension	27	18	28	6%	24	6%
Restriction	0	0	0	N/A	0	0%
Fines Only	56	112	162	35%	110	28%
Other *	101	50	50	11%	67	17%
TOTAL NUMBER OF ORDERS ON TECHNICIANS REQUIRING MONITORING	250	329	373	80%	317	81%
TOTAL NUMBER OF ORDERS ON TECHNICIANS NOT REQUIRING MONITORING	60	74	91	20%	75	19%
TOTAL NUMBER OF ORDERS ON TECHNICIANS	310	403	464	100%	392	100%

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

During FY2010, TSBP entered 59 confidential disciplinary Orders (52 orders were entered on pharmacists and 7 orders were entered on Interns or Intern applicants). These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below:

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Confidential Disciplinary Orders On Pharmacists and Interns Entered by TSBP (FY08 – FY10)						
Nature of Violation	FY08	FY09	FY10	% of FY10	3-Yr. Avg.	% of 3-Yr. Avg.
Non-Compliance with ABO	13	17	8	14%	13	23%
Non-Compliance with PRN	3	4	0	0%	2	4%
Action by Other Boards	5	4	4	7%	4	7%
Audit Shortages	0	1	2	3%	1	2%
Alcohol-Related Conviction	1	2	1	2%	1	2%
Theft of Prescription Drugs	1	5	8	14%	5	9%
Created Fraudulent Rx or Obtained C/S by Fraud	0	0	1	2%	<1	<1%
Convictions	0	1	3	5%	1	2%
Deferred Adjudication	3	3	8	14%	5	9%
Illegal Possession of Controlled Substances	1	0	0	0%	<1	<1%
Unauthorized Refills of Controlled Substances	0	0	0	0%	0	0%
Probable Cause/Dependency	11	6	9	15%	9	16%
Mental Impairment	3	0	0	0%	1	2%
Request for Modification of Previously Entered ABO	12	9	5	8%	9	16%
Request for Retirement or Revocation	2	3	7	12%	4	7%
Request for Reinstatement	2	0	3	5%	2	4%
TOTAL	57	55	59	100%	57	100%

Of the 59 confidential *pharmacist/intern* Orders entered in FY2010, there were 32 Orders resulting in an impaired/recovering pharmacist being added to the number who were being monitored at the end of FY2010, as reflected in the chart below. However, 17 pharmacists were deleted from the list as a result of early termination of probation, successful completion of probation, death, revocation or retirement of license, or license expired. Accordingly, as of August 31, 2010, a total of 118 impaired/recovering pharmacists were being monitored by TSBP. The number of individuals being monitored at year-end, as compared to the year-end of previous fiscal years, is depicted in the following chart:

Impaired/Recovering Pharmacists Monitored by Enforcement Division (FY06 – FY10)			
Fiscal Year	Total Orders*	Total New Orders**	Total Being Monitored***
FY06	51	16	89
FY07	60	27	97
FY08	57	27	102
FY09	55	24	103
FY10	59	32	118

* All confidential 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).

ENFORCEMENT DIVISION

7. To provide verbal and written information to Board staff and customers as needed or required throughout FY2010, to include providing technical assistance to other Divisions and responding to surveys and questionnaires.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

A. COMPLIANCE INSPECTIONS

Compliance Field Staff provided information during compliance inspections. The Division conducted 2,449 inspections in FY2010 (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 18,794 callers who were routed through the Compliance Queue telephone line.

Number of Telephone Calls Handled via Compliance Queue (FY06 – FY10)		% Change
FY06	10,492	N/A
FY07	11,498	10%
FY08	14,326	25%
FY09	15,466	8%
FY10	18,794	22%

C. COMPLAINT FORMS

During FY2010, TSBP mailed 593 complaint forms to individuals who requested a complaint form. As indicated in the chart below, 265 complaint forms (45% of total) were mailed to individuals who had requested a form by calling the HPC toll-free complaint hotline and 328 complaint forms (55% of total) were mailed to individuals who called the TSBP voice mail complaint line. The number of requests for complaint forms during the past five fiscal years is depicted in the following chart:

Complaint Forms Mailed to Potential Complainants (FY06 – FY10)						
Fiscal Year	Requests for Complaint Forms via HPC 800#	% Change	Requests for Complaint Forms via TSBP Voice Mail	% Change	Total Request	% Change
FY06	506		495		1,001	
FY07	564	+12%	585	+18%	1,149	+15%
FY08	398	-29%	406	-30%	804	-30%
FY09	304	-24%	403	-1%	707	-12%
FY10	265	-13%	328	-19%	593	-16%

ENFORCEMENT DIVISION

D. CUSTOMER SERVICE SURVEYS

During FY2010, Division staff mailed 330 customer service surveys to TSBP customers.

E. WRITTEN INFORMATION

During FY2010, Division staff mailed 99 packets of information to TSBP customers.

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

DATE	PRESENTATIONS Name of Association/Presentation and Location of Meeting	STAFF PERSON	ATTENDANCE (Approx.)
10-24-09	Texas Southern University College of Pharmacy Fall Preceptor's Conference – Houston	Iona Grant, R.Ph.	86
10-30-09	Texas Southern University College of Pharmacy Alumni Association Meeting – Houston	Iona Grant, R.Ph.	40
11-19-09	Health Care Fraud Class – San Antonio	Robert Ebrom	40
01-15-10	Incarinate Word College of Pharmacy – San Antonio	Robert Ebrom	90
01-22-10	University of Houston College of Pharmacy w/Asst. Director of Enforcement – Houston	Iona Grant, R.Ph.	75
01-26-10	Lake Houston Pharmacy Association - Humble	Iona Grant, R.Ph.	80
02-10-10	Texas Dept. of Aging & Disability Services – Supervisor's Conference - Austin	Ben Santana	100
03-11-10	Gulf Coast Pharmaceutical Association Presentation - Beaumont	Iona Grant, R.Ph.	50
03-20-10	TSUCOPHS Preceptor's Conference Presentation - Houston	Iona Grant, R.Ph.	120
04-20-10	TSU Presentation - Houston	Iona Grant, R.Ph.	50
05-20-10	Hoffman Middle School Presentation - Houston	Iona Grant, R.Ph.	120
06-02-10	Pharmacy Diversion Class – Ft Bend County	Shawn Clark	45
07-09-10	Pharmacy Diversion Class – Houston	Shawn Clark	18
07-16-10	Walgreen's Intern Presentation - Houston	Iona Grant, R.Ph.	30
08-13-10	Pharmacy Diversion Class – Texas State University	Shawn Clark	75
Total			1019

G. ASSISTANCE TO BOARD MEMBERS AND EXECUTIVE DIRECTOR

- (1) Division Director assisted in the development of the proposed Goals and Objectives for FY2010, which were presented to/approved by the Board at its meeting held in August 2009;
- (2) At all Board meetings held in FY2010, Division Director made presentations regarding the number of acting/pending complaints and the number of dismissed complaints, and Assistant Division Director made a report regarding the Peer Assistance Performance Measures;

ENFORCEMENT DIVISION

- (3) Division Director assisted in the review/edit of the following documents: drafts of minutes of four Board meetings; Survey of Organizational Excellence, management response to the TSBP Focus Group on Communication, and report to the Governor regarding the agency's activities relating to Customer Service;
- (4) Division Director assisted the Executive Director in reviewing applications for the Executive Assistant position, as well as assisting in preparing interview questions and participating in the interview panel;
- (5) Division Director, along with the Directors of the other Divisions, assisted the Executive Director in conducting orientation of agency operation to representatives of LBB (5/20/10 and 5/26/10) and Governor's Office (6/3/10);
- (6) In the absence or at the request of the Executive Director, Division Director responded to inquiries from the media; and
- (7) Assistant Director assisted the Executive Director to carry out the implementation of S.B. 646 relating to the study regarding the use of confidential patient information.

