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President

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Executive Director/Secretary

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**Annual
Report
FY2001**



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

Bill C. Pittman, R.Ph.
President
Austin
02/13/96-08/31/01

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

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

Wiki Erickson
Public Member
Waco
10/27/97-08/31/03

Ira Wayne McConnell, CPA
Treasurer
Public Member
Houston
02/13/96-08/31/01

Doyle E. High, R.Ph.
Haskell
01/08/99-08/31/01

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

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

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

STAFF

Office of the Executive Director

Executive Director

Gay Dodson, R.Ph.

Executive Assistant

Kay Wilson, CPS

Administrative Services & Licensing

Division Director

Cathy Stella, PHR

Purchaser

Darlene Guthrie

Staff Services Officer

Robbi Polanco

Web Technician

Todd Hayek

Information Systems Manager

Steve Rapp

Receptionist

Sonya Whalon

Chief Accountant

Jane Bennett

Licensing Specialists

Rachel Glass

Nicki Green

René Howard

Melinda Uballe

Accountant I

Patti Powers

Accountant III

Sandra Morton

Professional Services

Division Director

Steve Morse, R.Ph.

Administrative Assistant

Retta Cole

Note: The organizational structure reflects the organization as of August 31, 2001.

Legal

General Counsel

Kerstin Arnold, JD

Assistant General Counsel

Julie Hildebrand, JD

Lori Tullos, JD

Legal Assistants

Georgienne Nassauer

Cheryl Sepulveda

Enforcement

Division Director

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

Assistant Director

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

Chief Investigator

Joe Lewis

Chief Compliance Officer

Cy Weich, R.Ph.

Enforcement Officers

Milton Jez, R.Ph.

Ben Santana, R.Ph.

Enforcement Specialists

Vicki Jackson-Kimbrell

Korena Schaaf

Complaint Specialist

Janelle Nastri

Senior Administrative Assistant

Sherry Stevenson, CPS

Investigators

Anita Arnet

Dwayne Darter

Robert Ebrom

Richard Klemme

Johnny Martin

In-House Investigator

Melissa Rivera

Compliance Officers

Mike Ethridge, R.Ph.

Iona Grant, R.Ph.

Heidi Holmes, R.Ph.

Compliance Specialist

Carol Willess

Administrative Assistants

Patty Galan

Angela Hicks

Diane Torres

Note: The organizational structure reflects the organization as of August 31, 2001.

BOARD-APPOINTED TASK FORCES

The Board views the role of its task forces as an invaluable tool in addressing the complexities of pharmacy regulation. Great care is taken to ensure that membership of these task forces is representative of the diversity of experience in pharmacy that exists today. The Board would like to thank the following individuals for their service on task forces in FY2001.

Task Force to Implement Senate Bill 65

Marissa Schlaifer, R.Ph. (Chair), San Antonio
Norman Ekery, R.Ph., El Paso
Diane Kretschmer, R.Ph., Lubbock
Craig Walker, R.Ph., Austin
Glenn Newman, R.Ph., Pharm.D., Fort Worth

Trent Thomas, Austin
Allan Pavia, R.Ph., Linden
Steve Carriker, Austin
Michael Rupp, Ph.D., Glendale, AZ
Tammy Gray, R.Ph., Austin

Board Member Liaisons

Oren M. Peacock, Jr., R.Ph.
Bill C. Pittman, R.Ph.

Task Force to Implement Senate Bill 98/768

Gary Cacciatore, Pharm.D., J.D. (Chair), Houston
Bentley Hawley, R.Ph., Odessa
Tom Kraft, Ph.D., Houston
Brent Biggs, Austin
Dave Reynolds, Austin

Tammy Gray, R.Ph., Austin
Allan Pavia, R.Ph., Linden
Terry Allard, R.Ph., Grand Prairie
G. N. Libby, R.Ph., Ph.D., San Antonio

Board Member Liaisons

Wiki Erickson
Bill C. Pittman, R.Ph.

Task Force to Develop Guidelines for Establishing Pharmacists Peer Review Committees

Jennifer Myhra, R.Ph. (Chair), Austin
Cyril V. Abobo, Pharm.D., Houston
Randy Ball, R.Ph., Fort Worth
Vicki Crane, R.Ph., Garland
Larry Egle, Pharm.D., Houston
Charles "Chuck" Harris, R.Ph., DeSoto

Patrick Mowder, R.Ph., Woodway
Millard Nance, R.Ph., San Antonio
William "Bill" Springfield, R.Ph., Kingwood
Tom Swayden, R.Ph., Sachse
Shara Zatopek, R.Ph., Houston

Board Member Liaisons

Kim A. Caldwell, R.Ph.
Oren M. Peacock, Jr., R.Ph.

FY2001 ANNUAL REPORT

(September 1, 2000 - August 31, 2001)

BOARD MISSION

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

BOARD PHILOSOPHY

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

BOARD STRATEGIC GOALS (FY2001-2005)

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

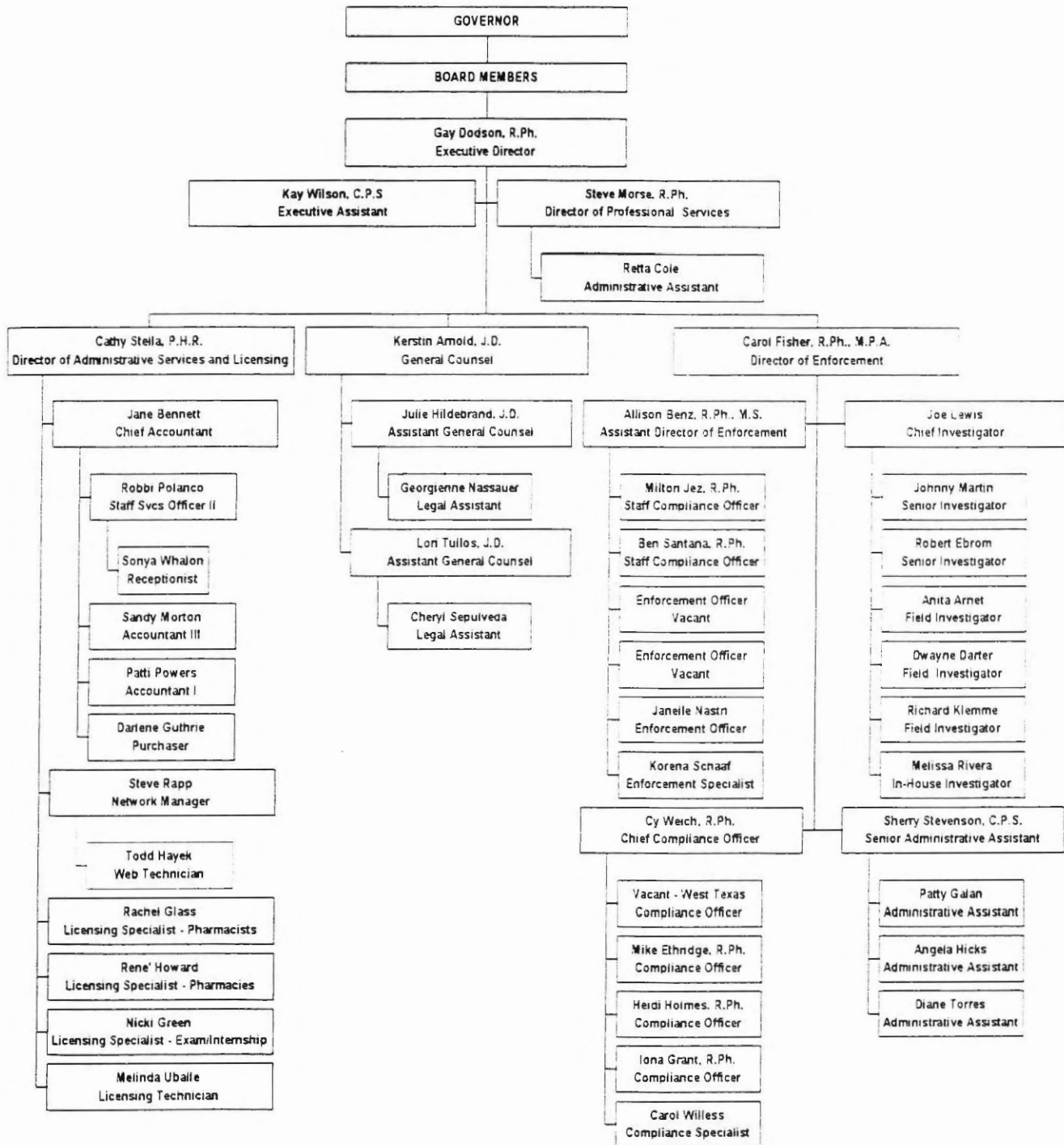
BOARD STRUCTURE

The Board's functional structure at the end of FY2001 was composed of the Office of the Executive Director and four Divisions:

