



Texas State Board of Pharmacy

Annual Report FY2004

Doyle E. High, R.Ph.
President

Gay Dodson, R.Ph.
Executive Director/Secretary

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Board Mission

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

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Board Members

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

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

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

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

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

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

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

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

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

Office of the Executive Director**Executive Director**

Gay Dodson, R.Ph.

Executive Assistant

Kay Wilson, C.P.S.

Receptionist

Estella Casarez

Administrative Services & Licensing**Division Director**

Cathy Stella, P.H.R.

Chief Accountant

Jane Bennett

Accountant II

Mary Helen Oviedo

Accountant IV

Sandra Morton

Staff Services Officer II

Robbi Dana

Purchaser

Darlene Guthrie

Information Resources Manager

Steve Rapp

Web Technician

Todd Hayek

Licensing Administrator

Carol Willess

Licensing Specialists

Lisa Ake

Rachel Glass

Rene' Howard

Melinda Uballe

Diana Ruedas

Professional Services**Division Director**

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

Administrative Assistant

Retta Cole

STAFF

Legal

General Counsel

Kerstin Arnold, J.D.

Assistant General Counsel

Julie Hildebrand, J.D.

Stephanie Chambers, J.D.

Legal Assistants

Georgienne Nassauer

Cheryl Sepulveda

Enforcement

Division Director

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

Assistant Director

Vacant

Chief Investigator

Joe Lewis

Chief of Compliance

Ben Santana, R.Ph.

Compliance Specialist

Sarah Guevara

Enforcement Administrator

Janelle Nastri

Senior Enforcement Officer

Amy Schroeder

Enforcement Officers

Jill Kier

Linda Yazdanshenas

Senior Administrative Assistant

Sherry Stevenson, C.P.S.

In-House Investigator

Melissa Weeden

Investigators

Anita Arnet

Gordon Lunsford

Robert Ebrom

Wayne Jones

Vacant

Staff Compliance Officer

Vacant

Compliance Officers

Mike Ethridge, R.Ph.

Iona Grant, R.Ph.

Vacant

Compliance Inspectors

David Meryman

Chris Schuttler

Administrative Assistants

Patty Galan

Yvette Muniz

Diane Torres

Note: The organizational structure reflects the organization as of August 31, 2004.

Board-Appointed Task Forces

Task Force on Patient Counseling

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

Mike Sanchez, R.Ph., Edinburg

Bethany Boyd, R.Ph., Allen

Eric Kauffman, R.Ph., The Woodlands

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

Melissa Knoblauch, R.Ph., Lewisville

Anne Ziesmer, R.Ph., Desoto

Fred Brinkley, R.Ph., Austin

Dennis Wiesner, R.Ph., San Antonio

Board Member Liaisons

Mike Brimberry, R.Ph., MBA, Austin

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

FY2004 Annual Report

(Sept. 1, 2003 – Aug. 31, 2004)

Board Mission

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

Board Philosophy

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

Board Strategic Goals (FY2005-2009)

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

FY2004 ANNUAL REPORT

- 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).

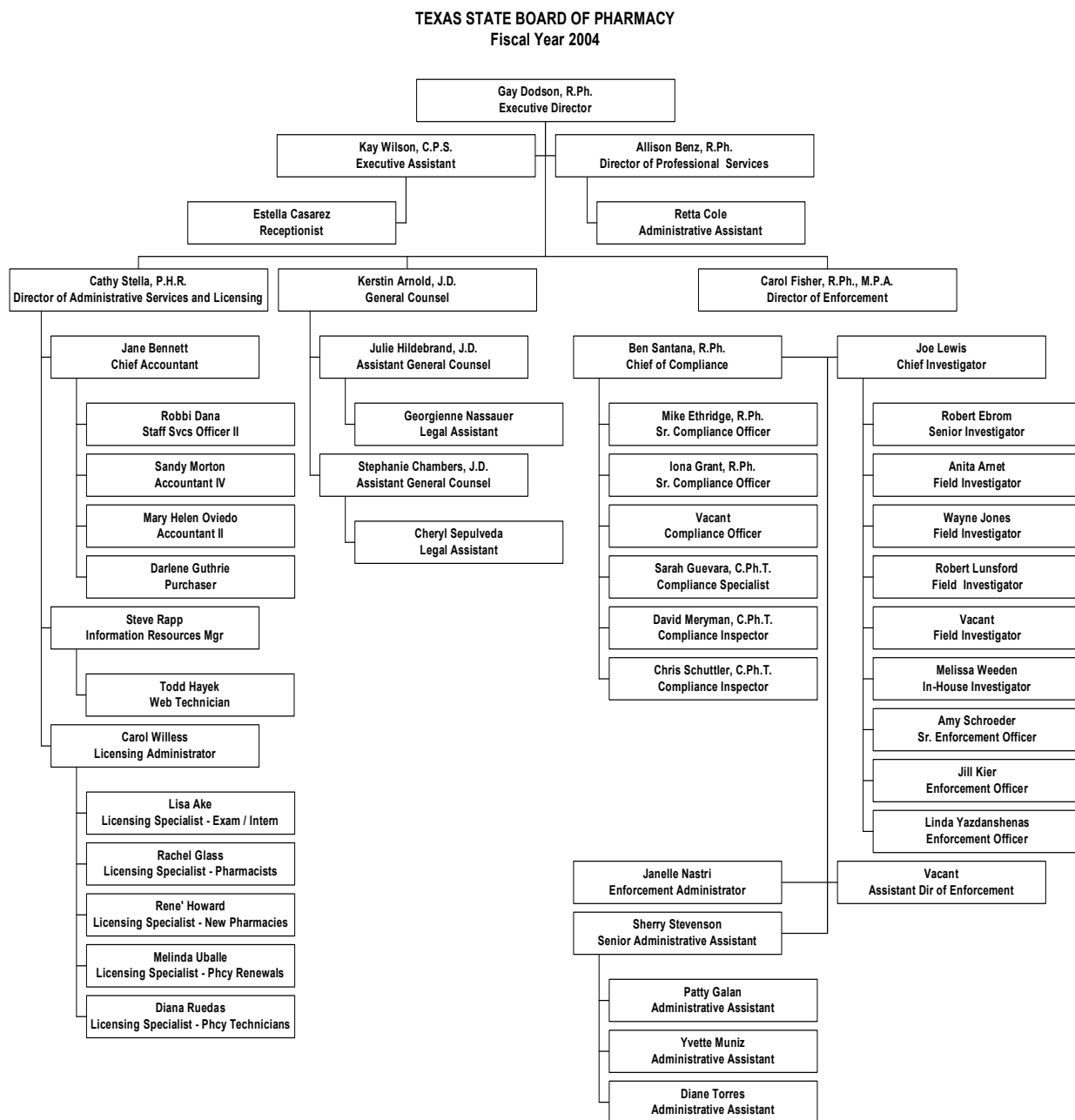
Board Structure

The Board's functional structure at the end of FY2004 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 2004



FY2004 Fiscal Report

The attached report represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2004 (September 1, 2003 - August 31, 2004). 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 *"FY2004 Annual Financial Report."*

The agency ended its fiscal year with an unexpended balance of approximately \$130,000 or 4.11% under budget. The primary source of this unexpended balance was in salaries, which was \$48,000 under budget. In addition, service travel staff resulted in approximately \$20,000 of remaining free budget, which was primarily the result of travel money saved due to lapsed field positions. Other areas of remaining free budget included postage, in-state conference travel, registration fees, and compensatory per diem.

Financial Statement – Fiscal Year 2004

September 1, 2003 – August 31, 2004

		Budget	Expended	Remaining Budget	Percent Remaining
1008	(a) Professional Fees & Svcs (Other)	7,316.00	7,315.56	0.44	0.01%
1008	(b) Professional Fees & Svcs (TPA)	94,500.00	94,500.00	0.00	0.00%
3002	Gas, Other Fuels & Lubricants	13,042.00	12,840.31	201.69	1.55%
3003	Vehicles - Maintenance	8,981.00	8,882.80	98.20	1.09%
3004	Consumable Supplies & Materials	22,850.00	22,777.38	72.62	0.32%
3005	Postage	41,380.00	29,337.64	12,042.36	29.10%
3006	Telephone	33,188.00	30,753.30	2,434.70	7.34%
3014	Subscriptions	10,368.00	10,367.51	0.49	0.00%
3015	Postage - Newsletter	12,810.00	12,809.63	0.37	0.00%
3018	Travel - Board Members (Service)	21,424.00	18,910.45	2,513.55	11.73%
3019	Travel - Board Members (Conference)	16,000.00	2,576.81	13,423.19	83.89%
3020	Travel - Board Members (Conf-Out Of St.)	4,500.00	4,202.24	297.76	6.62%
3027	Travel - State Vehicle	1,452.64	1,452.64	0.00	0.00%
3028	Travel - Staff (Service)	72,047.36	52,184.49	19,862.87	27.57%
3038	Travel - Staff (Conference)	9,000.00	3,875.65	5,124.35	56.94%
3039	Travel - Staff (Conf Out Of State)	2,500.00	2,399.31	100.69	4.03%
3516	Membership Fees & Dues	1,933.00	1,333.00	600.00	31.04%
3518	Administrative Support Service	31,867.00	31,866.52	0.48	0.00%
3521	Criminal Investigative Expense	3,000.00	537.11	2,462.89	82.10%
3534	Freight & Delivery Service	2,866.00	1,667.35	1,198.65	41.82%
3535	Maint & Repair - Furn & Equip	6,865.00	6,864.65	0.35	0.01%
3536	Rental of Furn & Equip	9,146.00	9,012.52	133.48	1.46%
3537	Rental of Space	1,021.00	1,020.90	0.10	0.01%
3538	Bonds & Insurance	6,898.00	6,897.03	0.97	0.01%

FINANCIAL STATEMENT – FISCAL YEAR 2004

		Budget	Expended	Remaining Budget	Percent Remaining
3539	Maintenance & Repair-Building	8,584.00	5,504.67	3,079.33	35.87%
3540	Reproduction & Printing	44,586.00	42,383.51	2,202.49	4.94%
3541	Printing - Newsletter	7,000.00	2,339.32	4,660.68	66.58%
3545	Computer Expenses (Northrop)	190,776.00	190,775.50	0.50	0.00%
3550	Hearing Expenses	250.00	250.00	0.00	0.00%
3570	Registration Fees	14,138.00	10,566.80	3,571.20	25.26%
3571	Board Member Registration	4,485.00	2,740.00	1,745.00	38.91%
3581	F & E - Not Inventoried/Capitalized	25,546.00	25,545.13	0.87	0.00%
3586	Computer Equip-Inventoried	30,728.00	30,728.00	0.00	0.00%
3588	Books & Recorded Materials	1,326.00	584.90	741.10	55.89%
3590	Miscellaneous (HPC Transfer and Fees)	34,827.00	34,728.08	98.92	0.28%
3595	Awards	676.00	463.19	212.81	31.48%
7001	Exempt Salaries	70,000.00	69,999.96	0.04	0.00%
7002	Classified Salaries - Full Time	1,920,760.00	1,874,673.94	46,086.06	2.40%
7020	Hazardous Pay	3,332.00	3,332.00	0.00	0.00%
7021	Overtime Pay	27,371.00	27,370.37	0.63	0.00%
7022	Longevity	33,400.00	30,880.00	2,520.00	7.54%
7023	Lump Sum Payments	40,768.00	40,767.89	0.11	0.00%
7025	Compensatory Per Diem	9,450.00	4,830.00	4,620.00	48.89%
7030	Employee Incentive Bonus	94.00	93.60	0.40	0.43%
7047	Retention Bonus	24,000.00	24,000.00	0.00	0.00%
7075	Retirement Incentive Payment	17,681.00	17,680.29	0.71	0.00%
7219	Subscription Fee - Renewal	113,178.00	113,178.00	0.00	0.00%
7219	Subscription Fee - New Licenses	94,866.00	94,866.00	0.00	0.00%
7947	State Office of Risk Management	16,051.00	16,050.92	0.08	0.00%
TOTAL ADMIN, LIC & ENF		3,168,828.00	3,038,716.87	130,111.13	4.11%

Executive Director's Summary

This FY2004 Annual Report reflects the objectives accomplished and activities conducted by the agency necessary to implement its *Strategic Plan*. The agency continued to enjoy an excellent reputation with a broad range of customers as a consumer protection advocate and also has the support of its activities by the regulated profession.

Numerous accomplishments were achieved by TSBP staff that are highlighted at the beginning of each division report. Although specific activities are highlighted under each Division Director's Objectives, TSBP experienced the following major accomplishments and constraints in FY2004.

AGENCY

FY2004 SIGNIFICANT ACCOMPLISHMENTS

1. The agency accomplished or partially accomplished 100% of its 117 objectives [111 accomplished (95%) and six partially accomplished (5%)].
2. The agency met or exceeded all (100%) of its 13 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board. Because the agency met or exceeded 100% of its key performance measures and the most recent performance measures audit by the State Auditor's Office certified without qualifications all of the agency's performance measures, the agency is eligible to implement an enhanced compensation program for employees during FY2005, pursuant to Article IX, Section 6.28(d) of the 2004.05 General Appropriations Act. Classified employees who directly contribute to improvements in agency performance may be awarded up to 6.8 percent of their base salary.
3. The agency successfully completed the review portion of the Sunset Review Process. The Sunset Process actually began during FY2003 with the filing of the agency's Self-Evaluation Report in August 2003. The Executive Director and Division Directors participated in numerous meetings, interviews, and reviews with the Sunset staff regarding agency operations.

The agency identified a total of 37 issues or law changes that were presented to the Sunset Advisory Commission in the agency's Self-Evaluation for consideration. The final report of the Sunset Advisory Commission included 18 of these 37 policy issues (49%).

At the end of FY2004, one issue (Issue #5 - Decide on Continuation of the Board After Completion of Sunset Reviews of Other Health Licensing Agencies) was still pending. A public hearing on this issue is scheduled for November 17-18, 2004, and the decision meeting is scheduled for December 14-15, 2004. Indications are that the recommendation regarding TSBP will be to continue the agency as it is currently structured.

EXECUTIVE DIRECTOR

4. The 78th Texas Legislature authorized funds for the agency to implement the registration and enforcement of the Pharmacy Technician Program, including the addition of a total of nine new positions for the biennium. In FY2004, three of these nine new positions were funded, two in Licensing and one in Enforcement. The project began in October 2003, and by the end of the fiscal year, 22,164 pharmacy technicians were successfully registered with TSBP. The cooperation of all divisions and staff was critical to the successful accomplishment of this task. In order to capture the enormity of this project, it is important to review the comments under the following objectives:
- Significant Accomplishments under Executive Director New Objective #5;
 - Administrative Services and Licensing New Objective #5 and Ongoing Objectives #3, #7, #14, and #15;
 - Enforcement New Objective #4 and Ongoing Objectives #3 and #5;
 - Legal New Objective #4 and Ongoing Objectives #1, #2, #3, #8, and #13; and
 - Professional Services New Objective #4.

Significant events during the implementation are described below:

- A. Rules. On November 18, 2003, the Board adopted rules regarding the registration process (e.g., fees to be charged for the biennial fee), continuing education, and training. On February 3, 2004, the Board adopted rules regarding duties that a registered technician may perform and rules relating to disciplinary actions against technicians. On August 3, 2004, the Board adopted rules regarding exempted pharmacy technicians; these rules clarify that exempted technicians (technicians exempt from certification by Pharmacy Technician Certification Board (PTCB)) must be registered. The rules were also amended to allow a technician who was granted an exemption under the long-term employee provisions ("grandfather" clause) to work at any pharmacy. However, if the technician was granted an exemption under the rural county provisions, the technician's registration would be void if that technician ceased employment at the pharmacy where the exemption was originally granted.
- B. Registration Process. The development of the on-line registration of pharmacy technicians began in the fall of 2003, with the first registration issued in February 2004. During FY2004, TSBP received approximately 24,000 applications. Approximately 10% of the initial applicant pool had a criminal record requiring further review/investigation by TSBP and necessitating the opening of a complaint. Accordingly, TSBP experienced a massive increase in the number of complaints received in FY2004.
- C. Disciplinary Guidelines. Guidelines for the staff to use when reviewing pharmacy technician applications and determining whether a technician's application should be denied or suspended were approved by the Board at its meeting held on February 3-4, 2004. Under these guidelines, TSBP entered 234 disciplinary orders against technicians. The Board held two additional business meetings in the fourth quarter of FY2004 in order to review/approve disciplinary orders being entered against technicians, and thereby, expedite the technicians' registration process.

EXECUTIVE DIRECTOR

5. As reflected in the chart below, the agency received more than twice as many complaints in FY2004 than it did in FY2003. In addition, the agency resolved 60% more complaints in FY2004 than in the prior fiscal year with significantly lower complaint resolution time. See Enforcement Ongoing Objective #3.

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

6. TSBP entered significantly more disciplinary orders in FY2004 than in any prior fiscal year based not only on the addition of the cases against pharmacy technicians but also on the cases against pharmacists and pharmacies. Even without the technician cases, the Division entered a record 235 disciplinary actions against pharmacists and pharmacies, which resulted in a 10% increase over the 213 entered in FY2003.

Fiscal Year	Number of Board Orders (BOs)	Number of Agreed Board Orders (ABOs)	Number of Disciplinary Orders (BOs & ABOs)	% Increase in Disciplinary Orders	% ABOs of Total Orders
FY00	0	126	126	17%	100%
FY01	4	141	145	15%	97%
FY02	2	179	181	25%	98.9%
FY03	4	209	213	17%	98.1%
FY04*	6	463	469	120%	98.7%
Total	16	1,118	1,134	272% over 5 yrs.	98.7%

* FY2004 was the first year the agency licensed pharmacy technicians, therefore the numbers for disciplinary orders in FY2004 include orders on pharmacists, pharmacies, and pharmacy technicians.

7. The agency's website continues to provide accurate and concise information to board customers. As evidenced by the increase in the number of inquiries on the website and comments from external customers, it appears that the website is easily navigable and serves our customers well. In addition, an email subscription for the TSBP Newsletter was implemented and added to the TSBP web page.

EXECUTIVE DIRECTOR

In FY2004, TSBP received approximately 439,728 website inquiries (average of 36,633 “hits” each month). This compares to prior years as follows:

Fiscal Year	Number of Website Inquiries	Cumulative Increase Since FY2000
FY2000	64,476	--
FY2001	90,701	40.67%
FY2002	112,184	73.99%
FY2003	160,937	149.60%
FY2004	439,728	582%

8. Agency staff gave 52 presentations during FY2004 to 3,824 individuals as follows.

Name	Number of Presentations
Lisa Ake	3
Kerstin Arnold	2
Allison Benz	8
Gay Dodson	20
Robert Ebrom	1
Mike Ethridge	4
Carol Fisher	1
Iona Grant	4
Julie Hildebrand	1
Joe Lewis	2
Gordon Lunsford	3
Carol Willess	3
Total	52

9. The following TSBP Board Members and staff were appointed to offices, received honors, or received recognition in FY2004:
- A. Board Member Roger W. Anderson, Dr.P.H., R.Ph., former Vice President, Pharmacy, of M.D. Anderson Cancer Center, was named Senior Vice President and Chief Pharmacist of Medco Health Solutions, Inc.
 - B. Board Member W. Michael Brimberry, R.Ph., MBA., was appointed as an alternate on the NABP Task Force on Limited Distribution and Shortage of Medications.

EXECUTIVE DIRECTOR

- C. Board Member Juluette Bartlett-Pack, Ph.D., was appointed as an alternate on the NABP Government Affairs Subcommittee.
- D. Board Member Oren Peacock, R.Ph., served on the NABP Executive Committee and as Co-Chair of the NABP Government Affairs Subcommittee. In addition, Mr. Peacock was named Director of Government Affairs, CVS Pharmacy.
- E. Executive Director Gay Dodson, R.Ph., was appointed by Governor Rick Perry to serve as a member of the State Employee Charitable Campaign Policy Committee.

AGENCY

FY2004 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Due to the \$7 billion shortfall for the FY2004-2005 biennium, the 78th Texas Legislature made the decision to cut expenditures for all state agencies. TSBP's FY2004-2005 budget was reduced by 12.5%. Because of this budget reduction a number of changes that were initiated in FY2003 were continued in FY2004, including the following:
 - Two positions were eliminated through attrition. Both of these positions were in the Enforcement Division (one Staff Compliance Officer and one Administrative Assistant); and
 - TSBP was no longer able to print and mail out Newsletters to all pharmacists and pharmacies licensed by TSBP. Although four issues of the Newsletter were published on the TSBP web page during FY2004, only one issue was printed. The print issue (Spring 2004) was mailed to pharmacies.
2. The results of the 78th Texas Legislature included a number of changes that affected state employees, beginning in FY2004. These legislative changes included:
 - reducing the budgets of state agencies, which, in many cases, meant a reduction or elimination of merit pay for outstanding performance;
 - significant increases to out-of-pocket costs for health coverage by all state employees;
 - reduced state contribution of health care coverage for part-time employees;
 - implementing a 90-day waiting period for health insurance and state retirement contribution for new state employees;
 - increasing the minimum age for retiree insurance; and
 - allowing a lump sum incentive payment for eligible retirees, which must be paid out of agency appropriations, thus reducing the funds available to the agency.

EXECUTIVE DIRECTOR

3. The successful implementation of the initial registration of pharmacy technicians did not come without a price. During FY2004, the agency was only authorized to add three additional employees to assist with the registration of pharmacy technicians. Two of these positions were allocated to the Licensing Division and one to the Enforcement Division. The following chart shows some of the increases in workload caused by the registration of pharmacy technicians on all the agency divisions.

Increases in Workload Caused by the Pharmacy Technician Registration Program				
		FY2003	FY2004	% Change
Board Member/Executive Division				
	Number of Board Meetings	4	6	50%
Administrative Services and Licensing Division				
	Total Number of Licensees	27,568	50,289	82%
	Number of Telephone Calls Received	10,000	19,737	97%
	Number of Email Inquiries Answered	4,000	10,880	172%
	Number of Changes of Employment/Address	6,166	7,452	1%
	Amount of Overtime Paid to Agency Staff	\$0	\$27,165	100%
	Number of Checks Returned Due to Insufficient Funds or Improper Data	16	158	888%
Enforcement Division				
	Number of Complaints Received	1,893	4,436	134%
	Number of Complaints Resolved	1,887	3,018	60%
	Number of Pending Complaints	789	2,071	162%
	Number of Telephone Calls Received	6,706	8,661	29%
	Number of Disciplinary Orders Entered that Required Monitoring	185	444	140%
Legal Division				
	Number of Disciplinary Orders Entered	213	469	120%
	Number of Days of Informal Conferences	23.5	30	8%
	Number of Preliminary Notice Letters Mailed	240	652	172%
Professional Services Division				
	Number of Rule Submissions to the Texas Register	47	76	62%
	Number of Letters or Emails Answered	2,660	2,096	-21%

FY2004 Goals and Objectives

Office of the Executive Director

Goal

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

Objectives (New)

- To direct the agency response to the Sunset Review process throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: The Sunset Process actually began during FY2003 with the filing of the agency's Self-Evaluation Report in August 2003. In early September, the following staff of the Sunset Advisory Commission were assigned the task of reviewing the Board's operations: Joe Walraven (Project Supervisor), Katrina Daniel (Project Manager), and Meredith Whitten (Policy Analyst). The Executive Director and Division Directors participated in numerous meetings, interviews, and reviews with the Sunset staff regarding agency operations, as listed below:

Sunset Advisory Commission Time Line for Review of the Texas State Board of Pharmacy	
3/24/03	Introductory meeting to review purpose, organization, time lines, and information gathering of the Sunset process
10/2/03	Orientation/Overview of agency operations for Sunset Staff
10/03 - 1/04	In-depth review of each division's activities, extensive information gathering by Sunset staff and data submission
1/21/04	Draft of the Sunset Staff Report reviewed by agency management team
1/30/04	Exit interview with Sunset staff
2/6/04	Sunset Staff Report released
2/28/04	Agency formal response to the Sunset Staff Report submitted
3/8/04	Meeting with staff of Senator Mike Jackson's office regarding TSBP Sunset Review
3/12/04	Meeting with staff of Representative Dunham's office regarding TSBP Sunset Review
3/17/04	Meeting with staff of Representative Solomon's office regarding TSBP Sunset Review
3/17/04	Meeting with staff of Senator Shapleigh's office regarding TSBP Sunset Review
3/23 - 3/24/04	Sunset Advisory Commission's Public Hearing on Sunset Staff Report
5/18 - 5/19/04	Sunset Advisory Commission's Decision Meeting on Issues 1, 2, 3, and 4

EXECUTIVE DIRECTOR

The Issues/Recommendations of the Sunset Advisory Commission are listed in the chart below. At the end of FY2004, one issue (Issue #5 - Decide on Continuation of the Board After Completion of Sunset Reviews of Other Health Licensing Agencies) was still pending. A public hearing on this issue is scheduled for November 17-18, 2004, and the decision meeting is scheduled for December 14-15, 2004. Indications are that the recommendation regarding TSBP will be to continue the agency as it is currently structured.

Sunset Advisory Commission Issues/Recommendations on the Texas State Board of Pharmacy		
Issue 1	The Board's Authority to Regulate Out-of-State Pharmacies Has Not Kept Pace With Changes in Technology.	
	1.1	Require out-of-state pharmacies to meet the same standards for licensure as Texas-based pharmacies.
	1.2	Clarify that the grounds for disciplinary action for out-of-state pharmacies include the same grounds as for Texas-based pharmacies.
	1.3	Authorize the Board to take disciplinary action on a pharmacy's license based on the action of another state board of pharmacy.
	1.4	Authorize the Board to initiate disciplinary action against an out-of-state pharmacy at any time.
	1.5	Require pharmacies that use an Internet site to post information on filing a complaint with the Board.
	1.6	Establish that a pharmacist or pharmacy may only distribute a prescription drug or device if a valid practitioner-patient relationship exists.
	1.7	Require the Board to list Internet pharmacies licensed in Texas on its website.
Issue 2	The Texas Pharmacy Act Does Not Give the Board Adequate Authority to Fully Protect the Public.	
	2.1	Hold pharmacists accountable for oversight of activities delegated to technicians.
	2.2	Clarify that a pharmacist or pharmacy that does not comply with a Board rule or order is in violation of the Texas Pharmacy Act and is subject to disciplinary action by the Board.
	2.3	Permit the Board to discipline a pharmacist or pharmacy owner who receives deferred adjudication for any felony or misdemeanor under any statute governing the practice of pharmacy.
	2.4	Permit the Board to take action against a pharmacist license based on any action of another state board.
	2.5	Expand the Board's authority to discipline a pharmacy owner or pharmacist to include drug shortages.
Issue 3	The Board Does Not Have Access to Key Sales and Pricing Information Needed to Prosecute Illegal Activity.	
	3.1	Authorize the Board to access sales and pricing data during investigations that resulted from a complaint or previously failed inspection.

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Sunset Advisory Commission Issues/Recommendations on the Texas State Board of Pharmacy		
Issue 4	Key Elements of the Board's Licensing and Regulatory Functions Do Not Conform to Commonly Applied Licensing Practices.	
	4.1	Require the Board to adopt procedures to ensure that its exams are accessible to persons with disabilities in accordance with the Americans with Disabilities Act.
	4.2	Authorize the Board to establish policies regarding non-refundable testing fees.
	4.3	Simplify the process for a pharmacist who holds an active license in another state to be licensed in Texas.
	4.4	Base delinquent license renewal fees on the Board's normally required renewal fee.
	4.5	Authorize staff to dismiss baseless cases.
	4.6	Increase the amount of the Board's administrative penalty authority and require the Board to adopt an administrative penalty matrix in rule.
	4.7	Remove the requirement that a majority of Board members must approve temporary suspension of a license and provide for the temporary suspension of pharmacies' licenses.
	4.8	Authorize the Board to use cease-and-desist orders with regard to practicing pharmacy without a license.
	4.9	Allow pharmacy faculty members to be eligible to serve on the Board.
	4.10	Authorize Board members to receive reimbursement for travel expenses.
	4.11	Require the Board to establish guidelines for Board subcommittees.
	4.12	Eliminate the Pharmacy Board Operating Account.
Issue 5	Decide on Continuation of the Board After Completion of Sunset Reviews of Other Health Licensing Agencies.	
Issue 6	Allow for a greater range of disciplinary sanctions for pharmacy technicians, such as reprimand, administrative penalty, restriction, or probation, similar to the sanctions allowed for other licensees.	
Issue 7	Require registration for pharmacy technician trainees.	
Issue 8	Give pharmacists the option of making their home addresses, maintained by the Pharmacy Board, confidential and exempt from open records requests.	

The Board identified a total of 37 issues or law changes that were presented to the Sunset Advisory Commission in the agency's Self-Evaluation for consideration. The final report of the Sunset Advisory Commission included 18 of these 37 policy issues (49%). The following is a list of the TSBP Sunset Policy Issues, including a notation as to whether the issue was recommended in the Sunset Advisory Commission Report.