H. TECHNICAL ASSISTANCE TO BOARD STAFF

- (1) Legal Division
 - (a) Pre-Disciplinary Proceedings – For several months at the beginning of FY2010, Division staff prepared letters to applicants for a technician or a technician trainee registration, notifying them of their options regarding the disciplinary process, if the applicant had been convicted of felony or had received deferred adjudication for a felony offense that constituted denial of the application.
 - (b) Disciplinary Proceedings – At the request of TSBP General Counsel, Division Director reviewed approximately 130 drafts of Preliminary Notice Letters prior to these documents being finalized and mailed;
 - (c) Informal Conferences involving pharmacists and pharmacies, and pharmacy technicians – Division staff attended numerous conferences; and
 - (d) Formal Hearings – Division Director prepared to serve as an expert witness in five hearings scheduled before the State Office of Administrative Hearings (SOAH), but only testified in two hearings (1/19/10 and 1/27/10), in that two hearings were continued by SOAH and the other case was settled with an Agreed Board Order. In addition, Division Director prepared to testify in a case scheduled to be held in Travis County District Court in FY2011.

ENFORCEMENT DIVISION

- (2) Division of Professional Services
 - (e) TSBP *Newsletter* – Division staff assisted with each issue of the Newsletter (e.g., wrote articles such as Compliance Reminders and Complaint Corner and provided applicable information regarding disciplinary orders entered by the Board);
 - (f) Open Records Requests – Division Director provided assistance when needed; and
 - (g) Health Integrity and Protection Data Bank (HIPDB) – Division staff provided administrative assistance in the data entry of information regarding disciplinary orders entered by the agency in FY2010.
- (3) Administrative Services and Licensing Division
 - a. Division Director conducted orientations of new Licensing and Accounting staff with respect to the operation of the Enforcement Division;
 - b. Division Director assisted with the preparation of the LAR; and Division Director and Assistant Director assisted with the preparation of the Strategic Plan and Risk Assessment; and
 - c. Review Applications for Licensure/Registration – Division staff assisted in the review of applications for a Class B or D Pharmacy license, as indicated in the chart below:

Activity	FY08	FY09	FY10	3-Year Average
New Class D (Clinic) Pharmacy Applications	34	19	27	27
New Class B (Nuclear) Pharmacy Applications	1	0	5	2
Petitions for Expanded Formularies for Class D (Clinic) Pharmacies	51	43	44	46
Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies	10	55	41	35
Notifications of Temporary Locations for Class D (Clinic) Pharmacies	4	9	7	7
Standard Class D Formularies Reviewed	31	21	29	27

I. 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);
- (2) Division Director responded to two lengthy surveys from the California Department of Consumer Affairs (the first survey related to TSBP's complaint procedures and the second survey related to TSBP's procedures for monitoring individuals who are on probation); and
- (3) See Ongoing Objective #4.

ENFORCEMENT DIVISION

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 FY2010.**

Status: **ACCOMPLISHED**

Comment: During FY2010, Division Director, Assistant Director, and Chief of Compliance served as preceptors to fourteen students from six different Schools/Colleges of Pharmacy, as listed below:

FY2010

- September 28, 2009 – November 6, 2009
 - Amy Morton – University of the Incarnate Word
 - Eleuterio Garza – Texas A&M Health Science Center, Kingsville
- November 9, 2009 – December 18, 2009
 - Chad Gibson – Texas A&M Health Science Center, Kingsville
 - Jacob Williamson – Texas A&M Health Science Center, Kingsville
- January 4, 2010 – February 12, 2010
 - Jacob Daggett – Texas Tech University
 - Tammy Lee – The University of Texas
- February 15, 2010 – March 26, 2010
 - David Trindle – University of Houston
 - Tuyen Pham – Texas Southern University
- March 29, 2010 – May 7, 2010
 - Lori Ann Jobe – The University of Texas
- May 17, 2010 – June 25, 2010
 - Rachel Harris – Texas Tech University
- July 5, 2010 – August 13, 2010
 - Julie Ann Kerslake – The University of Texas
 - Synthia Hill – University of the Incarnate Word

FY2010 - 2011

- August 16, 2010 – September 24, 2010
 - Dana Smith – University of Houston
 - Laura Lynn Schneider – The University of Texas

9. **To serve as liaison for the Board to the Professional Recovery Network (PRN) of the Texas Pharmacy Association and to monitor non-financial contractual obligations of PRN throughout FY2010.**

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 FY2010;
- B. The TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY2010;

ENFORCEMENT DIVISION

- 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 January 25, 2010, and the results of the audit were reported to the Board at its meeting held on February 9 -10, 2010;
- D. Throughout FY2010, Division staff reviewed quarterly activity reports submitted to TSBP by TX-PRN Director;
- E. Division staff attended one TX-PRN State Advisory Committee meeting held on October 24, 2009; and
- F. Throughout FY2010, Enforcement Program Specialist Janelle Nastri worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

10. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2010.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- (1) HPC Annual Report – Division Director submitted agency Enforcement performance data to be incorporated in the HPC Annual Report.
- (2) HPC Toll-Free Complaint Hotline – HPC member agencies are billed for hotline calls received by the respective agency. When complainants call the hotline, they may leave a message advising the agency of the complainant's name, address, and telephone number, or they may "zero out" and speak to an HPC staff member for clarification of procedures. During FY2010, TSBP mailed 265 complaint forms to individuals requesting forms on the HPC complaint hotline.

11. To manage employees under the supervision of the Division throughout FY2010, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the job training, cross-training, and attendance at professional seminars.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Staff Development – During FY2010, Division staff attended General Staff Meetings which were held in December 2009, February 2010, and May 2010. Division staff also participated in all-staff training, as listed below:
 - September 9, 2009 – Pandemic Flu Training
 - October 27, 2009 – Office Etiquette (in-house staff only)
 - December 8, 2009 – Introduction to Stress Management

ENFORCEMENT DIVISION

- February 23, 2010 – Employee Assistance Program
- May 11, 2010 – 7 Habits of Highly Effective People – Habit 5 – Communication

In addition, individual Division staff attended personal development seminars.

As a result of the recommendations of the TSBP Communications Focus Group, Division Director initiated monthly meetings for in-house Division staff during the months in which a General Staff Meeting was not being held. Division meetings were held on 4/22/10, 6/23/10, 7/13/10, and 8/17/10. Division Director also convened Team Leader meetings on as needed basis. Former Division employee Kelly Clark was the chair of the Communications Focus Group.