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

TEXAS STATE BOARD OF PHARMACY

FISCAL YEAR 2001



FY2001 FISCAL REPORT

The following represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2001 (September 1, 2000 - August 31, 2001). 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 *"FY01 Annual Financial Report."*

The agency ended its fiscal year with an unexpended balance of approximately \$98,290, or 3.52% under budget. The primary source of this unexpended balance was in salaries, which was \$59,232 under budget. During FY01, the agency experienced a 13.46% turnover rate, which included 6 terminations (4 Pharmacists, 1 Senior Investigator and 1 Administrative Technician). Five of these six terminating employees had salaries at the upper range of the scale, which made up the majority of the lapsed salaries for FY01. In addition, travel for Board and Staff resulted in a total of \$7,850 of remaining free budget, which was primarily the result of travel money saved due to lapsed field positions. Finally, it is important to note that \$3,150 was unspent from Board Member Compensatory Per Diem and this amount could not be spent on general operating expenditures.

FINANCIAL STATEMENT — FISCAL YEAR 2000
REPORT PERIOD - AUGUST

		AMOUNT BUDGETED	EXPENDITURES	ACCRUALS	REMAINING BUDGET	PERCENT REMAIN
1008	Professional Fees & Svcs	110,983.55	82,673.66	28,309.89	0.00	0.00%
1009	Professional Fees & Svcs (SOAH)	9,148.08	4,632.69	4,515.39	0.00	0.00%
3002	Gas, Other Fuels & Lubricants	10,134.84	9,275.86	858.98	0.00	0.00%
3003	Vehicles - Maintenance	7,353.81	5,975.12	1,378.69	0.00	0.00%
3004	Consumable Supplies & Materials	22,758.30	20,293.03	2,346.00	119.27	0.52%
3005	Postage	35,865.00	35,717.72	48.32	98.96	0.28%
3006	Telephone	43,395.65	33,267.87	4,318.39	5,809.39	13.39%
3014	Subscriptions	8,743.73	8,081.18	623.91	38.64	0.44%
3015	Postage - Newsletter	18,000.00	18,000.00	0.00	0.00	0.00%
3016	Postage - Law Book / Binders	5,675.00	5,675.00	0.00	0.00	0.00%
3018	Travel - Board Member	18,643.39	16,614.72	330.50	1,698.17	9.11%
3019	Travel - Bd Mbr Conference	15,995.00	12,349.81	2,442.80	1,202.39	7.52%
3027	Travel - Regular - State Vehicle	1,055.07	1,000.32	54.75	0.00	0.00%
3028	Travel - Staff Service	56,477.93	51,684.53	2,560.37	2,233.03	3.95%
3037	Travel - Conference - State Vehicle	216.92	216.92	0.00	0.00	0.00%
3038	Travel - Staff Conference	13,783.08	10,731.41	335.59	2,716.08	19.71%
3516	Membership Fees & Dues	2,640.00	2,286.00	0.00	354.00	13.41%
3518	Administrative Support Svcs	31,881.85	29,075.76	2,616.00	190.09	0.60%
3521	Criminal Investigation Exp	1,000.00	495.21	0.00	504.79	50.48%
3534	Freight & Delivery Service	3,081.00	2,452.37	293.36	335.27	10.88%
3535	Maintenance & Repairs/Furn & Equip	6,020.82	4,525.86	1,185.90	309.06	5.13%
3536	Rental of Furn & Equip	9,441.00	8,776.00	665.00	0.00	0.00%
3537	Rental of Space	3,843.96	3,152.60	518.26	173.10	4.50%
3538	Bonds & Insurance	7,067.38	6,833.28	188.90	45.20	0.64%
3539	Maintenance & Repairs/Bldg	53.00	9.64	0.00	43.36	81.81%
3540	Reproduction & Printing	25,180.00	19,243.39	5,172.55	764.06	3.03%
3541	Printing Newsletter	31,000.00	16,798.38	9,885.63	4,315.99	13.92%

FINANCIAL STATEMENT

		AMOUNT BUDGETED	EXPENDITURES	ACCRUALS	REMAINING BUDGET	PERCENT REMAIN
3542	Printing Law Books	9,204.72	9,204.72	0.00	0.00	0.00%
3545	Computer Expenses (DIR)	99,690.00	72,826.98	22,764.80	4,098.22	4.11%
3570	Registration Fees (Staff)	16,648.20	16,337.20	311.00	0.00	0.00%
3571	Registration Fees (Bd Mbr)	6,125.00	5,870.00		255.00	4.16%
3581	Furn & Equip <\$1000-Not Inventoried	29,188.58	7,983.79	21,204.79	0.00	0.00%
3582	Furn & Equip <\$1000-Inventoried	695.00	695.00	0.00	0.00	0.00%
3585	Computer Software - Capitalized	1,014.00	0.00	1,014.00	0.00	0.00%
3586	Computer Equip / Inventoried	7,087.00	780.00	6,307.00	0.00	0.00%
3587	Computer Equip / Capitalized	69,676.69	36,932.00	22,147.43	10,597.26	15.21%
3588	Books & Recorded Materials	2,446.15	2,387.25	58.90	0.00	0.00%
3590	Miscellaneous-remodeling	2,110.08	2,078.51	25.00	6.57	0.31%
3595	Awards	545.94	446.74	99.20	0.00	0.00%
5001	Purchase of Vehicles	48,672.00	48,672.00	0.00	0.00	0.00%
7001	Exempt Salaries	70,000.00	64,166.63	5,833.33	0.04	0.00%
7002	Classified Salaries Full-Time	1,844,716.56	1,634,678.65	150,806.00	59,231.91	3.21%
7003	Classified Salaries Part-Time	9,508.60	9,508.60	0.00	0.00	0.00%
7020	Hazardous Pay	2,947.00	2,674.00	273.00	0.00	0.00%
7017	One-Time Merit	1,528.00	1,528.00	0.00	0.00	0.00%
7021	Overtime Payment	3,269.49	3,269.49	0.00	0.00	0.00%
7022	Longevity Pay	13,280.00	12,120.00	1,160.00	0.00	0.00%
7023	Lump Sum Termination Payment	11,430.64	11,430.64	0.00	0.00	0.00%
7025	Compensatory Per Diem	9,450.00	4,530.00	1,770.00	3,150.00	33.33%
7047	Information Technology Bonus	3,000.00	0.00	3,000.00	0.00	0.00%
7107	Travel in-State Partial Day	1,267.00	770.00	497.00	0.00	0.00%
7110	Travel In-State-Bd Mbr Meals	280.61	280.61	0.00	0.00	0.00%
7985	Workers Comp Pmnts-Reim to G/R	2,358.68	1,122.91	1,235.77	0.00	0.00%
	HPC Transfer	24,363.00	24,363.00	0.00	0.00	0.00%
	TOTAL	2,789,941.30	2,384,495.05	307,156.40	98,289.85	3.52%