TSBP Sunset Policy Issues			
Issue			Recommended by Sunset
Pharmacy Practice Issues			
1.	Drug Therapy Management Authority		NO
2.	Administration of Drugs		NO
3.	Pharmacist Professional Discretion		NO
4.	Authority to Mandate Peer Review		NO
5.	Preventing Medication Errors by Requiring Prescription Labels to be Legible		NO
6.	Valid Practitioner-Patient Relationship	Recommendation #1.6	

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TSBP Sunset Policy Issues				
Issue			Recommended by Sunset	
Enforcement Related Issues				
	Disciplinary Grounds for Pharmacists			
	7.	Supervision of Pharmacy Technicians	Recommendation #2.1	
	8.	Violations of Disciplinary Orders	Recommendation #2.2	
	9.	Repeat Disciplinary Actions for Impaired Licensees	Recommendation #2.2	
	10.	Misdemeanor Violations & Deferred Adjudication of Felony Offenses	Recommendation #2.3	
	11.	Disciplinary Action in Another State	Recommendation #2.4	
	Disciplinary Grounds for Pharmacies Located in Texas			
	12.	Disciplinary Action in Another State	Recommendation #1.3	
	13.	Violation of Drug Law by Owner/Officer of a Pharmacy	Recommendation #2.3	
	14.	Audit shortages of prescription drugs and/or controlled substances	Recommendation #2.5	
15.	Disciplinary Grounds for Pharmacies Located Outside of Texas		Recommendation #1.2	
16.	Disciplinary Grounds for Pharmacy Technicians			NO
17.	Disciplinary Sanctions for Pharmacies or Pharmacists			NO
18.	Disciplinary Sanctions for Interns			NO
19.	Disciplinary Sanctions for Technicians		New Issue 6	
20.	Emergency Suspension Process		Recommendation #4.7	
21.	Maintenance of Pharmacy Records			NO
22.	Cancellation of License			NO
23.	Authorization for Inspections			NO
24.	Access to Financial and Pricing Data		Recommendation #3.1	
Miscellaneous Issues				
25.	Licensing Procedures (Applicant Legally in USA)			NO
26.	Board Member Qualifications (Faculty Member on Board)		Recommendation # 4.9	
27.	Confidentiality of Pharmacist's Home Address		New Issue #8	
28.	Non-Pharmacist Preceptor			NO
29.	Board Member Per Diem		Recommendation #4.10	
30.	Peace Officers Ability to Carry a Firearm and Arrest			NO
31.	Registration of Pharmacy Technician Trainees		New Issue #7	
32.	Definition of Pharmacy Technicians			NO
Addendum List				
33.	Referral to the Office of the Attorney General		Recommendation #4.8	
34.	Amount of Civil Penalty			NO
35.	Amount of Administrative Penalty		Recommendation #4.6	
36.	Repeal of Chapter 567			NO
37.	Regulation of Wholesale Drug Distributors			NO

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2. *To assist and participate with the Board in updating and preparing the TSBP Strategic Plan for the FY2005-2009 period and submit the plan to the Governor's Office of Budget and Planning and Legislative Budget Board by the due date.*

Status: ACCOMPLISHED

Comment: The *Strategic Plan* for the 2005-2009 period was the product of the following:

- A. Overall review of the *2003-2007 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 needed to be addressed; and
- B. Comments solicited from key pharmacy professional organizations, consumer advocacy groups, governmental agencies, and academic institutions.

The agency conducted research into the trends and resulting issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years. The Board Members worked with staff to develop these Issue Statements and approved the final *Strategic Plan* at the May 2004 Board Business Meeting.

3. *To direct the preparation of a proposed budget for the FY2006-2007 biennium for review and approval by the Board at the 2004 Board Budget Meeting.*

Status: ACCOMPLISHED

Comment: A conference call to review the proposed budget with the executive committee of the Board was held on April 21, 2004. Agency staff made changes suggested by the executive committee. The proposed budget was presented to the full Board at the May 2004 meeting. At this meeting the Board reviewed and approved the agency's *Strategic Plan* for FY2005-2009 and the *Legislative Appropriation Request* (LAR) for FY2006-2007. The Board Members were apprised of the exceptional items requested in the LAR, most notably the funding required to restore the agency to a 100% FY2004-2005 level for the biennium, and to add key enforcement staff to maintain the statutorily mandated Pharmacy Technician Registration and Enforcement Program.

4. *To direct the submission of the agency's FY2006-2007 Legislative Appropriation Request and corresponding performance measures by the due date.*

Status: ACCOMPLISHED

Comment: The *Legislative Appropriation Request* (LAR) was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget and Planning (GOBP) by the due date of July 30, 2004. During this fiscal year, the Executive Director made the following presentations on the FY2006-2007 LAR.

May 27, 2004	Orientation to the agency for the new LBB Budget Analyst
August 25, 2004	Preview of the LAR to the House Appropriations Subcommittee on Regulatory
August 26, 2004	Budget presentation to the staff of the LBB/GOBP

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5. *To direct the implementation of the new program to register and regulate pharmacy technicians throughout FY2004.*

Status: ACCOMPLISHED

Comment: The 78th Texas Legislature authorized funds for the agency to implement the registration and enforcement of the Pharmacy Technician Program, including the addition of a total of nine new positions for the biennium. In FY2004, three of these nine new positions were funded, two in Licensing and one in Enforcement. The project began in October 2003, and by the end of the fiscal year, 22,164 pharmacy technicians were successfully registered with TSBP.

The cooperation of all divisions and staff was critical to the successful accomplishment of this task. In order to capture the enormity of this project, it is important to review the comments under the following objectives:

- Administrative Services and Licensing New Objective #5 and Ongoing Objectives #3, #7, #14, and #15;
- Enforcement New Objective #4 and Ongoing Objectives #3 and #5;
- Legal New Objective #4 and Ongoing Objectives #1, #2, #3, #8, and #13; and
- Professional Services New Objective #4.

Significant events during the implementation are described below:

- A. Rules. On November 18, 2003, the Board adopted rules regarding the registration process (e.g., fees to be charged for the biennial fee), continuing education, and training. On February 3, 2004, the Board adopted rules regarding duties that a registered technician may perform and rules relating to disciplinary actions against technicians. On August 3, 2004, the Board adopted rules regarding exempted pharmacy technicians; these rules clarify that exempted technicians (technicians exempt from certification by PTCB) must be registered. The rules were also amended to allow a technician who was granted an exemption under the long-term employee provisions ("grandfather" clause) to work at any pharmacy. However, if the technician was granted an exemption under the rural county provisions, the technician's registration would be void if that technician ceased employment at the pharmacy where the exemption was originally granted.
- B. Registration Process. The development of the on-line registration of pharmacy technicians began in the fall of 2003, with the first registration issued in February 2004. During FY2004, TSBP received approximately 24,000 applications. Approximately 10% of the initial applicant pool had a criminal record requiring further review/investigation by TSBP and necessitating the opening of a complaint. Accordingly, TSBP experienced a massive increase in the number of complaints received in FY2004.
- C. Disciplinary Guidelines. Guidelines for the staff to use when reviewing pharmacy technician applications and determining whether a technician's application should be denied or suspended were approved by the Board at its meeting held on February 3-4, 2004. Under these guidelines, TSBP entered 234 disciplinary orders against technicians. The Board held two additional business meetings in the fourth quarter of FY2004 in order to review/approve disciplinary orders being entered against technicians, and thereby, expedite the technicians' registration process.

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6. *To review and implement legislation passed by the 78th Legislature that affects agency operations and/or the practice of pharmacy throughout FY2004, including the following:*

- A. H.B. 9 - relating to Homeland Security;
- B. H.B. 660 - relating to access to criminal history record information by certain licensing and regulatory agencies;
- C. H.B. 1095 - relating to the authority of advanced practice nurses and physician assistants to administer, provide, and carry out or sign a prescription drug order;
- D. H.B. 1614 - relating to the reporting of medical errors by certain hospitals, ambulatory surgical centers, and mental hospitals;
- E. H.B. 1686 - relating to pharmacies that maintain emergency medication kits at certain institutions;
- F. H.B. 2292/H.B. 3486 - relating to a health care facility's return of certain unused drugs to a pharmacy and to reimbursement or credit under the state's medical assistance program for returned drugs;
- G. H.B. 2376 - relating to the correction or removal from the statutes of obsolete references regarding the surety bonds of state officers and employees;
- H. H.B. 2485 - relating to internal auditing of state agencies;
- I. H.B. 2985 - relating to the Office of Patient Protection;
- J. H.B. 3208 - relating to the temporary provision of lump sum payments to certain retiring members;
- K. S.B. 144 - relating to the requirement that certain information be provided to health care practitioners regarding the use and abuse of certain drugs;
- L. S.B. 803 - relating to the advertisement and promotion of certain compounded drug products by a pharmacy or pharmacist;
- M. S.B. 939 - relating to the ratio of pharmacists to pharmacy technicians in certain pharmacies;
- N. S.B. 957 - relating to emergency medication kits maintained for a veterans home;
- O. S.B. 1315 - relating to the establishment of pharmacy license classifications by the Texas State Board of Pharmacy;
- P. S.B. 1356 - relating to the adoption of rules restricting the use of a practitioner's DEA registration number; and
- Q. S.B. 1370 - relating to certain group benefit plans.

Status: ACCOMPLISHED

Comment:

- A. H.B. 9 – Chief of Investigations Joe Lewis attended several meetings with the Governor's Homeland Security Task Force, of which TSBP is a member. In the event of an emergency, Chief Lewis and all field investigators who are commissioned peace officers will be assigned to assist specific areas of Texas.
- B. H.B. 660 – The agency determined not to implement the fingerprint DPS/FBI check for agency licensees, but to monitor implementation by the Board of Nurse Examiners to determine the impact on agency workload.
- C. H.B. 1095 – An article regarding this new provision was included in the Fall 2003 *Newsletter*. Agency staff also answered numerous telephone calls regarding provisions of the bill.

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- D. H.B. 1614 – No specific action of TSBP is required by this bill. Notification of the provisions of the bill was included in the Fall 2003 *Newsletter*.
- E. H.B. 1686 – Notification of the provisions of the bill was included in the Fall 2003 *Newsletter*.
- F. H.B. 2292/H.B. 3486 – The Board of Pharmacy was required to adopt rules to implement this legislation by January 1, 2004. Rules were presented to the Board for consideration for proposal at the August 2003 meeting and published in the *Texas Register* on October 3, 2003. The Board voted to adopt the proposed rules at the November 2003 meeting, and the rules became effective on December 23, 2003.
- G. H.B. 2376 – Administrative Services and Licensing Division took the necessary steps to implement this legislation.
- H. H.B. 2485 – This bill amended the Texas Internal Audit Act to require that all agencies conduct a formal risk assessment and submit an annual Risk Assessment Report to the Office of the State Auditor (SAO). The agency has implemented an annual process to assess the risk and possible exposure of fraud, and implemented crucial fraud prevention measures. The annual Risk Assessment Report was submitted by the due date to the SAO.
- I. H.B. 2985 – The rules were modified to include the required increases to the initial licensing fee by \$5 and the renewal fee by \$2 to fund the Office of Patient Protection. The Board proposed the rules at the August 2003 meeting and adopted them at the November 2003 meeting. The rules became effective on December 23, 2003. In addition, TSBP worked through the Health Professions Council to implement other provisions of the bill. Director of Enforcement, Carol Fisher, served on the committee to develop a standard complaint form. The greatest impact of this bill will be felt in FY2005 and the years beyond.
- J. H.B. 3208 – Administrative Services and Licensing Division took the necessary steps to implement this legislation.
- K. S.B. 144 – Director of Professional Services, Allison Benz, worked closely with other agencies (Texas State Board of Medical Examiners, Texas State Board of Podiatric Medical Examiners, State Board of Dental Examiners, Board of Nurse Examiners, and Texas Optometry Board) in preparing information for health professionals on the abuse and misuse of prescriptions as required by the bill. The information was posted on the TSBP website January 1, 2004.
- L. S.B. 803 – The provisions of this bill were included in the language to implement the recommendations of the Task Force on Pharmacy Compounding. These rules were adopted by the Board at the May 2004 meeting and became effective on June 4, 2004.
- M. S.B. 939 – Rules were presented to the Board for consideration for proposal at the November 2003 meeting, and the Board voted to adopt the proposed rules at the February 2004 meeting. The rules became effective on March 4, 2004.
- N. S.B. 957 – Notification of the provisions of the bill was included in the Fall 2003 *Newsletter*.

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- O. S.B. 1315 – Rules were presented to the Board for consideration for proposal at the November 2003 meeting and published in the *Texas Register* on December 26, 2003. The Board voted to adopt the proposed rules at the February 2004 meeting, and the rules became effective on March 4, 2004.
 - P. S.B. 1356 – No specific action of TSBP was required by this bill. Notification of the provisions of the bill was included in the Fall 2003 *Newsletter*.
 - Q. S.B. 1370 – Administrative Services and Licensing Division took the necessary steps to implement this legislation.
7. *To coordinate and participate in the orientation of new Board Members within 90 days of appointment by the Governor.*

Status: **ACCOMPLISHED**

Comment: On April 14, 2004, Governor Rick Perry appointed new Board members Marcelo Laijas, Jr. (public member) and W. Benjamin Fry, R.Ph. A two-day orientation for these two individuals was conducted on April 22-23, 2004. In June 2004, Kim Caldwell, R.Ph. was reappointed to serve a six-year term.

8. *To direct the survey of agency customers throughout FY2004 regarding the quality of service delivered by the agency as specified in Chapter 2113 of the Government Code, and submit the report to the Legislative Budget Board and the Governor's Office of Budget and Planning by June 1, 2004.*

Status: **ACCOMPLISHED**

Comment: A customer service questionnaire was mailed to approximately 11,523 board customers from January - December 2003. As questionnaires were returned, the data was entered by either agency staff or interns, and analysis conducted by the Director of Enforcement. The analysis of findings and survey results were presented to the Board at its May and August 2004 meetings. The report was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget and Planning on June 1, 2004.

Objectives (Ongoing)

1. *To manage and monitor the agency's performance and operational efficiency throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: The agency accomplished or partially accomplished 100% of its 117 objectives [112 accomplished (96%) and five partially accomplished (4%)]. The agency also met or exceeded all (100%) of its 13 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board as indicated below.

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Performance Measure		FY04 Projected Performance	FY04 Performance Attained	Projected Target Met?*
A. Goal: Maintain Standards - To establish and implement reasonable standards for pharmacist education and practice, and for the operations of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas.				
	Outcome (Results/Impact)			
	Percent of Licensees with No Recent Violations	99%	96.30%	Met
	Percent of Licensees Who Renew Online	18%	47.29%	Exceeded
	Percent of New Individual Licenses Issued Online	0%	90.08%	Exceeded
	A.1.1. Strategy: Licensing - To operate a timely, cost-effective application and renewal licensure system for pharmacies and pharmacists.			
	Output (Volume)			
	Number of New Licenses Issued to Individuals	780	871	Exceeded
	Number of Licenses Renewed (Individuals)	10,880	11,000	Exceeded
	Efficiencies			
	Average Licensing Cost Per Individual License Issued	\$15.74	\$11.10	Exceeded
	Average Licensing Cost Per Facility License Issued	\$36.98	\$35.11	Exceeded
	Explanatory			
	Total Number of Business Facilities Licensed	5,850	6,014	Exceeded
B. Goal: Enforce Regulations - To assertively and swiftly enforce all laws relating to the practice of pharmacy to ensure that the public health and safety is protected from the following: incompetent pharmacists; unprofessional conduct; fraud; and misrepresentation by licensees; and diversion of prescription drugs from pharmacies; and to promote positive patient outcomes through the following: reduction of medication errors by encouraging or requiring licensees to implement self-assessment programs and continuous quality improvement programs, including peer review processes; and enforcement of rules relating to patient counseling and drug regimen review, including prevention of misuse and abuse of prescription drugs.				
	Outcome (Results/Impact)			
	Percent of Jurisdictional Complaints Resulting in Disciplinary Action	10%	11.89%	Exceeded
	B.1.1. Strategy: Enforcement - Emphasize preventative enforcement by conducting compliance inspections of pharmacies; providing technical assistance, licensee information, and educational programs; receiving, investigating, and resolving complaints; and monitoring compliance with disciplinary orders resulting from board adjudication.			
	Output (Volume)			
	Number of Jurisdictional Complaints Resolved	1,700	2,982	Exceeded
	Efficiencies			
	Average Time for Jurisdictional Complaint Resolution	250	119	Exceeded
	Explanatory			
	Number of Jurisdictional Complaints Received	1,800	4,436	Exceeded
	B.1.2. Strategy: Peer Assistance - Operate a peer assistance program.			
	Output (Volume)			
	Number of Licensed Individuals Participating in a Peer Assistance Program	135	182	Exceeded

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

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2. *To coordinate the development of proposed goals and objectives and budget for FY2005, based on the Strategic Plan and projected budget, for submission to the Board two weeks prior to the 2004 Annual Policy Meeting.*

Status: ACCOMPLISHED

Comment: The TSBP 2004 Goals and Objectives and FY2004 operating budget were submitted to the Board as scheduled and were approved by the Board at its August 3-4, 2004, 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 FY2004.*

Status: ACCOMPLISHED

Comment: The agency's Enforcement, Compliance, Investigations, and Legal staffs worked extensively with federal, state, and local regulatory agencies. (See Enforcement Division's Ongoing Objective #4, Legal Division's Ongoing Objective #5, and Professional Services Division's Ongoing Objective #9 for details of these cooperative efforts.)

4. *To review all federal statutes, regulations, and policies that may impact the regulation of the practice of pharmacy and make timely recommendations to the Board for implementation of any required Board actions throughout FY2004.*

Status: ACCOMPLISHED

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

5. *To personally participate and represent Board policies and programs to local, state, and national pharmacy, health-related, and consumer organizations during FY2004.*

Status: ACCOMPLISHED

Comment:

- A. The Executive Director gave 37 interviews with the press concerning a number of issues as follows:

Date	Media/Subject
9/9/03	Telephone interview with Christine Smith, Lubbock Avalanche Journal, regarding Canadian Store Front Pharmacies
9/24/03	Telephone interview with Jennifer Joseph, Channel 24, Houston, regarding Canadian pharmacies
9/29/03	Telephone interview with Charles Hadad, Business Week, Atlanta Bureau, regarding Canadian Store Front Pharmacies
10/8/03	Telephone interview with Carol Ukens, Drug Topics, regarding federal law suit against Medco

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Date	Media/Subject
10/11/03	Telephone interview Channel 10, Waco, regarding RxDepot
10/13/03	Telephone interview with Jennifer Joseph, Channel 24, Houston, regarding Canadian pharmacies
10/13/03	On camera interview, Channel 13 Houston, regarding Internet pharmacies
11/19/03	Telephone interview with Joanne Hopkins, Today's Council Newspapers, regarding Internet pharmacies
12/3/03	Telephone interview with Pete Alfonso, Fort Worth Star Telegram, regarding Internet pharmacies
12/9/03	Telephone interview with Marina Pazano, San Antonio Express News, regarding pharmacy compounding
12/15/03	Telephone interview with Brent, Wichita Falls Times Record News, regarding programs to help indigents receive drugs
12/15/03	Telephone interview with Beth Quinn, The Record, Middletown, New York, regarding Internet pharmacies
12/16/03	Telephone interview with Jeff Mossier, Dallas Morning News, regarding rogue on-line pharmacies
12/29/03	Telephone interview with Laurie Tate, Texas Cable News, regarding ephedra ban
1/5/05	Telephone interview with Marina Pisano, San Antonio News, regarding pharmacy compounding
1/20/04	Telephone interview with Patrick Williams, Dallas Observer, regarding pharmacist refusing to dispense a prescription based on moral grounds
2/2/04	Telephone interview with Josh Ball, Denton Record Chronicle, regarding pharmacist refusing to dispense a prescription based on moral grounds
2/12/04	Telephone interview with Matt Joyce, Associated Press, regarding pharmacist refusing to dispense based on moral grounds
2/19/04	Telephone interview with Jeff Cooperman, "Dateline," NBC, New York, regarding pharmacist refusing to dispense based on moral grounds
3/11/04	Email interview with Carol Ukens, Drug Topics, regarding pharmacist refusing to dispense based on moral grounds
3/30/04	Telephone interview with Rhonda Hughes, NBC 5, Dallas/Fort Worth, regarding pharmacist refusing to dispense based on moral grounds
3/31/04	Telephone interview with Gretel Kovach, Dallas Morning News, regarding pharmacist refusing to dispense based on moral grounds
3/31/04	Telephone interview with Lance Anderson, KLIF Radio, Dallas, regarding pharmacist refusing to dispense based on moral grounds
3/31/04	Telephone interview with Laura Zainfeld, Texas Cable News, regarding pharmacist refusing to dispense based on moral grounds
3/31/04	Telephone interview with Mary Stewart CBS 11, Dallas/Ft. Worth, regarding pharmacist refusing to dispense based on moral grounds
3/31/04	Telephone interview with Paul Adrian, Fox 4, Dallas, regarding pharmacist refusing to dispense based on moral grounds
4/1/04	Telephone interview with Scott Sayres, Fox News, Dallas, regarding pharmacist refusing to dispense based on moral grounds
4/1/04	Telephone interview with Mandy Bishop, WOAI, San Antonio, regarding pharmacist refusing to dispense based on moral grounds
5/11/04	Email interview with Carol Ukens, Drug Topics, regarding procedures for discipline of pharmacists

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Date	Media/Subject
5/12/04	Telephone interview with Shelley Bueche, Austin Business Journal, regarding on-line pharmacies
6/24/04	Email interview with Carol Ukens, Drug Topics, regarding pharmacist refusing to dispense based on moral grounds
7/6/04	Telephone interview with Sara Sheffield, Channel 12, Sherman, regarding on-line pharmacies
7/6/04	Telephone interview with Rudy Koske, KVUE, Austin, regarding on-line pharmacies
7/16/04	Telephone interview with Jim Whittenberg, Church of Christ, regarding pharmacist refusing to dispense based on moral grounds
7/30/04	Telephone interview with Abbey Christopher, regarding pharmacist refusing to dispense based on moral grounds
8/12/04	Telephone interview with Jen Pechano, Fox News, Lubbock, regarding Canadian store front pharmacies
8/12/04	Telephone interview with Abbey Christopher, regarding pharmacist refusing to dispense based on moral grounds

B. The Executive Director gave 20 presentations to 1,970 persons, as indicated below.

Date	Name of Association/Location of Meeting	Attendance (Approximate)
9/6/03	Texas Pharmacy Association's North Texas Educational Fair – Dallas	50
9/7/03	University of Texas' 51 st Annual Postgraduate Pharmacy Seminar – Austin	450
9/12/03	University of Texas' 2003 Legends of Pharmacy Open, "Learning on the Links" – Austin	40
9/12/03	West Texas Pharmaceutical Association's 26 th Annual Fall Continuing Education Program – Lubbock	100
9/25/03	Texas Department of Health and Human Services Regional Pharmacists Conference – Austin	20
9/30/03	Texas Pharmacy Association's Forum on Importation of Prescription Drugs – Austin	50
10/3/03	Texas Federation of Drug Stores Annual Meeting – Austin	80
10/6/03	University of Texas Law Class – Austin	100
10/30/03	Attorney General's Government Law and Liability Conference, Presentation on the Role of the Executive Director – Austin	200
11/22/03	Texas Pharmacy Association's Section of Pharmacy Technicians – Austin	50
2/28/04	6 th Annual Eliminating Cancer Pain Seminar – Austin	25
3/6/04	El Paso Society of Health-System Pharmacists Frontiers of Pharmacy Seminar – El Paso	100
3/17/04	Bexar County Pharmaceutical Association Meeting – San Antonio	100
4/15/04	Greater Dallas Crime Commission Meeting – Dallas	30
4/16/04	Texas Society of Health System Pharmacists 55 th Annual Meeting and Seminar, Preceptor Training – Houston	150

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Date	Name of Association/Location of Meeting	Attendance (Approximate)
4/16/04	Texas Society of Health-System Pharmacists 55 th Annual Meeting and Seminar, Board Update and Forum – Houston	100
5/6/04	Wal-Mart District Managers – Austin	25
6/22/04	National Pharmacy Technician Association's Annual Meeting – San Antonio	50
7/8/04	Texas Pharmacy Association's 125 th Annual Meeting, Preceptor Seminar – Dallas	50
7/10/04	Texas Pharmacy Association's 125 th Annual Meeting, Board Update and Forum – Dallas	200
Total		1,970

- C. The Executive Director attended 48 meetings or conferences representing the agency as indicated below.

Date	Meeting
9/15/03	Health Professions Council Meeting
10/7/03	Meeting with representatives of HEB regarding automation and central fill
10/7/03	Health Professions Council Committee meeting regarding Office of Patient Protection
10/9/03	Meeting with representatives of Precision Rx regarding compounding
10/22/03	Health Professions Council Committee meeting regarding Office of Patient Protection
10/24/03	Health Professions Council Executive Committee meeting regarding Sunset Review of the Health Licensing Agencies
10/27/03	Meeting with representative of the Medical Board regarding joint investigations
10/28/03	Meeting with staff of the Governor's Health Policy Office regarding fraud
11/12/03	Texas Pharmacy Congress Meeting
11/14/03	Multiple Agency meeting regarding implementation of S.B. 144
11/26/03	Meeting with representatives of the Texas Higher Education Coordinating Board regarding shortage of pharmacists
12/4/03	Meeting with representatives of a compounding pharmacy
12/4/03	Meeting with a representative of the Lt. Governors Office regarding Sunset
1/6/04	Meeting with Senator Van de Putte
2/6/04	Meeting with representatives of the UTMB Correctional Managed Care
2/12/04	Meeting with representative of Class D pharmacy regarding prepackaging rules
2/18/04	Texas Pharmacy Congress meeting
3/5/04	Meeting with Texas Department of Health, Food and Drug Division, regarding possible MOU on compounding
3/8/04	Health Professions Council Meeting

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Date	Meeting
3/8/04	Meeting with staff in Senator Mike Jackson's office regarding TSBP Sunset Review
3/12/04	Meeting with staff in Representative Dunham's office regarding TSBP Sunset Review
3/17/04	Meeting with staff in Representative Solomon's office regarding TSBP Sunset Review
3/17/04	Meeting with staff in Senator Shapleigh's office regarding TSBP Sunset Review
3/23/04	Sunset Advisory Committee Public Hearing on TSBP
3/25/04	Executive Steering Committee for Shared IT services in the Hobby Building
3/30/04	Meeting with HHSC Inspector General regarding MOU
4/6/04	Meeting with interested parties regarding pharmacy compounding
4/9/04	Meeting with representatives of Medco regarding new initiative
4/29/04	Meeting with Governor's Budget and Policy staff regarding issues facing the agency
5/11/04	Meeting with Pharmacy Practice Coalition
5/12/04	Texas Pharmacy Congress Meeting
5/19/04	Sunset Advisory Commission's Decision Meeting on TSBP Sunset Issues
5/25/04	Task Force on Patient Counseling
5/26/04	Health Professions Council budget meeting
5/26/04	Meeting with representatives of the Professional Recovery Network
5/27/05	Orientation of Legislative Budget Board Analysts
6/3/04	Meeting with representatives of Medco regarding centralized processing
6/14/04	Health Professions Council Meeting
6/25/04	Meeting with representatives of the Legislative Budget Board's Performance Review staff regarding generic substitution
7/22/04	Task Force on Patient Counseling
7/30/04	Interviews for the Health Professions Council Administrative Officer
4/2/04	Interviews for the Health Professions Council Administrative Officer
8/9/04	Meeting with representatives of PurduePharma
8/10/04	Meeting with the Joint Committee on Internship Programs
8/10/04	Meeting with the Texas Pharmacy Practice Coalition
8/11/04	Texas Pharmacy Congress Meeting
8/24/04	Meeting with representatives from Walgreen's and the City of Austin
8/26/04	Presentation of the FY2006-2007 Legislative Appropriations Request to the staff of the Legislative Budget Board and the Governor's Policy and Budget Office

6. *To act as the Board's liaison to the pharmacy professional associations throughout FY2004.*

Status: ACCOMPLISHED

EXECUTIVE DIRECTOR

Comment: The Executive Director attended 21 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
9/6/03	Texas Pharmacy Association's North Texas Educational Fair – Dallas
9/13/03	University of Texas Legends of Pharmacy Golf Tournament – Austin
9/13/03	West Texas Pharmaceutical Association Fall CE Meeting – Lubbock
9/30/03	Texas Pharmacy Association's Forum on Re-importation of Prescription Drugs – Austin
10/3/03	Texas Federation of Drug Stores Annual Meeting – Austin
11/6 - 11/8/03	National Association of Boards of Pharmacy District 6 Meeting – New Orleans
11/11 - 11/12/03	Texas Pharmacy Congress Meeting – Austin
11/22/03	Texas Pharmacy Association's Pharmacy Technician Seminar – Austin
2/17 - 2/18/04	Texas Pharmacy Congress Meeting – Houston
2/28/04	American Cancer Society Pain Management Meeting – Austin
3/6/04	El Paso Society of Health-System Pharmacists Meeting – El Paso
4/6/04	Meeting with pharmacy compounders – Austin
4/15 - 4/18/04	Texas Society of Health-System Pharmacists Meeting – Houston
4/24 - 4/28/04	National Association of Boards of Pharmacy Annual Meeting – Chicago
5/11/04	Meeting with Pharmacy Practice Coalition
5/12/04	Texas Pharmacy Congress Meeting
6/22/04	National Pharmacy Technician Association's Annual Meeting – San Antonio
7/7 - 7/11/04	Texas Pharmacy Association's Annual Meeting – Dallas
8/10/04	Meeting with the Joint Committee on Internship Programs
8/10/04	Meeting with the Texas Pharmacy Practice Coalition
8/11/04	Texas Pharmacy Congress Meeting

7. *To continue to take a proactive role in the operation of the Health Professions Council in cooperation with other member health regulatory agencies, the Legislature, and the Governor's Office during FY2004.*

Status: **ACCOMPLISHED**

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

Date	Activity
9/15/03	Health Professions Council Meeting
10/7/03	Health Professions Council Committee meeting regarding Office of Patient Protection

EXECUTIVE DIRECTOR

Date	Activity
10/22/03	Health Professions Council Committee meeting regarding Office of Patient Protection
10/24/03	Health Professions Council Executive Committee meeting regarding Sunset Review of the Health Licensing Agencies
11/14/03	Multiple Agency meeting regarding implementation of S.B. 144
3/8/04	Health Professions Council Meeting
5/26/04	Health Professions Council budget meeting
6/14/04	Health Professions Council Meeting
7/30/04	Interviews for the Health Professions Council Administrative Officer
4/2/04	Interviews for the Health Professions Council Administrative Officer

8. *To continue to support and participate in the Texas Pharmacy Congress throughout FY2004.*

Status: ACCOMPLISHED

Comment: The Executive Director attended all four of the Texas Pharmacy Congress (TPC) meetings held on November 11-12, 2003, February 18-19, 2004, May 11 - 12, 2004; and August 11-12, 2004; and provided staff support to President Doyle High, R.Ph., and Vice President Oren Peacock, R.Ph., at these meetings.

9. *To recommend changes to the Texas Pharmacy Act and rules, which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Board for consideration for action throughout FY2004.*

Status: ACCOMPLISHED

Comment: See New Objective #1 for a listing of the recommendations for changes to the Texas Pharmacy Act presented to the Sunset Advisory Commission.