- B. Performance Evaluations – Formal performance reviews were conducted for all Division employees in FY2010, except for those employees who were hired after March 1, 2010.
- C. Other Activities – Although the Division began FY2010 with no vacant positions, the Division experienced 20 staffing changes during FY2010, as a result of the following factors: six new positions funded by the 81st Texas Legislature; four employees resigned; three internal promotions; and loss of two employees due to internal transfers – one to the Office of the Executive Director and one to the Legal Division.

The six new Enforcement positions funded by the 81st Texas Legislature were:

- 1 Field Investigator
- 1 Compliance Inspector
- 2 In-House Investigators (Enforcement Officers)
- 1 Program Specialist
- 1 Administrative Assistant

Division Director developed new job descriptions for the Program Specialist and Administrative Assistant positions. In addition, Division Director updated/revised the following job descriptions: Enforcement Officer, Field Investigator, and Investigative Case Manager.

- | | | |
|----------------|-----|--|
| September 2009 | (1) | Compliance Inspector Sharon Dimmick resigned. |
| | (2) | Enforcement Specialist Becky Damon was promoted to Executive Assistant and transferred to Office of the E.D. |
| October 2009 | (3) | Darrell Montgomery was hired as an Enforcement Officer (new position funded by the 81 st Texas Legislature). |
| | (4) | Barbara Jamieson was hired as Administrative Assistant (new position funded by the 81 st Texas Legislature). |
| | (5) | Chris Schuttler was hired as the 7 th Compliance Inspector (new position funded by the 81 st Texas Legislature). |

ENFORCEMENT DIVISION

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|---------------|------|--|
| | (6) | Administrative Assistant Kelly Clark was promoted to Legal Assistant and transferred to the Legal Division. |
| November 2009 | (7) | David Gomez was promoted to Enforcement Officer (new position funded by 81 st TX Legislature). |
| | (8) | George Redmond was promoted from Enforcement Officer to Enforcement Specialist (he filled vacancy created by Becky Damon's promotion). |
| | (9) | Jennifer Johnson was hired as Administrative Assistant (she filled the position vacated by Kelly Clark). |
| December 2009 | (10) | Deb Beall was promoted to Enforcement Specialist (new position funded by 81 st TX Legislature). |
| January 2010 | (11) | Field Investigator was hired as the 7 th Field Investigator (new position funded by 81 st TX Legislature). |
| | (12) | Cynthia Fazin hired as an Enforcement Officer (she filled vacancy created by George Redmond's promotion). |
| February 2010 | (13) | Field Investigator Tara Rike resigned. |
| | (14) | Kate Hayden hired as an Enforcement Officer (she filled vacancy created by David Gomez' promotion). |
| May 2010 | (15) | New Field Investigator for Fort Worth was hired (he filled the position vacated by Tara Rike). |
| | (16) | Lisa Stone was hired as Compliance Inspector for West Texas Region (she filled position vacated by Sharon Dimmick). |
| | (17) | Administrative Assistant Jennifer Johnson resigned. |
| August 2010 | (18) | Griselda Lopez was hired (she filled vacancy created by Deb Beall's promotion). |
| | (19) | Marianne Holden was hired (she filled position vacated by Jennifer Johnson). |
| | (20) | Investigative Case Manager Amanda Huerta resigned. |

As a result of the staffing changes described above, Division staff were busy in FY2010 with the following activities: reviewing applications; conducting interviews; and conducting in-depth orientations for new Division Staff.

ENFORCEMENT DIVISION

12. To maintain Division records throughout FY2010, including the following: to image records and destroy records in accordance with the agency's record retention plan; to update the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval.

Status: PARTIALLY ACCOMPLISHED

Comment: The following activities relate to this objective:

A. Records Management

During FY2010, Division staff destroyed 252.84 cubic feet of records, in accordance with the TSBP record retention schedule. The quantity of Division records destroyed in the past five years is depicted in the chart below:

Fiscal Year (FY06 – FY10)	# of Cubic Feet of Records Destroyed	% Change
FY2006	35.56	
FY2007	7.02	-80%
FY2008	27.88	+297%
FY2009	99.19	+256%
FY2010	252.84	+155%

B. Policies and Procedures were not updated during FY2010.

13. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2010.

Status: ACCOMPLISHED

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

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

1. Division Director recommended that TSBP rules be amended to clarify recordkeeping procedures when a dispensing error occurs.
2. Division Director recommended that TSBP rules be amended to clarify technician and clerk duties, particularly with regard to the sale of Insulin.
3. Division Director recommended that TSBP rules defining the term "failed to engage in the operation of a pharmacy" be amended to prevent a closed pharmacy from holding a pharmacy license for 6 months.
4. Division Director recommended that TSBP rules be amended to clarify "Return to Stock" procedures.

ENFORCEMENT DIVISION

5. Division Director recommended that TSBP rules regarding the documentation of counseling be amended to allow a pharmacy to maintain a manual log, provided the pharmacy's computer system has documentation to show what day the prescription was picked up by the patient or patient's agent.
6. Division Director recommended that TSBP rules be amended to correct an incorrect citation of the Prescription Drug Marketing Act.
7. Assistant Division Director recommended that TSBP rules be amended to require sterile alcohol and sterile gloves when compounding sterile preparations;
8. Chief of Compliance recommended that TSBP rules be amended to change the term "ISO 7 cleanroom: "ISO 7 buffer area."
9. Senior Compliance Officer recommended that TSBP rules be amended to require a pharmacist sign a document attesting to the fact that he/she was on duty as a pharmacist during a specific work shift.
10. Senior Compliance Officer recommended that TSBP rules be amended to clarify that a sink must be available within the pharmacy department, rather than stating that a sink "be available."
11. Inspector Karen Guenther recommended that TSBP rules be amended to require pharmacy personnel to wash their hands frequently while on duty.
12. Inspector Adrienne Bauer recommended that TSBP rules be amended to re-define "electronic supervision" provided under Rule 291.72, to include additional digital imaging, to ensure that a pharmacist is remotely visible when conducting required verifications.

B. Recommendations regarding Agency Operations:

1. Division Director recommended that TSBP mail a letter to all pharmacies explaining that an individual was required to hold an active registration before performing technician duties.
2. Division Director made recommendations to the TSBP Legal Division with regard to revisions in wording of disciplinary orders.
3. Division Director recommended that TSBP Interns complete an assessment of their experience at TSBP during their internship rotations. This recommendation was implemented.
4. Division staff made recommendations for changes to application forms (e.g., questions about offenses while serving in the military; add question on technician application regarding disciplinary actions in other states; provide space for a pharmacy owner to indicate whether he/she is a doctor, nurse, or pharmacy technician; and provide a section on Class D Pharmacy applications who are seeking expanded formularies).

ENFORCEMENT DIVISION

5. Division staff implemented new Witness Statement forms not requiring notarization for Field Staff to use when conducting investigations. These forms are used in lieu of the prior Affidavit form which required signatures to be notarized. Two different forms have been implemented – one for Field Investigators (commissioned peace officers) and one for Compliance Field staff.
6. Division staff implemented changes to the Pre-Inspection Checklist.

14. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2008 Annual Report* and submit to the Executive Director by the due date.

Status: ACCOMPLISHED

Comment: The Division's first draft of the *FY2009 Annual Report* was submitted to the Executive Director by the due date. The final draft of the Annual Report for FY2009 was presented to and approved by the Board at the May 2010 Board Meeting.

FY2010 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished all of the Division's 16 objectives for FY2010.
2. During FY2010, the agency continued to handle a large number of ongoing disciplinary issues for pharmacy technicians. The Division initiated 540 disciplinary actions by mailing a Preliminary Notice Letter and entered 464 orders against pharmacy technicians and pharmacy technician trainees during the fiscal year. During the same time, 191 applicants for registration as a pharmacy technician or pharmacy technician trainee were subject to mandatory withdrawal, indicating that although the Division initiated disciplinary action, the applicant did not complete the process.
3. Approximately 98% of the disciplinary cases against pharmacists and pharmacies and 100% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders or default Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and agency expenditures.
4. The Division resolved 10 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 12 Agreed Board Orders (ABO) through negotiations with the licensees or their attorneys (8 cases) or through the SOAH Mediation process (2 cases). These resolutions saved the agency considerable resources both in time and expenditures.
5. Nine 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 the Division was able to maintain a fairly consistent number of cases resolved.
6. Division staff launched the presentation of informal conference material on the electronic board notebooks, which has resulted in increased accessibility of information and reduction of preparation efforts to create the paper notebooks. Division staff also developed a new process for presentation of proposed disciplinary actions to the Board at Board meetings through the use of the electronic notebooks, which includes presenting a summary chart along with the orders linked to the chart.

LEGAL DIVISION

(7). Statistics for disciplinary actions entered in FY2010 are as follows:

PHARMACISTS/PHARMACIES

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF DEFAULT ORDERS ENTERED BY BOARD	NUMBER OF AGREED Board of Pharmacy ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% CHANGE IN DISCIPLINARY ORDERS	% ABOs OR DEFAULT OF TOTAL ORDERS
FY06	0	1	206	207	20%	100%
FY07	10	5	285	300	45%	97%
FY08	4	5	244	253	-16%	98%
FY09	7	10	317	334	32%	98%
FY10	8	2	334	344	3%	98%
TOTAL	29	23	1386	1438		

PHARMACY TECHNICIANS/PHARMACY TECHNICIAN TRAINEES

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF DEFAULT BOARD ORDERS (BOs)	NUMBER OF AGREED BOARD ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% INCREASE IN DISCIPLINARY ORDERS	% ABOs OR DEFAULT OF TOTAL ORDERS
FY06	4	34	230	268	-29%	99%
FY07	1	51	296	348	30%	100%
FY08	3	57	250	310	-11%	99%
FY09	0	74	329	403	30%	100%
FY10	1	108	355	464	15%	100%
TOTAL	9	324	1460	1793		

LEGAL DIVISION

FY2010 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

The caseload has continued to increase in FY2010. In addition, the cases against pharmacy technicians and pharmacy technician trainees continued to become more complicated and time-consuming as the cases began to involve not merely adjudicated criminal offenses, but also cases involving investigations by TSBP of thefts at pharmacies, which leads to a longer resolution time in the Legal Division due to the longer amount of time to draft and prepare the cases.

FY2010 ANNUAL REPORT

GOAL

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

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2010:

1. **Developing and implementing a new licensing, enforcement, and administration database system throughout FY2010.**
2. **Reviewing and implementing legislation passed by the 81st Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2010.**
3. **Updating and preparing the TSBP Strategic Plan for FY2011-2015 and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date.**
4. **Preparing a proposed budget for the FY2012-2013 biennium for review and approval by the Board at the FY2010 Board Budget meeting.**
5. **Preparing the TSBP Legislative Appropriation Request for FY2012-2013 and corresponding performance measures by the due date.**
6. **Developing and implementing an educational program on pharmacy technicians including registration requirements, performance of duties, and disciplinary process.**
7. **Conducting the orientation of new Board members within 90 days of appointment by the Governor.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

1. **New Regulatory Database System**

Division staff participated in numerous planning and development meetings with the database vendor and Health Professions Counsel staff to design and implement the licensing and disciplinary database system. Division staff developed various tables for use with the new system and participated in user acceptance testing. Additionally, Division staff developed training plans and documents policies and procedures to be used for implementation of the system.

LEGAL DIVISION

2. Implementing Legislation

General Counsel assisted with the implementation of new legislative through the development and review of new agency rules.

3. Strategic Plan for FY2011-2015

The Strategic Plan for FY2011-2015 was prepared and reviewed. The agency researched the trends and resulting issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years. The Board Members worked with staff to develop Issue Statements and approved the final Strategic Plan at the May 2010 Board meeting. General Counsel assisted with review of the Strategic Plan. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

4. Proposed Budget for FY2012-2013

General Counsel worked with the Executive Director and the other Division Directors in preparation of the proposed budget for FY2012-2013.

5. Legislative Appropriations Request FY2012-2013 (LAR)

General Counsel worked with the Executive Director and the other Division Directors in preparation of the FY2012-2013 Legislative Appropriations Request and reviewed the final draft of the document.

6. Educational Program Regarding Technicians

Division staff continued extensive work to educate pharmacy technicians about the disciplinary process through verbal interaction in person and on the telephone, and updates to the information on the agency's website.

7. Orientation of New Board Members

On January 28-29, 2010, General Counsel, along with the Executive Director and the other agency staff, participated in the orientation of two new Board members (Joyce Tipton, R.Ph., and Charles Wetherbee, public member. W. Benjamin Fry, R.Ph, was re-appointed and did not participate in the orientation.

LEGAL DIVISION

Objectives (Ongoing)

1. To coordinate and monitor throughout FY2010 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 twice a month to discuss the status of pending cases, assess workload allocation, and determine the most effective strategies to complete cases in a timely and efficient manner.
- B. Division staff maintained a database system to track the current status of all cases, thereby increasing efficiency in monitoring cases. In addition, Division staff continued to maintain an electronic log, tracking dates for mailing of Preliminary Notice Letters, scheduling of Informal Conferences, mailing and receiving of Agreed Board Orders, and other due dates previously recorded on paper to enhance accessibility by all Division staff and improve more efficient and immediate information sharing.
- C. TSBP entered a record total of 808 disciplinary orders in FY2010, as reflected in the charts below.