OFFICE OF THE EXECUTIVE DIRECTOR

FY2001 SIGNIFICANT ACCOMPLISHMENTS

1. During FY2001, the following organizational changes, which were begun in FY2000, were completed. These changes resulted in better coordination of enforcement activities and improved operations. As a result of these changes, the agency is now composed of the following divisions.
 - **Administrative Services and Licensing** – Cathy Stella, PHR, Director. The Goal of the Administrative Services and Licensing Division is to administer agency operations including personnel, accounting, budgeting, purchasing, property management, and information technologies. To conduct a pharmacy and pharmacist licensure system, initial licensure by examination, and the ongoing renewal of licenses.
 - **Enforcement Division** – Carol Fisher, R.Ph., M.P.A., Director. The goal of the Enforcement Division is 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
 - **Legal Division** – Kerstin Arnold, J.D., General Counsel. The goal of the Legal Division is 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.
 - **Professional Services Division** – Steve Morse, R.Ph., Director. The goal of the Professional Services Division is to facilitate agency operations by providing information through publications, including the *Newsletter*, law references, and the *Texas Register*, and by providing professional services, including internship reviews, law exam development, task force support, and public speaking engagements to agency customers.
2. The agency accomplished or partially accomplished 100% of its 102 objectives [93 accomplished (91%) and 9 partially accomplished (9%)]. The agency also met or exceeded 73% of its 11 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board [8 met/exceeded (73%) and 3 not met (27%)].
3. The appointments of Board Members Roger W. Anderson, Dr.P.H., R.Ph., Rosemary Forester Combs, and Oren M. Peacock, Jr., R.Ph. were confirmed by the full Senate on March 14, 2001.
4. The Task Force to Develop Standards for Pharmacists Peer Review Committees completed its work resulting in Board approval of a document titled, *Guidelines for Establishing Pharmacist Peer Review Committees*.
5. Management staff of the agency, with input from Divisions' staffs, formulated uniform objectives for employee evaluations. This accomplishment was in compliance with requirements of the Texas Human Rights Commission.

6. Significant legislation passed by the 76th Legislature which will impact the operation of the agency and/or the practice of pharmacy in Texas include:
- (1) **S. B. 768 – Pharmacy “Clean-up Bill”** – This bill amends the:
- (a) Texas Pharmacy Act, regarding generic substitution and becomes effective on June 1, 2002, to:
- eliminate the requirement that a prescription be on a two-line prescription form;
 - delete the prohibition against providing preprinted prescription forms to a practitioner;
 - specify that a pharmacist may dispense a generically equivalent drug product unless the practitioner certifies on the prescription form that a specific prescribed brand is medically necessary. The certification must be made as required by the “dispensing directive” adopted by the Board;
 - require the Board to adopt rules to provide a dispensing directive to instruct pharmacists on the manner in which to dispense a drug;
 - require the Board to regulate the use of electronic prescriptions in the manner provided by federal law;
 - in adopting the dispensing directive, requires the Board to consult with the Texas State Board of Medical Examiners and any other licensing agency that regulates health care providers who may be affected by the directive. Rules to implement the directive must be adopted no later than June 1, 2002; and
- (b) Texas Pharmacy Act and Chapters 242 and 252 of the Health and Safety code to transfer the jurisdiction over emergency medication kits (EMK) from the Department of Health and Human Services to the Board of Pharmacy.
- (2) **S. B. 98 - Remote Automated Pharmacy Systems** – The bill:
- (a) defines automated pharmacy system to mean a mechanical system that dispenses prescription drugs and maintains related transaction information;
- (b) specifies that a Class A or Class C pharmacy may maintain controlled substances and dangerous drugs in an automated pharmacy system at a facility that is not at the same location as the pharmacy;
- (c) specifies that the automated pharmacy system is required to be under the continuous supervision of a pharmacist as determined by the Board and that a pharmacist is not required to be physically present at the site of the automated pharmacy system and the pharmacist may supervise the system electronically; and
- (d) specifies that the Board must adopt rules relating to automated pharmacy systems by February 28, 2001.
- (3) **S. B. 65 - Telepharmacy Systems** – The bill:
- (a) defines telepharmacy system to mean a system that monitors the dispensing of prescription drugs and provides for related drug use review and patient counseling services by an electronic method, including the use of the following types of technology:
- audio and video;
 - still image capture; and
 - store and forward.
- (b) specifies that a Class A or Class C pharmacy may provide pharmacy services, including the dispensing of drugs, through a telepharmacy system in a facility that is not at the same location as the pharmacy.

- (c) specifies that the telepharmacy system is required to be under the continuous supervision of a pharmacist as determined by the Board but that a pharmacist is not required to be physically present at the site of the telepharmacy system, and a pharmacist shall supervise the system electronically by audio and video communication.
- (d) specifies that the Board must adopt rules relating to telepharmacy systems by February 28, 2001.

OFFICE OF THE EXECUTIVE DIRECTOR

FY2001 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The agency began FY2001 with two vacant positions (field investigator for Austin area and Investigator II). During FY2001, the agency experienced an additional turnover in 6 positions (5 resignations and 1 retirement). This high turnover rate resulted in agency staff spending a significant amount of time and efforts advertising for vacant positions, evaluating applications, interviewing applicants, and orienting/training new employees.
2. The average time to close a complaint in FY2001 was 262 days, as compared to 220 days in FY2000, an increase of 19%, as indicated in the chart below:

Fiscal Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY97	1736		1697		98%	171 Days	
FY98	1314	-24%	1504	-11%	114%	222 Days	+30.00%
FY99	1533	+17%	1335	-11%	87%	221 Days	-0.45%
FY00	1577	+3%	1513	+13%	96%	220 Days	-0.45%
FY01	1683	+7%	1667	+10%	99%	262 Days	+19.00%

3. The agency budget request to implement the registration of pharmacy technicians as passed during the 76th (1999) Legislative Session was denied by the 77th (2001) Texas Legislature. This action resulted in an unfunded mandate for the agency to register and remove a registration, if necessary, for approximately 20,000 pharmacy technicians in Texas.

FY2001 GOALS AND OBJECTIVES

OFFICE OF THE EXECUTIVE DIRECTOR

GOAL

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

Objectives (New)

1. To provide testimony, attend public hearings, and provide any fiscal or technical information, as required by the 77th Legislature, and to review all legislation introduced by the 77th Legislature and monitor the progress of any legislation that has a potential impact on TSBP operations or the practice of pharmacy throughout FY2001.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. A total of 5,712 bills were introduced in the 77th Legislative Session. The Executive Director reviewed each of these bills and/or assigned the review of these bills to one or more agency staff. A total of 369 bills that affected the agency or the practice of pharmacy were tracked and monitored.
- B. The Executive Director met with Legislators or their staff or testified before Legislative committees a total of 25 times as follows:

Date	Legislator or Committee
10/12/00	Senate Committee on Health Services Working Group on Privacy — Austin
11/21/00	Meeting with Representative Maxey to discuss Automated Dispensing Legislation — Austin
11/27/00	Meeting with staff of Senator Nelson and Representative Maxey to discuss Automated Dispensing — Austin
11/27/00	Meeting with Senator Moncrief's staff regarding Telepharmacy — Austin
1/8/01	Meeting with Representative Maxey's staff to discuss Pharmacist Profiles — Austin
1/17/01	Senate Finance Committee — Austin
1/29/01	Subcommittee on Regulatory Agencies of the House Appropriation's Committee — Austin
2/2/01	Meeting with Representatives Maxey and Kitchen regarding Medical Privacy Legislation — Austin
2/6/01	Subcommittee on Regulatory Agencies of the House Appropriation's Committee — Austin
2/12/01	Subcommittee on Regulatory Agencies of the House Appropriation's Committee — Austin
2/12/01	Senate State Affairs Committee Meeting regarding SB 441
2/20/01	House Appropriations Committee Hearing — Austin
2/26/01	Senate Finance Committee Hearing — Austin