10. *To conduct periodic reviews and annual evaluations of Division Directors, the Executive Assistant, and the Receptionist, and to monitor evaluations of employees in all Board Divisions throughout FY2004.*

Status: ACCOMPLISHED

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

Employee	Date of Evaluation	Person Conducting Evaluation
Allison Benz	7/19/04	Gay Dodson
Cathy Stella	7/20/04	Gay Dodson

EXECUTIVE DIRECTOR

Employee	Date of Evaluation	Person Conducting Evaluation
Estella Casarez	7/23/04	Kay Wilson
Kerstin Arnold	8/4/04	Gay Dodson
Carol Fisher	8/9/04	Gay Dodson
Kay Wilson	8/19/03	Gay Dodson

Division staff participated in professional and interpersonal development seminars, cross training and on-the-job training throughout FY2004 as follows:

Gay Dodson	
10/29 - 10/30/03	Attorney General's Government Law and Liability Conference
11/6 - 11/8/03	National Association of Boards of Pharmacy 's 6 th District Meeting, New Orleans
2/11/04	EEO Training
4/16 - 4/18/04	Texas Society of Health-System Pharmacists Annual Meeting, Houston
4/25 - 4/28/04	National Association of Boards of Pharmacy's 100 th Annual Meeting, Chicago
5/11/04	EAP Training "Wellness and Nutrition"
5/27/04	EAP Training for Supervisors
7/7 - 7/10/04	Texas Pharmacy Association's Annual Meeting
8/18/04	Governor's Management Development and Training Team Building Seminar "Getting Our Ducks in a Row"

Kay Wilson	
10/1/03	Texas Conference for Women
10/2/03	State Employee Charitable Campaign Coordinator Training
11/23/03	EAP Training "Weight Loss and Exercise"
12/4/03	EAP Training "Goal Setting"
1/6/04	Building and Procurement Commission's Travel Procedures Training
1/12/04	EEO Training (Online)
5/11/04	EAP Training "Wellness and Nutrition"
5/27/04	EAP Training for Supervisors
8/18/04	Governor's Management Development and Training Team Building Seminar "Getting Our Ducks in a Row"

EXECUTIVE DIRECTOR

Estella Casarez	
12/4/03	EAP Training "Goal Setting"
8/18/04	Governor's Management Development and Training Team Building Seminar "Getting Our Ducks in a Row"

- 11.** *To provide the Board's Executive Committee information necessary to conduct performance evaluation of the Executive Director by August 31, 2004.*

Status: **ACCOMPLISHED**

Comment: A self and staff evaluation of the Executive Director were presented to the Board at its August 2004 meeting. The Board conducted the performance evaluation at this meeting.

EXECUTIVE DIRECTOR

Administrative Services and Licensing Division

FY2004 SIGNIFICANT ACCOMPLISHMENTS

1. The division accomplished or partially accomplished 100% of its objectives (30 accomplished and two partially accomplished).
2. The Division met or exceeded 100% of the performance measures required to be submitted to the Legislative Budget Board.
3. The Pharmacy Technician Registration & Enforcement Program began development in October 2003, and ended in August 2004, with the majority of technicians registered. Workloads were intense as evidenced by the amount of overtime paid in this fiscal year. At year-end, 24,746 pharmacy technicians had completed a preliminary application, and of these, 22,164 were officially registered. The successful completion of the initial phase of this project required the cooperation and coordination of all divisions and all staff members. In order to capture the enormity of this project, it is important to review the comments under the following objectives:

Significant Accomplishments under Enforcement and Legal Divisions; Administrative Services New Objective #5; Enforcement New Objective #4 and Ongoing Objective #3; Legal New Objective #4 and Ongoing Objective #1; and Professional Services New Objective #4.
4. Significant efficiencies and/or benefits, primarily for board customers, have or will be gained through the implementation of a number of projects that included:
 - Implementation of the Pharmacy Technician Registration initial and renewal systems;
 - Completion of the imaging of all pharmacist records;
 - Enhanced agency website to include links to Board Order information for disciplinary actions, and a Newsletter subscription program;
 - Active computer virus and spyware monitoring; and
 - Implementation of the Pharmacy Online Renewal System.
5. The agency received a 100% compliance rating by the Texas Building and Procurement Commission on the Pre-Payment & Procurement audit of service contracts.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

6. As computer virus and hacker activity continues to dramatically increase, the agency has been successful in keeping security incidents extremely low. Upgrading anti-virus software, implementing automatic updates, weekly scans, and taking an assertive stance towards user passwords, as well as aggressively maintaining recommended security updates on the web server and firewall, have limited agency exposure to a single instance of unauthorized access on the web server and virus infection to zero.
7. The agency's website continues to provide accurate and concise information to board customers. As evidenced by the increase in the number of inquiries on the website and comments from external customers, it appears that the website is easily navigable and serves our customers well.

In FY2004, TSBP received approximately 439,728 website inquiries (average of 36,633 “hits” each month). This compares to prior years as follows:

Fiscal Year	Number of Website Inquiries	Cumulative Increase Since FY2000
FY2000	64,476	—
FY2001	90,701	40.67%
FY2002	112,184	73.93%
FY2003	160,937	149.60%
FY2004	439,728	582%

FY2004 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The results of the 78th Texas Legislature included a number of changes affecting state employees, beginning in FY2004. These legislative changes included:
 - reducing the budgets of state agencies, which, in many cases, meant a reduction or elimination of merit pay for outstanding performance;
 - significant increases to out-of-pocket costs for health coverage by all state employees;
 - reduced state contribution of health care coverage for part-time employees;
 - implementing a 90-day waiting period for health insurance and state retirement contribution for new state employees;
 - increasing the minimum age for retiree insurance; and
 - allowing a lump sum incentive payment for eligible retirees, which must be paid out of agency appropriations, thus reducing the funds available to the agency.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

2. The successful implementation of the initial registration of Pharmacy Technicians did not come without a price. Only two additional personnel were added to the Licensing Division, to handle this extraordinary influx of new registrants. The following chart shows some of the increase in workload requirements, which affected not only Licensing, but Administrative Services as well.

Increase in Workload Caused by the Pharmacy Technician Registration Program			
	FY2003	FY2004	% Change
Total Number of Licensees	27,568	50,289	82%
Telephone Calls Received	10,000	19,737	97%
Email Inquires Answered	4,000	10,880	172%
Changes of Employment/Address	6,166	7,452	21%
Amount of paid overtime to all agency staff	\$0	\$27,165	100%
Checks Returned due to insufficient funds or improper data	16	158	888%

Administrative Services and Licensing Division

FY2004 ANNUAL REPORT

GOAL

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

Objectives (New)

1. *To assist the Executive Director, in cooperation with other Divisions, in the agency Sunset Review process throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: In cooperation with the Executive Director and other Division Directors, Division Director assisted in the preparation of the formal response to the Sunset Staff Report on the agency. The Sunset Commission announced its decision regarding the Sunset Staff Report in May 2004, which approved many of the recommendations made by TSBP in its self-evaluation report.

The following major milestones were completed as follows:

September 24, 2003:	Introductory Meeting to review purpose, organization, timelines and information gathering of the Sunset Process.
October 2, 2003:	Agency Orientation
October 2003 - January 2004:	In-depth review of each division activities; extensive information gathering; data submission
January 21, 2004:	Draft of Staff Sunset Report Reviewed
January 30, 2004:	Exit Interview with Sunset Staff
February 2004:	Final Sunset Staff Report Released
February 28, 2004:	Formal Response by Agency
March 23-24, 2004:	Public Hearing
May 18-19, 2004:	Sunset Commission Decision Meeting

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

2. *To assist the Executive Director in updating and preparing the TSBP Strategic Plan for the 2005-2009 period, and submitting the plan to the Governor's Office of Budget and Planning and the Legislative Budget Board by the due date.*

Status: **ACCOMPLISHED**

Comment: The *Strategic Plan for the 2005-2009* period was the product of the following:

- A. Overall review of the *2003-2007 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 2004 Board Business Meeting.

3. *To prepare a proposed budget for the FY2006-2007 biennium for approval by the Board at the 2004 Board Budget Meeting.*

Status: **ACCOMPLISHED**

Comment: The Board met in May 2004 to review and approve the agency's *Strategic Plan* for FY2005-2009 and the *Legislative Appropriation Request* (LAR) for FY2006-2007. This review process linked the strategic planning process to the budgeting process. The Board Members were apprised of the exceptional items requested in the LAR, most notably the funding required to restore funding to a 100% staffing level for the biennium and to add key enforcement staff to maintain the statutorily mandated Pharmacy Technician Registration and Enforcement Program.

4. *To prepare and submit the agency's Legislative Appropriation Request and corresponding performance measures for FY2006-2007 by the due date.*

Status: **ACCOMPLISHED**

Comment: The *Legislative Appropriation Request* was submitted to the Legislative Budget Board (LBB) and the Governor's Budget Office (GBO) by the due date of July 30, 2004. The Division Director served as a resource to the Executive Director/Secretary at an orientation for the new LBB Budget Analyst on May 27, 2004; at the House Appropriations Subcommittee Hearing on August 25, 2004, and the initial budget hearing conducted by the LBB/GBO staff on August 26, 2004.

5. *To assist the Executive Director, in cooperation with other Divisions, in the implementation of the new program to register and regulate pharmacy technicians, throughout FY2004.*

Status: **ACCOMPLISHED**

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Comment: The 78th Texas Legislature authorized funds for the agency to implement the registration and enforcement of the Pharmacy Technician Program, including the addition of a total of nine new positions for the biennium. In FY2004, three of these nine new positions were funded, two in Licensing and one in Enforcement. The project began in October 2003, and by the end of the fiscal year, 22,164 pharmacy technicians were successfully registered with TSBP.

The cooperation of all divisions and staff was critical to the successful accomplishment of this task. In order to capture the enormity of this project, it is important to review the comments under the following objectives:

Significant Accomplishments under Enforcement and Legal Divisions; Enforcement New Objective #4 and Ongoing Objective #3; Legal New Objective #4 and Ongoing Objective #1; and Professional Services New Objective #4.

With regard to this Division, the following major milestones were completed as follows:

- | | |
|---------------------------|--|
| October 2003: | Division promoted Carol Willess to Licensing Program Specialist. |
| November 2003: | An online Preliminary Application and computer programs were developed, tested, and implemented. A successful marketing effort was initiated to begin the initial registration process of all technicians employed at chain pharmacies and hospital pharmacies. |
| Dec. 2003 – Jan. 2004: | Division hired Diana Martinez-Ruedas as the Pharmacy Technician Specialist. Agency website was updated to include up-to-date information concerning the registration process and rules relating to pharmacy technicians. Fee structures, the biennial licensing system, and the Texas Online renewal applications were developed, tested, and implemented. |
| February 2004 – May 2004: | The first pharmacy technician was registered on February 23, 2004. Online application links were posted to the agency website and written notices were sent to all pharmacies of pending due date for the registration of technicians. |
| August 2004: | The biennial renewal process of newly registered technicians began. |

6. *To assist the Executive Director, in cooperation with other Divisions, in reviewing and implementing legislation passed by the 78th Texas Legislature that affects agency operations.*

Status: **ACCOMPLISHED**

Comment: Implementation of legislation included the Appropriations Act, provisions relating to employee benefits, leave, human resources; lump sum retirement; agency reporting requirements; internal audit requirements; savings incentive program; Health Professions Council; and Texas Online and the Department of Information Resources.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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

Status: **ACCOMPLISHED**

Comment: On April 14, 2004, Governor Rick Perry appointed W. Benjamin Fry, R.Ph., and Marcelo Laijas, Jr., to serve as Board Members through August 31, 2009. Division Director and Division staff participated in the orientation of the new Board Members on April 22-23, 2004.

Objectives (Ongoing) - Administrative Services

1. *To comply with all Comptroller Accounting Policies, Notices to State Agencies, and Attorney General Opinions relating to fiscal matters by specified due dates throughout FY2004.*

Status: **ACCOMPLISHED**

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

2. *To prepare and submit all required accounting and fiscal reports/reconciliations in compliance with all applicable state statutes throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: HB 2485 amended the Texas Internal Audit Act to require that all agencies conduct a formal risk assessment and submit an annual Risk Assessment Report to the Office of the State Auditor (SAO). In response to this legislation, the agency has implemented an annual process to assess the risk and possible exposure of fraud and implemented crucial fraud prevention measures. The annual Risk Assessment Report was submitted by the due date to the SAO.

The Comptroller's Office implemented procedures to streamline the submission requirements of the agency's Annual Financial Report (AFR). New electronic procedures enabled the agency to submit the AFR for the year ending August 31, 2004, one month early, on October 1, 2004. The Annual Report of Non-Financial Data was submitted on December 31, 2004, in accordance with the requirements established by the Comptroller of Public Accounts. The AFR was reviewed by the Comptroller's Office as part of the statewide annual financial report and found to be in compliance.

Finally, a monthly report was submitted to the Executive Director/Secretary for each month during the fiscal year that outlined major financial reports and reconciliations completed for the prior month.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- 3. *To review and recommend to the Executive Director additional sources of spendable revenue and to assess fees charged for Board services throughout FY2004.***

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. Revenue projections were made and closely monitored to ensure that expenditures did not exceed the required amount of revenue collected. Revenue projections were completed for FY2006-2007 in conjunction with the preparation of the Legislative Appropriation Request and presented to the Board in May 2004. These revenue projections were based on a projected fee reduction in FY2006, based on a 100% funding level at FY2005 levels. If additional appropriations beyond this funding level are authorized by the 79th Texas Legislature, the Board was informed that a fee adjustment would be necessary in FY2006.

As a result of the 78th Legislature, new riders regarding additional appropriations for the registration of pharmacy technicians and the new Office of Patient Protection required fee changes to the initial licensure and renewal of pharmacy and pharmacist licenses, as well as a new pharmacy technician fee. These fees were presented and approved by the Board with implementation occurring in January 2004. In addition, the projected timeline for additional Texas Online services for exam and reciprocity applications required fee increases to those areas to adjust for the expected subscription fee. These fees were presented and approved by the Board in May 2004, with implementation scheduled in September 2004.

- 4. *To assess the material needs of the agency and supervise the purchasing and supply activities in accordance with all Building and Procurement Commission rules and procedures throughout FY2004.***

Status: ACCOMPLISHED

Comment: A quarterly Procurement and Pre-Payment audit for the period June 1, 2003 - August 31, 2003, was conducted by the Texas Building and Procurement Commission (TBPC), resulting in a 100% compliance rating. In addition, the Chief Accountant continued to review all specifications, product tabulations, and purchase requisitions for compliance with agency policies and procedures and TBPC rules. This oversight ensured that the appropriate procurement method was identified, the agency received the best value for the product or service purchased, and that funds were always available.

- 5. *To increase the efficiency and productivity of Board office operations by managing and coordinating space needs and on-site maintenance of the Board's office facilities throughout FY2004.***

Status: ACCOMPLISHED

Comment: The 78th Legislative Session added nine additional staff to the agency for the biennium. Of this number, three were added to the Austin office in FY2004, and four were scheduled to be added to the Austin office in FY2005. Because no additional space was allocated to the agency to accommodate these new personnel, measures were undertaken to use existing space. Pharmacist files were imaged, which resulted in the removal of 35 file cabinets. This activity, along with extensive reconfiguration and downsizing of the file and work areas of the office space, resulted in the installation of three cubicles, two offices, and one shared office.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

6. *To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2004.*

Status: ACCOMPLISHED

Comment:

- A. All newly hired and current employees received Equal Employment Opportunity/Sexual Harassment Training as required by state law.
- B. The agency reviewed its Recruitment Plan/Affirmative Action Plan and made updates as necessary. No employee grievances or discrimination complaints were filed, and there were no employment discrimination charges pending with the Texas Commission on Human Rights.
- C. The agency received 390 applications for employment during this fiscal year, which resulted in nine new hires and four promotions. (Note: Providing EEO information by applicants is strictly voluntary. Forty-six applicants did not provide the information.)
- D. The following table reflects the agency's EEO profile for employees hired, promoted, or terminated during FY2004, as well as an applicant profile report.

Agency EEO Data	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	4	0	0	0	0	0	0	0	4	4
Professional	4	8	0	1	1	3	0	0	5	12	17
Para-Prof	5	9	0	2	0	6	0	0	5	18	22
Admin Support	0	0	0	0	0	1	0	0	0	1	1
TOTALS	9	21	0	3	1	10	0	0	11	34	44

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	0	0	0	0	0	0	0	0
Para-Prof	0	5	0	0	0	3	0	1	0	9	9
TOTALS	0	5	0	0	0	3	0	1	0	9	9

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

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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

Applicants	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	3	0	2	1	0	0	0	1	5	6
Professional	0	2	0	1	2	0	0	0	2	3	5
Para-Prof	67	136	16	52	37	64	4	3	124	255	379
TOTALS	67	141	16	55	40	64	4	3	127	263	390

7. *To manage the information resource needs (data processing, telecommunication, and website) of the agency throughout FY2004.*

Status: ACCOMPLISHED

Comment:

- A. Security and system availability remained a top priority, with 2,245 viruses blocked and 924 potential systems attacks blocked. Website security was enhanced.
- B. The Information Resources Manager contributed a significant amount of time and effort to the Information Resource Technology Committee/Consolidation effort with the Health Professions Council and the Department of Information Resources sponsored Hobby Consolidation Committee.
- C. All necessary hardware/software, including a new TLETS system and 13 PC's, were replaced. All systems were replaced in accordance with the Agency's Life Cycle Schedule.
- D. The Imaging Project was completed through the scanning of all pharmacist files to date.
- E. A revised Customer Service data base was implemented.
- F. The agency website, specifically the front page, was refreshed and enhanced. A *Newsletter* subscription program was added and existing web content was reviewed and updated. Additional data viewing fields were added to the License Verification pages to include links to Board Order information for disciplinary actions, and new verification pages were implemented to reflect the new population of registered technicians.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- In FY2004, the agency received approximately 439,728 website inquiries (average of 36,633 “hits” each month). This compares to prior years as follows:

Fiscal Year	Number of Website Inquiries	Cumulative Increase Since FY2000
FY2000	64,476	—
FY2001	90,701	40.67%
FY2002	112,184	73.93%
FY2003	160,937	149.60%
FY2004	439,728	582%

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 FY2004.*

Status: **ACCOMPLISHED**

Comment: Agency staff destroyed 230.19 cubic feet of records, in accordance with the TSBP record retention schedule, and 306 cubic feet of records were sent to the State Library for retention. The imaging of pharmacist files was completed with 641,166 pages scanned into the imaging system.

9. *To assist the Executive Director in conducting a survey of agency customers regarding the quality of service delivered by the agency as specified in Chapter 2113 of the Government Code, and submit by June 1, 2004.*

Status: **ACCOMPLISHED**

Comment: Division Director assisted the Director of Enforcement in developing an inventory of external customers for the Licensing & Enforcement budget strategies, to identify groups of individuals to be surveyed. In a departure from previous years, TSBP determined to mail the survey at the point of contact throughout calendar year 2003, instead of conducting a random sample (as the agency did in FY2000 and FY2002). A questionnaire was mailed to approximately 11,523 board customers from January - December 2003. As questionnaires were returned, the data was entered by either agency staff or interns, and analysis conducted by the Director of Enforcement. The analysis of findings and survey results were presented to the Board at its May and August 2004 meetings.

10. *To provide verbal and written information to Board staff and customers throughout FY2004 including, by the assigned due dates, the preparation of:*

- A. LBB Performance and Funds Management Report and other special reports as requested by LBB, legislative committees, legislators, and others, in conjunction with other Divisions as necessary;
- B. responses to surveys and questionnaires; and

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- C. a report of the types and numbers of surveys/questionnaires/reports completed by all Divisions during FY2004.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished as follows:

A. Statutorily Required Reports

Report Title	Recipient(s)	Division Reporting
Agency Strategic Plan	Governor, Legislative Leadership, LBB, Oversight Agencies	All
Legislative Appropriations Request	Governor's Budget Office, LBB	All
Information Resources Strategic Plan and Biennial Operating Plan	Legislative Budget Board	Information Resources
Registrations	Ethics Commission	Administration/Legal
FTE State Employees	State Auditor	Administration
Governmental Employees Quarterly Report	Texas Workforce Commission	Administration
Deferred Compensation (457) Plan Confirmation of Reconciliation	Employees Retirement System	Administration
Employer's Quarterly Federal Tax Return	Internal Revenue Service	Administration
Retirement Contributions Reconciliation Report	Employees Retirement System	Administration
Annual Financial Report	Governor's Office; LBB; State Comptroller; State Auditor	Administration
Non-Financial Annual Report	Governor's Office; LBB; State Comptroller; State Auditor	Administration
Recycled Materials Expenditures	Texas Building & Procurement Commission	Administration
Historically Underutilized Business Progress Reports	Governor's Office; Lt. Governor; Speaker of House; Texas Building & Procurement Commission	Administration
Encumbrance Reports	State Comptroller; State Auditor; LBB	Administration
State Use Report	Texas Building & Procurement Commission	Administration
Non-Resident Bidders	LBB	Administration
EEO Information Report	Texas Workforce Commission	Administration
Minority Hiring Practices	Texas Workforce Commission	Administration
Membership & Training Report	LBB	Administration
Risk Management - Losses	Office of Risk Management	Administration
Performance and Funds Mgmt. Reports	Legislative Budget Board	Administration Enforcement
Contract Workforce Report	State Auditor, LBB, Governor	Administration
Open Records Online Monthly Report	Legislative Budget Board	All
Resource Efficiency Plan and Updates	Comptroller	Administration
FY03 Internal Audit Results	Governor's Office; LBB; State Comptroller; State	Administration

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Report Title	Recipient(s)	Division Reporting
	Auditor, Sunset Advisory Commission	
FY04 Risk Assessment	Governor's Office; LBB; State Comptroller; State Auditor, Sunset Advisory Commission	Administration

B. Other Surveys and Questionnaires:

Report Title	Recipient(s)	Division Reporting
Fiscal Survey	Health Professions Council	Finance
Space Needs Report	Texas Building & Procurement Commission	Administration
SORM Audit Material	SORM	Administration
Salary Parity Studies	Office of State Auditor	Administration
Changes to State Classification System	Office of State Auditor	Administration
Texas Online Report	Legislative Budget Board	Administration
Human Resources Survey	Council on Competitive Government	Administration
Post-Benchmarking Study	Department of Information Resources	Licensing
Workforce Planning Report	Office of State Auditor	All
Update to Fleet Procedures	Texas Building & Procurement Commission	Administration
Human Resources Management Practice Survey	Office of State Auditor	Administration
Vacancy Survey	Office of State Auditor	Administration
Revenue Projections for Contingent Appropriations	State Comptroller	Administration
Statistics on State Mandated Training	Department of Information Resources	Administration
Occupational Licensing Survey	Texas Online	Licensing
Exceptional Item Budget by Object Code	Legislative Budget Board	Administration
Information on Fees Collected	Legislative Budget Board	Administration

- C. Types and numbers of surveys/questionnaires/reports completed by all Divisions: The Administrative Services Division answered 1,647 telephone calls, responded to 4,046 emails, and sent approximately 500 letters to board customers. See Licensing Services Ongoing Objective #5, Professional Services Ongoing Objective #11, Legal Services Ongoing Objective #8, and Enforcement Ongoing Objective #6. In addition, the agency reported approximately 19,000 requests for information, both written and electronic, to the Texas Building & Procurement Commission.

11. *To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: Division staff participated in the following activities:

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- A. HPC Annual Report - Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
- B. The agency continued to participate in several HPC centralized services, such as the Courier Service, and Copy Center; Shared Employee Training; Shared Information Resource Technology staff, and use of the imaging system.
- C. Division Director and staff participated in the development and implementation of a survey instrument to determine what efficiencies might be gained through the sharing of financial services.

12. *To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: Division staff participated in the following activities:

Cathy Stella, Division Director	
Texas Online Occupational Licensing Steering Committee and Workgroup Meetings	
Orientation for board members, new staff members, and interns	
Health Professions Council Meetings & Subcommittee on Consolidation of Fiscal Activities	
Legislative Budget Board/Governor's Budget Office Staff Budget Hearings	
House Appropriations SubCommittee Budget Hearing	
Human Resources Director Workshop	
Behavioral Interviewing Seminar	
EAP Training for Supervisors	
Orientation for LBB and GBO Analysts	
Office of State Auditor Succession Planning Seminar	
Retirement Workshop	
Information Resources Consolidation Meeting	
EAP Presentations on various issues	
Texas Online/Bearing Point Meetings to implement Pharmacy Renewal Application	
Internal Audit Seminar	
Office of State Auditor E-Cat Training	
Sunset Staff Meetings/Orientations/Exit Interview	
Getting Our Ducks in a Row by Governor's Center for Management Development	
EEO Online Training	
All Staff Meetings; division meetings; Northrop Grumman meetings	

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Jane Bennett, Chief Accountant	
Annual Financial Report Seminar	
USAS User Meetings	
Internal Audit Meetings	
All staff meetings; accounting staff meetings	
SORM User Meetings	
EEO Online Training	
AFR Training	
Small Agency Task Force Meetings	
EAP Presentations	
SPA User Group Meetings	
HPC Fiscal Committee	
Getting Our Ducks in a Row by Governor's Center for Management Development	
Board meetings re: Internal Operating Budget and LAR	

Robbi Dana, Employee Relations Coordinator	
Insurance Summer Enrollment Training	
USPS Monthly Users Meetings	
EEO Training	
New staff orientation	
EAP Presentations	
Planning Your Retirement	
SORM Users Meeting	
EAP Supervisor's Training	
USPS Year End Training	
Getting Our Ducks in a Row by Governor's Center for Management Development	
Small Agency Task Force Meeting	

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Sandy Morton, Accountant	
EEO Training	
Getting Our Ducks in a Row by Governor's Center for Management Development	
Basic FY04 Year End Processes	
EAP Presentations	
USAS and IRS 1099 Process	
USPS Leave Accounting	
USAS Reports Lab	
Direct Deposit Process	

Darlene Guthrie, Purchaser	
Texas State Use Program	
Recycle Reporting in Texas	
Procurement Audit Brown Bag Series	
Goal Setting	
EEO Online training	
TINS Training	
Beyond the Basics of Purchasing Rules	
NIGP Code Training	
Nutrition and Wellness EAP Presentation	
Insurance 101	
Procurement Audit/Term Contract Training	
Getting Our Ducks in a Row by Governor's Center for Management Development	

Mary Helen Oviedo	
EEO Training	
Getting Our Ducks in a Row by Governor's Center for Management Development	
EAP Presentation	
Goal Setting	
Travel Management Program	
Beyond the Basics of Purchasing Rules and Guidelines	
Warrant Hold/Warrant Cancellations	
Survey of Organizational Excellence ACT Committee	

ADMINISTRATIVE SERVICES AND LICENSING DIVISION**Carol Willess, Licensing Administrator**

Getting Our Ducks in a Row by Governor's Center for Management Development

EAP Presentation

New Staff Orientation

2004 Texas State Agency Business Administrator's Association Meeting

2004 Texas State Agency Business Administrator's Association Web Committee Chair

TSBP Newsletter Committee

TSBP Wellness Committee Chair

NAPLEX & MPJE Orientation to students of Texas Southern University, University of Houston and Texas Tech University

Lisa Ake, Exam/Intern Specialist

NAPLEX & MPJE Orientation to students of Texas Southern University, University of Houston and Texas Tech

Getting Our Ducks in a Row by Governor's Center for Management Development

EEO Training

EAP Presentations

Steve Rapp, Information Resource Manager

New staff orientation for new hires

EAP Presentations

Monthly SSATF IT Meetings

Getting Our Ducks in a Row by Governor's Center for Management Development

EEO Training

Monthly HPC, IT Meetings

2004 TASSCC Conference

Todd Hayek, Network Specialist

Access Class

Database and Web Integration Course

EAP Presentations

Getting Our Ducks in a Row by Governor's Center for Management Development

EEO Training

Monthly HPC, IT Meetings

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Rachel Glass, Pharmacist Licensing Specialist	
EAP Presentations	
Women's 2004 Conference	
Getting Our Ducks in a Row by Governor's Center for Management Development	
EEO Training	
Participation in Pharmacist Online DIR Benchmarking Study	

Rene Howard, Pharmacy Licensing Specialist	
EAP Presentations	
EEO Training	
Getting Our Ducks in a Row by Governor's Center for Management Development	
Austin Community College - Pharmacology and Speech	

Melinda Uballe, Licensing Technician	
Getting Our Ducks in a Row by Governor's Center for Management Development	
EEO Training	
EAP Presentations	

Diana Martinez-Ruedas, Pharmacy Technician Registration Specialist	
EAP Presentations	
EEO Training	
Women's 2004 Conference	
Getting Our Ducks in a Row by Governor's Center for Management Development	
NCIC/TCIC Criminal Justice Practitioner and Peace Officer Training	

13. *To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2004.*

Status: ACCOMPLISHED

Comment: The Division achieved a 100% completion rate of evaluations scheduled for this fiscal year. All 13 employees were evaluated in July 2004.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- 14. *To update the Agency Personnel Handbook and the Division's Policy and Procedure Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2004.***

Status: PARTIALLY ACCOMPLISHED

Comment: Although the Employee Handbook was not updated, revisions were made to a number of other plans, including the Agency Fleet Procedures, Resource Efficiency Plan, *Risk & Safety Manual* and the *Disaster Recovery Manual*. Various licensing procedures were either updated or developed, including the continuous revision of website forms and instructions. New procedures were developed with regard to the Registered Pharmacy Technician.

- 15. *To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2004.***

Status: ACCOMPLISHED

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

- Implementation of the Pharmacy Technician Registration initial and renewal systems;
- Implementation of an online address/employment change for pharmacy technicians;
- Completion of the imaging of all pharmacist records;
- Enhanced agency website to include links to Board Order information for disciplinary actions, and a *Newsletter* subscription program;
- Active computer virus monitoring; and
- Implementation of the Pharmacy Online Renewal System.

- 16. *To recommend changes to the Texas Pharmacy Act and rules that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2004.***

Status: ACCOMPLISHED

Comment: Division Director recommended rule changes with regard to fees charged to pharmacy owners, exam applicants, and pharmacy technician applicants.

- 17. *To prepare and submit a report on the accomplishment of Division objectives for incorporation into the agency's FY2003 Annual Report to be presented to the Board by its May 2004 Board Meeting.***

Status: ACCOMPLISHED

Comment: The division's first draft of the FY2003 Annual Report was submitted to the Executive Director by the due date. The final draft of the TSBP Annual Report was presented to and approved by the Board at its May 2004 Board meeting.