Type of Order	Summary Suspensions	SOAH Board Orders	Default Board Orders	ABOs Entered by ED	ABOs Public	ABOs Confidential	Total Number of Orders
Pharmacists and Pharmacies	2	6	2	121	162	51	344
Pharmacy Technicians	0	1	108	258	97	0	464
Total	2	7	110	379	259	51	808

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

Information regarding the disciplinary cases entered in FY2010 is set forth in the following charts:

LEGAL DIVISION

TEXAS STATE BOARD OF PHARMACY
SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON
PHARMACISTS, PHARMACIES, INTERNS, AND
APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2010)

			Pharmacist	Pharmacy	Total
License Removed	15	4%			
Revoke			14	0	14
Retire			1	0	1
Suspensions	65	19%			
Suspension			3	2	5
Suspension w/Conditions			22	0	22
Suspension/Fine/Conditions			2	1	3
Suspension/Probation			1	0	1
Suspension/Probation w/Conditions			15	0	15
Suspension/Probation/Fine			1	4	5
Suspension/Probation/Fine w/Conditions			9	5	14
Restricted	7	2%	7	0	7
Other	218	63%			
Fine			58	15	73
Fine w/Conditions			4	53	57
Fine/Reprimand			3	0	3
Fine/Reprimand w/Conditions			19	27	46
Reprimand			13	0	13
Reprimand w/Conditions			14	12	26
Issuance License/Registration.	31	9%			
Grant w/Suspension			0	0	0
Grant w/Restrictions			0	0	0
Grant w/Probation			3	1	4
Grant w/Probation/Fine/Conditions			0	0	0
Grant w/Probation and Conditions			7	1	8
Grant w/Reprimand and Fine			1	0	1
Grant w/Reprimand			2	0	2
Grant w/Fine			10	6	16
Deny			0	0	0
Reinstatements	3	1%			
Grant			0	0	0
Grant/Probation w/Conditions			3	0	3
Deny			0	0	0
Modifications	5	2%			
Grant			5	0	5
Deny			0	0	0
TOTAL FY2010	344	100%	217	127	344

FY2010 Orders Entered Against Pharmacist Licenses	217	63%
FY2010 Orders Entered Against Pharmacy Licenses	127	37%
FY2010 Total Disciplinary Orders on Pharmacist/Pharmacy	344	100%

LEGAL DIVISION

TEXAS STATE BOARD OF PHARMACY
DISCIPLINARY ORDERS ON PHARMACISTS, INTERNS, AND
APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2010)
NATURE OF VIOLATIONS*

	RPh	Phcy	Total	Total %
Diversion	16	1	17	5%
Illegal Delivery	1	0	1	
Illegal Possession of Rx Drugs	0	0	0	
Unauthorized Dispensing	6	1	7	
Theft	8	0	8	
Obtained C/S by Fraud	0	0	0	
No Valid Dr-Pt Relationship (InternetRXs)	1	0	1	
Non-Therapeutic Dispensing	0	0	0	
Convictions/Defer Adj	32	1	33	10%
Felony	10	1	11	
Misdemeanor	1	0	1	
Deferred Adjudication, Felony	11	0	11	
Deferred Adjudication, Misdemeanor	9	0	9	
Alcohol-Related	1	0	1	
Audit Discrepancies	8	15	23	6%
Drug	4	15	19	
Continuing Education	4	0	4	
Practice Deficiencies	46	44	90	26%
Dispensing Errors	18	15	33	
Dispensing Errors & No Counsel and/or No Drug Regimen Review	19	25	44	
No Counsel and/or DRR	9	4	13	
Unprofessional Conduct	96	62	158	46%
Aiding and Abetting	4	6	10	
Allow Tech to Work with Expired or No Registration	40	44	84	
Falsified Application for Licensure	16	10	26	
Sterile Compounding w/o Proper Training	0	0	0	
Operating with Delinquent License	0	0	0	
Impairment	9	0	9	
Action by Other Boards	15	1	16	
Non-Compliance with Previously Entered Order	12	1	13	
Non-Compliance with PRN Program	0	0	0	
Violation of Board Rules	0	0	0	
Other				
Modification	6	0	6	2%
Reinstatement	3	0	3	1%
Request for Revocation/Retirement	0	0	0	0%
Other	10	4	14	4%
TOTAL FY2010:	217	127	344	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

TEXAS STATE BOARD OF PHARMACY
SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON
PHARMACY TECHNICIANS, TECHNICIAN TRAINEES, AND
APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2010)

		Total	Percent
Licenses Removed		133	(29%)
Revoke	133		
Retire	0		
Suspensions		50	(11%)
Suspension	7		
Suspension w/Conditions	22		
Suspension/Fine/Conditions	0		
Suspension/Fine	0		
Suspension/Fine w/Conditions	1		
Suspension/Probation	2		
Suspension/Probation with Conditions	15		
Suspension/Probation/Fine	3		
Restricted	0	0	(0%)
Other		108	(23%)
Fine	77		
Fine with Conditions	0		
Fine/Reprimand	7		
Fine/Reprimand with Conditions	0		
Reprimand	24		
Reprimand with Conditions	0		
Issuance Registration		169	(36%)
Grant with Suspension	5		
Grant with Suspension/Fine	0		
Grant with Probation	4		
Grant with Probation/Conditions	24		
Grant with Probation/Conditions and Fine	3		
Grant with Probation and Fine	5		
Grant with Fine	64		
Grant with Fine and Reprimand	0		
Grant with Reprimand	64		
Deny	0		
Reinstatements		1	(0.5%)*
Grant	1		
Modifications	3	3	(0.5%)*
TOTAL FY2010:		464	(100%) *

* Due to rounding.

LEGAL DIVISION

TEXAS STATE BOARD OF PHARMACY
DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS, TECHNICIAN TRAINEES,
AND APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2010)
NATURE OF VIOLATIONS

		Total	Percent
Diversion		10	(2%)
Theft	10		
Forged Rx	0		
Convictions/Deferred Adjudications		261	(56%)
Felony	10		
with Falsified Application	4		
Misdemeanor	38		
with Falsified Application	9		
Deferred Adjudication/Felony	53		
with Falsified Application	8		
Deferred Adjudication/Misdemeanor	126		
with Falsified Application	13		
Alcohol-Related (e.g., DWI)	0		
with Falsified Application	0		
Chemical Impairment		18	(4%)
Drug or Alcohol Dependency	16		
with Falsified Application	2		
Falsified Applications		53	(11%)
Other Violations		51	(11%)
Gross Immorality	0		
Non-Compliance w/Previously Entered Order	11		
Performed Tech Duties w/Expired Registration	9		
Performed Pharmacist Duties	1		
Performed Tech Duties without Registration	24		
Other	6		
Request for Revocation/Retirement		71	(15%)
Reinstatement		0	(0%)
TOTAL FY2010:		464	(99%)*

* Due to rounding.

LEGAL DIVISION

2. To review all cases referred to the Division for potential disciplinary action; and if sufficient evidence exists to warrant action, to institute disciplinary proceedings against licensees within an average of 150 days of the date of the receipt of the case, in accordance with priorities established for the Enforcement Division, throughout FY2010.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. During FY2010, Division staff participated in 23 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 received a total of 888 complaints in FY2010. The complaints were resolved in the following manner:
 - (1) 614 complaints with the entry of Agreed Board Orders;
 - (2) 13 complaints with the entry of Board Orders;
 - (3) 1 complaint with the entry of Temporary Suspension Orders;
 - (4) 121 complaints with the entry of Default Orders;
 - (5) 201 complaints with the mandatory withdrawal of the applicant's application; and
 - (6) 71 complaints through other means, including dismissals with and without letter and before and after informal conferences.