EXECUTIVE DIRECTOR

Date	Legislator or Committee
2/27/01	Senate Nominations Committee Hearing — Austin
3/14/01	House Public Health Committee Meeting on HB 93, 99, 100, 611, and 667 — Austin
3/15/01	Senate Health and Human Services Committee Meeting on SB 65 and 98 — Austin
3/22/01	Senate Health and Human Services Committee Meeting on SB 768 — Austin
4/11/01	House Public Health Committee Hearing on HB 2128 and HB 3454 — Austin
4/18/01	Meeting with Senator Nelson's staff regarding registration of pharmacy technicians — Austin
4/19/01	Meeting with Representative Gutierrez and Maxey regarding SB 98 — Austin
4/20/01	Meeting with Representative Gutierrez and Maxey regarding SB 98 — Austin
4/24/01	Conference Committee on SB 1 — Austin
6/27/01	Meeting with Representative Maxey regarding HB 2408 — Austin
6/29/01	Health Professions Council Meeting regarding HB 187 — Austin

C. Significant legislation passed by the 77th Legislature which will impact the operation of the agency and/or the practice of pharmacy in Texas include:

(1) **S.B. 1 - Appropriations Act –**

- (a) The FY2002-2003 base appropriation to the agency was at approximately the same level as the FY2000-2001 biennium. The agency FTE cap was set at 46.9 which is down from 47 in FY2000-2001. A significant omission in the agency's appropriation is the lack of funds to implement the registration of pharmacy technicians. Four "*contingency riders*" allow the agency to expend additional funds provided the agency generates additional revenue.
- (b) Salary Provisions
 - All classified employees were given a 4% pay raise, with a minimum of \$100 per month. The agency is required to generate sufficient revenue to fund the pay increase.
 - No increase in salary for the Executive Director was authorized.
- (c) Travel Provisions
 - Travel restrictions were set for out-of-state travel only. Out-of-state travel was limited to 100% of the agency's out-of-state travel in FY2000.
 - Travel reimbursement was increased for staff and Board members to \$110/per day (\$80 per day for lodging and \$30 per day for meals).

(2) **S.B. 187 Pharmacy and Pharmacists Profile System –** This bill establishes a TexasOnline Authority and Project.

- (a) The Authority is required to:
 - Establish a common electronic infrastructure through which state agencies and local governments may electronically send and receive documents or required payments.
 - Charge a subscription fee to licensing agencies in amounts sufficient to cover the cost of implementing the bill.

- (b) Licensing agencies are authorized to increase license fees to cover the cost of the subscription fee imposed on the agency by the Authority. The increase in fees can be no more than \$10 for a biennial renewal and \$5 for an annual renewal.
 - (c) The bill requires specific licensing agencies, including TSBP for pharmacies and pharmacists, to establish a profile system containing certain information.
- (3) **S.B. 645 - Electronic System for License Transactions** – This bill requires occupational licensing agencies to participate in a common electronic system using the Internet which allows the agency to:
- (a) send licenses and other documents to licensees and the public;
 - (b) receive applications for licensing and other documents electronically; and
 - (c) receive payments from licensees and the public.
- (4) **H. B. 609 - Internal Auditing of State Agencies** – This bill requires small state agencies that were previously exempt from the internal auditing requirements to establish an internal auditing program. TSBP is required to appoint an internal auditor by January 1, 2002, and submit the first internal audit report on October 31, 2002.
- (5) **H.B. 2408 - Health Profession Council Study of Complaint Procedures** –
- (a) This bill requires the Health Professions Council (HPC) to study the complaint procedures for the HPC agencies.
 - (b) HPC is required to deliver a report on the study to the Lieutenant Governor and Speaker of the House not later than January 1, 2003. The report must include any recommendations including recommendations for:
 - a standard procedure for the handling of complaints by the agencies studied; and
 - a method that provides the most complete public access to complaint information.
- (6) **S. B. 768 – Pharmacy “Clean-up Bill”** – This bill amends the:
- (a) Texas Pharmacy Act and Dangerous Drug Act to make the definitions of “dangerous drug” and “prescription drug” match the federal definition;
 - (b) Texas Pharmacy Act, definition of “pharmacist-intern,” to clarify that an undergraduate student may participate in any board approved internship program;
 - (c) Texas Pharmacy Act to allow the Board to maintain jurisdiction over a pharmacist or pharmacy license after the license has expired if the license is the subject of a pending investigation or disciplinary action;
 - (d) Texas Pharmacy Act to increase the continuing education hours required to renew a pharmacist's license from 24 hours to 30 hours for a 2-year period (Note: this change applies to a renewal period that begins after 9/1/01, so the first reporting of the 30 hours will occur for licenses expiring on 8/31/03);
 - (e) Texas Pharmacy Act to prohibit the use of the word “apothecary” unless the business is a pharmacy;

- (f) Texas Pharmacy Act, regarding generic substitution and effective on June 1, 2002, to:
 - eliminate the requirement that a prescription be on a two-line prescription form;
 - delete the prohibition against providing preprinted prescription forms to a practitioner;
 - specify that a pharmacist may dispense a generically equivalent drug product unless the practitioner certifies on the prescription form that a specific prescribed brand is medically necessary. The certification must be made as required by the "dispensing directive" adopted by the Board;
 - require the Board to adopt rules to provide a dispensing directive to instruct pharmacists on the manner in which to dispense a drug;
 - require the Board to regulate the use of electronic prescriptions in the manner provided by federal law; and
 - in adopting the dispensing directive, require the Board to consult with the Texas State Board of Medical Examiners and any other licensing agency that regulates health care providers who may be affected by the directive. Rules to implement the directive must be adopted no later than June 1, 2002;
 - (g) Texas Pharmacy Act and Chapters 242 and 252 of the Health and Safety code to transfer the jurisdiction over emergency medication kits (EMK) from the Department of Health and Human Services to the Board of Pharmacy;
 - (h) Texas Pharmacy Act to specify that the Board may discipline a pharmacist or pharmacy student who has used alcohol or drugs in an intemperate manner that, in the Board's opinion, could endanger a patient's life (Note: language formerly said "developed a drug or alcohol dependency"); and
 - (i) Texas Dangerous Drug Act and Texas Controlled Substances Act to specify that a pharmacist may not dispense a prescription if the pharmacist knows or should have known that the prescription was issued without a valid patient-practitioner relationship.
- (7) **S. B. 98 - Remote Automated Pharmacy Systems** – The bill:
- (a) defines automated pharmacy system to mean a mechanical system that dispenses prescription drugs and maintains related transaction information;
 - (b) specifies that a Class A or Class C pharmacy may maintain controlled substances and dangerous drugs in an automated pharmacy system at a facility that is not at the same location as the pharmacy;
 - (c) specifies that the automated pharmacy system is required to be under the continuous supervision of a pharmacist as determined by the Board and that a pharmacist is not required to be physically present at the site of the automated pharmacy system and the pharmacist may supervise the system electronically; and
 - (d) specifies that the Board must adopt rules relating to automated pharmacy systems by February 28, 2001.
- (8) **S. B. 65 - Telepharmacy Systems** – The bill:
- (a) defines telepharmacy system to mean a system that monitors the dispensing of prescription drugs and provides for related drug use review and patient

counseling services by an electronic method, including the use of the following types of technology:

- audio and video;
 - still image capture; and
 - store and forward;
- (b) specifies that a Class A or Class C pharmacy may provide pharmacy services, including the dispensing of drugs, through a telepharmacy system in a facility that is not at the same location as the pharmacy;
- (c) specifies that the telepharmacy system is required to be under the continuous supervision of a pharmacist as determined by the Board but that a pharmacist is not required to be physically present at the site of the telepharmacy system and shall supervise the system electronically by audio and video communication; and
- (d) specifies that the Board must adopt rules relating to telepharmacy systems by February 28, 2001.
- (9) **H. B. 99 - Internet Pharmacy** – This bill amends the Pharmacy Act to require:
- (a) the Board to adopt rules regarding the sale and delivery of drugs by use of electronic media, including the Internet by February 28, 2002;
 - (b) the Board to accept complaints through the Internet; and
 - (c) effective November 1, 2001, a pharmacy that sells or distributes drugs through the Internet to link its site to the Board's site.
- (10) **H. B. 100 - Authority over Internet Practice** – This Bill amends the Occupations Code to add a new chapter titled "General Regulatory Authority Regarding Health Care Practitioners' use of Internet." This chapter specifies that the fact that an activity occurs through the use of the Internet does not affect a licensing agency's power to regulate an activity or person that would otherwise be regulated by the agency.
- (11) **S. B. 753 - Controlled Substance "Clean-up" Act** – This bill:
- (a) makes several "housekeeping" changes to the Controlled Substances Act; and
 - (b) amends the Controlled Substances Act to allow a pharmacist to dispense a Schedule II controlled substance pursuant to a facsimile copy of an official prescription under certain conditions.