Objectives (Ongoing) - Licensing

1. *To coordinate the collection of licensing data for Key Performance Targets required under the 2004-2005 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2004.*

Status: **ACCOMPLISHED**

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

PERFORMANCE MEASURES	TARGET FY04	ACCOMPLISHED FY04	Key or Non Key (K-NK)	Expectations
Percent of Licensees with No Recent Violations	99%	96.30%	K	Met
Percent of Licenses Who Renew Online	18%	47.29%	K	Exceeded
Percent of New Individual Licenses Issued Online	0%	90.08%	K	Exceeded
Individuals Examined (examinations administered)	1430	1543	NK	Exceeded
Number of Licenses Renewed (Individuals)	10,880	11,000	K	Exceeded
Number of New Licenses Issued to Individuals	780	871	K	Exceeded
Average Licensing Cost Per Individual License Issued	\$15.74	\$11.10	K	Exceeded
Average Licensing Cost Per Facility License Issued	\$36.98	\$35.11	K	Exceeded
Average Cost Per Exam Administered	\$70.42	\$66.22	NK	Exceeded
% of New Licenses Issued within 10 Days	98%	100%	NK	Exceeded
% Individual Licenses Issued within 7 Days	98%	100%	NK	Exceeded
Total Number of Individuals Licensed	21,820	22,111	NK	Exceeded
Total Number of Business Facilities Licensed	5,850	6,014	K	Exceeded
Pass Rate	90%	89.37%	NK	Met

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

2. *To determine the eligibility of all pharmacist applicants applying to take the NAPLEX and Texas Pharmacy Jurisprudence Examination for initial licensing or licensing by reciprocity throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: The following statistics relate to all applicants who were determined eligible and received a score for the NAPLEX and MPJE in FY2004:

JURISPRUDENCE (MPJE)	Total Exams Administered
Candidates Passing	851 (89.11%)
Candidates Failing	104 (10.89%)
TOTAL EXAMS JURISPRUDENCE	955 (100.0%)

NAPLEX	Total Exams Administered
Candidates Passing	528 (89.80%)
Candidates Failing	60 (10.20%)
TOTAL EXAMS NAPLEX	588 (100.0%)

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

NEW PHARMACISTS LICENSED - FY04	
Graduates of Texas Colleges of Pharmacy	386 (44%)
Graduates of Out-of-State Colleges of Pharmacy	437 (50%)
Credentialed by the Foreign Pharmacist Equivalency Committee	48 (06%)
Total	871 (100%)

Regarding reciprocity (license transfer) in and out of Texas, 259 candidates were licensed by reciprocity in FY2004, and the agency responded to requests from NABP for verification of licensure status of Texas licensees desiring to transfer to other states. The National Association of Boards of Pharmacy reports that in calendar year 2004, Texas had 298 requests for licensure transfer into the state and 305 licensure requests to transfer to other states.

3. *To provide staff support to the Examination Retake Committee and any other advisory committee related to licensing issues as required in FY2004.*

Status: **ACCOMPLISHED**

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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

4. *To issue an initial and/or renewal certificate to all pharmacy license applicants on receipt of the required fees and all required documents according to the following guidelines throughout FY2004:*

- A. initial certificates to pharmacy license applicants within seven working days; and
- B. renewal certificates to pharmacy license applicants within four working days.

Status: PARTIALLY ACCOMPLISHED

Comment:

The following chart represents the total number of pharmacy licenses (business or facilities) issued by the agency, and includes five classes of pharmacy licenses. The average processing time to issue a license from receipt of a completed application was three working days for a pharmacy renewal and 14.5 working days for a new pharmacy license. The total number of active pharmacy licenses at the end of the fiscal year was as follows:

PHARMACIES ACTIVE FY04	
Class A (Community)	4,245
Class B (Nuclear)	37
Class C (Institutional)	922
Class D (Clinic)	445
Class E (Non Resident)	365
TOTAL	6,014

A total of 4,855 change documents were processed as follows:

PHARMACY APPLICATIONS PROCESSED	
Pharmacy Renewals	2,648
New Opens	421
Change of Ownership	146
Change of Location	214
Change of Name	101
Closings	325
Changes of Managing Officers	1,000
TOTAL	4,855

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

5. *To issue renewal certificates to all pharmacist candidates within four working days of receipt of the required fee and all required documents throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: The agency renewed 11,000 pharmacist licenses on a biennial basis during FY2004. Approximately 48% of eligible pharmacists renewed their licenses online. The average processing time to issue a renewal license from receipt of a completed application was 1.2 business days. The total population of licensed pharmacists for this fiscal year is as follows:

PHARMACISTS LICENSED - FY04	
Active Status	20,708
Inactive Status*	1,293 **
TOTAL	22,111

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

** Of the above number, 282 pharmacists have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as "exempt."

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

WORKLOAD	STATISTIC
Changes of Address/Employment	7,452
Telephone Calls Received	19,737
Email Inquiries Answered	10,880
Information Packets Mailed	823
Customer Service Surveys Mailed	11,978
Faxes/Letters Sent	6,146
Reminder Letters Sent	6,040

6. *To issue a pharmacist license by examination, score transfer, or reciprocity within ten working days after the date the agency receives the examination results throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: The agency issued 871 new pharmacist licenses with an average turnaround time of five business days from the download of the examination results. Examination results were downloaded approximately once every five business days with the exception of the May - August period. During these months, examination grades were downloaded once every ten business days. Barring any other requirements that might be due for initial licensure, candidates received notice of their new licenses within an average of 10.5 business days of their examination date.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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

Status: ACCOMPLISHED

Comment: 752 new intern registrations were issued in FY2004 and all interns were certified within eight business days after receipt of all required documents. A total of 1,233 pharmacist preceptors were certified within three days of receipt of required documents.

- 8. *To audit the pharmacists' compliance with continuing education and to initiate complaints on pharmacists who are not in compliance with the rules regarding pharmacists' mandatory continuing education for relicensure, in cooperation with the enforcement team, throughout FY2004.***

Status: ACCOMPLISHED

Comment: Of the total number of audits initiated (258), 100% of the audits were closed or referred to Enforcement.

Professional Services Division

FY2004 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished all of the Division's 23 Objectives for FY2004.
2. During FY2004, Division staff took over the responsibility of handling open records requests (see Ongoing Objective #10).
3. The Texas version of the Multi-State Pharmacy Jurisprudence Examination (MPJE) continues to be an effective licensing tool to determine competency with respect to pharmacy law. With the assistance of pharmacist personnel from the Enforcement Division to review, develop, and evaluate questions, the MPJE continues to progress and remain a viable instrument.
4. Division Director gave eight presentations during FY2004 to over 500 pharmacists, pharmacy students, and pharmacy technicians.
5. Division Director worked closely with Network Specialist Todd Hayek and Information Systems Manager Steve Rapp to keep the TSBP web page updated. In addition, an email subscription for the TSBP Newsletter was implemented and added to the TSBP web page.
6. Division staff, consisting of two individuals, prepared and mailed or emailed 2,660 pieces of information during FY2004.

FY2004 SIGNIFICANT DISAPPOINTMENTS / CONSTRAINTS

1. Due to the \$7 billion shortfall for the FY2004-2005 biennium, the 78th Texas Legislature made the decision to cut expenditures for all state agencies. Due to TSBP's budget reduction of 12.5% (over the prior biennium), TSBP was no longer able to print and mail out the *Newsletter* to all pharmacists and pharmacies licensed by TSBP. Although four issues of the *Newsletter* were published on the TSBP web page during FY2004, only one issue was printed. The print issue (Spring 2004) was mailed only to pharmacies.

Professional Services Division

FY2004 ANNUAL REPORT

Goal

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

Objectives (New)

1. *To assist the Executive Director, in cooperation with other Divisions, in the agency Sunset Review process throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: The following staff of the Sunset Advisory Commission were assigned the task of reviewing the Board's operations: Joe Walraven (Project Supervisor), Katrina Daniel (Project Manager), and Meredith Whitten (Policy Analyst). Division Director participated in meetings, interviews, and reviews with the Sunset staff regarding agency and Division operations, as listed below:

September 24, 2003:	Introductory meeting (Division Director)
October 2, 2003:	Orientation/Overview of agency operations (Division Director)
November 18, 2003:	Sunset staff attended Board Meeting
January 30, 2004:	Discussion with Sunset staff regarding the staff report on TSBP (Division Director)

Division Director worked with Executive Director and other Division Directors to prepare response to the Sunset staff report on the agency, which was presented to the Sunset Commission at a public hearing on March 24, 2004. The Sunset Commission announced its decision regarding the Sunset staff report at a meeting on May 18-19, 2004, which approved many of the recommendations made by TSBP in its self-evaluation report.

PROFESSIONAL SERVICES DIVISION

2. *To assist the Executive Director in updating and preparing the TSBP Strategic Plan for the 2005-2009 period, and submitting the plan to the Governor's Office of Budget and Planning and the Legislative Budget Board, by the due date.*

Status: **ACCOMPLISHED**

Comment: At its meeting held on November 18-19, 2003, the Board reviewed comments concerning strategic planning by TSBP from persons who had submitted comments. Division Director, in consultation with Board Member W. Michael Brimberry, R.Ph., M.B.A., prepared the first draft of Policy Issue #2 relating to "Increased Use of Technology in the Practice of Pharmacy." The Board approved the draft of Policy Issue #2 at its meeting held on February 3-4, 2004. Division Director assisted in the review and preparation of the final draft of the *TSBP Strategic Plan*, which was approved by the Board at its meeting, held on May 4-5, 2004. Senior Administrative Assistant Retta Cole compiled various aspects of the *TSBP Strategic Plan* into one document. The *TSBP Strategic Plan* was published and delivered to the Governor's office and other applicable agencies and published on the Board's website by the due date.

3. *To assist the Executive Director, in cooperation with other Divisions, in the preparation of a Legislative Appropriation Request for the FY2006-2007 biennium.*

Status: **ACCOMPLISHED**

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

4. *To assist the Executive Director, in cooperation with other Divisions, in implementation of the new program to register and regulate pharmacy technicians throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: The 78th Texas Legislature authorized funds for TSBP to implement a new program to register pharmacy technicians in FY2004. Division Director worked with the Executive Director and other Divisions to draft applicable rules, online registration form, and procedures.

On November 18, 2003, the Board adopted rules regarding the registration process (e.g., fees to be charged for the biennial fee), continuing education, and training. On February 3, 2004, the Board adopted rules regarding duties that a registered technician may perform and rules relating to disciplinary actions against technicians. On August 3, 2004, the Board adopted rules regarding exempted pharmacy technicians; these rules clarify that an exempted technician (technician exempt from certification by PTCB) must be registered. The rules were also amended to allow a technician who was granted an exemption under the long-term employee provisions ("grandfather" clause) to work at any pharmacy. However, if the technician was granted an exemption under the rural county provisions, the technician's registration would be void if that technician ceased employment at the pharmacy where the exemption was originally granted.

PROFESSIONAL SERVICES DIVISION

5. *To assist the Executive Director, in cooperation with other Divisions, in reviewing and implementing legislation passed by the 78th Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: Division Director was appointed to serve on a committee to implement the provisions of S.B. 144. Division Director worked closely with other agencies (Texas State Board of Medical Examiners, Texas State Board of Podiatric Medical Examiners, State Board of Dental Examiners, Board of Nurse Examiners, and Texas Optometry Board) in preparing information for health professionals on the abuse and misuse of prescriptions as required by the bill. The information was posted on the TSBP website January 1, 2004.

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

Status: **ACCOMPLISHED**

Comment: On April 22-23, 2004, Division Director assisted the Executive Director and other Division Directors in the orientation of two new Board members Marcelo Laijas, Jr. (public member) and W. Benjamin Fry, R.Ph. These two individuals were appointed by Governor Rick Perry on April 14, 2004.

Objectives (Ongoing)

1. *To assist the Board, throughout FY2004, in its review of the Texas colleges of pharmacy degree and internship programs to determine if the programs are adequate to prepare a student for pharmacy practice.*

Status: **ACCOMPLISHED**

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

Date	College / School of Pharmacy	Board Member
4/29/04	University of Houston	Roger Anderson
4/29/04	Texas Southern University	Juluette Bartlett-Pack
5/13/04	University of Texas	Mike Brimberry
5/18/04	Texas Tech	Doyle High

Results of the on-site reviews of the internship records for the four Texas colleges of pharmacy were presented to the Board at its August 3-4, 2004, meeting.

PROFESSIONAL SERVICES DIVISION

In addition, a *Questionnaire on Texas Colleges of Pharmacy Internship Programs* was sent to the four Texas colleges of pharmacy. Responses were reviewed by the Director of Professional Services and presented to the Board on August 3, 2004, resulting in approval of the internship programs for the 2004-2005 academic year.

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

Status: **ACCOMPLISHED**

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

Date	Activity	Personnel
1/8 - 1/11/04	MPJE Item Writing Workshop, Chicago, IL	Allison Benz
1/22 - 1/25/04	MPJE Texas Item Pool Review, Scottsdale, AZ	Allison Benz, Ben Santana
7/04	MPJE National Item Pool Review, Austin, TX	Allison Benz, Ben Santana

3. *To publish an Internet version of the Newsletter during FY2004, in order to promote voluntary compliance with the law by providing information to educate pharmacists about their responsibilities under current law and rules, and to provide information consistent with the responsibilities of the Board.*

Status: **ACCOMPLISHED**

Comment: Due to budget constraints, TSBP was no longer able to print and mail out the *Newsletter* to all pharmacists and pharmacies licensed by TSBP. However, Division Director Allison Benz, serving as the Managing Editor, and Senior Administrative Assistant Retta Cole, serving as Editorial Assistant, coordinated publication of the following four Internet issues of the *Newsletter* during FY 2004:

- Fall 2003
- Winter 2004
- Spring 2004*
- Summer 2004

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

*Although four issues of the *Newsletter* were published on the TSBP web page during FY2004, only one issue was printed. The print issue (Spring 2004) was mailed only to pharmacies.

PROFESSIONAL SERVICES DIVISION

Every Issue Contained	Significant Articles in FY2004
President's Column	Corresponding Responsibility
Adopted Rules and Summaries	Internet Pharmacies - Don't Get Entangled by the Web
Disciplinary Actions	Pharmacy Technician Registration - What's Next?
Compliance Reminders	What Would You Dispense?
Complaint Corner	Sunset Review

In August 2004, an email subscription to the *Newsletter* was made available on the TSBP website. Subscribers provide an email address and are notified when a *Newsletter* is available on the web.

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

Status: **ACCOMPLISHED**

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

DRAFTING OF RULES

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

Rules
Drafted Proposed:
Amendments to §283.6 regarding Preceptor Requirements
Amendments to §281.8 regarding Grounds for Discipline of a Pharmacy License
Amendments to §§291.34, 291.55, and 291.105 regarding Electronic Prescription Drug Orders and Electronic Signatures on Written Prescriptions
Amendments to §291.34 regarding Prescriptions for Controlled Substances Carried Out by an Advance Practice Nurse or Physician Assistant
Amendments to §297.7 regarding Registration Status of a Pharmacy Technician when an Exemption is Canceled, and Status of a Long-Term Pharmacy Technician who Moves to Another Pharmacy
Amendments to §297.2 regarding Pharmacy Technician Training Programs
Amendments to §291.26 regarding Pharmacies Compounding Sterile Pharmaceuticals
Assisted the Administrative Services and Licensing Division in drafting:
Amendments to §281.6 regarding Pharmacy License Fees
Amendments to §283.9 regarding Fee Requirements of Examination, Score Transfer, and Reciprocity

PROFESSIONAL SERVICES DIVISION

5. *To coordinate the updating of the Texas State Pharmacy Law reference manual and provision of the updates to the publisher of the manual and to NABP for inclusion in NABPLAW during FY2004.*

Status: ACCOMPLISHED

Comment:

Law Reference

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

Law Reference Updates

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

- September 19, 2003
- January 9, 2004
- March 30, 2004
- June 3, 2004

NABPLAW Updates

Updates to NABPLAW were submitted as requested to the National Association of Boards of Pharmacy (NABP) on the following dates during FY2004:

- March 29, 2004
- June 8, 2004

NABP Survey of Pharmacy Law Updates

The NABP publication, Survey of Pharmacy Law, is updated annually. During FY2004, the update was completed by the Division Director and returned to NABP in July 2004.

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

Status: ACCOMPLISHED

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

RULE SUBMISSIONS TO THE TEXAS REGISTER

During FY2004, 76 submissions to the *Texas Register* were made that proposed, adopted, reviewed, repealed, or withdrew Texas Pharmacy rules. This represents a 62% increase from the number of submissions for FY2003. Division staff met deadlines for submissions to the *Texas Register*, monitored the submissions for action, and notified Board Members, TSBP staff, and other interested parties of the status of rules as follows:

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
§281.20	New	FY2003	FY2003	9/5/03	9/19/03
§281.22	Amendment	FY2003	FY2003	9/5/03	9/19/03
§283.6	Amendment	FY2003	FY2003	9/5/03	9/19/03
§291.35	Amendment	FY2003	FY2003	9/5/03	9/19/03
Chapter 291 (§291.35)	Rule Review	FY2003	FY2003	9/5/03	9/19/03
Chapter 291 (§§291.101-291.105)	Rule Review	FY2003	FY2003	9/5/03	9/19/03
§291.1	Amendment	10/3/03	9/19/03*	12/19/03	1/9/04
§291.6	Repeal/New	10/3/03	9/19/03*	12/19/03	1/9/04
§291.8	Repeal/New	10/3/03	9/19/03*	12/19/03	1/9/04
§291.29	Repeal	10/3/03	9/19/03*	12/19/03	1/9/04
§295.5	Repeal/New	10/3/03	9/19/03*	12/19/03	1/9/04
§295.6	Repeal	10/3/03	9/19/03*	12/19/03	1/9/04
§§297.1-.9	New	10/3/03	9/19/03*	12/19/03	1/9/04
§281.9	Amendment	12/26/03	1/9/04	2/27/04	3/30/04
§281.80	New	12/26/03	1/9/04	2/27/04	3/30/04
§283.5	Amendment	12/26/03	1/9/04	2/27/04	3/30/04
§283.6	Amendment	12/26/03	1/9/04	2/27/04	3/30/04
§291.20	Amendment	12/26/03	1/9/04	2/27/04	3/30/04
§291.22	New	12/26/03	1/9/04	2/27/04	3/30/04
§§291.31-.34 and 291.36	Amendment	12/26/03	1/9/04	2/27/04	3/30/04
§§291.52-.53	Amendment	12/26/03	1/9/04	2/27/04	3/30/04
§§291.72-.73 and 291.76	Amendment	12/26/03	1/9/04	2/27/04	3/30/04
§303.1	Amendment	12/26/03	1/9/04	2/27/04	3/30/04
Chapter 291 (§291.31-291.34)	Rule Review	12/26/03	1/9/04	2/27/04	3/30/04
Chapter 291 (§291.36)	Rule Review	12/26/03	1/9/04	2/27/04	3/30/04
§281.8	Amendment	3/26/04	3/30/04	5/28/04	6/3/04
§291.6	Amendment	3/26/04	3/30/04	5/28/04	6/3/04
§291.25	Amendment	3/26/04	3/30/04	5/28/04	6/3/04
§291.26	Amendment	3/26/04	3/30/04	5/28/04	6/3/04
§291.31-291.34	Amendment	3/26/04	3/30/04	5/28/04	6/3/04
§291.36	Amendment	3/26/04	3/30/04	5/28/04	6/3/04

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
§291.52-291.55	Amendment	3/26/04	3/30/04	5/28/04	6/3/04
§§291.72-291.76	Amendment	3/26/04	3/30/04	5/28/04	6/3/04
§291.104	Amendment	3/26/04	3/30/04	5/28/04	6/3/04
§291.105	Amendment	3/26/04	3/30/04	5/28/04	6/3/04
Chapter 291 (§§291.71-291.76)	Rule Review	3/26/04	3/30/04	5/28/04	6/3/04
Chapter 291 (§291.21)	Rule Review	3/26/04	3/30/04	5/28/04	6/3/04
Chapter 295 (§295.11)	Rule Review	3/26/04	3/30/04	5/28/04	6/3/04
§283.9	Amendment	6/25/04	N/A	FY2005	FY2005
§291.34	Amendment	6/25/04	N/A	FY2005	FY2005
§297.7	Amendment	6/25/04	N/A	FY2005	FY2005
Chapter 291 (§§291.71-291.76)	Rule Review	6/25/04	N/A	FY2005	FY2005
Chapter 291 (291.21)	Rule Review	6/25/04	N/A	FY2005	FY2005
Chapter 295 (295.11)	Rule Review	6/25/04	N/A	FY2005	FY2005

* Advanced Notice

TEXAS REGISTER - OPEN MEETING SUBMISSIONS

During FY2004, 10 notices of open meetings were submitted by the Division to the *Texas Register* for publication as follows:

Type of Submission	Date Published
Open Meeting - 9/19/03 Election of Officers	9/19/03
Open Meeting - 11/18/03 Board Meeting	11/5/03
Open Meeting - 2/3/04 Board Meeting	1/21/04
Open Meeting - 3/23/04 Board Forum	3/15/04
Open Meeting - 3/23/04 Public Hearing	3/15/04
Open Meeting - 4/19/04 Board Forum	4/9/04
Open Meeting - 5/4/04 Board Meeting	4/20/04
Open Meeting - 5/4/04 Public Hearing	4/20/04
Open Meeting - 6/9/04 Board Meeting	6/1/04
Open Meeting - 7/10/04 Board Meeting	7/02/04
Open Meeting - 8/3/04 Board Meeting	7/26/04

PROFESSIONAL SERVICES DIVISION

7. *To review and monitor the Texas Register for activities of other agencies that would impact the policy and procedures of the Board throughout FY2004.*

Status: **ACCOMPLISHED**

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

Date	Rules from Other Agencies	Action
1/30/04	Proposed Rules from the Texas Workers' Compensation Commission	Reported to Board Members/Staff
1/30/04	Proposed Rules from the Employees' Retirement System of Texas	Reported to Board Members/Staff
2/13/04	Proposed Rules from the Texas Building and Procurement Commission	Reported to Director of Administrative Services & Licensing
3/9/04	Proposed Rules from the Texas Building and Procurement Commission	Reported to Director of Administrative Services & Licensing
3/9/04	Adopted Rules from the Texas Building and Procurement Commission	Reported to Director of Administrative Services & Licensing
3/9/04	Adopted Rules from the Employees' Retirement System of Texas	Reported to Director of Administrative Services & Licensing
3/18/04	Proposed Rules from the Texas Building and Procurement Commission	Reported to Director of Administrative Services & Licensing
3/18/04	Adopted Rules from the Texas Building and Procurement Commission	Reported to Director of Administrative Services & Licensing
4/12/04	Proposed Rules from the Employees' Retirement System of Texas	Reported to Board Members/Staff
5/6/04	Adopted Rules from the Texas Commission on Law Enforcement Standards and Education	Reported to Chief of Investigations
5/20/04	Adopted Rules from the Texas Building and Procurement Commission	Reported to Director of Administrative Services & Licensing
5/20/04	Proposed Rules from the Employees' Retirement System of Texas	Reported to Director of Administrative Services & Licensing
6/8/04	Adopted Rules from the Texas Building and Procurement Commission	Reported to Director of Administrative Services & Licensing
7/26/04	Proposed Rules from the Employees' Retirement System of Texas	Reported to Director of Administrative Services & Licensing

PROFESSIONAL SERVICES DIVISION

Date	Rules from Other Agencies	Action
8/24/04	Proposed Rules from the Texas Building and Procurement Commission	Reported to Director of Administrative Services & Licensing
8/25/04	Proposed Rules from the Texas Health and Human Services Commission	Reported to Board Members/Staff

8. To provide professional staff support to Board-appointed task forces, and complete other special projects as assigned, throughout FY2004.

Status: ACCOMPLISHED

Comment: The Division's staff provided professional staff support to two meetings for the Task Force on Patient Counseling during FY2004 on the following dates:

- May 25, 2004
- July 22, 2004

9. To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2004.

Status: ACCOMPLISHED

Comment:

- A. Division Director assisted the Texas Department of Public Safety in the review and approval of plans from six Texas pharmacies to dispense prescriptions for Schedule II controlled substances issued by out-of-state practitioners.
- B. Division Director worked with representatives of the Board of Nurse Examiners of the State of Texas in preparing a Memorandum of Understanding clarifying duties that may be performed by nursing students while under the supervision of a licensed nurse.
- C. Division Director worked with other agencies (Texas State Board of Medical Examiners, Texas State Board of Podiatric Medical Examiners, State Board of Dental Examiners, Board of Nurse Examiners, and Texas Optometry Board) in preparing information for health professionals on the abuse and misuse of prescriptions as required by S.B. 144. The information was posted on the TSBP website January 1, 2004.
- D. Senior Administrative Assistant Retta Cole maintained close contact with *Texas Register* staff as needed to prepare and publish rules in the *Texas Register*.
- E. The Division Director had contact with numerous agencies as indicated below:

Agency
Texas Department of Health, Drugs and Medical Devices Division
Texas Department of Health, Center for Public Health Preparedness and Response

PROFESSIONAL SERVICES DIVISION

Agency
Texas Department of Health, Radiation Control
Texas Department of Health, Long Term Care Division
Texas Department of Public Safety, Official Prescription Program
Drug Enforcement Agency
Texas Department of Health and Human Services
Texas State Board of Medical Examiners
Texas State Board of Nurse Examiners
Texas Psychology Board
Texas State Board of Veterinary Medical Examiners
U.S. Attorney's Office
Texas Office of the Attorney General, Open Records Division
Texas Office of the Attorney General, Administrative Law Division
Texas Higher Education Coordinating Board
Texas Workforce Commission
Sunset Advisory Commission
Legislative Budget Board
Internal Revenue Service
Montgomery County Adult Probation Office

State Boards of Pharmacy
Alabama Board of Pharmacy
Arkansas Board of Pharmacy
Delaware Board of Pharmacy
Georgia Drugs and Narcotics Agency
Nevada Board of Pharmacy
Tennessee Board of Pharmacy

10. *To respond to open records requests throughout FY2004, 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 6% decrease in the number of requests for records in FY2004, as compared to FY2003. On average, inquiries in FY2004 asked for less information (fewer number of licensees per request) as compared to FY2003 (57% decrease in the number of licensees who were the subjects of inquiry).

PROFESSIONAL SERVICES DIVISION

OPEN RECORDS REQUESTS — FY00 through FY04

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
FY00	168	177	339	2078	507	2255	42	188	-47%	-61%
FY01	124	125	276	3642	400	3767	33	314	-21%	+67%
FY02	82	82	385	2121	467	2203	39	184	+17%	-42%
FY03	108	108	452	1569	560	1677	47	140	+20%	-24%
FY04	116	116	412	599	528	715	44	60	-6%	-57%

- 11.** *To provide information to Board staff and customers, including responses to surveys and questionnaires, oral and written communication, and public speaking engagements, as needed and required throughout FY2004.*

Status: **ACCOMPLISHED**

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

- A. The Division mailed 2,660 pieces of written information as indicated in the following chart:

Written Information	
Packets of Information	51
Memos Regarding Rules & Open Meetings	1,043
Letters	366
Emails	1,185
Surveys	15
TOTAL	2,660
AVERAGE PER MONTH	222

- B. The Division Director gave eight presentations and served as a resource on 16 occasions as indicated in the following charts:

Date	Presentations	Attendance (Approx.)
9/18/03	University of Texas 1 st Semester Pharmacy Students, Austin	130
11/8/03	Third Annual West Texas Education Fair, El Paso	60
1/27/04	University of Houston 1 st Year Pharmacy Students, Houston	120
4/3/04	Tarrant County Pharmacy Association, Grapevine	40

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Date	Presentations	Attendance (Approx.)
4/17/04	West Texas Pharmacy Association, Abilene	75
4/24/04	South Texas Education Fair, Corpus Christi	65
7/6/04	Walgreen's Interns, Austin	20
7/9/04	Texas Pharmacy Association, Dallas	25
TOTAL		535

Date	Resource	Attendance (Approx.)
9/18 - 9/19/03	University of Texas Pharmacy Foundation Advisory Committee	25
9/25/03	Texas Department of Health, Regional Pharmacists	15
10/3/03	Texas Federation of Drug Stores	70
10/18/03	Texas Pharmacy Association, Pharmacy Recovery Network	10
11/4/03	Representatives of National Confederation of Professional Services	3
12/10/03	Texas Pharmacy Association, Academy of Managed Care Pharmacists, Dallas	45
2/6/04	Representatives of UTMB Correctional Managed Care	8
2/12/04	Representatives of Texas Association of Community Health Centers	3
3/5/04	Texas Department of Health, Drugs and Medical Devices Division	8
3/6/04	Texas Pharmacy Association, Pharmacy Recovery Network	10
3/12/04	University of Texas Pharmacy Foundation Advisory Committee	25
3/16/04	Texas Society of Health-System Pharmacists, Task Force on Preceptors, Conference Call	15
5/11/04	Joint Committee on Internship Programs	6
5/15/04	Texas Department of Health, Strategic National Stockpile	20
6/4/04	Representatives of Medco	4
6/8/04	Texas Society of Health-System Pharmacists, Task Force on Preceptors, Conference Call	15
7/24/04	Legislative Budget Board Staff	5
8/24/04	Representatives of Walgreens and City of Austin	7
TOTAL		294

PROFESSIONAL SERVICES DIVISION

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

Date	Training	Personnel
9/03	Orientation and Training on Impaired Pharmacist Monitoring	Janelle Nastri, Enforcement
9/10/03	Orientation to Impaired Pharmacist Program	Stephanie Chambers, Legal; Dorothy Claggett, Enforcement
12/4/03	Rules from November 2003 Board Meeting	Enforcement Staff
1/5/04	Orientation to Division of Professional Services	Shelley Dorsey, Pharmacist-Intern
1/04	Orientation to Division of Professional Services	Chris Schuttler, David Meryman, Jill Kier, Linda Yazdanshenas, Enforcement
1/04	Training on Automated Call Distribution phone system data	Sarah Guevera, Enforcement
2/11/04	Rules from February 2004 Board Meeting	Enforcement Staff
3/29/04	Orientation to Division of Professional Services	Matthew Sage, Pharmacist-Intern
5/12/04	Rules from May 2004 Board Meeting	Enforcement Staff
7/5/04	Orientation to Division of Professional Services	Neil Pan, Pharmacist-Intern
8/19/04	Rules from August 2004 Board Meeting	Enforcement Staff

Other Activities

- The Division Director assisted the Enforcement Division in the review and processing of over 1,000 complaints involving pharmacy technician applicants.
- The Division Director routinely answered questions concerning the laws and rules, including their applicability to specific situations, for Enforcement and Licensing staff.
- The Division Director served on the agency Website Committee and Division staff monitored a portion of the site for currency of the information presented. Changes and/or updates were forwarded to Network Specialist Todd Hayek.
- The Division Director served on the agency Wellness Committee.
- Division Staff assisted other divisions by creating, updating, and/or changing over 37 forms and documents used by other divisions of the agency.
- Prior to taking over the responsibility of responding to Open Records requests in November 2003, Senior Administrative Assistant Retta Cole continued to assist the Division of Administrative Services and Licensing with:
 - processing/data entry of Remote Pharmacy Services;
 - processing/data entry of Pharmacy Closings; and,
 - data entry for Change of Employment, Change of PIC, and Change of Address.
- The Division Director processed 62 notifications of Drug Therapy Management from pharmacists and six requests for exemption from technician certification.