Division staff resolved a total of 1,021 complaints during FY2010, which was 133 more than received during that period.

- C. Division staff mailed a 855 Preliminary Notice Letters in FY2010, in accordance with the priorities established for the Division, which was comparable, although slightly less, than in FY2009, when the Division mailed 942 PNLs. Of these PNLs, 315 PNLs were mailed to pharmacists and pharmacies, and 540 PNLs were mailed to pharmacy technicians and pharmacy technician trainees.
- D. The number of days to mail PNLs after the case review date in FY2010 was 102 days which is a decrease from the FY2009 number of 117 days. The number of days for PNLs to be sent to pharmacists and pharmacies averaged 94 days as compared to 83 days in FY2009. PNLs to pharmacy technicians were sent in an average of 107 days from receipt of the case, as compared to 134 days in FY2009.
- E. Total resolution time for cases in FY2010 was 177 days from receipt of the case in the Legal Division to the entry of an Agreed Board Order, which has decreased from last year's number of 193 days. Case resolution for pharmacists and pharmacies averaged 219 days, up from 181 days in FY2009, and for pharmacy technicians averaged 159 days, a decrease from 201 days in FY2009.

LEGAL DIVISION

- F. The Division filed petitions to conduct a Temporary Suspension hearing for one case involving a pharmacist and a pharmacy in FY2010. The case was based on allegations that a pharmacy was being operated without a pharmacist on-duty. The petitions were granted. Following the temporary suspensions, the case was settled with disciplinary actions against the pharmacist's and pharmacy's licenses.

3. To plan and conduct a minimum of 24 days of informal conference sessions in FY2010 to adjudicate violators of pharmacy laws/rules.

Status: ACCOMPLISHED

Comment: During FY2010, the Division prepared for and conducted 30.5 days of Informal Conferences for 446 licensees/registrants, as indicated in the following charts. The number of licensees/registrants decreased in FY2010, from 517 licensees/registrants in FY2009.

Informal Conferences for Pharmacies and Pharmacists

Dates of Informal Conferences	# of Days	# of Phy/RPh Licensees	# of Techs	# of Cases	# of Licensees Dismissed
9/8-10/2009	2 ½	31	0	18	1
10/13-15/2009	3	24	1	18	4
12/1-2/2009	1 ½	13	1	11	1
1/12-14/2010	2 ½	21	2	17	2
3/2-4/2010	2	25	0	15	6
4/5-7/2010	3	26	0	20	4
6/8-9/2010	1 ½	11	0	11	1
7/6-8-2010	2 ½	19	0	16	0
TOTAL FY2010	18.5	170	4	126	19

Informal Conferences for Technicians/Technician Trainees

Dates of Informal Conferences	# of Days	# of Cases	Applicants	Registrants	No-shows	Defaults
9/24/2009	1	24	6	5	1	12
10/20/2009	1	19	2	4	3	10
11/17/2009	1	19	2	3	2	12
12/17/2009	1	19	5	3	0	11
1/21/2010	1	21	2	7	0	12
2/18/2010	1	30	5	5	2	18
3/25/2010	1	26	7	5	1	13
4/15/2010	1	27	5	7	5	10
5/20/2010	1	21	3	5	3	10
6/17/2010	1	27	7	7	6	7
7/24/2010	1	21	3	5	4	9
8/19/2010	1	18	4	5	4	5
TOTAL FY2010	12	272	51	61	31	129

LEGAL DIVISION

Division staff used electronic notebooks for all informal conferences, thus allowing the informal conference panel to access the allegations and evidence on computer laptops rather than in the hard-copy format previously used. This recommendation reduced copying cost and staff time to prepare the informal conference notebooks.

4. **To refer disciplinary cases to the State Office of Administrative Hearings (SOAH) throughout FY2010, and file a complaint with SOAH within an average of 150 days of the date that the agency determines the case cannot be settled with an Agreed Board Order.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. At the onset of FY2010, four cases were ongoing following the filing of a complaint at the State Office of Administrative Hearings in FY2009 and pending a resolution. The Division filed formal Complaints at SOAH, within 150 days that the case failed to settle with an Agreed Board Order, for 16 additional cases in FY2010, up significantly from 9 in FY2009.
 - B. Ten cases were resolved prior to a full contested administrative hearing being conducted at SOAH. Two of these cases were resolved through a Mediated Settlement Conference and eight through negotiations. This resolution was beneficial in saving the agency both considerable time and effort in the alternative of preparing for and presenting a full contested case hearing. However, considerable preparation was required for several of the cases because they were not resolved until shortly before the scheduled hearing date.
 - C. Nine administrative hearings were conducted in FY2010. Six Proposals for Decision (PFD) were issued by the Administrative Law Judges during FY2010. Another other case was dismissed based on a lack of jurisdiction following the expiration of a registration. Three cases were pending a hearing at the end of FY2010.
 - D. SOAH performed 411 hours of work on 20 cases for the TSBP in FY2010, totaling approximately \$48,159 in direct hearings expenses and \$55,319 in total case expenses. These SOAH hours are significantly increased from the 31 hours of work on 11 cases in FY2009.
5. **To research legal issues and provide legal services and advice to the Board and agency staff; to provide legal services to the Enforcement and Administrative Services and Licensing Divisions regarding interpretation of the laws and rules and to the Division of Professional Services in the development of agency rules and publication of newsletters.**

Status: ACCOMPLISHED

LEGAL DIVISION

Comment: This objective was accomplished through the following activities:

A. Legal Research and Advice on Agency Administration

- (1) General Counsel reviewed the following for legal sufficiency and effectiveness:
 - (a) contract to provide licensing and disciplinary database system between the database vendor and both HPC and TSBP;
 - (b) contract with the University of Texas College of Pharmacy for a study regarding patient identifiable information required under SB 646 to examine the extent prescription drug information is sold, traded, or exchanged;
 - (c) customer service agreement for Texas Online services with DIR/NIC; and
 - (d) contract with DIR to provide Security Incident Management Services to monitor the agency's external network.
- (2) General Counsel served as Fraud Coordinator for the agency.
- (3) General Counsel participated in meetings regarding Risk Assessment and provided recommendations in the development of the agency's Risk Management plan.
- (4) General Counsel and Division staff provided legal advice and consultation on numerous personnel issues during FY2010, including:
 - (a) assisted with issues in various hiring/disciplinary processes and complaints against agency employees;
 - (b) advised regarding sick leave pool requests;
 - (c) provided legal advice regarding outside employment for agency staff;
 - (d) developed and reviewed performance plans and/or probation;
 - (e) interviewed applicants for new positions;
 - (f) reviewed and proposed changes to the agency's FLSA exemption policies;
 - (g) assisted with resolution of complaints against agency employees;
 - (h) updated pandemic policy to accommodate swine flu pandemic; and
 - (i) reviewed policies in TSBP Employee Handbook.