2. To direct the agency in accomplishing any initiatives or objectives related to technology issues which impact the agency including e-commerce initiatives, electronic renewal of licenses, implementation of the Health Professions Council Imaging System, web development, and Health Integrity and Protection Data Bank (HIPDB).

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

A. Electronic Renewal of Licenses

Numerous meetings were held with the staff of the Department of Information Resources and the contractor for the online project, KPMG. During FY2001, TSBP entered into "An Opportunity Proposal and Service Level Agreement" to initiate online renewal of pharmacists' licenses. Online renewals are scheduled to begin in FY2002. (See also

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Administrative Services and Licensing Division's New Goal #3.)

B. Imaging System

During FY2001, the imaging system was installed and is fully operational. The agency began the massive project of scanning licensing files into the imaging system. This project is expected to continue for several years. (See Administrative Services and Licensing Ongoing Objective #7 for more details on implementation of the imaging system.)

C. Web Development

Division Director Cathy Stella initiated the formation of a Web Committee, comprised of employees from all divisions, both management and non-exempt. Responsibility was assigned to members to periodically review the overall content of the web site and make each division accountable for the information contained on the site. Many cosmetic changes were made, various applications were updated, and a new online complaint form was designed for consumer use. (See also Administrative Services and Licensing Ongoing Objective #7)

D. Health Integrity and Protection Data Bank (HIPDB)

Information about all disciplinary orders entered by TSBP after September 1, 2000, regardless of sanction, were reported to HIPDB, as required by federal law/rules. An article notifying licensees about the HIPDB program was published in the Fall 2000 issue of the *TSBP Newsletter*. (See also Enforcement Division New Objective #3 and Legal Division New Objective #3.)

3. To direct the agency in the implementation of a new program to register and regulate pharmacy technicians.

Status: **PARTIALLY ACCOMPLISHED**

Comment: At the request of the House Appropriations Committee, the Executive Director, with assistance from the Division Directors drafted an amendment to the agency's Legislative Appropriation Request. This amendment included a reduction from 16 to 8 staff needed to register/regulate pharmacy technicians for the FY2002-03 biennium, with the intent of asking for the remaining 8 staff for FY2004-05, if needed. The Senate Finance Committee voted to fund the agency at this new level. However, the House Appropriations Committee voted not to give the agency any additional funding or resources to register/regulate pharmacy technicians. The Conference Committee on the appropriations bill voted with the House, and no additional staff or funding was appropriated to TSBP to register/regulate pharmacy technicians.

The Executive Director discussed the matter with the Board at its business meeting on August 7-8, 2001, at which time the Board determined to establish a task force to study the issue.

Objectives (Ongoing)

1. To manage and monitor the agency's performance and operational efficiency throughout FY2001.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Organizational changes begun in FY2000 were completed during FY2001 with the following changes, which resulted in better coordination of enforcement activities and improved operations:
 - Responsibility for the inspection of pharmacies and answering of telephone inquiries about pharmacy laws and rules were transferred to the Enforcement Division.
 - A new Professional Services Division was created; this division is responsible for such services as publication of the Newsletter, Law Book, and consumer brochure; drafting of rules; liaison with the Texas Register, and staffing of task forces.

As a result of these changes, the agency is now composed of the following divisions:

- **Administrative Services and Licensing** – Cathy Stella, PHR, Director. The Goal of the Administrative Services and Licensing Division is to administer agency operations including personnel, accounting, budgeting, purchasing, property management, and information technologies. To conduct a pharmacy and pharmacist licensure system, initial licensure by examination, and the ongoing renewal of licenses.
- **Enforcement Division** – Carol Fisher, R.Ph., M.P.A., Director. The goal of the Enforcement Division is 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.
- **Legal Division** – Kerstin Arnold, J.D., General Counsel. The goal of the Legal Division is 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.
- **Professional Services Division** – Steve Morse, R.Ph., Director. The goal of the Professional Services Division is to facilitate agency operations by providing information through publications, including the *Newsletter*, law references, and

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the *Texas Register*, and by providing professional services, including internship reviews, law exam development, task force support, and public speaking engagements to agency customers.

- B. The agency accomplished or partially accomplished 100% of its 102 objectives [93 accomplished (91%) and 9 partially accomplished (9%)]. The agency also met or exceeded 73% of its 11 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board [8 met/exceeded (73%) and 3 not met (27%)] as indicated below:

Performance Measure	FY01 Projected Performance	FY01 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	98.3	Met
A.1.1. Strategy: Licensing - To operate a timely, cost-effective application and renewal licensure system for pharmacies and pharmacists.			
Output (Volume)			
Number of New Licenses Issued to Individuals	868	781	Not Met
Number of Licenses Renewed (Individuals)	15,032	15,278	Exceeded
Efficiencies			
Average Licensing Cost Per Individual License Issued	\$6.25	\$6.06	Met
Average Licensing Cost Per Facility License Issued	\$18.21	\$20.31	Not Met
Explanatory			
Total Number of Business Facilities Licensed	5,620	5,603	Met
B. Goal: Enforce Regulations - To assertively and swiftly enforce all laws relating to the practice of pharmacy to ensure that the public health and safety is protected from unprofessional conduct, fraud, and misrepresentation, and to prevent the misuse, abuse, and diversion of prescription drugs from pharmacies.			
Outcome (Results/Impact)			
Percent of Jurisdictional Complaints Resulting in Disciplinary Action	10%	10.7%	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	1,500	1,614	Exceeded
Efficiencies			
Average Time for Jurisdictional Complaint Resolution	225	267	Not Met
Explanatory			
Number of Jurisdictional Complaints Received	1,300	1,642	Exceeded
B.1.2. Strategy: Peer Assistance - Operate a peer assistance program.			
Output (Volume)			
Number of Licensed Individuals Participating in a Peer Assistance Program	140	153	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").

- C. The Executive Director assisted the Board in developing and publishing the agency's Position Statement on the Treatment of Pain.
- D. Three task forces completed their work during FY2001 as follows:
 - The Task Force to Establish Guidelines for Pharmacists Peer Review Committees met two times and made its report to the Board at the May 2001 meeting. The Board adopted the suggested Guidelines and has published them for use by pharmacists in the state.
 - Two task forces, on the Implementation of SB 798 and SB 98 and the Implementation of SB 65, each met one time and presented a combined report, in the form of draft rules for Remote Dispensing using automated dispensing systems, emergency medication kits, and telepharmacy systems, to the Board at the August 2002 meeting. The Board accepted the report and voted to propose the rules for comment. Final adoption of the rules is scheduled for FY2002.

2. To coordinate the development of proposed goals and objectives and budget for FY2002, based on the *Strategic Plan* and projected budget, for submission to the Board two weeks prior to the 2001 Annual Policy Meeting.

Status: ACCOMPLISHED

Comment: The *TSBP 2002 Goals and Objectives* and FY2002 operating budget were submitted to the Board as scheduled and were approved by the Board at its August 7-8, 2001, 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 FY2001.

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 #7 and Legal Division's Ongoing Objective #5 for details of these cooperative efforts.)