PROFESSIONAL SERVICES DIVISION

- 12.** *To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: Division staff completed the following education activities:

Retta Cole	
10/1/03	Texas Conference for Women
11/24/03	Weight Loss & Exercise - EAP Presentation
12/5/03	Goal Setting - EAP Presentation
2/10/04	EEO Training (on-line course)
5/11/04	Nutrition & Wellness: Creating Healthy Habits - EAP Presentation
8/18/04	Getting Our Ducks in a Row - Governor's Center for Management Development

Allison Benz	
9/30/04	"A Forum on Imported Medication" - Texas Pharmacy Association
10/29 - 10/30/04	Attorney General's Administrative Law Conference
11/24/03	Weight Loss & Exercise - EAP presentation
12/5/03	Goal Setting - EAP presentation
12/15 - 12/17/03	Attorney General's Open Government Conference
2/11/04	Respect in the Workplace
5/11/04	Nutrition & Wellness: Creating Healthy Habits - EAP presentation
5/27/04	Supervisor Training: The 5 Step Formula - EAP presentation
8/18/04	Getting Our Ducks in a Row - Governor's Center for Management Development

- 13.** *To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2004.*

Status: **ACCOMPLISHED**

Comment: The annual review for Senior Administrative Assistant Retta Cole occurred on June 14, 2004.

PROFESSIONAL SERVICES DIVISION

- 14. *To destroy records in accordance with the agency's record retention plan throughout FY2004; to update the Division's Policy and Procedure Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2004.***

Status: ACCOMPLISHED

Comment: During FY2004, the Division accomplished this goal as follows:

- A. Records Management
Records in the possession of the Division scheduled for destruction during FY2004 under the approved Record Retention Schedule were identified. Division Director assisted Enforcement Division in identifying and preparing records scheduled for destruction in FY2004.
- B. Policies and Procedures
As described in Ongoing Objective #10, the responsibility of responding to Open Records requests was transferred from the Enforcement Division to Professional Services. The policies and procedures for handling Open Records requests were incorporated into the Division's policy and procedure manual.

- 15. *To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2004.***

Status: ACCOMPLISHED

Comment: Division Director made numerous suggestions to keep the TSBP web page current and up to date.

- 16. *To recommend changes to the Texas Pharmacy Act and rules that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2004.***

Status: ACCOMPLISHED

Comment: Division Director recommended amendments to the rules regarding prescriptions for controlled substances carried out by an advance practice nurse or a physician assistant.

- 17. *To prepare and submit a report on the accomplishment of Division objectives for incorporation in the agency's FY2003 Annual Report to be presented to the Board by its May 2004 Board Meeting.***

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2003 Annual Report was submitted to the Executive Director by the due date. Senior Administrative Assistant Retta Cole combined the various Divisions' reports into one report that was presented and approved by the Board at its May 2004 meeting.

PROFESSIONAL SERVICES DIVISION

Enforcement Division

FY2004 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of the Division's 22 Objectives for FY2004 (19 objectives were accomplished and three objectives were partially accomplished).
2. TSBP met or exceeded, within a 5% variance, all six key measures and six of seven non-key measures. Accordingly, TSBP met or exceeded 92% of the FY2004 projections for 13 enforcement-related performance measures. See Ongoing Objective #1.
3. Division staff provided significant assistance to the staff of the Sunset Advisory Commission during their review of agency operations (see New Objective #1). The Sunset staff report was favorable to agency and Division operations.
4. As reflected in the chart below, the agency received more than twice as many complaints in FY2004 than it did in FY2003. In addition, the agency resolved 60% more complaints in FY2004 than in the prior fiscal year with significantly lower complaint resolution time. See Ongoing Objective #3.

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

5. Due to budget-cuts, two vacant field Compliance Officer positions (classified as Pharmacist III) were re-classified to Compliance Inspector positions. This change marked the first time that TSBP employed non-pharmacists to inspect pharmacies. The "experiment" worked out extremely well with the employment of Chris Schuttler, C.Ph.T., and David Meryman, C.Ph.T., who have done a meritorious job in their new roles.

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6. Due to budget-cuts, one Staff Compliance Officer position was eliminated. This position handled Compliance telephone calls and monitored the probation program for confidential rehabilitation orders. The monitoring duties were shifted to Janelle Nastri, Enforcement Administrator, who continued to perform her regular workload in addition to the new duties. The majority of the Compliance calls were handled by Sarah Guevara, Compliance Specialist, and Yvette Muniz, Enforcement Technician. All three of these individuals have done remarkable jobs in carrying out their new duties, especially considering their sizeable workloads.
7. Division staff handled approximately 8,700 Compliance calls in FY2004, which represents a record-setting number of telephone calls. This performance is particularly astounding given that most of the employees responding to Compliance telephone inquiries had little to no experience in doing this job prior to FY2004. Most of the calls were handled by Ms. Guevara, who assumed her new position as Compliance Specialist in November 2003, and her back-up was Ms. Muniz, who assumed her duties as a new Board employee in December 2003.
8. In line with the agency's "lead agency" philosophy, TSBP investigators made an extraordinary number of contacts with other law enforcement agencies (see Ongoing Objective #4). Chief of Investigations Joe Lewis was also the agency's liaison with the Governor's Homeland Security Task Force to implement the Homeland Security bill (see New Objective #5). In addition, Chief Lewis worked with the Department of Public Safety in securing permission for the agency to have access to Driver's License information (including photo identification).
9. Division staff continued to implement and refine the new program that required new pharmacies to be inspected before receiving a pharmacy license. During their review of agency operations, the staff of the Sunset Advisory Commission expressed positive comments regarding the fact that the Board was conducting pre-inspections to help ensure that a facility license (that allows an individual to purchase prescription drugs) was issued to legitimate operations. During FY2004, Field Compliance staff conducted 92 pre-inspections.
10. Division staff spent significant time and effort assisting Board Members, the Executive Director, other Board staff and other agencies/organizations (see Ongoing Objective #6). Of particular note is the assistance provided by the Division Director on the following: (a) assisting with the Sunset review process (see New Objective #1); (b) assisting in the implementation of the new technician registration program (see New Objective #4); (c) assisting with the preparation of the TSBP Strategic Plan and Budget Request (see New Objectives #2 and #3); (d) analyzing responses to the Customer Service Satisfaction Survey and preparing the required report to the Governor and Legislature (see Ongoing Objective #10); and (e) serving as an expert witness in a federal trial in Dallas, Texas, involving two pharmacists who were dispensing controlled substances pursuant to a prescription that was issued following the completion of an on-line questionnaire (i.e., Internet pharmacy operation); the prosecution of the pharmacist-owner of the pharmacy resulted in a successful resolution of the case (the pharmacist-owner of the pharmacy was sentenced to a prison term of ten years).

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FY2004 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Due to the \$7 billion shortfall for the FY2004-2005 biennium, the 78th Texas Legislature made the decision to cut expenditures for all state agencies. Although TSBP received a small increase to fund the implementation of the pharmacy technician registration program, TSBP's budget reduction of 12.5% (over the prior biennium) caused an extreme hardship on the Enforcement Division, in that two positions had to be eliminated; both of these positions (one Staff Compliance Officer and one Administrative Assistant) were within the Enforcement Division.
2. In implementing the pharmacy technician registration program, TSBP conducted background checks on each individual who submitted an application for registration in FY2004. If the applicant had criminal history, a complaint was opened. This process resulted in TSBP opening over 2,000 complaints in FY2004, over and above the normal complaint workload. The funding for the technician registration program only provided for one additional FTE for the Enforcement Division in FY2004. The impact of this inadequate funding for the Enforcement program taxed the Division's human resources and caused numerous staff to work an extensive amount of overtime.
3. Due to inadequate human resources explained in (1) and (2) above, the Division was required to divert its existing resources to conduct the 2,000 background investigations that were necessary to process the technician applications received in FY2004. This process resulted in the delay of the investigation/resolution of other types of complaints (complaints not involving a technician's registration). This delay also resulted in two significant disappointments: (a) the pending caseload increased; and (b) the pending complaints got older, which in turn, will have a significant negative impact on the agency's average complaint resolution in FY2005 and beyond.
4. Due to the turnover/vacancies in field Compliance personnel as described in (8) below, the field Compliance program was fully staffed (with five individuals) for only four months during FY2004. Although the Division employed two Compliance Inspectors on January 26, 2004, pharmacies in two regions were not inspected for the first five months of FY2004. Following the retirement of Compliance Officer Richard Thompson, R.Ph., in May 2004, the West Texas region was vacant for the last three months in FY2004. Accordingly, the Division did not achieve its goal of conducting 1,800 inspections in FY2004 (see Ongoing Objective #2).
5. Division staff spent considerable time/efforts in advertising, interviewing, and filling nine positions (one new FTE for the Enforcement Division that was appropriated as a result of the pharmacy technician training program and the eight FTEs that were either vacant when FY2004 began or were vacated in FY2004 as a result of internal promotions, resignations, or retirements). Significant time/efforts were also spent revising/updating job descriptions, as well as orientation and training activities, for these positions (see Ongoing Objective #12).
6. Division staff continued to spend significant time/efforts monitoring compliance with the terms of disciplinary orders that were entered by TSBP in FY2004. A massive number of the disciplinary orders entered in FY2004 required some type of monitoring (444 orders or 96% of the total number of orders entered in FY2004). Monitoring the following types of orders was extremely labor-intensive:

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- 100 disciplinary orders involved a dispensing error, which generally required the licensee to submit proof of additional hours of continuing education (orders on pharmacists) or policies and procedures relating to quality assurance programs, including peer review procedures (orders on pharmacies);
 - 40 disciplinary orders involving technicians who were required to undergo an evaluation by a mental health professional before their registrations would be granted; and
 - 26 confidential rehabilitation disciplinary orders involving impaired/recovering pharmacists. See Ongoing Objective #5.
7. The most common type of consumer complaint was a complaint in which the complainant alleged that a dispensing error was committed by a pharmacist and/or pharmacy (see Ongoing Objective #3 for a trend analysis indicating the number of dispensing error complaints closed during the past five years).
8. The Division began FY2004 with three vacant positions (as described below), not including the two positions that were eliminated due to budget cuts:
- Assistant Director of Enforcement Allison Benz, R.Ph., was promoted to Director of Professional Services, effective September 1, 2003. This position was re-classified to a Staff Compliance Officer position. Although the vacancy was advertised in April 2004, and efforts were made to fill this position in FY2004, the position remained vacant throughout FY2004.
 - Chief of Compliance Cy Weich, R.Ph., retired on August 31, 2003, leaving the Chief's position vacant, as well as the field officer for the Dallas region. Due to budget cuts, the field officer position was re-classified to an Inspector position for FY2004 (to be filled with a non-pharmacist).
 - Heidi Holmes Bragg, R.Ph., field Compliance Officer in Houston, resigned in June 2003. Due to budget cuts, this position was not filled for the remainder of FY2003, and the position was re-classified to an Inspector position for FY2004 (to be filled with a non-pharmacist).

The Division also experienced four additional vacancies in FY2004, as described below:

- Carol Willess, Compliance Specialist, was promoted to Licensing Administrator, in October 2003.
- Jill McGahey, Enforcement Officer, resigned in November 2003.
- Richard Thompson, R.Ph., Field Compliance Officer for the West Texas Region, retired in May 2004.
- Dottie Claggett, Field Investigator for the Fort Worth-West Texas area, resigned in July 2004.

These personnel issues had a negative impact on Division operations, as explained above in Significant Constraints #4 and #5.

Enforcement Division

FY2004 ANNUAL REPORT

GOAL

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

Objectives (New)

1. *To assist the Executive Director, in cooperation with other Divisions, in the agency Sunset Review process throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: The following staff of the Sunset Advisory Commission were assigned the task of reviewing the Board's operations: Joe Walraven (Project Supervisor), Katrina Daniel (Project Manager), and Meredith Whitten (Policy Analyst). Division staff participated in numerous meetings, interviews, and reviews with the Sunset staff regarding agency and Division operations, as listed below:

September 24, 2003:	Introductory meeting (Division Director)
October 2, 2003:	Orientation/Overview of agency operations (Division Director)
October 8, 2003:	Interview regarding the complaint/disciplinary process (Division Director)
October 14, 2003:	Sunset staff accompanied Joe Lewis, Chief of Investigations, on an investigation
October 15, 2003:	Sunset staff accompanied Mike Ethridge, Sr. Compliance Officer, on an inspection
October 16, 2003:	Sunset staff attended a complaint/case review (designated Enforcement staff)
October 23, 2003:	Sunset staff attended Informal Conferences (Division Director)
November 5, 2003:	Follow-up interview (Division Director)
November 18, 2003:	Sunset staff attended Board Meeting
January 30, 2004:	Discussion with Sunset staff regarding the staff report on TSBP (Division Director)

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Between October 2003 and January 2004, Division Director responded to numerous requests for additional information from Sunset staff [e.g., statistics regarding how complaints were closed/resolved in FY2003; statistics regarding disciplinary orders entered in FY2003; investigators' caseloads in FY2003; and information regarding certain types of cases, such as Internet cases and cases involving financial records (fraud, gray market diversion)].

Division Director worked with Executive Director and other Division Directors to prepare response to the Sunset staff report on the agency, which was presented to the Sunset Commission at a public hearing on March 24, 2004. The Sunset Commission announced its decision regarding the Sunset staff report at a meeting on May 18-19, 2004, which approved many of recommendations made by TSBP in its self-evaluation report.

2. *To assist the Executive Director, in cooperation with other Divisions, in updating and preparing the TSBP Strategic Plan for the 2005-2009 period, and submitting the plan to the Governor's Office of Budget and Planning and the Legislative Budget Office, by the due date.*

Status: ACCOMPLISHED

Comment: At its meeting held on November 18-19, 2003, the Board reviewed comments concerning strategic planning by TSBP from persons who had submitted comments. Division Director, in consultation with Board Member Oren Peacock, R.Ph., prepared the first draft of Policy Issue #3 relating to "Pharmacy Personnel and Working Conditions." The Board approved the draft of Policy Issue #3 at its meeting held on February 3-4, 2004. Division Director assisted in the review and preparation of the final draft of the *TSBP Strategic Plan*, which was approved by the Board at its meeting held on May 4-5, 2004. The *TSBP Strategic Plan* was published and delivered to the Governor's office and other applicable agencies by the due date.

3. *To assist the Executive Director, in cooperation with other Divisions, in the preparation of the agency's Legislative Appropriation Request and corresponding performance measures for FY2006-2007.*

Status: ACCOMPLISHED

Comment: Division Director assisted the Executive Director and Director of Administrative Services and Licensing in the preparation of the FY2006-2007 Legislative Appropriation Request (LAR) through the following activities: attended a budget meeting with the TSBP Executive Committee on April 21, 2004; prepared projections for LBB performance measures relating to enforcement at three different levels of funding; and reviewed/edited the final draft of the document, which was subsequently submitted to the Governor and the LBB by the due date.

4. *To assist the Executive Director, in cooperation with other Divisions, in the implementation of the new program to register and regulate pharmacy technicians, throughout FY2004.*

Status: ACCOMPLISHED

Comment: The 78th Texas Legislature authorized funds for TSBP to implement a new program to register pharmacy technicians in FY2004. Division staff worked with the Executive Director and other Divisions to draft applicable rules, on-line registration form, and procedures. Significant events are described below:

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- A. Rules. On November 18, 2003, the Board adopted rules regarding the registration process (e.g., fees to be charged for the biennial fee), continuing education, and training. On February 3, 2004, the Board adopted rules regarding duties that a registered technician may perform and rules relating to disciplinary actions against technicians. On August 3, 2004, the Board adopted rules regarding exempted pharmacy technicians; these rules clarify that an exempted technician (technician exempt from certification by PTCB) must be registered. The rules were also amended to allow a technician who was granted an exemption under the long-term employee provisions ("grandfather" clause) to work at any pharmacy. However, if the technician was granted an exemption under the rural county provisions, the technician's registration would be void if that technician ceased employment at the pharmacy where the exemption was originally granted.
 - B. Registration Process. The development of the registration of pharmacy technicians began in the fall of 2003, with the first registration issued in February 2004. During FY2004, TSBP received approximately 24,000 applications. Approximately 10% of the initial applicant pool had a criminal record requiring further review/investigation by TSBP and necessitating the opening of a complaint. Accordingly, TSBP experienced a massive increase in the number of complaints received in FY2004 (see Ongoing Objective #3).
 - C. Disciplinary Guidelines. Division Director worked with Executive Director and Legal Counsel to draft proposed guidelines for the staff to use when reviewing pharmacy technician applications and determining whether a technician's application should be denied or suspended. These guidelines were approved by the Board at its meeting held on February 3-4, 2004. Under these guidelines, TSBP entered 234 disciplinary orders against technicians. The Board held two additional business meetings in the fourth quarter of FY2004 in order to review/approve disciplinary orders being entered against technicians, and thereby, expedite the technicians' registration process.
5. *To assist the Executive Director, in cooperation with other Divisions, in reviewing and implementing legislation passed by the 78th Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: The actions taken by the 78th Texas Legislature that had an impact upon the Enforcement Division are described below:

- A. Budget-Cut – The agency had to absorb a 12.5% budget-cut over the amount the agency was budgeted for the last biennium (FY2003-2004), which caused an extreme hardship on the Enforcement Division, in the following ways:
 - (1) two positions within the agency being eliminated; both of these positions were in the Enforcement Division (a Staff Compliance Officer position and an administrative assistant position); and
 - (2) the replacement of agency vehicles was delayed until FY2005; as a result, field staff were required to drive agency vehicles with high mileage, which in turn, increased maintenance costs and concerns regarding reliability.
- B. Technician Registration Program – see Significant Accomplishment #2, Significant Constraints #2 and #3, and New Objective #4.

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- C. Information Services – Division staff was challenged to answer the numerous telephone calls regarding H.B. 1095, which amended the Medical Practice Act to give a physician the authority to delegate to advanced practice nurses and physician assistants the authority to sign a prescription for a controlled substance under certain conditions. Division staff also handled numerous calls regarding the section of H.B. 2292, which allowed the return of unused drugs, other than a controlled substance, from nursing homes, under certain conditions.
 - D. Office of Patient Protection – Division Director was appointed to serve on the committee to help implement the provisions of the bill (H.B. 2985 by Capelo). The greatest impact of this bill will be felt in FY2005 and the years beyond.
 - E. Homeland Security – Chief of Investigations Joe Lewis attended several meetings with the Governor's Homeland Security Task Force, of which TSBP is a member. In the event of an emergency, Chief Lewis and all field investigators who are commissioned peace officers will be assigned to assist specific areas of Texas.
6. *To assist the Executive Director, in cooperation with other Divisions, in the orientation of new Board Members within 90 days of appointment by the Governor.*

Status: **ACCOMPLISHED**

Comment: On April 22-23, 2004, Division staff assisted the Executive Director and other Division Directors in the orientation of two new Board members Marcelo Laijas, Jr. (public member) and W. Benjamin Fry, R.Ph. These two individuals were appointed by Governor Rick Perry on April 14, 2004.

Objectives (Ongoing)

1. *To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2004-05 Appropriations Act to Executive Director by specified due dates throughout FY2004; to assist in the preparation of applicable reports to the Legislative Budget Board and Governor's Budget Office regarding performance measures; to meet (within a 5% variance) or exceed the Performance Targets over which the Division has control.*

Status: **ACCOMPLISHED**

Comment: Throughout FY2004, Division staff collected data relating to enforcement and peer assistance performance measures. The statistical data was certified and submitted to the Legislative Budget Board (LBB) and Governor's Budget Office (GBO) by the prescribed due dates, in conjunction with the licensing performance measures.

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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 FY2004. The other ten measures were reported to the LBB and GBO at year-end (annual basis).

As indicated in the chart below, TSBP met or exceeded, within a 5% variance, all six key measures and six of seven non-key measures. Accordingly, TSBP met or exceeded 92% of the FY2004 projections for 13 enforcement-related performance measures.

Enforcement Performance Measure	FY04 Projected Performance	FY04 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
Outputs:				
Inspections	1,800	1,533	NK	Not Met
Jurisdictional Complaints Resolved	1,700	2,982	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	135	182	K	Exceeded
Number of Students Participating in a Peer Assistance Program	1	2	NK	Exceeded
Efficiency:				
Average Cost per Jurisdictional Complaint Resolved	\$480.05	\$264.98	NK	Exceeded
Average Time for Jurisdictional Complaint Resolution	250	119	K	Exceeded
Outcomes:				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	10%	15.60%	K	Exceeded
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	99%	96.30%	K	Met
Recidivism Rate of Those Receiving Disciplinary Action	6%	4.30%	NK	Met
Percent of Jurisdictional Complaints Resolved within Six Months	68%	87%	NK	Exceeded
Recidivism Rate for Participants in Peer Assistance Program	20%	21%	NK	Met
One-Year Completion Rate for Participants in Peer Assistance Program	75%	94%	NK	Exceeded
Explanatory:				
Jurisdictional Complaints Received	1,800	4,436	K	Exceeded

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

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2. *To monitor pharmacy inspections and pharmacists' practice by conducting 1,800 inspections, inspection-visits, and visits, including follow-up inspections to "Warning Notices" throughout FY2004. To inspect pharmacies and monitor pharmacists' practice throughout FY2004, 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. request for inspection by another agency (e.g., FDA);
- C. new pharmacies or pharmacies with a recent change of ownership;
- D. pre-inspections, or inspections as part of the new pharmacy application process;
- E. pharmacies that have received a "Warning Notice" (follow-up inspections);
- F. requests for inspection by licensee;
- G. pharmacies with a preceptor working in the pharmacy; and
- H. routine inspections.

Status: PARTIALLY ACCOMPLISHED

Comment: Two of the five field Compliance positions were vacant as FY2004 began. Prior to hiring the two vacant field Compliance positions in FY2004, Division Director determined to establish six regions in anticipation of the addition of a sixth Compliance Inspector in FY2005 (as a result of appropriations to implement the pharmacy technician program). A new regional map was developed with input from the existing field compliance staff. Chris Schuttler, C.Ph.T., and David Meryman, C.Ph.T., were hired on January 26, 2004, marking the first time that inspections in Texas were to be conducted by non-pharmacists. Mr. Meryman agreed to conduct inspections in both the Austin and West Texas regions until the additional Compliance Inspector could be hired in FY2005. When Richard Thompson, R.Ph., retired in May 2004, Mr. Schuttler asked to be reassigned to Mr. Thompson's region, but agreed to continue inspecting pharmacies in the Dallas region until that vacancy was filled. Accordingly, the Division did not achieve its inspection goal in FY2004 because the field Compliance program was fully staffed (with five persons) for only four months of the fiscal year.

A total of 1,534 pharmacies were inspected by the Field Compliance staff through complete inspections, pre-inspections, partial-inspections, and inspection-visits.

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

- A. Inspections are full inspections of licensed facilities in which Compliance field staff check the facilities for compliance with each of the items on the inspection report form.
- B. Pre-Inspections are partial inspections that occur prior to TSBP issuing the pharmacy license. The Compliance field staff determines if the pharmacy has the necessary items to open and operate a pharmacy in compliance with the laws and rules governing the practice of pharmacy. A pharmacy license is not issued to the facility unless the facility can pass the pre-inspection process.

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- 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 complied with the discrepancies listed on the "Warning Notice." Follow-up inspections are conducted within six months after the pharmacy has notified the Board in writing that the discrepancies have been corrected.
- 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.

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

Inspections	1341
Pre-Inspections	92
Partial-Inspections	67
Inspection-Visits	34
Total FY04	1534

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

FY04	# OF INSPECTIONS/ VISITS (% OF TOTAL)	# OF "WARNING NOTICES" ISSUED*	# OF PHARMACIES RECEIVING "WARNING NOTICES" (% RECEIVING A "WARNING NOTICE")**
Class A Pharmacies	1247	419	34%
Class B Pharmacies	6	4	67%
Class C Pharmacies	177	57	32%
Class D Pharmacies	104	18	17%
FY04 Totals	1534	498	33%

* 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"

Percentages are based on the total number of "Warning Notices" issued to Pharmacies in FY2004 (498). Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.

Equipment	44 (9%)	Computer Records Non-Compliance	1
Balance Failed Insp	29	Records	25 (5%)
Equipment Insp Due (Not Balance)	8	Records Not Available	12
Insufficient Equipment	7	DEA Order Forms Incomplete	0
Pharmacy Technicians	109 (22%)	Absence of R.Ph. Record	2
No/Incomplete Training	90	Rx Not Separated	4
No/Improper Supervision	14	No Provision Log (Class D)	0
Improper Registration	5	Invoices Not Separated/Retrievable	2
Inadequate Library	59 (12%)	Records for Non-Sterile Compounds	5
Licenses	62 (12%)	OBRA Violations	15 (3%)
Licenses Not Posted	48	Written Information Not Provided	4
Delinquent Licenses	14	No Patient Counseling	8
Prescriptions	18 (4%)	PMR Absent or Incomplete	3
Lack Proper Information	5	Sterile Pharmaceutical Violations	20 (4%)
Prescription Label Incorrect	5	No/Incomplete QA/QC	11
Triplicate Non-Compliance	8	No/Incomplete P&P Manual	4
Drug Stock/Environment	29 (6%)	No/Inadequate Preparation Area	2
Improper Environment	5	No DUR	3
Out-of-Date Drug Stock	13	No/Incomplete Non-Sterile Cpd Records	5 (1%)
Security	1	Improper Distribution	0 (0%)
Unsanitary	5	No PIC	1 (<1%)
Improper Drug Storage	1	Improper Dispensing	13 (3%)
Area for Non-Sterile Compounding	1	Aiding and Abetting	2
Prohibited Drugs (Class D)	3	Illegal Dispensing	9
Inventory	33 (7%)	Substitution Non-compliance	1
No Annual Inventory	19	Out-of-State Rx for Controlled Substances	1
No Change of Ownership Inventory	1	Improper Automated Dispensing	
No Change of PIC Inventory	5	Procedures	6 (1%)
Incomplete Inventory	7	Notification Violation	11 (2%)
No Perpetual Inventory (Class C)	1	Theft & Loss of C/S Not Reported	1 (<1%)
Improper Prepackaging Procedures	16 (3%)	Gray Market Diversion	0 (0%)
Computer Systems	31 (6%)	Improper Closing/Change of Ownership	0 (0%)
Computer Records Incomplete	30	Improper Inpatient Procedures (Class C)	3 (1%)

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

Purpose of Inspection (In Order of Priority)	Number of Inspections in FY02	Number of Inspections in FY03	Number of Inspections in FY04	% of FY04	3-Yr. Avg.	% of 3-Yr. Avg.
Complaint	27	55	41	3%	41	2%
Follow-up to Disciplinary Order	17	44	58	4%	40	2%
Pre-Inspection New	N/A	22	92	6%	38	2%
New Pharmacies	164	156	82	5%	134	6%
Change of Ownership	156	68	23	1%	82	4%
Preceptor	138	227	141	9%	169	8%
Follow-up to "Warning Notice"	43	53	27	2%	41	2%

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Purpose of Inspection (In Order of Priority)	Number of Inspections in FY02	Number of Inspections in FY03	Number of Inspections in FY04	% of FY04	3-Yr. Avg.	% of 3-Yr. Avg.
Routine Inspections	2,032	1,886	1,068	70%	1,662	75%
Other	4	18	2	<1 %	8	<1%
TOTAL	2,581	2,529	1,534	100%	2,215	100%

3. *To coordinate and monitor throughout FY2004, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants. To investigate complaints throughout FY2004, according to the following priorities:*
- A. Complaints filed against pharmacists who have a chemical, mental, or physical impairment;
 - B. Complaints involving the diversion of prescription drugs, through the following illegal means:
 - C delivering prescription drugs without a prescription;
 - C dispensing prescription drugs pursuant to a prescription of a practitioner not issued for a legitimate medical purpose or in the usual course of medical practice;
 - C dispensing prescription drugs to patients when the pharmacist knew or should have known there was no valid doctor-patient relationship, such as prescriptions dispensed following an Internet consultation;
 - C dispensing prescription drugs by a pharmacist not in the usual course of pharmacy practice;
 - C distributing prescription drugs pursuant to forged or altered prescriptions;
 - C failing to keep and maintain records of controlled substances; and
 - C unauthorized refills.
 - C. Complaints involving applicants for licensure;
 - D. Complaints involving dispensing errors;
 - E. Complaints involving violations of rules relating to patient counseling or drug regimen review;
 - F. Complaints against licensees who have been convicted of a felony or misdemeanor involving offenses that are related to the practice of pharmacy;
 - G. Complaints involving health-care fraud or fraud, deceit, and misrepresentation in the practice of pharmacy, including aiding and abetting a non-licensed individual in the practice of pharmacy;
 - H. Complaints against licensees who have been convicted of a felony or misdemeanor involving offenses that are not related to the practice of pharmacy;

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- I. Complaints against licensees who have been subject to a disciplinary action by another state board of pharmacy; and
- J. Complaints involving other violations of the laws and rules relating to the practice of pharmacy.