LEGAL DIVISION

- (5) General Counsel continued to serve as the agency's Ethics Advisor and continued to assist Board Members and staff with legal and ethical issues. General Counsel also filed a request for an opinion by the State Bar Ethics Committee regarding an agency attorney's ethical implications for contact by TSBP staff to licensees represented by an outside counsel.
- (6) General Counsel consulted with other Division Directors regarding completion of the Survey of Employee Engagement by agency staff.
- (7) General Counsel attended numerous management staff meetings and assisted with development of new office plan to accommodate the new agency employees.
- (8) General Counsel and Division staff participated in meetings and evaluation of new licensing and enforcement system.
- (9) General Counsel participated in meetings with EAP representative to plan continuation of contract services and training sessions.
- (10) General Counsel assisted with development of agency's policies regarding the Equitable Sharing in Asset Forfeiture and reviewed submissions for reimbursements.
- (11) General Counsel participated in analysis and development of a Business Continuity Plan and drafted relevant documentation for the Legal Division.
- (12) General Counsel provided significant input regarding the development of a Request for Proposal for providers of pharmacy technician certification examinations and the selection of the provider for the examination to be used by the agency.
- (13) General Counsel drafted Intern Assessment and modified Intern Agreement to take into consideration FLSA issues.

B. Technical Assistance to Enforcement Activities

- (1) Division staff researched numerous issues, including the determination of crimes of moral turpitude and various forms of disposition for criminal cases.
- (2) General Counsel attended quarterly meetings of Compliance staff and Investigative staff, as requested, to provide legal guidance on inspection and investigative issues including obtaining evidence and issuing subpoenas.
- (3) Division staff drafted numerous subpoenas to assist with the investigative work of the TSBP investigators.
- (4) Division staff handled numerous legal questions from all staff regarding a myriad of issues.

LEGAL DIVISION

- (5) General Counsel reviewed numerous complaint files for pharmacists and pharmacies and provided guidance regarding the identification of violations and the resolution of the cases. In addition, General Counsel reviewed numerous complaint files on pharmacy technicians to determine type of violation and appropriate action, as previously determined by the Board.
- (6) Division staff made presentations at all Board meetings held in FY2010. Presentations included information about proposed Agreed Board Orders and proposed Board Orders following SOAH proceedings.
- (7) General Counsel assisted in the review and preparation of minutes of four regularly-scheduled Board meetings.
- (8) Division staff informed the Enforcement staff of disciplinary actions to be taken by the Board prior to entry of the orders, to ensure the correct information is immediately available on the computer system.
- (9) Division staff assisted the Enforcement Division with issues involving the monitoring of impaired pharmacists, including legal consultation on handling of positive drug screens and interfacing with the PRN program.
- (10) Division staff updated the Disciplinary Index to all actions taken by TSBP on a quarterly basis following each Board.

C. Legal Services for Professional Services

- (1) General Counsel assisted the Division of Professional Services in the review/drafting of proposed rules and preambles for rules, and the review of rule submissions to the *Texas Register* for all rules either proposed or adopted during FY2010.
- (2) General Counsel assisted the Division of Professional Services with requests for public information in clarifying requests and requesting assistance from the OAG.

D. Legal Services for Licensing

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

E. Other Legal Services regarding Pharmacy Issues

- (1) General Counsel participated in meetings and teleconferences regarding any pending pharmacy issues as required.

LEGAL DIVISION

- (2) General Counsel participated in the review of the question pool for the Multistate Jurisprudence Examination to ensure the validity of the questions in the pool.
- (3) General Counsel participated in teleconference meetings of committees to review requests for pilot projects and assisted with development of rules on related issues, including ratio for supervision of pharmacy technicians and prescription pickup locations.
- (4) General Counsel participated and provided legal analysis for task force meetings, including the Nuclear Pharmacy Task Force and the Class C Pharmacy Task Force.

6. To review and monitor the Texas Register for Attorney General opinions; to draft requests for Attorney General Opinions throughout FY2010; to serve as liaison for the Board to the Office of the Attorney General (OAG); to monitor and assist with appeals, injunctions, or civil litigation handled by the OAG against pharmacists or non-pharmacists.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division staff reviewed new opinions of the Office of the Attorney General and the Texas Ethics Commission for applicability to TSBP and disseminated any relevant material to appropriate agency personnel.
- B. Liaison with the Office of Attorney General
 - (1) Division staff continued to serve as liaison with the OAG throughout FY2010. John Langley served as the Assistant Attorney General assigned to TSBP from the OAG Administrative Law Division.
 - (2) Appeals; Injunctions; Civil Litigation
 - (a) General Counsel consulted with an attorney at OAG, Consumer Protection, regarding TDSHS case against a pharmacy also licensed as a wholesaler.
 - (b) General Counsel coordinated representation regarding mandamus action involving release of confidential investigative information from the Professional Recovery Network, including preparation for Temporary Restraining Order hearing and Plea to the Jurisdiction hearing.
 - (c) Division staff coordinated representation with OAG attorneys regarding expunction of criminal matters also relevant to agency disciplinary actions.

LEGAL DIVISION

(3) Requests for AG Opinions

Five requests for open records decisions were filed in FY2010. Three of these requests were resolved favorably to TSBP with open records letter rulings, and two are pending appeal by the OAG.

(4) General Assistance

(a) General Counsel served on a working group to develop standards for use of confidential information during SOAH hearings and subsequent litigation.

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

7. To assist with open records requests throughout FY2010, in accordance with the procedures set forth in the Texas Public Information Act.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. General Counsel reviewed written responses to open records requests, prepared by the Professional Services Division, for legal compliance with the Public Information Act in FY2010. In addition, the General Counsel assisted with clarifying certain open records requests requiring telephonic clarification, when legal issues were involved.
- B. Division staff prepared requests for open records decisions for those open records requests that related to confidential information requiring a ruling from the OAG.

8. To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2010; to provide legal assistance and maintain liaison with appropriate local, state, and federal prosecutors, legal divisions, and enforcement agencies involved in the investigation or prosecution of Board licensees, in conjunction with the Enforcement Division, throughout FY2010.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Surveys/Questionnaires and Other Correspondence
 - (1) General Counsel and/or Division staff responded to following surveys:
 - (a) NABP pharmacy jurisprudence survey;
 - (b) Annual survey from the State Office of Administrative Hearings;

LEGAL DIVISION

- (c) questions relating to Legal Division on a best practices identification project survey from California Department of Consumer Affairs; and
- (d) Client survey from the OAG.

B. Technical Assistance to Other Agencies and Organizations

- (1) General Counsel participated in meeting with Texas Department of State Health Services to develop rules for Free Standing Emergency Medical Care Facilities.
- (2) General Counsel and Division staff attended a planning session to share information regarding ETG/ETS drug screen results and regarding evaluations conducted by mental health professionals with the Professional Recovery Network and a physician providing such services.
- (3) Division staff attended Public Service Career Day at the University of Texas School of Law.
- (4) General Counsel and Director of Professional Services attended the User Review Panel and Policy Education Forum to share information about use of NPDB/HIPDB coordinated by the U.S. Department of Health and Human Services.
- (5) General Counsel attended Texas Medical Board stakeholder meetings regarding modifications to licensing and enforcement rules.
- (6) General Counsel participated in meetings of the Joint Committee to implement recommendations of HB 2730 regarding a transition plan for moving the Prescription Drug Monitoring Program from the Department of Public Safety to the agency.
- (7) Division staff discussed issues involving the agency's drug/alcohol screening program for pharmacists and pharmacy technicians with the contractor providing such services.
- (8) General Counsel attended strategy session with Houston District Attorney, representatives of DEA and DPS, and other law enforcement agencies to plan for dealing with pain management clinics and pharmacies.
- (9) General Counsel participated in conference call with Texas Commission on Environmental Quality to discuss disposal of unused prescription drugs and drafted Memorandum of Understanding regarding licensure requirements as material solid waste facilities for pharmacies conducting drug return programs.
- (10) General Counsel met with representatives of the Controlled Substance Monitoring program of the Texas Department of Public Safety to discuss the e-prescribing requirements under the U.S. Drug Enforcement Agency.