4. To review all federal statutes, regulations, and policies that may impact the regulation of the practice of pharmacy and make timely recommendations to the Board for implementation of any required Board actions throughout FY2001.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. As a result of the passage of federal legislation, TSBP was required to provide information regarding disciplinary orders entered by TSBP to the Healthcare Integrity and Protection Data Bank (HIPDB). HIPDB is a national health care fraud and abuse data collection program for the reporting and disclosure of certain final adverse actions taken against health care providers, suppliers, or practitioners. During FY2001, the agency began reporting disciplinary action to HIPDB.
- B. Staff monitored the Federal Department of Health and Human Services development of regulations to implement the Health Insurance Portability and Accountability Act of 1996

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1996 (HIPAA). The final rule took effect on April 14, 2001, but most covered entities, including pharmacies, have until April 14, 2003, to comply with the regulations.

5. To personally participate and represent Board policies and programs to local, state, and national pharmacy, health-related, and consumer organizations during FY2001.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. The Executive Director was re-elected the Vice-Chair of the Health Professions Council.
- B. The Executive Director gave 10 interviews to the press as follows:

DATE	MEDIA/SUBJECT
10/13/00	Telephone interview with Candy Cushman of World Magazine regarding Internet Pharmacy
1/22/01	E-Mail interview with Carol Ukens of Drug Topics regarding pharmacists lunch breaks
1/23/01	E-Mail interview with Carol Ukens of Drug Topics regarding fingerprint imaging of Medicaid patients
4/5/01	Interview with Fox4 TV Dallas regarding Internet Pharmacy
5/8/01	Interview with Fox News TV Houston regarding dispensing errors
5/9/01	Interview with Jay Carter KVUE TV Austin regarding disposal of confidential information by pharmacies
5/21/01	E-Mail Interview with Carol Ukens regarding theft of high cost drugs
7/13/01	Interview by Austin American Statesman regarding theft of oxycodone
7/26/01	Interview by American Medical News regarding oxycodone
8/3/01	Interview by CBS 11 TV Dallas/Fort Worth regarding dispensing errors

- C. The Executive Director gave 11 presentations to 1,610 persons as indicated below.

DATE	NAME OF ASSOCIATION/LOCATION OF MEETING	ATTENDANCE (APPROXIMATE)
9/17/00	Board of Pharmacy Update, University of Texas Postgraduate Seminar — Austin	500
10/8/00	University of Texas Law Class — Austin	65
10/14/00	Update on Pharmacy Laws and Rules, Central Texas Society of Health-System Pharmacists — San Antonio	75
4/12/01	University of Texas Pharmacy Compounding Section — Austin	40
4/20/01	Panel Presentation, Cancer Pain Management Conference — San Antonio	100
5/4/01	Update on Pharmacy Laws and Rules, West Texas Pharmaceutical Association's Annual Meeting — Fredericksburg	70
7/21/01	Update on Pharmacy Laws and Rules/Board Forum, Texas Pharmacy Association's Annual Meeting — Houston	300
8/5/01	Central Fill - A Board of Pharmacy Perspective — National Association of Board's of Pharmacy District 2 Meeting — Amelia Island, Florida	60

DATE	NAME OF ASSOCIATION/LOCATION OF MEETING	ATTENDANCE (APPROXIMATE)
8/23/01	Update on Pharmacy Laws and Rules – Texas Department of Health, Vendor Drug Pharmacists – Austin	20
Totals		1,230

D. The Executive Director attended 41 meetings or conferences representing the agency as indicated below.

DATE	NAME OF ASSOCIATION/LOCATION OF MEETING
10/5-10/8/00	NABP 6 th District Meeting — Little Rock
10/12/00	Senate Committee on Health Services Working Group on Privacy — Austin
10/15/00	NCPA Annual Meeting — San Antonio
10/23/00	Health and Human Services Rider 12 Working Group on Recycling in Nursing Homes — Austin
11/6/00	Health Professions Council Meeting — Austin
11/9-11/10/00	University of Texas Pharmaceutical Foundation Advisory Committee — Austin
11/21/00	Meeting with Representative Maxey to discuss Automated Dispensing Legislation — Austin
11/27/00	Meeting with staff of Senator Nelson and Representative Maxey to discuss Automated Dispensing — Austin
11/27/00	Meeting with Senator Moncrief's staff regarding Telepharmacy — Austin
11/29-11/30/00	Summit 2000: Better Medication Outcomes through Healthcare Collaboration
1/8/01	Meeting with Representative Maxey's staff to discuss Pharmacist Profiles — Austin
1/17/01	Senate Finance Committee — Austin
1/29/01	Subcommittee on Regulatory Agencies of the House Appropriation's Committee — Austin
2/2/01	Meeting with Representatives Maxey and Kitchen regarding Medical Privacy Legislation — Austin
2/6/01	Subcommittee on Regulatory Agencies of the House Appropriation's Committee — Austin
2/12/01	Subcommittee on Regulatory Agencies of the House Appropriation's Committee — Austin
2/12/01	Senate State Affairs Committee Meeting regarding SB 441
2/13-2/14/01	Texas Pharmacy Congress Meeting — Austin
2/20/01	House Appropriations Committee Hearing — Austin
2/26/01	Senate Finance Committee Hearing — Austin
2/26/01	Texas Higher Education Coordinating Board Residency Advisory Committee Meeting — Austin
2/27/01	Senate Nominations Committee Hearing — Austin
3/14/01	House Public Health Committee Meeting on HB 93, 99, 100, 611, and 667 — Austin
3/15/01	Senate Health and Human Services Committee Meeting on SB 65 and 98 — Austin
3/22/01	Senate Health and Human Services Committee Meeting on SB 768 — Austin
4/1-4/3/01	Texas Health-System Pharmacists Annual Meeting — Austin

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DATE	NAME OF ASSOCIATION/LOCATION OF MEETING
4/2/01	Texas Pharmacy Day Seminar — Austin
4/11/01	House Public Health Committee Hearing on HB 2128 and HB 3454 — Austin
4/18/01	Meeting with Senator Nelson's staff regarding registration of pharmacy technicians — Austin
4/19/01	Meeting with Representatives Gutierrez and Mamey regarding SB 98 — Austin
4/20/01	Meeting with Representative Gutierrez and Mamey regarding SB 98 — Austin
4/24/01	Conference Committee on SB 1 — Austin
4/26-27/01	University of Texas Pharmaceutical Foundation Advisory Council Meeting — Austin
4/26/01	Meetings with Senator Van de Putte and Representative Hopson — Austin
6/4/01	Health Professions Council Meeting — Austin
6/12/01	Meeting with Department of Information Resources regarding Information Officers — Austin
6/27/01	Meeting with Representative Mamey regarding HB 2408 — Austin
6/29/01	Health Professions Council Meeting regarding HB 187 — Austin
7/17-18/01	Texas Pharmacy Congress Meeting - Houston
7/18-22/01	Texas Pharmacy Association's Annual Meeting - Houston
8/5-6/01	National Association of Boards of Pharmacy's District 2 Annual Meeting - Amelia Island, Florida

6. To act as the Board's liaison to the pharmacy professional associations throughout FY2001.

Status: ACCOMPLISHED

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

DATE	NAME OF ASSOCIATION/LOCATION OF MEETING
11/9-10/00	University of Texas Pharmaceutical Foundation Advisory Committee — Austin
11/29-30/00	Summit 2000: Better Medication Outcomes through Healthcare Collaboration
2/13-14/01	Texas Pharmacy Congress Meeting — Austin
4/1-3/01	Texas Health-System Pharmacists Annual Meeting — Austin
4/2/01	Texas Pharmacy Day Seminar — Austin
4/26-27/01	University of Texas Pharmaceutical Foundation Advisory Council Meeting — Austin
7/17-18/01	Texas Pharmacy Congress Meeting - Houston
7/18-22/01	Texas Pharmacy Association's Annual Meeting - Houston

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 FY2001.