Status: PARTIALLY ACCOMPLISHED

Comment: As reflected in the chart below, the agency received more than twice as many complaints in FY2004 than it did in FY2003 and resolved 60% more complaints than in the prior fiscal year with significantly lower complaint resolution time. The massive increase in the number of complaints received in FY2004 was due to the implementation of a new program to register pharmacy technicians (see New Objective #4).

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

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

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

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

The following factors contributed to the significant decrease in the agency's overall average complaint resolution time:

- the Board held two additional business meetings in FY2004 to review/approve disciplinary orders being entered against technicians;
- numerous staff worked an extensive amount of overtime;
- the investigation/resolution of other types of complaints (complaints not involving a technician's registration) was delayed; and
- complaints involving background checks were resolved more quickly than other types of complaints.

However, not all notifications were mailed to complainants in a timely manner. For this reason, this objective was only partially accomplished.

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

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**DATA ON DISPENSING ERROR COMPLAINTS
CLOSED FY00 - FY04**

Type of Dispensing Error	FY00	FY01	FY02	FY03	FY04	5-Year Avg.
Wrong Drug/Strength or Wrong Directions for Use	173	189	213	152	122	170
Mislabeled	15	15	16	10	7	13
Dispensed Wrong Quantity	28	57	85	66	30	53
Dispensed Outdated Drug	4	6	12	4	5	6
Packaging/Delivery Error	15	17	24	10	8	15
Error + No Counseling	*	27	26	25	9	*
Total # Dispensing Error Complaints	235	311	376	267	181**	274
Total # Complaints Closed	1,513	1,667	2,137	1,887	3,081	2,057
% Dispensing Error Complaints	16%	19%	18%	14%	6%**	15%

* Data not collected as such during FY00.

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

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

Number of Complaints Handled Through Field Investigations FY2000 - FY2004					
Fiscal Year	Compliance Officers	%	Investigators	%	Total
FY00	67	43%	89	57%	156
FY01	100	34%	191	66%	291
FY02	59	21%	228	79%	287
FY03	76	31%	166	69%	242
FY04	37	17%	180	83%	217
5-Year Average	68	29%	171	71%	239

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

DATA ON COMPLAINTS CLOSED FY2002 - FY2004

Form of Complaints	FY02	FY03	FY04*	% of FY04	3-Yr. Avg.	% of 3-Yr. Avg.
Telephone	101	74	64	2%	80	3%
Letter	332	223	125	4%	227	10%
TSBP Complaint Form	342	224	171	6%	246	10%
HPC 800 #	150	84	44	1%	93	4%
Fax	100	97	65	2%	87	4%
Visit	15	16	10	<1%	14	<1%
Agency Report	46	48	19	<1%	38	2%
Inspection	32	26	10	<1%	23	1%
Interoffice Referral	53	52	30	1%	45	2%
Licensure Application	128	127	1,844**	61%	700	30%
Data Bank	16	8	8	<1%	11	<1%
Theft/Loss Report	504	460	293	10%	419	18%
Investigation	52	88	106	4%	82	3%
Intra-Agency Referral	48	31	27	<1%	35	1%
Malpractice Report	4	10	17	<1%	10	<1%
Press Clip	3	4	4	<1%	4	<1%
Email *	23	45	29	1%	32	1%
Internet *	187	270	152	5%	203	9%
Other	1	0	0	N/A	0	0%
TOTAL	2,137	1,887	3,018	100%	2,349	100%

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

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

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DATA ON COMPLAINTS CLOSED FY2002 - FY2004

Source of Complaints	FY02	FY03	FY04*	% of FY04	3-Yr. Avg.	% of 3-Yr. Avg.
Consumer	865	629	409	14%	634	27%
Government Agency	96	88	59	2%	81	3%
Pharmacist	69	99	56	2%	75	3%
Pharmacist (Self)	86	75	47	2%	69	3%
Applicant (Self)	61	87	41	1%	63	3%
Technician	N/A	N/A	7	<1%	N/A	N/A
Technician Applicant (Self)	N/A	N/A	1,099*	36%	N/A	N/A
TSBP	163	181	800	27%	381	16%
Doctor	90	65	28	<1%	61	3%
Other Health Professional	24	28	23	<1%	25	1%
NABP	18	16	11	<1%	15	<1%
PIC, Pharmacy Manager, or Supervisor	516	461	304	10%	427	18
Loss Prevention Officer (Corporate)	7	0	3	<1%	3	<1%
Manufacturing Rep.	19	4	4	<1%	9	<1%
Pharmacy Recovery Network (PRN)	17	4	7	<1%	9	<1%
Insurance Company	7	9	12	<1%	9	<1%
Attorney	6	10	10	<1%	9	<1%
Employee/Ex-Employee	21	17	9	<1%	16	<1%
Media	1	6	4	<1%	4	<1%
Drug Screening	48	86	67	2%	67	3%
Other	23	22	18	<1%	21	<1%
TOTAL	2,137	1,887	3,018	100%	2,347	100%

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

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DATA ON CLOSED FY2002 - FY2004 COMPLAINTS

Subjects of Complaints	FY02	FY03	FY04*	3-Yr. Avg.
Licensees	1,955 (92%)	1,633 (87%)	1,081 (36%)	1,556 (72%)
Pharmacist	755	671	511	646
In-State Pharmacy	1,120	906	538	855
Out-of-State Pharmacy	80	56	32	56
Applicants	72 (3%)	104 (6%)	1,868 (62%)	681 (24%)
Pharmacist	25	43	27	32
Pharmacy	8	7	6	7
Intern	39	54	29	41
Technician	N/A	N/A	1,806*	N/A
Non-Licensees	110 (5%)	150 (8%)	69 (2%)	110 (5%)
Doctor	20	20	13	18
Manufacturer	1	1	0	1
Wholesaler	0	2	1	1
Non-Licensed Facility or Person	22	76	45	48
Insurance Company/PBM	8	4	1	4
Pharmacy Technician	47	35	N/A	N/A
Out-of-State Facility	9	12	7	9
Other	3	0	2	2
TOTAL	2,137	1,887	3,018	2,347

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

ENFORCEMENT DIVISION

NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2002 - FY2004

Alleged Violation	FY02	FY03	FY04*	3-Yr. Avg.	% of 3-Yr. Avg.
Diversion	29	22	18	23	1%
Controlled Substances	19	19	11		
Dangerous Drugs	5	2	1		
Both	5	1	6		
Unauthorized Dispensing	21	11	12	15	<1%
Controlled Substances	3	3	2		
Dangerous Drugs	12	7	7		
Both	6	1	3		
Illegal Delivery	7	2	1	3	<1%
Controlled Substances	0	0	0		
Dangerous Drugs	4	1	0		
Both	3	1	1		
Illegal Possession	2	4	0	2	<1%
Controlled Substances	2	2	0		
Dangerous Drugs + Controlled Substances	0	2	0		
Convictions	91	89	1,082	421	18%
Felony	9	15	16		
Misdemeanor	37	33	202*		
DWI / PI	44	38	409*		
Deferred Adjudication	1	3	131		
Offense on Application	N/A	N/A	324*		
Dispensing Error	376	267	181	275	12%
Wrong Drug/Strength	213	152	122		
Mislabeled	16	10	7		
Wrong Quantity	85	66	30		

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

ENFORCEMENT DIVISION

Alleged Violation	FY02	FY03	FY04*	3-Yr. Avg.	% of 3-Yr. Avg.
Outdated Drug	12	4	5		
Packaging/Delivery	24	10	8		
Dispensing Error / Patient Counseling	26	25	9		
Patient Counseling	22	30	8	20	<1%
Drug Regimen Review	18	22	14	18	<1%
Theft/Loss	512	469	303	428	18%
Aiding & Abetting	6	10	11	9	<1%
Action by Other Board	52	40	25	39	2%
Substitution	115	62	37	71	3%
Non-Compliance with Disciplinary Order	84	151	121	119	5%
Interference with Doctor/Patient Relationship	59	42	37	46	2%
Confidentiality	23	14	6	14	<1%
Failed to Keep Records	5	5	4	5	<1%
Impairment	45	28	22	32	1%
Probable Cause	7	90	5		
Drug & Alcohol	12	4	6		
Drug	17	6	8		
Alcohol	4	3	1		
Physical	1	2	0		
Mental	4	4	2		
Negligence	1	1	0	1	<1%
Unsafe Practice	2	6	3	4	<1%
Unprofessional Conduct	3	4	7	5	<1%
Gross Immorality	0	0	2	1	<1%
Fraud	41	36	774	284	12%

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

ENFORCEMENT DIVISION

Alleged Violation	FY02	FY03	FY04*	3-Yr. Avg.	% of 3-Yr. Avg.
Fraud, Deceit & Misrepresentation	5	1	3		
Falsified Response to Warning Notice	3	0	0		
Falsified Application	9	23	758		
Filled/Passed Forged Prescription	15	6	11		
Insurance Fraud	6	3	1		
Medicare Fraud	3	3	1		
Changed Prescription	61	48	20	43	2%
Non-Therapeutic Dispensing	32	21	13	22	<1%
Excessive Purchases of Controlled Substances	4	0	0	1	<1%
Anabolic Steroids	0	2	0	1	<1%
Grey Market Diversion	5	3	2	3	<1%
Samples	12	0	6	6	<1%
Technician Violation	6	6	2	5	<1%
Improper Security	4	3	3	3	<1%
Problem with OTC Drug	2	1	2	2	<1%
Closed Pharmacy Improperly	14	19	4	12	<1%
Operating Pharmacy without License	5	3	4	4	<1%
Working Conditions	18	21	5	15	<1%
Delinquent License	5	6	2	4	<1%
Kickbacks	1	0	0	0	0%
No PIC	2	4	0	2	<1%
Recordkeeping Error	96	84	37	72	3%
Notification Violation	2	2	0	1	<1%
No Annual Inventory / No PIC Inventory	2	4	0	2	<1%
C-II Rx	1	4	1	2	<1%
Improper Rx's Issued by Doctors	13	7	3	8	<1%

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

ENFORCEMENT DIVISION

Alleged Violation	FY02	FY03	FY04*	3-Yr. Avg.	% of 3-Yr. Avg.
Advertising	16	59	12	29	1%
Overcharging	1	2	0	1	<1%
Billing Dispute	63	34	30	42	2%
Customer Service	69	52	29	50	2%
Hot Check	2	2	25	10	<1%
CE Audit	17	4	13	11	<1%
Default on Student Loans	1	0	0	0	0%
Other Allegations	154	164	121	146	6%
Texas Pharmacy Act	32	39	45		
Texas Dangerous Drug Act	5	1	1		
Texas Controlled Substance Act	8	13	3		
Food Drug & Cosmetic Act	11	11	6		
TSBP Rule	72	59	45		
Other Laws/Rules	26	41	21		
Reinstatement	8	7	7	7	<1%
Modification	7	10	9	9	<1%
TOTAL	2,137	1,887	3,018	2,347	100%

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

ENFORCEMENT DIVISION
ACTION TAKEN BY TSBP
TO CLOSE COMPLAINTS FY2002 - FY2004

	FY2002	FY2003	FY2004*	3-Yr. Avg.	% of 3-Yr. Avg.
Investigations Not Resulting in Disciplinary Action	1,724	1,469	2,397	1,863	79%
Investigate + Dismissal (Warning) Letter	449	389	1,149	662	28%
Investigate + Complaint Closed with Verbal Warning	483	387	204	358	15%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	418	313	780	504	22%
Inspections	20	45	24	30	1%
Inspection + Warning Notice or Dismissal Letter	5	10	2	6	<1%
Other **	349	325	238	304	13%
Investigations Resulting in Disciplinary Action	236	236	515	329	14%
Agreed Board Order	208	213	446		
Board Order	3	7	15		
Preliminary Notice Letter + Dismissal (Warning) Letter	2	1	0		
PNL + Application Withdrawn*	0	0	35		
Informal Conference + Dismissal Letter	5	10	10		
Informal Conference + Case Dismissed	18	5	9		
Referrals To:	87	108	57	84	4%
Medical Board	2	4	4		
PRN Program	9	10	0		
Supervisor	18	7	2		
Other Agency	58	87	51		
No Action Because:	90	74	49	71	3%
No Violation	49	48	24		
No Jurisdiction	27	19	18		
Insufficient Information	13	7	6		
Other	1	0	1		
TOTAL	2,137	1,887	3,018	2,347	100%

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

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

ENFORCEMENT DIVISION

4. *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 FY2004.*

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

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

ENFORCEMENT DIVISION

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

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

ENFORCEMENT DIVISION

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

5. *To monitor compliance with all Board Orders and Agreed Board Orders, including rehabilitation Orders relating to impaired or recovering pharmacists, throughout FY2004.*

Status: ACCOMPLISHED

Comment: As indicated in the chart below, 95% of the 469 disciplinary orders that TSBP entered during FY2004 required some type of monitoring. Division staff monitored the receipt of licensure documents that were required to be submitted to TSBP (e.g., wall certificate of a revoked pharmacist license) and returned these documents as required (e.g., upon reinstatement of the license or completion of the suspension period). Division staff, in conjunction with Accounting staff, ensured that administrative penalties (fines) and probation fees were paid. Division staff also monitored the submission of other documents (e.g., required continuing education and policy/procedure manuals).

Monitoring the following types of orders was extremely labor intensive:

- A. 100 disciplinary orders involved a dispensing error, which generally required the licensee to submit proof of additional hours of continuing education (orders on pharmacists) or policies and procedures relating to quality assurance programs, including peer review procedures (orders on pharmacies);
- B. 40 disciplinary orders involving technicians who were required to undergo an evaluation by a mental health professional before their registrations would be granted; and
- C. 26 confidential rehabilitation disciplinary orders involving impaired/recovering pharmacists. See Ongoing Objective #5.

In addition to the in-house monitoring described above, Compliance Officers conducted 59 inspections of pharmacies for the purpose of monitoring compliance with the terms of the Orders, particularly individuals/facilities who were revoked, suspended, or subject to a probated suspension (see Ongoing Objective #2).

The following chart indicates the types of Orders entered in FY2004, which required the Division to monitor the licensee's compliance with the Order, in some manner.

ENFORCEMENT DIVISION

TYPES OF TSBP DISCIPLINARY ORDERS ENTERED BY TSBP (FY2002-FY2004) THAT REQUIRED MONITORING						
Sanction	FY02 Orders (#)	FY03 Orders (#)	FY04 Orders (#)	% of FY04	3-Yr. Avg.	% of 3-Yr. Avg.
Revocation, Cancellation, and Retirement	23	17	20	4%	20	7%
Suspension, Pharmacist	10	10	19	4%	13	5%
Suspension, Technician	N/A	N/A	221	47%	N/A	N/A
Restricted	14	5	5	1%	8	3%
Rehabilitation Orders*	22	22	13	3%	19	7%
Reinstatement/Relicensure	5	4	5	1%	5	2%
Fines and/or Probation Fee Only	34	42	49	10%	42	15%
Continuing Education and/or Pharmacy Law Course (could also include fines and/or probation fees)	19	43	48	10%	37	13%
Other, Pharmacist: Continuous Quality Improvement Program, Self Assessments (ISMP), Policies/ Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	17	42	51	11%	37	13%
Other, Technician: Report from Mental Health Professional	N/A	N/A	13	3%	N/A	N/A
TOTAL NUMBER OF ORDERS REQUIRING MONITORING	144	185	444	95%	258	90%
TOTAL NUMBER OF ORDERS NOT REQUIRING MONITORING	37	28	25	5%	30	10%
TOTAL ORDERS	181	213	469	100%	288	100%

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

During FY2004, TSBP entered 60 confidential disciplinary Orders. These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below.

CONFIDENTIAL DISCIPLINARY ORDERS ENTERED BY TSBP (FY2002-2004)						
Nature of Violation	FY02	FY03	FY04	% of of FY04	3-Yr. Avg.	% of 3-Yr. Avg.
Non-Compliance with ABO	17	18	20	33%	18	31%
Action by Other Boards	12	2	7	12%	7	12%
Audit Shortages	0	4	3	5%	2	4%
Alcohol-Related Conviction	2	3	4	7%	3	5%

ENFORCEMENT DIVISION

CONFIDENTIAL DISCIPLINARY ORDERS ENTERED BY TSBP (FY2002-2004)						
Nature of Violation	FY02	FY03	FY04	% of FY04	3-Yr. Avg.	% of 3-Yr. Avg.
Theft of Prescription Drugs	5	5	5	8%	5	9%
Created Fraudulent Rx or Obtained C/S By Fraud	3	2	4	7%	3	5%
Convictions	0	1	2	3%	1	2%
Deferred Adjudication	3	3	2	3%	3	5%
Illegal Possession of Controlled Substances	1	1	0	0%	1	2%
Unauthorized Refills of Controlled Substances	0	0	0	0%	0	0%
Probable Cause	9	4	5	8%	6	11%
Request for Modification of ABO	5	4	6	10%	5	9%
Request for Retirement or Revocation	2	0	0	0%	1	2%
Request for Reinstatement	4	1	2	3%	2	4%
TOTAL	63	48	60	100%	57	101%*

* Due to rounding.

Of the 58 confidential pharmacist Orders entered in FY2004, there were 26 Orders resulting in an impaired/recovering pharmacist being added to the number who were being monitored at the end of FY2004, as reflected in the chart below. However, 25 pharmacists were deleted from the list as a result of early termination of probation, successful completion of probation, death, or revocation of license. Accordingly, as of August 31, 2004, a total of 103 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 (FY2000 through FY2004)

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

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

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

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

ENFORCEMENT DIVISION

6. *To provide verbal and written information to Board customers throughout FY2004, to include responses to surveys and questionnaires; to assist the Division of Professional Services in responding to requests for enforcement records 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. COMPLIANCE INSPECTIONS
The Division conducted 1,534 inspections in FY2004 (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 8,661 callers.
- C. WRITTEN INFORMATION
During FY2004, Division staff mailed 157 packets of information and 167 customer service surveys to TSBP customers.
- D. PRESENTATIONS (PUBLIC SPEAKING ENGAGEMENTS)

DATE	PRESENTATIONS Name of Association/Presentation and Location of Meeting	STAFF PERSON	ATTENDANCE (Approx.)
10/16/03	National Association of Drug Diversion Investigators (Drug Diversion)	Gordon Lunsford	50
11/8/03	TPA Academy of Consultant Pharmacists	Mike Ethridge	40
1/23/04	Texas School Based Health Center Clinic (TASBHC) - Austin	Mike Ethridge	135
2/17/04	TPA Managed Care Pharmacists - San Antonio	Mike Ethridge	88
2/17/04	Big Springs State Hospital (Drug Diversion)	Joe Lewis	45
2/18/04	Federal Bureau of Investigation, Houston (Drug Diversion)	Gordon Lunsford	40
3/4/04	Q&A - Technician Registration	Iona Grant	6
5/4/04	Odessa Police Department Training Academy (Fraudulent Prescriptions and Drug Diversion)	Gordon Lunsford	80
5/5/04	Odessa Police Department Training Academy (Fraudulent Prescriptions and Drug Diversion)	Robert Ebrom	80
5/6/04	Wal-Mart District Managers (Drug Diversion)	Joe Lewis and Carol Fisher	25
5/12/04	TSBP Enforcement/Legal Staff - Pyxis Automated Medication Supply Systems - Austin	Mike Ethridge	18
6/22/04	Lake Houston Pharmacy Association - Humble	Iona Grant	30
7/9/04	Walgreen Co. - Marketing/Compliance Training Meeting - Houston	Iona Grant	30
7/12/04	NOBLE Presentation - Dallas	Iona Grant	60
8/5/04	Rio Grande Regional Hospital - Compliance Update - McAllen	Mike Ethridge	15
		TOTAL	742

ENFORCEMENT DIVISION

E. SURVEYS / QUESTIONNAIRES

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

- (1) Legislative Budget Board (LBB) — Division staff, in cooperation with other Divisions, submitted data to LBB with regard to the number of written requests for information that are handled by TSBP each month. In addition, Division Director provided additional data and written report (explanatory comments) to the LBB analyst, in response to his question as to why TSBP had received an increase in the number of complaints in FY2003.
- (2) Division Director provided FY2003 complaint and disciplinary data to the Health Professions Council to incorporate into its annual report.
- (3) Division Director responded to a questionnaire from the Board of Nurse Examiners regarding TSBP's workload with respect to the agency's complaint process.

F. TECHNICAL ASSISTANCE TO BOARD MEMBERS AND EXECUTIVE DIRECTOR

- (1) Division Director assisted in the development of the proposed Goals and Objectives for FY2005, which were presented to/approved by the Board at its meeting held on August 3-4, 2004.
- (2) Division Director made presentations at all Board meetings held in FY2004 regarding the number of active/pending complaints, and at two Board meetings, made presentations about the Customer Service Satisfaction Survey.
- (3) Division Director assisted in the review/editing of drafts of minutes of four Board meetings.
- (4) Division staff assisted with the orientation of new Board Members (see New Objective #6).
- (5) In the absence or at the request of the Executive Director, Division Director responded to inquiries from the media [e.g., Wall Street Journal; Newark (New Jersey) Star Ledger; Houston Chronicle; Amarillo Globe News; Beaumont Examiner; and television reporters in Dallas and El Paso].
- (6) Division Director assisted the Executive Director with the pharmacy compounding issue (e.g., responding to inquiries from and/or meeting with three legislators' aides and meeting with Texas Department of Health personnel).
- (7) Division Director assisted the Executive Director with the Canadian Pharmacy Storefront issue (e.g., responded to inquiries and provided statistics to the Attorney General's Office, NABP, media and others).
- (8) Division Director provided statistics and/or reviewed/provided comments for several presentations made by Executive Director.

ENFORCEMENT DIVISION

G. TECHNICAL ASSISTANCE TO BOARD STAFF

(1) Division of Professional Services

- (a) Open Records – The responsibility for responding to requests for enforcement records was transferred to the Division of Professional Services in October 2003. Accordingly, the Enforcement Division staff only handled 72 written requests for enforcement records in FY2004. This number was included in the chart regarding the agency's total performance with respect to responses to inquiries for enforcement records (see Professional Services Division's Ongoing Objective #10). The Enforcement Division's output primarily occurred in September and October 2003 and back-up as needed during the remainder of the fiscal year. Prior to the transfer of this responsibility to the Professional Services Division, the Enforcement Division staff conducted an orientation of policies/procedures with the staff of the Professional Services Division. In addition, Enforcement Division staff prepared a handbook of sample written responses/procedures for the Division of Professional Services. Between October and December 2003, Division staff also reviewed letters prepared by Professional Services Division prior to the information being mailed to requestors, to ensure that established policies/procedures were being followed.
- TSBP Newsletters – Division staff assisted with each issue of the TSBP Newsletter (e.g., authored articles such as the Compliance Reminders and Complaint Corner and provided applicable information regarding disciplinary orders entered by the Board).
 - Multi-State Pharmacy Jurisprudence Examination (MPJE) – Ben Santana, R.Ph., Chief of Compliance, assisted Director of Professional Services Division with reviewing the MPJE pool of questions for Texas and the U.S. in January 2004 and July 2004 (see Professional Services Division's Ongoing Objective #2).
 - Task Force – Division Director attended and participated in the initial task force meeting to discuss issues regarding patient counseling on May 25, 2004.

(2) Division of Administrative Services and Licensing

- (a) Review Applications for Licensure/Registration – Division staff reviewed applications of any applicant with a criminal history or prior disciplinary action by another professional licensing board, and determined, in concert with the Executive Director and Legal Counsel, whether disciplinary action would be instituted to deny the application for licensure/registration. Division staff also assisted in the review of applications for a Class B or Class D Pharmacy license (see Ongoing Objective #7).
- (b) Division Annual Report – Division Director reviewed and offered comments regarding the Administrative Services and Licensing Division's FY2003 Annual Report.

ENFORCEMENT DIVISION

- (c) Staff Orientation – Division staff conducted orientation for Diana Ruedas, Licensing Specialist. Orientation consisted of overview of Division activities, complaint process, and compliance inspections.
- (3) Legal Division
 - (a) Disciplinary Proceedings – At the request of TSBP General Counsel, Division Director reviewed drafts of Preliminary Notice Letters prior to these documents being finalized and mailed. Division staff also attended 22 days of informal conferences involving pharmacies/pharmacists and 7.5 days of informal conferences involving pharmacy technicians. In addition, Division Director served as an expert witness for one formal disciplinary hearing conducted by the State Office of Administrative Hearings.
 - (b) Division Annual Report – Division Director reviewed and offered comments regarding the Legal Division's FY2003 Annual Report, including the preparation of statistics pertaining to informal conferences conducted and disciplinary orders entered in FY2003.
 - (c) Other Assistance – Division staff conducted orientation for Stephanie Chambers, TSBP Assistant General Counsel (September 2003). In addition, Division Director reviewed and offered comments on article for the TSBP Newsletter authored by Julie Hildebrand, TSBP Assistant General Counsel, regarding Internet pharmacies.

H. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS

- (1) Division staff responded to 16 requests for complaint/disciplinary information from 11 different boards of pharmacy, as well as 12 requests from the Texas Department of Health.
- (2) 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).
- (3) Division staff assisted others previously mentioned in this report (see Ongoing Objectives #4, #8, and #9).
- (4) Division Director assisted the Executive Director of the Board of Nurse Examiners regarding disciplinary sanctions taken by TSBP against pharmacists who engage in fraudulent activities.

7. *To provide technical assistance to the Administrative Services and Licensing Division regarding interpretation of the laws and rules relating to the licensing of pharmacies and pharmacists throughout FY2004.*

Status: ACCOMPLISHED

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Comment:

Number	Activity
15	New Class D (Clinic) Pharmacy applications
1	New Class B (Nuclear) Pharmacy applications
51	Petitions for Expanded Formularies for Class D (Clinic) Pharmacies
14	Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies
3	Notifications of Temporary Locations for Class D (Clinic) Pharmacies

8. *To serve as liaison for the Board to the Pharmacy Recovery Network (TX-PRN) of the Texas Pharmacy Association and to monitor non-financial contractual obligations of PRN throughout FY2004.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Board Member Donna Rogers served as an ex-officio member of the TX-PRN State Committee through May 3, 2004. Ben Fry, R.Ph., replaced Ms. Rogers as the ex-officio member, effective May 4, 2004.
- B. The TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY2004.
- C. TSBP requested an independent audit be conducted on the data provided to TSBP (financial data and performance measure data). This audit was conducted on November 24, 2003, and the results of the audit were reported to the Board at its meeting held May 4-5, 2004 .
- D. Throughout FY2004, Division Director and Enforcement Administrator reviewed monthly activity reports submitted to TSBP by TX-PRN Director.
- E. Enforcement Administrator attended two TX-PRN State Advisory Committee meetings (October 18, 2003, and March 6, 2004).
- F. Throughout FY2004, Enforcement Administrator worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

9. *To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2004.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. HPC Annual Report – Division Director submitted agency enforcement performance data to be incorporated in the HPC Annual Report.

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- B. HPC Toll-Free Complaint Hotline – HPC member agencies are billed for hotline calls received by the respective agency. When complainants call the hotline, they may leave a message advising the agency of the complainant's name, address, and telephone number, or they may "zero out" and speak to an HPC staff member for clarification of procedures. During FY2004, TSBP mailed 260 complaint forms to individuals requesting forms on the HPC toll-free complaint hotline and 232 complaint forms to individuals who called the TSBP voice mail complaint line, which represented a significant decrease in the number of complaint forms being mailed by TSBP to potential complainants. The number of requests for complaint forms received in FY2004, as compared to the five previous fiscal years, is depicted in the following chart.

COMPLAINT FORMS PROCESSED BY ENFORCEMENT DIVISION (FY00 through FY04)

Fiscal Year	Requests for Complaint Forms Via HPC 800#	% Change	Requests for Complaint Forms via TSBP Voice Mail	% Change
FY00	1,498		603	
FY01	851	-43%	725	+20%
FY02	735	-14%	789	9%
FY03*	628	-15%	634	-20%
FY04	260	-59%	232	-63%

* TSBP received a dramatic 49% increase in the number of online complaints that were filed in FY2003 as compared to FY2002. Accordingly, it appears TSBP customers filed complaints via the agency's website rather than call the TSBP office and request a complaint form.

10. *To assist the Executive Director in surveying agency customers regarding the quality of service delivered by the agency as specified in Chapter 2113 of the Government Code, and in preparing the report regarding the results of the survey to the Legislative Budget Board and the Governor's Office of Budget and Planning by June 1, 2004.*

Status: **ACCOMPLISHED**

Comment: Division Director, with the oversight and assistance of the Executive Director, prepared the report containing the analysis of the agency's customer service satisfaction survey and covering all essential elements required by legislation to be in the report. The Executive Director submitted the report to the Legislative Budget Board (LBB) and the Governor's Office of Budget and Planning (GOBP) on June 1, 2004. The report was required to contain the agency's performance on standard Customer Service Performance Measures, such as those listed in the chart below.

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	FY2002 Survey Performance	Calendar Year 2003 Survey Performance	% Change
Percentage of Surveyed Customer Respondents Expressing Overall Satisfaction with Services Received	74%	90%	+ 22%
Percentage of Surveyed Customer Respondents Identifying Ways to Improve Service Delivery	3%	4%	+ 33%
Number of Surveys Mailed	3,593	11,523	+ 221%
Number of Surveys Returned	989	2,168	+ 119%
Response Rate	27.5%	18.3%	- 33%
Cost Per Customer Surveyed	\$1.00	\$0.26	- 74%

The cost measure was calculated by Accountant Jane Bennett; the cost of the survey was minimal due to the following reasons: (a) TSBP employees Steve Rapp and Todd Hayek created a database program (Access) and prepared required charts for the report; (b) Student Pharmacist-Interns were used to data enter the survey information to the Access program (at no cost to the agency); (c) using the charts prepared by Mr. Rapp and Mr. Hayek, Division Director prepared the analysis; (d) TSBP enclosed surveys with other letters that were being mailed at the point of contact (i.e., no extra postage was required to mail the survey); and (e) TSBP did not provide return postage for the respondent.