LEGAL DIVISION

D. Technical Assistance to the Legislature

- (1) General Counsel compiled data and prepared quarterly reports for Legislature as required by SB1879 on disciplinary actions taken in FY2010 for violations of the Controlled Substances Act.
- (2) General Counsel and/or Division staff responded to questions from Legislators/legislative staff and Governor's staff regarding proposed and filed legislation and regarding pharmacy and/or agency issues.
- (3) General Counsel participated in meeting with staff of sponsors of HB1924 regarding pharmacy services in rural areas and assisted with development of rules to implement the legislation.
- (4) General Counsel provided information to legislative staff on destruction of drugs in nursing homes after a patient dies.

E. Technical Assistance to the Press and the Public

- (1) Division staff answered numerous telephone calls from pharmacist and pharmacy technician applicants and licensees/registrants regarding the application process and the associated disciplinary process, including providing information about denial of registration and options for Informal Conference.
- (2) Division staff answered numerous questions from licensees, attorneys, and other members of the public regarding legal issues, including:
 - (a) licensing eligibility and requirements;
 - (b) effect of convictions and deferred adjudications and/or probation for various crimes on registration and licensure; and
 - (c) schedules for resolution of pending cases.
- (3) General Counsel participated in conference call with drug manufacturer to discuss validity of pharmacy-based clinical trial recruitment program.
- (4) General Counsel along with agency staff met with representatives of clinic pharmacies to assess suitability of pharmacy license type and developed questionnaire for use by the agency in determining appropriate classification.
- (5) General Counsel met with representatives of specialty pharmacy in pain management to discuss legality of operations.
- (6) General Counsel drafted legal analysis of law involving pharmacy compounding for presentation to the Board and publication in pharmacy law study guide.

LEGAL DIVISION

9. **To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2010.**

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.
- B. General Counsel and Division staff assisted HPC staff with the development and implementation of the regulatory database system.
- C. General Counsel assisted HPC staff with review of Memorandum of Understanding with the Texas Department of State Health Services.

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 FY2010.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

In FY2010, Division staff attended general staff meetings and in-house training sessions. In addition, Division attorneys attended required continuing legal education, and Division staff attended various programs, seminars, and events. Division staff also developed and planned for the staff training program on team building.

11. **To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2010.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division staff was evaluated on an annual basis, as required by agency policy.
- B. General Counsel conducted team meetings approximately twice a month with Division staff.
- C. The Division interviewed for and had one legal intern in the fall of 2009 and two law clerks during the summer of 2010 to provide assistance with the preparation of legal cases.
- D. General Counsel prepared and conducted orientations of all new TSBP employees and interns during FY2010 regarding the Legal Division, the legal process, ethics, and Public Information and Open Meetings Acts.

LEGAL DIVISION

- 12. To destroy records in accordance with the agency's record retention plan throughout FY2010; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2010.**

Status: ACCOMPLISHED

Comment: This objective was partially accomplished as follows:

A. Records Management

During FY2010, Division staff destroyed records, in accordance with the TSBP record retention schedule, including general correspondence. Division staff also prepared and indexed material for transfer to the State Library.

B. Policies and Procedures

- (1) Division staff updated and maintained Disciplinary Notebooks and Index containing all Board Orders and Agreed Board Orders.
- (2) Division staff updated notebook of samples of preliminary notice letters for pharmacist and pharmacy disciplinary actions and forms for various pharmacy technician and technician trainee PNLs and ABOs.
- (3) Division staff drafted several new written policies and procedures for case reviews and preparation of PNLs to provide reference and training material for the legal assistant positions.
- (4) Division staff drafted in-depth policies and procedures to document newly developed division reorganization and associated workflow processes.
- (5) Division staff developed extensive training material for new employees in the Legal Division.

- 13. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2010.**

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- A. Division staff launched the presentation of informal conference material on the electronic board notebooks, which has resulted in increased accessibility of information and reduction of preparation efforts to create the paper notebooks.
- B. Division staff developed new process for presentation of proposed disciplinary actions to the Board at Board meetings through the use of the electronic notebooks, which includes presenting a summary chart along with the orders linked to the chart.

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- C. Division staff began process of archiving all prior disciplinary actions in PDF files on shared drive for easy access by other divisions.
- D. General Counsel, in conjunction with the Director of Professional Services, participated in Lean Works, a pilot program developed by the CDC for enhancement of employer wellness programs, and presented a summary of the agency's program and wellness activities.
- E. General Counsel served as co-chair on the agency's Wellness Committee, and coordinated the Maintain No Gain and Complaint Resolution Fitness Challenge programs. In addition, General Counsel assisted with the implementation of other programs throughout the year, developed a logo for the program (i.e. Morty), and drafted and conducted agency survey regarding utilization of the program. The agency staff responded positively to the survey, and the results were used in the development of new programs.
- F. General Counsel coordinated optional financial management seminar for agency employees.
- G. Division staff facilitated a Focus Group regarding communication issues with various employees from across the agency working together to solve problems common among employees. Division staff drafted a report summarizing the recommendations.
- H. General Counsel and Division staff implemented a division reorganization and hired and trained three new legal assistants to facilitate the process.
- I. Division staff developed Calendar of Events for FY2011 for informal conferences and reserved conference rooms accordingly.
- J. General Counsel edited policies and procedures regarding expenditures of seizure money.
- K. Division staff updated automatically generated letterhead which resulted in significantly reduced printing costs.
- L. Division staff participated extensively in development and transition to new licensing and disciplinary database system.
- M. Texas Pharmacy Act

General Counsel submitted numerous changes to the Pharmacy Act for approval by the TSBP regarding disciplinary and legal proceedings for the next legislative session.
- N. Board Rules
 - (1) General Counsel drafted rule changes to disciplinary guidelines and disciplinary sanctions for all licensees, and reviewed and recommended modifications for rules changes presented to the Board.

LEGAL DIVISION

- (2) Division staff drafted new rules regarding Internet and pain management pharmacies to incorporate new federal law and improve enforcement ability.
- (3) General Counsel developed procedures and drafted rules to implement new provision for criminal history evaluation letters.

14. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2009 *Annual Report* to be presented to the Board by its May 2010 Board meeting.

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2009 *Annual Report* was submitted to the Executive Director by the due date. The final draft of the Annual Report for FY2009 was presented to and approved by the Board at the May 2010 Board Meeting.