Status: ACCOMPLISHED

Comment: At the August 2000 meeting, the Executive Director was elected Vice Chair of HPC. In addition, the agency's Information Resource Manager, Steve Rapp, served as chair of the Health Professions Council (HPC) Committee to implement an imaging system for HPC agencies. This committee completed this project in FY2001, and the system is fully operational. As further validation of the benefits of this particular imaging system, this imaging system was selected as Exhibitor Best Solution for the Government Technology Conference in 2001. (See also Administrative Services Ongoing Objective #7.)

8. To continue to support and participate in the Texas Pharmacy Congress throughout FY2001.

Status: **ACCOMPLISHED**

Comment: The Executive Director attended two of the four Texas Pharmacy Congress (TPC) meetings held during this fiscal year. Director of Professional Services Steve Morse attended the November 2001 meeting of the Congress. The Executive Director also participated in the TPC-initiated Summit 2000: Better Medication Outcomes through Healthcare Collaboration. This conference was attended by representatives of pharmacy, medicine, nursing, and hospitals with the goal of beginning to create a system that insures minimization of medication errors.

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 FY2001.

Status: **ACCOMPLISHED**

Comment: Because FY2001 included a legislative session, no additional recommendations for changes to the Pharmacy Act were made. During FY2001, the Executive Director spent considerable time drafting legislation to implement the recommendations for changes to the Pharmacy and Controlled Substances Acts that were approved in FY2000. The following chart indicates the status of those recommendations.

RECOMMENDATIONS THAT PASSED DURING THE 77 TH SESSION	
Amend the definition of "dangerous drug" in Section 483.001(2) of the Dangerous Drug Act and Section 551.003(12) of the Pharmacy Act to match the federal definition.	S.B. 768
Amend the definition of a pharmacist-intern (Section 551.003(30)) to delete the requirement that an internship program be school-based.	S.B. 768
Amend the Pharmacy Act to delete the requirement for a two-line prescription format and require a physician to write "Brand Medically Necessary" across the face of the prescription when the physician does not want substitution to occur.	S.B. 768
Amend Section 551.003(d) and Section 551.005 of the Texas Pharmacy Act to allow the Board to maintain jurisdiction over an individual whose license is expired when an investigation is pending.	S.B. 768
Amend Chapter 565 of the Act to clarify that the Chapter also applies to removal of restrictions on a licensee as well as reinstatement of a license.	S.B. 1360
Amend Section 483.021(a) of the Dangerous Drug Act to make it applicable to all prescriptions	S.B. 768
Amend Section 565.001(a)(4) to allow the Board to discipline a licensee who has abused drugs.	S.B. 768
Amend Section 559.053 of the Pharmacy Act to increase the number of continuing education hours from 12 per year to 15 per year.	S.B. 768
Amend Section 560.002 of the Texas Pharmacy Act to prohibit the use of the term "apothecary" in advertising a facility other than a pharmacy.	S.B. 768

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RECOMMENDATIONS NOT PASSED DURING THE 77TH SESSION	
Support the transfer of \$850,000 from the Board of Pharmacy fund balance in the General Fund to the Higher Education Coordinating Board to fund the Roberta High Memorial Pharmacy Residency Program.	S.B. 1 (deleted during session)
Amend Section 555.004(b) of the Pharmacy Act to remove the restriction that faculty members of colleges of pharmacy can't serve as TSBP Board Members.	S.B. 768 (deleted during session)
Amend Section 559.003(b) of the Pharmacy Act to give the Board the authority to have discretion in setting the delinquent fees for a pharmacist's license.	N/A not introduced
Authorize the agency to exceed the full-time equivalent employment cap for positions associated with the Summer Intern Program of the Board of Pharmacy.	N/A
Amend the Act to make a second order against a person who has a chemical, physical, or mental impairment a non-confidential order.	N/A Deleted during the session
Amend Section 565.001 and 565.002 of the Pharmacy Act to allow the Board to discipline a licensee who has been convicted of or received deferred adjudication for a misdemeanor or a felony involving a violation of the Dangerous Drug or Controlled Substances Acts	N/A Not Filed
Amend Section 565.001 and 565.002 of the Pharmacy Act to allow the Board to discipline a pharmacy technician who has been convicted of or received deferred adjudication for a misdemeanor or a felony involving a violation of the Dangerous Drug or Controlled Substances Acts.	N/A Not Filed
Return the ability to cancel a license.	N/A Not Filed
Clarify that pharmacists have professional discretion when deciding to dispense a prescription or medication order.	N/A Not Filed

10. To conduct periodic reviews and annual evaluations of Division Directors and the Executive Assistant and to monitor evaluations of employees in all Board Divisions throughout FY2001.

Status: **ACCOMPLISHED**

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

EMPLOYEE	DATE OF EVALUATION
Kerstin Arnold	5/31/01
Carol Fisher	6/4/01
Steve Morse	5/30/01
Cathy Stella	5/27/01
Kay Wilson	5/29/01

(See Administrative Services Ongoing Objective #13, Enforcement Ongoing Objective #15, Legal Ongoing Objective #11, and Professional Services Ongoing Objective #12 for details of other staff evaluations.)

11. To provide the Board's Executive Committee information necessary to conduct performance evaluation of the Executive Director by August 31, 2001.

Status: **ACCOMPLISHED**

Comment: A self and staff evaluation of the Executive Director was presented to the Board at its August 2001 meeting. The Board conducted the performance evaluation at this meeting.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

FY2001 SIGNIFICANT ACCOMPLISHMENTS

1. The Division accomplished or partially accomplished 100% of its objectives (29 objectives: 28 accomplished and 1 partially accomplished).
2. The agency was successful in obtaining additional appropriations for FY2002/2003 due to the passage of Senate Bill 65, Senate Bill 768, and Senate Bill 98. These bills primarily address the regulation of telepharmacy, automated systems, and emergency medication kits.
3. A complete revision of the agency's Personnel Policy and Procedure Manual was undertaken by management staff and the publication was distributed in October 2000. The agency personnel policy and procedural systems were certified by the Texas Commission on Human Rights.
4. Division Director, in cooperation and conjunction with the Executive Director and other Division Directors, implemented a procedure to ensure equity in determining merit awards.
5. Division Director, in cooperation and conjunction with the Executive Director and other Division Directors, and with input from Division staff, formulated uniform objectives for employee evaluations. This accomplishment was in compliance with the requirements of the Texas Human Rights Commission.
6. The Division met or exceeded 83% of the performance measures required to be submitted to the Legislative Budget Board.
7. As computer virus activity continues to dramatically increase, the agency has been successful in keeping virus incidents extremely low. Upgrading anti-virus software, implementing automatic updates, taking an assertive stance towards user passwords, as well as aggressively maintaining recommended security updates on the web server, has limited agency exposure to a single low impact web defacement and virus penetration to almost zero.
8. Steve Rapp, TSBP Information Resource Manager, continued to serve as chair of the Health Professions Council (HPC) Committee to implement an imaging system for HPC agencies. This HPC project was completed in FY2001. As a result, one scan station was installed in the TSBP office, and two scan stations were installed in the HPC office for all HPC agencies use.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

FY2001 SIGNIFICANT CONSTRAINTS

1. As requests for information to board staff and customers grow, workload constraints continue to hamper division employees. Division staff responded to approximately 16,000 telephone calls, 1,400 e-mail inquiries, mailed 3,619 packets of information to new licensees and/or pharmacy owners, and responded to 83 requests for lists and labels. The electronic requests for information are growing rapidly, and will inevitably slow down the agency's response time in other areas.

2. The agency budget request to implement the legislation requiring the agency to register pharmacy technicians was denied by the 77th Texas Legislature. This action resulted in an unfunded mandate for TSBP to register and remove from registration, if necessary, approximately 20,000 certified pharmacy technicians.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

FY2001 ANNUAL REPORT

Goal

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

Objectives (New) - Administrative Services

1. To assist the Executive Director, in cooperation with other Divisions, in:
 - A. preparing testimony, attending public hearings, and providing any fiscal or technical information as required by the 77th Texas Legislature; and
 - B. reviewing all legislation that has an impact on the practice of pharmacy and agency operations, and monitoring the progress of this legislation throughout FY2001.