Beginning in January 2003, and continuing through the end of the year, TSBP enclosed surveys with each new pharmacist license issued, each new pharmacy license issued, and each pharmacist license renewal. In addition, TSBP surveyed non-licensees, as follows: (1) surveys were enclosed with letters to complainants, advising them about the disposition of their complaints; (2) surveys were enclosed with letters to the general public who were requesting copies of public records; and (3) surveys were enclosed with copies of disciplinary orders mailed to attorneys who had represented licensees during the disciplinary process.

The survey asked the question, "How would you rate your overall satisfaction with the services rendered?" TSBP considered a "satisfied customer" as one who answered this question "very satisfied" or "satisfied." Using this guideline, about 90 % of TSBP's customers were satisfied, which was a significant improvement from the prior survey period (FY2002) when overall satisfaction was only 74%.

The TSBP survey also asked customers to comment on any issue that would help the agency serve the customer better. Approximately 418 respondents wrote comments on the survey form. Most of these comments were not suggestions, but rather, were statements -- either positive or negative, or neutral (e.g., complainant restated the complaint allegations). Division Director reviewed all comments that any customer made on a survey, and made copies of these comments for the Executive Director's review. If a customer made a positive or negative comment about a particular TSBP employee, Division Director also provided copy of this survey to the employee's supervisor. From the comments, Division Director prepared a report listing (a) complimentary statements; (b) negative statements; and (c) suggestions. This report was reviewed by the Executive Director together with all Division Directors, who implemented suggestions if possible.

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Division Director presented a preliminary report about the survey to the Board at its meeting held in May 2004, which included a handout that listed complimentary comments made by agency customers. Division Director gave a final presentation to the Board at its meeting held in August 2004 and provided a handout that contained examples of complimentary and negative comments, and a list of suggestions that had been made by agency customers; the suggestions were listed in the following categories: (a) suggestions that had been accomplished; (b) suggestions on which TSBP staff had already taken action; (c) suggestions to be considered if funding is available; (d) suggestions that were not within the Board's jurisdiction; and (e) other (miscellaneous) suggestions.

Division Director drafted an article for the Fall 2004 issue of the TSBP *Newsletter* regarding the customer service survey, so that agency customers would be aware of the results of the survey.

11. *To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2004.*

Status: ACCOMPLISHED

Comment: In FY2004, Division staff attended several team meetings, Division staff meetings, and general staff meetings. Division Staff Meetings and General Staff Meetings were held on the following dates:

- December 5, 2003;
- February 11, 2004;
- May 11, 2004; and,
- August 18, 2004.

Carol Fisher, R.Ph., M.P.A.	
11/18/03	Threat of Drug Re-Importation: Are Internet Pharmacies Safe? - Austin
2/10/04	Quality Improvement: Tools to Benchmark and Measure Performance – Part I of Webcast (Web-Assisted Audio Conference) sponsored by U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality
2/18/04	Making Quality Count: Tools, Strategies and Resources, Using Measurement Data to Improve Quality – Part II of Webcast described above
3/23/04	Management of Allergic Rhinitis: Treatment Options 2004, CAPA Monthly Meeting - Austin
4/16 - 17/04	TSHP Annual Meeting - Houston
4/22/04	Emerging Advances in HCV Management, CAPA Monthly Meeting - Austin
6/24/04	When Do You Need Legal Advice?, CAPA Monthly Meeting - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin
8/26/04	The Link Between Allergic Rhinitis and Asthma: The Concept of the "United Airways," CAPA Monthly Meeting - Austin

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Joe Lewis	
1/14/04	Identify Theft - Austin
2/11/04	Respect in the Workplace (EAP Presentation) - Austin
3/6/04	Professional Recovery Network (PRN) Program - Austin
3/30/04	HHSC Orientation - Austin
4/16/04	TDI Fraud Training - Austin
4/27/04	Financial Investigations - Dallas
5/27/04	Employee Assistance Program for Supervisors - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Ben Santana, R.Ph.	
10/3/03	U.T. College of Pharmacy - Psychiatric Pharmacy Update - Austin
5/3 - 7/04	Governor's Center for Management Development - Management Development Program - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Sherry Stevenson	
10/1/03	The Texas Conference for Women - Austin
12/5/04	Goal Setting (EAP Presentation) - Austin
2/3/04	Equal Employment Opportunity (EEO) On-Line Training
2/11/04	Respect in the Workplace (EAP Presentation) - Austin
5/27/04	Supervisor Training; The 5 Step Formula (EAP Presentation) - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Janelle Nastri	
10/19/04	Relapse Prevention: The Philosophy of Professional Accountability (PRN Seminar) - Austin
12/5/03	Goal Setting (EAP Program) - Austin
2/11/04	Respect in the Workplace (EAP Presentation) - Austin
3/7/04	Drug Intervention (PRN Seminar) - Austin
5/11/04	Nutrition and Wellness (EAP Presentation) - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

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Iona Grant, R.Ph.	
10/18/03	Medications That Affect the Pulmonary System of the Critically Ill Patient - Houston
12/5/03	Goal Setting (EAP presentation) - Austin
2/11/04	EEO Training (conducted by TDI Trainers) - Austin
2/11/04	Respect in the Workplace (EAP presentation) - Austin
4/16 - 19/04	TSHP Annual Meeting - Houston
7/22/04	Gulf Coast Society of Health-System Pharmacists - Houston
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Mike Ethridge, R.Ph.	
9/17/03	TPA Academy Independent Pharmacists - Weslaco
9/23/03	Coastal Bend, P.A. - Corpus Christi
11/2/03	Central Texas System Healthcare Pharmacists - Austin
11/8/03	TPA Academy Consultant Pharmacists - Austin
12/5/03	Goal Setting (EAP presentation) - Austin
1/13/04	TSHP "Current Problems & New Therapy" - San Antonio
2/11/04	Respect in the Workplace (EAP presentation) - Austin
2/20/04	TPA Managed Care Pharmacist - San Antonio
3/11/04	Mandatory EEO Training - Austin
3/17/04	B.C.P.A. 2204 Law Update - San Antonio
4/13/04	T.S.H.P. - "Are Generics Equal" - San Antonio
4/23 - 25/04	T.P.A. Education Fair - Region D - San Antonio
5/11/04	Nutrition/Wellness (EAP Presentation) - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Richard Thompson, R.Ph.	
5/04	Resigned

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Sarah Guevara	
12/5/03	Goal Setting (EAP presentation) - Austin
2/11/04	EEO Training (conducted by TDI Trainers) - Austin
2/11/04	Respect in the Workplace (EAP presentation) - Austin
5/11/04	Nutrition and Wellness (EAP presentation) - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Chris Schuttler	
1/04 - 3/04	Hired 1/26/04, followed by Initial Orientation and Field Training
5/24 - 26/04	Council on Licensure Enforcement and Regulation (CLEAR) - Basic Investigator's Training Course - Austin
4/16 - 19/04	TSHP Annual Meeting - Houston
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

David Meryman	
1/04 - 3/04	Hired 1/26/04, followed by Initial Orientation and Field Training
5/24 - 26/04	Council on Licensure Enforcement and Regulation (CLEAR) - Basic Investigator's Training Course - Austin
4/16 - 19/04	TSHP Annual Meeting - Houston
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Robert Ebrom	
9/15/03	Intoxilyzer - Floresville
1/14/04	Identify Theft - Austin
2/11/04	EEO Training - Austin
5/3/04	Prescription Fraud - Odessa
5/11/04	Nutrition and Wellness (EAP Presentation) - Austin
6/17/04	Cultural Diversity - San Antonio
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin
8/30/04	Texas Narcotic Association - Fort Worth

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Gordon R. Lunsford	
10/16/03	National Association Drug Diversion Investigators - Fort Worth
12/6/03	Pharmacy Law Seminar - Austin
2/11/04	EEO Training - Austin
4/9/04	Identity Theft - Houston
5/4/04	Prescription Fraud - Odessa
5/24/04	National Certified Investigator/Inspector Training - Austin
6/9/04	Drug Diversion Training - DEA Academy Quantico, Virginia
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Dorothy L. Claggett	
9/03 - 11/03	Hired 9/1/03, followed by Initial Orientation and Field Training
10/16/03	National Association Drug Diversion Investigators - Fort Worth
12/6/03	Pharmacy Law Seminar - Austin
2/11/04	EEO Training - Austin
5/24/04	National Certified Investigator/Inspector Training - Austin

Wayne L. Jones	
1/14/04	Identity Theft - Austin
2/11/04	EEO Training - Austin
5/3/04	Prescription Fraud - Odessa
5/24/04	Advance Clear Training - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Anita A. Arnet	
9/03	Pharmacy Law Seminar - Austin
2/11/04	EEO Training - Austin
5/24/04	National Certified Investigator/Inspector Training - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

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Melissa Weeden	
2/15/04	EEO Training Online - Austin
5/6/04	Conference for Professional Women - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Amy Schroeder	
2/11/04	EEO Training - Austin
5/24/04	National Certified Investigator/Inspector Training (Advanced) - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin
8/23/04	Texas Law Enforcement Telecommunications System - Austin

Jill McGahey	
11/03	Resigned

Jill Kier	
1/04 - 2/04	Hired 1/26/04, followed by Initial Orientation and Field Training
1/26/04	Texas State Board of Pharmacy Orientation - Austin
2/11/04	EEO Training - Austin
4/04	Texas Law Enforcement Telecommunications System - Burnet
5/24/04	National Certified Investigator/Inspector Training - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Linda Yazdanshenas	
1/04 - 2/04	Hired 1/26/04, followed by Initial Orientation and Field Training
1/26/04	Texas State Board of Pharmacy Orientation - Austin
2/11/04	EEO Training - Austin
4/04	Texas Law Enforcement Telecommunications System - Burnet
5/24/04	National Certified Investigator/Inspector Training - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

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Patty Galan	
11/24/03	Weight Loss & Exercise (EAP Presentation) - Austin
1/26/04	EEO On-Line Training
3/31/04	Dr. Kim's Communicating with Confidence - Austin
5/26/04	TCIC/NCIC Training - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Diane Torres	
12/15/03	EEO On-Line Training
5/6/04	National Women's Conference - Austin
5/19/04	NCIC/TCIC Training - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin

Yvette Muniz	
12/04	Hired 12/01/04, followed by Initial Orientation and Training
1/28/04	TCIC/NCIC Training
3/24/04	Meals on Wheels Training
5/6/04	National Women's Conference - Austin
8/18/04	Getting Our Ducks in a Row; Governor's Center for Management Development - Austin
8/23 - 27/04	TCIC/NCIC Training

12. *To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2004.*

Status: **ACCOMPLISHED**

Comment: Formal performance reviews were conducted as follows:

Employee	Date of Evaluation	Evaluation By
Joe Lewis	August 5, 2004	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Ben Santana, R.Ph.	August 20, 2004	Carol Fisher, R.Ph., M.P.A. Director of Enforcement

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Employee	Date of Evaluation	Evaluation By
Sherry Stevenson	August 31, 2004	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Janelle Nastri	August 6, 2004	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Iona Grant, R.Ph.	August 17, 2004	Ben Santana, R.Ph. Chief of Compliance
Mike Ethridge, R.Ph.	August 17, 2004	Ben Santana, R.Ph. Chief of Compliance
Richard Thompson, R.Ph.	Retired May 2004	
Sarah Guevara	August 16, 2004	Ben Santana, R.Ph. Chief of Compliance
Chris Schuttler	Hired January 26, 2004	
David Meryman	Hired January 26, 2004	
Robert Ebrom	August 9, 2004	Joe Lewis, Chief Investigator
Gordon Lunsford	August 9, 2004	Joe Lewis, Chief Investigator
Dorothy L. Claggett	Resigned August 2004	Joe Lewis, Chief Investigator
Wayne Jones	August 16, 2004	Joe Lewis, Chief Investigator
Anita Arnet	August 6, 2004	Joe Lewis, Chief Investigator
Melissa Weeden	August 5, 2004	Joe Lewis, Chief Investigator
Amy Schroeder	August 5, 2004	Joe Lewis, Chief Investigator
Jill McGahey	Resigned November 2003	
Jill Kier	Hired January 26, 2004	
Linda Yazdanshenas	Hired January 26, 2004	
Patty Galan	August 11, 2004	Sherry Stevenson Sr. Administrative Assistant
Diane Torres	August 11, 2004	Sherry Stevenson Sr. Administrative Assistant
Yvette Muniz	Hired December 1, 2003	

Other activities related to Division personnel are listed below:

- A. Division Director updated 11 job descriptions during FY2004; updates were made to job descriptions for the following positions: Chief of Compliance; Chief of Investigations; Senior Compliance Officer; Senior Enforcement Officer; Enforcement Administrator; Enforcement Officer; Compliance Officer; Compliance Inspector; Staff Compliance Officer; Compliance Specialist; and Administrative Technician IV.

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- B. The Division began FY2004 with three vacant positions (as described below), not including the two positions that were eliminated due to mandated budget cuts:
- Assistant Director of Enforcement Allison Benz, R.Ph., was promoted to Director of Professional Services, effective September 1, 2003. This position was re-classified to a Staff Compliance Officer position. Although the vacancy was advertised in April 2004, and efforts were made to fill this position in FY2004, the position remained vacant throughout FY2004.
 - Chief of Compliance Cy Weich, R.Ph., retired on August 31, 2003, leaving the Chief's position vacant, as well as the field officer for the Dallas region. Due to budget cuts, the field officer position was re-classified to an Inspector position for FY2004 (to be filled with a non-pharmacist).
 - Heidi Holmes Bragg, R.Ph., field Compliance Officer in Houston, resigned in June 2003. Due to budget cuts, this position was not filled for the remainder of FY2003, and the position was re-classified to an Inspector position for FY2004 (to be filled with a non-pharmacist).
- C. The Division also experienced four additional vacancies in FY2004, as described below:
- Carol Willess, Compliance Specialist, accepted an internal promotion to another Division, in October 2003.
 - Jill McGahey, Enforcement Officer, resigned in November 2003.
 - Richard Thompson, R.Ph., Field Compliance Officer, retired in May 2004.
 - Dottie Claggett, Field Investigator, resigned in July 2004.
- D. During FY2004, Division staff advertised for the 13 positions listed below; a total of 315 applications were received/evaluated for these 13 positions, and a total of 38 interviews were conducted:
- Enforcement Administrator – 1 application/no interview (October 2003)
Janelle Nastri was selected to fill this position (internal promotion).
 - Compliance Administrator – 1 application and 1 interview (October 2003)
This job posting was withdrawn and re-posted as a Compliance Specialist.
 - Compliance Specialist – 72 applications and 5 interviews (November 2003)
Sarah Guevara, C.Ph.T., was selected to fill this position (internal promotion).
 - Enforcement Technician – 58 applications and 5 interviews (November 2003)
Yvette Muniz was selected to fill this position.
 - Compliance Inspectors (2) – 57 applications and 8 interviews (December 2003)
Chris Schuttler, C.Ph.T., and David Meryman, C.Ph.T., were selected to fill these positions.
 - Enforcement Officers (2) – 73 applications and 6 interviews (December 2003)
Linda Yazdanshenas and Jill Kier were selected to fill these positions.

ENFORCEMENT DIVISION

- Chief of Compliance – 1 application/no interview (March 2004)
Ben Santana, R.Ph., was selected to fill this position (internal promotion)
- Staff Compliance Officer – 5 applications and 3 interviews (August 2004)
Position offered and declined; job posting was withdrawn.
- Field Investigators (3) – 47 applications and 10 interviews (August 2004)
Tara Rike and Lea Chapa-Foster were selected for these positions (to begin employment in FY2005). The posting for a third field investigator position was withdrawn and reposted as an in-house Enforcement Technician position (in FY2005); this decision was based upon the need for an in-house FTE to conduct the ongoing background investigations against technicians (estimated to be 500 complaints per year).

E. During FY2004, Division staff conducted orientations for the following five new Division staff: Dottie Claggett (September 2003); Chris Schuttler, David Meryman, Linda Yazdanshenas, and Jill Kier (January 2004). In addition, Division staff conducted orientations for the following three students from the University of Texas who were doing internship rotations at TSBP during FY2004:

- January 5, 2004, through February 13, 2004 (Shelly Dorsey)
- March 25, 2004, through May 5, 2004 (Matt Sage)
- July 5, 2004, through August 13, 2004 (Neil Pan)

13. *To destroy records in accordance with the agency's record retention plan throughout FY2004; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2004.*

Status: PARTIALLY ACCOMPLISHED

Comment: The following activities relate to this objective:

- A. Records Management
During FY2004, Division staff destroyed 30.5 cubic feet of records, in accordance with the TSBP record retention schedule.
- B. Policies and Procedures
Due to workload issues (specifically, the new technician registration program and Sunset review process), no section of the Division's Policy and Procedures Manual was updated during FY2004. For this reason, Objective #13 is only partially accomplished.

14. *To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2004.*

Status: ACCOMPLISHED

ENFORCEMENT DIVISION

Comment: This objective was accomplished through the following activities:

- A. Compliance staff recommended that the 100 most commonly asked questions, along with the answers, be posted on the agency's website, or an area where the consumer or pharmacist can type in a question and the answer to the question will pop up. This could possibly reduce the number of phone calls coming into the agency.
- B. Compliance staff provided valuable suggestions for improving the Jornada/Printer project.
- C. Division staff provided numerous suggestions/comments regarding policies and procedures for issuing Warning Notices.
- D. Compliance staff suggested that TSBP have a link on its website for customers to place an order for the Board's consumer/generic drug sign. The link would potentially reduce the number of orders received by telephone.
- E. Sarah Guevara, C.Ph.T., Compliance Specialist, suggested that TSBP contact pharmacy technician schools and inform their academic advisors of those offenses that could result in a denial of an applicant for registration as a pharmacy technician. This idea would allow individuals who are considering pharmacy as a career to make a more informed decision before investing financially in the school's technician program.
- F. Division staff implemented changes to enhance and refine the Pre-Inspection procedures.
- G. Chief of Compliance Ben Santana, R.Ph., implemented procedures to enhance communications with compliance field staff (e.g., developing a calendar to advise field staff of in-house staff's work/leave schedules).
- H. Division Director advised the agency's computer programmer as to changes that were required to be made to the agency's computerized complaint tracking system and disciplinary order entry system to process complaints and disciplinary orders involving pharmacy technicians.
- I. Division staff developed and implemented procedures pertaining to pharmacy technicians who had submitted an application for registration and either checked "yes" to one or more questions regarding their criminal history or failed to check "yes" when they had a criminal history.
- J. Division Director recommended changes to enhance or refine internal forms and procedures (e.g., limiting post audit reviews to drugs that would appear in a Preliminary Notice Letter; develop a third-party Waiver Form; update TSBP complaint form with patient's DOB).
- K. Division Director recommended that TSBP notify employees when TSBP becomes aware that a licensee or registrant has a drug-related felony conviction (due to DEA and DPS rules that prohibit such convicted felons from working in a pharmacy without first obtaining a waiver from DEA/DPS).

ENFORCEMENT DIVISION

15. *To recommend changes to the Texas Pharmacy Act and rules, which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2004.*

Status: **ACCOMPLISHED**

Comment:

- A. Chief Investigator Joe Lewis recommended that Section 554.010 of the Texas Pharmacy Act be amended to allow TSBP employees who are commissioned peace officers to carry a firearm and make an arrest under strict Board guidelines.
- B. Iona Grant, R.Ph., suggested that a rule be implemented that would require a pharmacy to publicly display the pharmacy's hours of operation.
- C. Iona Grant, R.Ph., suggested that a rule be implemented to require prepackaged drugs (to be provided in a Class D pharmacy) be labeled with an expiration date; such a procedure would be consistent with rules regarding prepackaging of drugs (which are subsequently dispensed to a patient).
- D. Iona Grant, R.Ph., suggested that a rule be implemented that would require a Class A pharmacy to perform and document a perpetual inventory for all dosage forms containing hydrocodone.
- E. Iona Grant, R.Ph., suggested that a rule be implemented that would require a pharmacist to perform an audit of selected drugs in a Class D pharmacy, in order to minimize diversion of dangerous drugs (i.e., self-medication with antibiotics).
- F. Iona Grant, R.Ph., suggested that the Board work with TSBME in developing a certification program for physicians who practice pain management, and subsequently have the Board implement a rule that would require a pharmacist to restrict the dispensing of pain management prescriptions using guidelines set forth under the physician's certification program.
- G. Division Director recommended that TSBP rules be clarified to include a "hold harmless" clause to employers who review employee's patient profiles for potential unauthorized prescriptions.

16. *To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2003 Annual Report to be presented to the Board by its May 2004 Board meeting.*

Status: **ACCOMPLISHED**

Comment: The Division's first draft of the FY2003 Annual Report was submitted to the Executive Director by the due date. The final draft of the TSBP Annual Report was presented to and approved by the Board at its meeting held in May 2004.

ENFORCEMENT DIVISION

FY2004 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of the Division's 21 Objectives for FY2004 (20 accomplished and one partially accomplished).
2. During FY2004, the agency began the registration process for all pharmacy technicians. By June 1, 2004, all technicians were required to have begun the on-line registration process, and had either been issued a registration by the Board or were pending investigation and/or disciplinary action. Approximately 25,000 technicians were registered during the fiscal year. Without an increase in staffing, the Division took on the arduous task of handling disciplinary cases against the pharmacy technicians who were found to have had a criminal history, who falsified the registration application, or who had some other ground for disciplinary action. The Division initiated 399 disciplinary actions by mailing a Preliminary Notice Letter and entered 234 Agreed Board Orders against pharmacy technicians during the fiscal year.
3. TSBP entered significantly more disciplinary orders in FY2004 than in any prior fiscal year based not only on the addition of the cases against pharmacy technicians but also on the cases against pharmacists and pharmacies. Even without the technician cases, the Division entered a record 235 disciplinary actions against pharmacists and pharmacies, which resulted in a 10% increase over the 213 entered in FY2003.
4. Ninety-eight percent 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, which resulted in significant efficiencies, both in terms of complaint resolution time and expenditures.
5. The Division experienced an extraordinary increase in the number of Preliminary Notice Letters (PNLs) sent in FY2004 as compared to FY2003, again based on the large number of PNLs that were sent to pharmacy technicians. The Division mailed a total of 652 PNLs as compared to 240 in FY2003, with 253 PNLs mailed to pharmacists and pharmacies and 399 PNLs mailed to pharmacy technicians. The Division significantly decreased the number of days to mail all PNLs after the case review date from 64.5 days in FY2003 to 35.9 days in FY2004.
6. The Division conducted a total of 30 days of Informal Conferences for both pharmacists and pharmacies and for pharmacy technicians in FY2004 as compared to 23.5 days in FY2003 (during which time Informal Conferences were only held for pharmacists and pharmacies). This sizeable increase in Informal Conference days was accomplished despite no increase in staff, and allowed the Division to resolve a large number of disciplinary cases.

LEGAL DIVISION

7. The Division resolved four cases that were set for administrative hearings at the State Office of Administrative Hearings (SOAH) prior to proceeding to hearing. The cases were resolved through Agreed Board Orders (ABO) through negotiations with the licensees or their attorneys or through the SOAH Mediation process. These resolutions saved the agency considerable resources both in time and expenditures.
8. Four administrative hearings were conducted at SOAH. Four Proposals for Decisions (PFD) were issued by the Administrative Law Judges in favor of TSBP during FY2004, and in each case, the Board adopted a Board Order accepting the PFD.

PHARMACISTS/PHARMACIES

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF AGREED BOARD ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% INCREASE IN DISCIPLINARY ORDERS	% ABOs OF TOTAL ORDERS
FY00	0	126	126	17%	100%
FY01	4	141	145	15%	97%
FY02	2	179	181	25%	99%
FY03	4	209	213	17%	98%
FY04	6	229	235	10%	98%
TOTAL	16	884	900	87% OVER 5 YRS.	5 YR. AVG. 98%

PHARMACY TECHNICIANS

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF AGREED BOARD ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% INCREASE IN DISCIPLINARY ORDERS	% ABOs OF TOTAL ORDERS
FY04	0	234	234	N/A	100%
TOTAL	0	234	234	N/A	100%

LEGAL DIVISION

FY2004 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Due to the tremendous number of disciplinary cases resulting from the pharmacy technician registration process, which began during FY2004, the Legal Division was forced to focus on pharmacy technician cases. As a result, the Division was not able to give priority and time to disciplinary cases for pharmacist and pharmacy licenses. Fortunately, the Legal Division was not receiving many cases on pharmacist and pharmacy licenses because the Enforcement Division was also focusing on the pharmacy technician registration cases. However, there may ultimately be a backlog based on the intense effort focused on the pharmacy technician cases. This situation is not reflected in the statistics for FY2004, because several months usually elapse before a backlog is reflected. Therefore, the Legal Division may see a decline in the statistics reported for FY2005.
2. The technician registration process was essentially accomplished without an increase in staffing. Therefore, the Legal Division was under a great deal of stress to handle both the normal caseload for pharmacists and pharmacies and the additional pharmacy technician disciplinary cases without any additional personnel.

FY2004 ANNUAL REPORT

GOAL

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

Objectives (New)

1. *To assist the Executive Director, in cooperation with other Divisions, in the agency Sunset Review process.*

STATUS: ACCOMPLISHED

Comment: General Counsel participated in various meetings with agency and Sunset staff to clarify issues concerning the information submitted to the Sunset Commission and the recommendation to be prepared by the Sunset staff. The milestones in this process were as follows:

September 24, 2003:	Introductory meeting to review purpose, organization, and procedure of the Sunset process
October 2, 2003:	Agency orientation meeting
October 2003 - January 2004:	Meetings for in-depth review of Division activities, extensive information gathering, and data submission
January 21, 2004:	Draft of Sunset Staff Report reviewed
January 30, 2004:	Exit Interview with Sunset staff
February 2004:	Final Sunset Staff Report released
February 28, 2004:	Formal response by TSBP
March 23-24, 2004	Public hearing
May 18-19, 2004:	Sunset Commission decision meeting

General Counsel provided additional information and performed various research at the request of Sunset staff, including research on the investigative privilege for other health profession licensing agencies. She also updated Policy Issues as requested by the Board to include newly-approved issues on wholesale drug distribution and repeal of chapter 567 of the Texas Pharmacy Act, and assisted with the TSBP staff response to the Sunset Staff Report.

LEGAL DIVISION

2. *To assist the Executive Director in updating and preparing the TSBP Strategic Plan for the 2005-2009 period, and submitting the plan to the Governor's Office of Budget & Planning and the Legislative Budget Board.*

STATUS: ACCOMPLISHED

Comment: General Counsel reviewed the policy issues for the *TSBP Strategic Plan* for 2005-2009 and reviewed the draft of revisions to the issues prior to presentation at the February 2004 Board meeting. The draft was approved at the Board's May 2004 meeting.

3. *To assist the Executive Director in preparing the agency's Legislative Appropriation Request for the FY2006-2007 biennium.*

STATUS: ACCOMPLISHED

Comment: The Legislative Appropriation Request was submitted to the Legislative Budget Board (LBB) and the Governor's Budget Office (GBO) by the due date of July 30, 2004. General Counsel attended and participated in all budget planning meetings of the management staff and Board Executive Committee, and served as a resource to the Executive Director at an orientation for the new LBB Budget Analyst on May 27, 2004, at the House Subcommittee Hearing on August 25, 2004, and the initial budget hearing conducted by the LBB/GBO staff on August 26, 2004.

4. *To assist the Executive Director, in cooperation with other Divisions, in reviewing and implementing a new program to register and regulate pharmacy technicians.*

STATUS: ACCOMPLISHED

Comment: The agency began the actual registration of pharmacy technicians in the second quarter of FY2004. The Division staff provided legal advice and consultation in designing and developing a new system to handle the disciplinary process for pharmacy technicians. The Division began to handle disciplinary cases against pharmacy technicians in approximately May 2004, and was able to send out 399 PNLs and enter 234 ABOs within a period of less than three months in the remainder of FY2004.

The Division staff with input from the Enforcement Division and the Executive Director developed a set of guidelines for disciplinary action depending upon the type of violation by the technician. The Board approved these guidelines at the February 2004 meeting, and disciplinary sanctions were proposed for each type of disciplinary case accordingly. This new procedure included initially making a decision whether to recommend denial of the registration, whether to propose a resolution by mail (i.e. an ABO granting the registration and then imposing a suspension), or whether to send a letter warning the applicant about the violation without a disciplinary sanction. The General Counsel individually reviewed cases to make a determination about how to handle the cases. In any situation, the applicant had the option to request an Informal Conference to discuss the matter with a Board panel. The Board delegated the Informal Conference procedure to the Executive Director, who served on the panel along with another designee, with the legal assistance of the General Counsel. The Board panel then made recommendations at the Informal Conferences according to the previously approved guidelines. The Board held two additional Board meetings during the summer of 2004 to review and approve disciplinary orders against pharmacy technicians, which expedited the registration process.

LEGAL DIVISION

The Division staff also drafted new forms for Preliminary Notice Letters and Agreed Board Orders, as well as developed a new system for handling Informal Conferences. The system worked extremely well, allowing the Division to handle the massive disciplinary caseload generated by registering pharmacy technicians.

In addition, Division staff assisted the agency by drafting correspondence and forms and developing general policies to be used by other Divisions, such as the use of the "drop dead" date as the date that a pharmacy technician must be registered or not allowed to continue performing duties.

5. *To assist the Executive Director, in cooperation with other Divisions, in reviewing and implementing legislation passed by the 78th Texas Legislature which affects agency operations.*

STATUS: ACCOMPLISHED

Comment: See New Objective #4.

6. *To assist the Executive Director, in cooperation with other Divisions, in orienting new Board Members within 90 days of appointment by the Governor.*

STATUS: ACCOMPLISHED

Comment: General Counsel reviewed orientation materials and participated in the orientation of new Board Members Ben Fry, R.Ph., and Marcelo Laijas, on April 22-23, 2004.

Objectives (Ongoing)

1. *To coordinate and monitor throughout FY2004 the receipt, assignment, and resolution of all cases accepted by the Division.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

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

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

LEGAL DIVISION

TSBP entered a total of 469 disciplinary orders in FY2004, as reflected in the charts below. This performance was a record-breaking achievement, in that it represented more disciplinary orders being entered by the Board than any prior fiscal year.

TOTAL PHARMACIST/PHARMACY ORDERS

Date of Orders	Summary Suspensions	Board Orders	Agreed Board Orders Public Confidential		Total Number of Orders
Nov. 18-19, 2003	0	1	35	15	51
Feb. 3-4, 2004	0	3	27	18	48
May 4-5, 2004	0	1	71	13	85
June 9, 2004	0	0	0	1	1
Aug. 3-4, 2004	0	1	36	13	50
TOTAL FY2004	0	6	170	60	235

TOTAL PHARMACY TECHNICIAN ORDERS

Date of Orders	Total Number of Orders
May 4-5, 2004	18
June 9, 2004	56
July 10, 2004	69
Aug. 3-4, 2004	91
TOTAL FY2004	234

LEGAL DIVISION

Information regarding the disciplinary cases entered in FY2004 is set forth in the following charts:

SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON PHARMACISTS/PHARMACIES (FY2004)

			Pharmacist	Pharmacy	Total	
Licenses Removed	20	(9%)				
Revoke			15	2	17	(7%)
Retire			3	0	3	(1%)
Suspensions	54	(23%)				
Suspension			16	0	16	(7%)
Suspension w/Conditions			1	0	1	(<1%)
Suspension/Fine			2	0	2	(<1%)
Suspension/Probation			4	1	5	(2%)
Suspension/Probation w/Conditions			14	3	17	(7%)
Suspension/Probation/Fine			1	3	4	(2%)
Suspension/Probation/Fine w/Conditions			0	9	9	(4%)
Restrictions	5	(2%)	5	0	5	(2%)
Other	135	(57%)				
Fine			16	10	26	(11%)
Fine with Conditions			7	2	9	(4%)
Fine and Reprimand			4	4	8	(3%)
Fine, Reprimand with Conditions			17	21	38	(16%)
Reprimand			9	7	16	(7%)
Reprimand with Conditions			22	16	38	(16%)
Issuance License/Regist.	7	(3%)				
Grant with Probation			1	1	2	(<1%)
Grant with Probation and Conditions			1	0	1	(<1%)
Grant with Reprimand			0	0	0	(n/a)
Grant with Fine			3	1	4	(2%)
Deny			0	0	0	(n/a)
Reinstatements	6	(3%)				
Grant			0	0	0	(n/a)
Grant with Probation/Conditions			5	0	5	(2%)
Deny			1	0	1	(<1%)
Modifications	8	(3%)				
Grant			8	0	8	(3%)
Deny			0	0	0	(n/a)
TOTAL FY04:	235	(100%)	155	80	235	(100%)

FY04 Orders Entered Against Pharmacist Licenses	155	66%
FY04 Orders Entered Against Pharmacy Licenses	80	34%
FY04 Total Disciplinary Orders	235	100%

LEGAL DIVISION

DISCIPLINARY ORDERS ON PHARMACISTS/PHARMACIES (FY2004)
NATURE OF VIOLATIONS*

	RPh	Phcy	Total	Total %
Diversion	13	2	15	6%
Unauthorized Dispensing	3	2	5	
Theft of Controlled Substances	5	0	5	
Obtained C/S by Fraud	5	0	5	
Convictions	12	0	12	5%
Felony	5	0	5	
Misdemeanor	0	0	0	
Deferred Adjudication	3	0	3	
Alcohol-Related	4	0	4	
Audit Discrepancies	12	12	24	10%
Drug	7	12	19	
Continuing Education	5	0	5	
Practice Deficiencies	55	58	113	48%
Dispensing Errors	30	31	61	
Dispensing Errors & No Counsel and/or No Drug Regimen Review	18	21	39	
No Counsel and/or DRR	5	5	10	
Negligence	2	1	3	
Unprofessional Conduct	48	8	56	24%
Aiding and Abetting	1	2	3	
Falsified Application for Licensure	7	2	9	
Delinquent License	1	0	1	
Triplicate Prescription Non-Compliance	1	1	2	
Theft (Non-Drug)	1	0	1	
Probable Cause/Chemical Dependency	4	1	5	
Violation of Confidentiality Laws/Rules	2	2	4	
Action by Other Boards	10	0	10	
Non-Compliance with Previously Entered Order	21	0	21	
Other				
Modification	8	0	8	3%
Reinstatement	6	0	6	3%
Request for Retirement	1	0	1	<1%
TOTAL FY04:	155	80	235	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

**SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS
ON PHARMACY TECHNICIANS (FY2004)**

	Total	Total %
Grant Registration subsequent to meeting certain conditions	13	6%
Grant Registration subsequent to meeting certain conditions followed by suspension	28	12%
Grant Registration followed by suspension	193	82%
TOTAL FY04:	234	100%

**DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS (FY2004)
NATURE OF VIOLATIONS***

		Total	Total %
Gross Immorality	19		8%
Immoral conduct		0	
with falsified application		0	
Engaging in felony		15	
with falsified application		4	
Engaging in sexually deviant behavior		0	
with falsified application		0	
Falsification	135		58%
Conviction	42		18%
Misdemeanor		21	
with falsified application		16	
Felony		5	
with falsified application		0	
Drug or Alcohol Dependency	6		3%
Drug or Alcohol Dependency		2	
with falsified application		4	
Violation of Drug Laws	32		14%
Misdemeanor		12	
with falsified application		17	
Felony		3	
with falsified application		0	
TOTAL FY04:	234	101%	(Due to rounding.)

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

LEGAL DIVISION

2. *To review all cases referred to the Division for potential disciplinary action; and if sufficient evidence exists to warrant action, to institute disciplinary proceedings against licensees within an average of 150 days of the date of the case review, in accordance with priorities established for the Enforcement Division, throughout FY2004.*

Status: ACCOMPLISHED

Comment:

This objective was accomplished through the following activities:

- A. During FY2004, 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 mailed 652 Preliminary Notice Letters in FY2004, in accordance with the priorities established for the Division, as compared to FY2003, when the Division mailed 240 PNLs. Of these PNLs, 253 PNLs were mailed to pharmacists and pharmacies, and 399 PNLs were mailed to pharmacy technicians.

The Division significantly decreased the number of days to mail PNLs after the case review date from 64.5 days in FY2003 to 35.9 days in FY2004. The number of days for PNLs to be sent to pharmacists and pharmacies averaged 81.6 days. PNLs to pharmacy technicians were sent in an average of 9.8 days from receipt of the case.

Total resolution time for cases in FY2004 was 100.3 days from receipt of the case in the Legal Division to the entry of an Agreed Board Order. Case resolution for pharmacists and pharmacies averaged 183.1 days and for pharmacy technicians 43 days.

3. *To plan and conduct a minimum of 15 days of Informal Conference sessions in FY2004 to adjudicate violators of pharmacy laws/rules.*

Status: ACCOMPLISHED

Comment: During FY2004, the Division conducted 30 days of Informal Conferences for 333 licensees/registrants, as indicated in the following charts. As compared to FY2003, the number of conference days and the number of licensees heard at Informal Conferences increased dramatically from 23½ days and 260 licensees, due, in large part, to the disciplinary actions initiated against pharmacy technicians.

LEGAL DIVISION

INFORMAL CONFERENCES FOR PHARMACISTS/PHARMACIES

Dates of Informal Conference	# of Days	# of Licensees	# of Cases	# of Licensees Dismissed	Board Member Participant
Sept. 16-18, 2003	3	23	19	3	Wiki Erickson
Oct. 21-23, 2003	3	32	23	8	Roger Anderson, Dr.P.H., R.Ph.
Dec. 8-10, 2003	2 ½	31	22	3	Mike Brimberry, R.Ph.
Jan. 13-15, 2004	3	30	21	3	Rosemary Combs
1st & 2nd Qtrs.	11 ½	116	85	17 (15%)	
Mar. 2-4, 2004	3	30	19	6	Oren Peacock, R.Ph.
April 13-15, 2004	3	37	23	4	Doyle High, R.Ph.
June 8-10, 2004	2 ½	25	18	3	Juliette Barlett-Pack
July 13-14, 2004	2	20	16	2	Rosemary Combs
3rd & 4th Qtrs.	10 ½	112	78	15 (13%)	
TOTAL FY2004:	22	228	163	32 (14%)	

INFORMAL CONFERENCES FOR PHARMACY TECHNICIANS

Dates of Informal Conference	# of Days	# of Registrants	# of Cases	# of Dismissals
May 14, 2004	1	16	16	0
June 17-18, 2004	2	25	25	0
July 1, 2004	1	11	11	1
July 23, 2004	1	15	15	1
August 12-13, 2004	2	25	25	0
August 31, 2004	1	13	13	1
TOTAL FY2004:	8	105	105	3 (3%)

4. *To refer disciplinary cases to the State Office of Administrative Hearings throughout FY2004, and file a complaint with SOAH within an average of 120 days of the date that the agency determines the case cannot be settled with an Agreed Board Order.*

Status: ACCOMPLISHED

LEGAL DIVISION

Comment: This objective was accomplished through the following activities:

At the onset of FY2004, three cases were ongoing at the State Office of Administrative Hearings. The Division filed formal Complaints at SOAH, within 120 days that the case failed to settle with an Agreed Board Order, for seven additional cases in FY2004.

Four cases were resolved by Agreed Board Order prior to a full contested administrative hearing being conducted at SOAH. One of these cases was resolved with an Agreed Board Order following a Mediated Settlement Conference at SOAH. This resolution was beneficial in saving the agency both considerable time and effort in the alternative of preparing for and presenting a full contested case hearing.

Four administrative hearings were conducted, which resulted in Proposals for Decisions (PFD) issued by the Administrative Law Judges in favor of TSBP, and in each case, the Board adopted a Board Order accepting the PFD.

The other two cases were planned for hearings in FY2005.

SOAH performed 41.85 hours of work for the TSBP in FY2004, totaling \$3,986.64 in direct hearings expenses and \$4,752.28 in total case expenses. These SOAH hours reflect approximately a 71% decrease over FY2003.

5. *To research legal issues and when necessary, to draft requests for Attorney General Opinions throughout FY2004; to serve as liaison for the Board to the Office of the Attorney General (OAG); to monitor and assist with appeals, injunctions, or civil litigation handled by the OAG against pharmacists or non-pharmacists; to provide technical assistance and maintain liaison with appropriate local, state, and federal prosecutors, legal divisions, and enforcement agencies involved in the investigation or prosecution of Board licensees, in conjunction with the Enforcement Division, throughout FY2004; and to provide legal advice regarding the administration of the agency.*

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

A. Liaison with the Office of Attorney General

(1) Assistant Attorney General Assigned to TSBP

Division staff continued to serve as liaison with the OAG throughout FY2004. Joe Pitner served as the Assistant Attorney General assigned to TSBP from the OAG Administrative Law Division.

(2) Appeals; Injunctions; Civil Litigation

(a) No disciplinary cases were appealed during FY2004.

(b) General Counsel coordinated representation by OAG on Canadian storefront operations, which included written and telephonic communications with various OAG attorneys.

LEGAL DIVISION

- (c) General Counsel participated in the OAG Task Force on HIPAA Preemption Analysis at the request of Board Member, Kim Caldwell, R.Ph. General Counsel reviewed laws relating to health professions licensing and the Labor Code for HIPAA preemption/conflicts and prepared a chart summarizing the HIPAA analysis. She then participated in the meeting of the OAG Task Force to resolve conflicts about the application of HIPAA to state law.
- (d) General Counsel coordinated potential representation and receipt of legal advice from OAG attorney regarding potential rule challenge on proposed rules for pharmacy compounding.
- (e) General Counsel interfaced with OAG attorney regarding investigation and associated federal antitrust lawsuit against Texas licensed pharmacy. She also assisted in drafting settlement agreement to ensure that the agreement did not impinge upon TSBP jurisdiction.

(3) Requests for AG Opinions

No requests for open record decisions from the OAG were filed during FY2004.

B. Legal Research and Advice on Agency Administration

- (1) General Counsel reviewed the following documents for legal sufficiency and effectiveness:
 - (a) Service Level Agreement with Texas On-Line System; and
 - (b) WorkSource contract.
- (2) Division staff researched numerous issues, including the following issues:
 - (a) Crimes of moral turpitude;
 - (b) Eligibility for hazardous duty pay;
 - (c) Investigative privilege;
 - (d) Waiver of attorney-client privilege;
 - (e) Rule challenges;
 - (f) Default orders;
 - (g) Release of home addresses; and
 - (h) Compounding law in other states.
- (3) General Counsel assisted Administration with the development of a revised Record Retention Plan.
- (4) General Counsel updated TSBP Authorization for Medical Records Release to comply with HIPAA requirements.

LEGAL DIVISION

- (5) General Counsel served on the agency's Wellness Committee and drafted memoranda to staff regarding the policies developed by the committee to promote health and wellness.

C. Technical Assistance to Local/State/Federal Prosecutors

- (1) General Counsel provided information to the U.S. Attorney's office in Knoxville, Tennessee, regarding a previously-licensed Texas pharmacist to assist with prosecution of his case in Tennessee.
- (2) General Counsel assisted FDA Office of Criminal Investigations and the U.S. Attorney's office by providing information on Canadian storefront operations and on cases involving Internet pharmacy.
- (3) General Counsel revised Memorandum of Understanding with Texas Health and Human Services Commission-Office of Inspector General (THHSC-OIG) regarding providing ABOs and other information about fraud, abuse, or quality of care and facilitated entering into the MOU with THHSC-OIG.
- (4) General Counsel reviewed Memorandum of Understanding with Texas State Board of Nurse Examiners for requirements for nursing students.
- (5) Division staff assisted various other states on pharmacy related issues, as follows:
 - (a) Indiana Office of the Attorney General with questions regarding actions against Canadian pharmacies;
 - (b) Arkansas Office of the Attorney General with issues regarding prescriptions dispensed by Internet pharmacies;
 - (c) Pennsylvania Board of Pharmacy regarding disciplinary action taken by TSBP against a Texas pharmacist;
 - (d) Michigan Office of the Attorney General with issues on Canadian storefronts;
 - (e) Mississippi Board of Pharmacy regarding disciplinary sanctions recommended for impaired Texas pharmacist also licensed in Mississippi; and
 - (f) Arkansas Board of Pharmacy regarding serving as legal counsel during direct testimony provided by TSBP Chief Investigator.
- (6) General Counsel provided information on rule regarding criminal convictions under Texas Occupations Code chapter 53 to Texas State Board of Veterinary Medicine.
- (7) General Counsel assisted the Texas State Board of Medical Examiners in development of questions for a new jurisprudence examination.

LEGAL DIVISION

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

Status: **ACCOMPLISHED**

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

7. *To assist with open records requests throughout FY2004, in accordance with the procedures set forth in the Texas Public Information Act.*

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. Division staff was responsible for answering all telephonic open records requests on licensees subject to disciplinary action. Division staff responded to approximately 125 verbal requests for complaint and disciplinary information in FY2004.
- B. General Counsel reviewed written responses to open records requests, prepared by the Professional Services Division, for legal compliance with the Public Information Act in FY2004. In addition, the General Counsel assisted with clarifying certain open records requests requiring telephonic clarification, when legal issues were involved.

8. *To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2004.*

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. Surveys/Questionnaires and Other Correspondence
 - (1) General Counsel responded to Client Satisfaction Survey for the Office of Attorney General.
 - (2) General Counsel drafted various correspondence, e.g., a letter to NABP regarding correction of falsified applications and a form letter warning probationers about dilute samples resulting from random drug screens.
 - (3) Division staff assisted in completing survey for SORM regarding intern information at request of the Administrative Services and Licensing Division.
- B. Technical Assistance to Board Members and Board Staff
 - (1) Division staff assisted Board Members and staff by conducting legal research on several issues (see Ongoing Objective #5).
 - (2) Division staff drafted numerous subpoenas to assist with the investigative work of the TSBP investigators.

LEGAL DIVISION

- (3) General Counsel and other Division staff provided legal advice and consultation on numerous personnel issues during FY2004, including:
 - (a) disciplinary actions for violations of employment policies and procedures;
 - (b) determination of eligibility and start date for hazardous duty pay to investigators;
 - (c) assistance with issues in various hiring processes;
 - (d) liability for automobile accidents while on duty for TSBP;
 - (e) hiring issues;
 - (f) interview of applicants for new positions;
 - (g) response to Deposition on Written Questions for lawsuit involving automobile accident by a TSBP investigator; and
 - (h) child support payment withholding.
- (4) General Counsel assisted the Division of Professional Services in the review/drafting of proposed rules and preambles for rules, and the review of rule submissions to the Texas Register for all rules either proposed or adopted during FY2004, including rules on pharmacy technician registration, pharmacy compounding, return of unused drugs, licensing fees, receipt of controlled substances, disciplinary actions, and confidentiality.
- (5) General Counsel assisted the Division of Professional Services with responses to U.S. Attorney's office regarding release of information for federal lawsuit against a pharmacy also licensed in Texas.
- (6) General Counsel assisted the Executive Director with respect to issues arising from the TSBP's proposal of rules regulating office use compounding. General Counsel reviewed laws in other states on this issue and prepared a summary for use during Board meetings. She also participated in various meetings with interested parties and with legislative staff, and coordinated with the Office of the Attorney General in regard to a potential rule challenge on this issue. General Counsel also testified before the Sunset Commission at the request of the commission regarding the legal opinion rendered on interpretation of the law on compounding issues, and drafted preambles for proposed rules. General Counsel attended a meeting with the Texas Department of Health to discuss a Memorandum of Understanding on the enforcement policies for pharmacy compounding for office use, as opposed to manufacturing
- (7) Division staff drafted rules for handling default Board orders by the TSBP rather than by presenting the case at SOAH.
- (8) General Counsel continued to serve as the agency's Ethics Advisor and continued to assist Board Members and staff with legal and ethical issues.

LEGAL DIVISION

- (9) Division staff handled numerous legal questions from all staff regarding a myriad of issues.
- (10) General Counsel reviewed numerous complaint files for pharmacists and pharmacies to verify accuracy of information and citations in warning letters drafted by Enforcement Division staff regarding violations of federal and state law. In addition, General Counsel reviewed numerous complaint files on pharmacy technicians to determine type of violation and appropriate action, as previously set by the Board.
- (11) Division staff made presentations at all Board meetings held in FY2004. Presentations included information about proposed Agreed Board Orders and proposed Board Orders following a SOAH proceeding and about recidivism rates for impaired pharmacists monitored by TSBP and by PRN, in addition to other issues as required.
- (12) General Counsel assisted in the review and preparation of minutes of four regularly scheduled Board meetings.
- (13) Division staff assisted the Licensing Division with respect to eligibility for licensure and internship (from individuals who checked "yes" on the attestation questions on the TSBP application) by either verifying accuracy of warning letters or by handling the cases through the legal process.
- (14) Division staff assisted the Licensing Division with development of requirements for use of the pre-inspection checklist for new pharmacy applicants.
- (15) Division staff developed a system to inform the Director of Enforcement of disciplinary actions to be taken by the Board prior to entry of the orders, to ensure the correct information is immediately available on the computer system.
- (16) Division staff participated on a committee to develop articles for the TSBP *Newsletter*.
- (17) Division staff served as moderator and participated in the Agency Change Team, which met on several occasions to formulate suggestions for improvements based on the results of the Survey for Organization Excellence.
- (18) Division staff assisted the Licensing Division with development of procedures for registration of pharmacy technicians in compliance with the Pharmacy Act and Board rules.
- (19) Division staff assisted the Enforcement Division with issues involving the monitoring of impaired pharmacists, including legal consultation on handling of dilute drug screens and interfacing with the PRN program.

C. Technical Assistance to Other Agencies and Organizations

- (1) Division staff gave the following presentations during FY2004:
 - (a) General Counsel gave presentation on careers in administrative and health law to University of Texas Law School Health Law Society.

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- (b) General Counsel gave presentation to Wal-Mart district managers regarding trends and liabilities in the disciplinary process.
 - (c) Division staff presented information on TSBP's role in addiction at the "Alcohol, Drugs, and You" seminar at the University of Houston College of Pharmacy.
 - (2) Division staff attended State Agency Council meetings during FY2004.
 - (3) General Counsel assisted Texas Veterinary Association with questions about Internet prescriptions.
 - (4) General Counsel provided information to the Texas Academy of Family Physicians regarding donations of prescription drugs.
- D. Technical Assistance to the Legislature
- (1) General Counsel assisted attorney for Senate Health regarding questions on legality of sharing dangerous drugs.
 - (2) General Counsel answered questions from various legislative offices regarding proposal of rules regulating compounding, including the use of office use compounding.
 - (3) General Counsel participated in various meetings with legislative staff to provide information about the legal interpretation of the law relating to office use compounding and testified about the issue before the Sunset Commission. (see above)
 - (4) General Counsel provided information to various legislative offices regarding the status of registration process for pharmacy technicians with pending disciplinary action.
- E. Technical Assistance to the Press and the Public
- (1) Division staff answered numerous telephone calls from pharmacists and pharmacy technician applicants regarding the application process and the associated disciplinary process, including providing information about denial of registration and options for Informal Conference.
 - (2) Division staff answered numerous questions from licensees, attorneys, and other members of the public regarding legal issues, including:
 - (a) scope of definition of practice of pharmacy;
 - (b) licensing eligibility;
 - (c) effect of deferred adjudication and/or probation for various crimes on intern registration and pharmacist licensure;
 - (d) availability of investigative information;

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- (e) lack of confidentiality of licensee information;
 - (f) Internet pharmacy practices;
 - (g) change of pharmacy ownership; and
 - (h) theft and loss reporting.
- (3) General Counsel responded to numerous requests for information from the following television and newspaper reporters on issues including:
- (a) Lisa Fields, Reader's Digest, on disciplinary action against Clayton Fuchs;
 - (b) Walt Borges, TMA magazine, on Canadian pharmacies;
 - (c) Mike Carter, Seattle Times, on athletic programs providing controlled substances to athletes through satellite pharmacies at universities;
 - (d) Alan Bernstein, Houston Chronicle, on Canadian storefront operations;
 - (e) George Schwartz, Amarillo Globe News, regarding cease and desist letters to Canadian storefront operations, prescription plans requiring the use of mail-order pharmacies, and pharmacist refusing to fill prescription for birth control pill;
 - (f) Christine Smith, Lubbock Avalanche Journal, regarding patient confidentiality;
 - (g) Donna Russell, Fox News–Dallas, regarding disciplinary action taken against Dallas pharmacy;
 - (h) Sally McDonald, CBS affiliate–Beaumont, regarding audit of county hospital;
 - (i) Bill McKenzie, Dallas Morning News, regarding pharmacist refusing to fill prescription for birth control pill;
 - (j) Linda Carter and Lida Fields, Reader's Digest, regarding revoked pharmacist, Clayton Fuchs; and
 - (k) Kevin McQuaid, Sarasota Herald, regarding pending civil action against Pet Med Express.
- (4) General Counsel answered questions from members of the public and the press about a pharmacist's ability to refuse to dispense a prescription on moral grounds.

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9. *To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2004.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. General Counsel served as chair of the HPC Legal Committee, which includes attorneys from other agencies, and provided updates to HPC about Legal Committee activities.
- B. General Counsel evaluated new laws passed by the 78th Legislature regarding the Texas State Board of Medical Examiners for applicability to other HPC agencies.
- C. General Counsel drafted rules for Alternative Dispute Resolution and mediation for use by HPC agencies.

10. *To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2004.*

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

In FY2004, Division staff attended several general staff meetings, and in-house training sessions. In addition, Division staff attended the following programs, seminars, and events:

Kerstin Arnold, J.D.	
11/24/03	Weight Loss and Exercise – EAP Presentation
12/05/03	Goal Setting Workshop – EAP Presentation
02/11/04	EEOC Training “Respect in the Workplace”
02/13/04	Nuts and Bolts of Administrative Law (Travis County Bar)
04/16/04	Administrative Law Conference
05/11/04	Nutrition and Wellness: Creating Healthy Habits – EAP Presentation
05/27/04	Supervisor Training: The 5 Step Formula – EAP Presentation
07/29-30/04	Administrative Law Conference (UT Law School)
08/19/04	Getting Our Ducks in a Row – Governor’s Center for Management Development

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Julie Hildebrand, J.D.	
11/03/03 and 11/21/03	Judged Mock Trial Competition for AYLA
11/24/03	Weight Loss and Exercise – EAP Presentation
12/05/03	Goal Setting Workshop – EAP Presentation
01/21/04	Combining BNE and Board of Vocational Nurse Examiners Travis County Bar Association
01/30/04	Served as judge for mediation competition at UT
02/11/04	EEOC Training “Respect in the Workplace”
02/13/04	Nuts and Bolts of Administrative Law (Travis County Bar)
02/18/04	First Year on Third Court of Appeals
04/16/04	Administrative Law Conference
05/11/04	Nutrition and Wellness: Creating Healthy Habits – EAP Presentation
05/27/04	Supervisor Training: The 5 Step Formula – EAP Presentation
07/29-30/04	Administrative Law Conference (UT Law School)
08/19/04	Getting Our Ducks in a Row – Governor’s Center for Management Development

Stephanie Chambers, J.D.	
11/04/03 and 11/06/03	Westlaw Training
11/24/03	Weight Loss and Exercise – EAP Presentation
12/05/03	Goal Setting Workshop – EAP Presentation
12/06/03	TPA Law Symposium
02/13/04	Nuts and Bolts of Administrative Law (Travis County Bar)
04/16/04	Administrative Law Conference
05/11/04	Nutrition and Wellness: Creating Healthy Habits – EAP Presentation
05/27/04	Supervisor Training: The 5 Step Formula – EAP Presentation
07/29-30/04	Administrative Law Conference (UT Law School)
08/19/04	Getting Our Ducks in a Row – Governor’s Center for Management Development

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Cheryl Sepulveda	
11/24/03	Weight Loss and Exercise – EAP Presentation
12/05/03	Goal Setting Workshop – EAP Presentation
02/11/04	EEOC Training “Respect in the Workplace”
05/06/04	Conference for Women
05/11/04	Nutrition and Wellness: Creating Healthy Habits – EAP Presentation
08/19/04	Getting Our Ducks in a Row – Governor’s Center for Management Development

Georgienne Nassauer	
11/24/03	Weight Loss and Exercise – EAP Presentation
12/05/03	Goal Setting Workshop – EAP Presentation
02/11/04	EEOC Training “Respect in the Workplace”
05/11/04	Nutrition and Wellness: Creating Healthy Habits – EAP Presentation
08/19/04	Getting Our Ducks in a Row – Governor’s Center for Management Development

11. *To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2004.*

Status: **ACCOMPLISHED**

Comment: Formal performance reviews were conducted as follows:

Employee	Date of Evaluation	Evaluation By
Kerstin Arnold, J.D.	August 4, 2004	Executive Director
Julie Hildebrand, J.D.	August 10, 2004	General Counsel
Stephanie Chambers, J.D.	August 10, 2004	N/A
Cheryl Sepulveda	July 30, 2004	Assistant General Counsel
Georgienne Nassauer	July 31, 2004	Assistant General Counsel

Other activities related to Division personnel are listed below:

- A. General Counsel conducted team meetings approximately once a month with Division staff.

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- B. The Division had a legal intern from the University of Texas School of Law, who provided invaluable assistance in the preparation of disciplinary cases against pharmacy technicians during the summer of 2004. The Division also hired a temporary clerk to assist with copying and filing in the spring of 2004.
 - C. General Counsel prepared and conducted orientations of all new TSBP employees and interns during FY2004 regarding the Legal Division, the legal process, ethics, and Public Information and Open Meetings Acts.
 - D. A new attorney, Stephanie Chambers, was selected to fill the position and hired, effective September 9, 2003. She was trained in agency and Division policies and procedures by Division staff.
 - E. General Counsel, along with other Division Directors, planned an all-staff training session with the Governor's Center for Management Development on handling change and working together as a team. The training program was held in August and was very effective in team building and increasing employee motivation.
 - F. General Counsel began the process of hiring a new Legal Assistant, which would be completed in FY2005.
- 12. *To destroy records in accordance with the agency's record retention plan throughout FY2004; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2004.***

Status: PARTIALLY ACCOMPLISHED

Comment: This objective was partially accomplished as follows:

- A. Records Management

During FY2004, Division staff destroyed records, in accordance with the TSBP record retention schedule, including general correspondence.
 - B. Policies and Procedures

Division staff updated and maintained Disciplinary Notebooks and Index containing all Board Orders and Agreed Board Orders.
- 13. *To recommend policies and procedures to the Executive Director which will enhance the efficiency and effectiveness of the agency throughout FY2004.***

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. General Counsel participated in the Task Force on Patient Counseling and suggested use of sign posted in pharmacy to facilitate counseling.

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- B. Division staff assisted with the development of the registration of pharmacy technicians, and, specifically, developed a new system to handle the disciplinary process for pharmacy technicians. (see New Objective #4)
- C. Division staff implemented a new Informal Conference procedure for pharmacists and pharmacies, effective September 2004. The new procedure included a smaller Board panel comprised of a Board member, the Executive Director, and the Director of Enforcement. The case is presented by the Board attorney in the presence of the licensee in order to assure fairness in the process. Additionally, Board staff no longer participate in the deliberation process handled by the Board panel with the legal assistance of the General Counsel. The new procedure was well received by both the Board members and the licensees and their legal representatives with positive comments about efficiency and effectiveness. The staff updated all associated documents to reflect the new procedure, including the PNL cover letters and Informal Conference procedure inserts.
- D. General Counsel updated attest questions for pharmacy technician registration applications and renewals regarding criminal history to ensure full disclosure by applicants and registrants. The questions were then also implemented for pharmacist and pharmacy license applications and renewals.
- E. General Counsel drafted new procedures for Temporary Suspension hearings and protocol for conducting such hearings.

14. *To recommend changes to the Texas Pharmacy Act and rules, which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2004.*

Status: ACCOMPLISHED

Comment: General Counsel drafted a rule for handling default Board orders at the TSBP level rather than at SOAH. A default case would be presented at Informal Conference upon proper notice to the licensees, and a recommendation made for a default order to be presented to the Board at the next meeting. This procedure would be in lieu of first presenting the case at SOAH and then having a default order entered by the Board. The Division staff then developed a new procedure for handling these default cases along with the required forms and correspondence. General Counsel also worked with the staff of the Sunset Commission in developing changes to the Texas Pharmacy Act as requested by the Self-Evaluation Report submitted during FY2003. (see New Objective #1)

15. *To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2003 Annual Report to be presented to the Board by its May 2004 Board meeting.*

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2003 Annual Report was submitted to the Executive Director by the due date. The final draft of the Annual Report was presented to and approved by the Board at its meeting held in May 2004.

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