Status: **ACCOMPLISHED**

Comment: The Division Director reviewed and analyzed 154 pieces of legislation that had a potential impact on agency operations. Division Director and Chief Accountant also maintained constant contact with the Legislative Budget Board (LBB) and Governor's Budget Office (GBO) to review and discuss the agency Legislative Appropriations Request for FY2002-2003. The following public hearings were attended by the Division Director in order to provide administrative and technical support to the Executive Director:

Senate Finance Committee Budget Hearing	January 17, 2001
Senate Finance Committee Markup	February 26, 2001
House Appropriations Subcommittee on Regulatory Agencies Budget Hearing	January 29, 2001
House Appropriations Committee Markup	March 8, 2001
Conference Committee Session	April 24, 2001

Other hearings and/or meetings were held with regard to the following:

House Bill 905 Hearing/Meetings (Electronic renewal of licenses)	January 31, 2001
Profile Bill Information Meeting with Representative Maxey	March 9, 2001

Specific legislation passed by the 77th Texas Legislature that affects agency operations and will require implementation and monitoring, include the following:

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- SB 187 relating to government services provided through on-line systems;
- SB 645 relating to the establishment of an electronic system for occupational licensing transactions;
- SB 768 relating to pharmacist continuing education; emergency medication kits in nursing homes; and development of a "Dispensing Directive" for generic substitution on prescriptions;
- SB 98 relating to the provision of pharmacy services in a nursing home through an automated pharmacy system;
- SB 65 relating to the provision of pharmacy services in a rural health clinic through a telepharmacy system; and
- HB 609 relating to establishing an internal audit program.

In addition to the above, the agency was required to prepare the following fiscal notes throughout the Legislative Session:

- HB 93 and companion bills SB 98 and SB 65 relating to the regulation of certain automated systems to dispense prescription drugs.
- HB 99 relating to the sale and delivery of drugs by electronic media including the Internet.
- HB 498 relating to credit in the Employee's Retirement System for service as a custodial officer.
- HB 556 relating to public access to certain information regarding certain health care professionals.
- HB 611 relating to the regulation of telepharmacy as a method to dispense drugs.
- HB 643 relating to the adoption of rules regarding complaints received through the Internet.
- HB 667 relating to requiring certain pharmacies to post an Internet link to the Texas State Board of Pharmacy.
- HB 905 establishing an electronic system for licensing transactions.
- HB 1428 relating to re-establishing service credit for retirement.
- HB 1730 relating to the name of the agency printed on certain state motor vehicles.
- HB 1929 relating to prescription drug benefits under certain health benefit plans.
- HB 2128 relating to the regulation of the practice of pharmacy.
- HB 2309 relating to benefits for custodial officers.
- HB 2695 relating to the return to dispensing pharmacy of unused prescriptions paid by the state for nursing homes.
- HB 2730 relating to the dispute resolution process.
- HB 2999 relating to the Texas Department of Health rebate for uninsured medicare/medicaid.
- HB 3198 relating to an electronic system for licensing transactions.
- HB 3373 relating to loan repayment for occupational license holders.
- HB 3411 relating to improving readability of rules.
- HB 3554 relating to dispensing drugs pursuant to an oncology protocol.
- SB 65 relating to the provision of pharmacy services through a telepharmacy system.
- SB 98 relating to the regulation of certain automated systems to dispense prescription drugs.
- SB 372 relating to service credit in and benefits under certain public retirement systems.
- SB 459 relating to reestablishment of service credit in a public retirement system participating in the proportionate retirement program.
- SB 645 relating to establishing an electronic system for licensing transactions.
- SB 768 relating to the regulation of the practice of pharmacy and dispensing certain drugs.

- SB 817 relating to the name of the agency printed on certain state motor vehicles.
- SB 818 relating to the prescription authority of certain psychologists.
- SB 1458 relating to duties of a state agency with regard to development and access of electronic information.
- SB 1587 relating to dispute resolution.

2. To monitor the progress of the agency's *Legislative Appropriation Request* and corresponding performance measures for FY2002/2003.

Status: ACCOMPLISHED

Comment: A summary of legislative action affecting the agency's FY2002/2003 budget included the following:

APPROPRIATION PROVISIONS

- A. Additional appropriation is included to fund a 4% (or minimum of \$100/month) across-the-board pay raise for all classified employees.
- B. Contingency Revenue Rider which states that of the amounts appropriated, \$5,371 in FY2002 and \$8,099 in FY2003 can only be expended if the agency assesses fees sufficient to generate \$14,388 in excess of \$6,963,000 (Comptroller of Public Accounts' biennial revenue estimate). This amount (\$14,388) is an increase to the agency's share of payment to the Health Professions Council.
- C. Contingency Appropriation Riders for Senate Bill 65, Senate Bill 768, and Senate Bill 98 appropriate an additional \$545,425 over the biennium for the purpose of implementing these bills. The bills primarily address the regulation of telepharmacy, automated systems, and emergency medication kits. These appropriations were contingent on the agency assessing fees sufficient to generate \$545,425 in excess of \$6,963,000 (Comptroller of Public Accounts biennial revenue estimate).
- D. Limitations on Travel Expenditures. Appropriations for out-of-state travel expenditures (Board and Staff) were capped at 100% of the FY2000 out-of-state travel. This means that all out-of-state travel was capped at \$10,378. Additional restrictions required:
 - Certification that it is necessary for more than one individual to execute state business, in cases where more than one individual has submitted a travel voucher or claim for reimbursement of expenses for the same or similar travel occurrence.
 - For travel outside the state, the travel must be approved in advance in accordance with the policy of the state agency.
 - For travel outside the state, reimbursement may not be made unless the appointed officer (defined as board members) has filed with the Texas Ethics Commission, copies of all documents that will be submitted to the Comptroller and the Legislative Budget Board in support of the travel expense claim.

If the agency exceeds the travel cap for two consecutive fiscal years without the written approval of the Legislative Budget Board, the agency may not reimburse for any out-of-state travel, conventions, conferences, or seminars.

If the State Auditor determines that any travel for which payment is made is not in compliance with travel regulations, the State Auditor shall notify the Comptroller to reduce the appropriation for the agency by an amount equal to the entire amount paid by the state for that individual for that travel occurrence. The Comptroller shall then submit this information to the Legislative Budget Board.

- E. **Electronic Renewal of Licenses.** SB 645 requires the Department of Information Resources (DIR) to establish a common electronic system for occupational licensing transactions using the Internet. SB 645 requires participating agencies to charge a transaction and/or subscription fee to license holders.

SB 187 creates the Texas On-line Authority to establish and implement a common electronic infrastructure for online government. SB 187 is also called the "profile bill" because it requires specific agencies to create profiles of their license holders and have these profiles available to the public on the Internet. SB 187 requires participating agencies to charge a subscription fee and/or a "profile system" fee to its license holders. The subscription fee may not exceed \$5 for an annual renewal, or \$10 for a biennial renewal.

- F. **Internal Auditor.** HB 809, passed by the 77th Legislative Session, requires all agencies to comply with the Texas Internal Auditing Act. Previously, the only state agencies required to comply with the Act were those agencies that had an annual operating budget in excess of \$10 million, or had staff of more than 300 employees. Now, all agencies must comply. Appropriations for the internal auditor are available if the agency can certify that revenue is available through its fee collections.

3. To assist the Executive Director, in cooperation with other Divisions, in accomplishing any initiatives or objectives related to technology issues which impact the agency. Potential technology issues include:

- e-commerce initiatives including electronic;
- Health Professions Council Imaging System; and
- web development.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished as follows:

A. *Electronic Renewal*

Division Director was appointed to a Steering Committee dealing with SB 645, which requires the Department of Information Resources (DIR) to establish a common electronic system for occupational licensing transactions using the Internet. SB 645 requires participating agencies to charge a transaction and/or subscription fee to license holders. Division Director was also appointed to a Sub-Committee dealing with SB 187. SB 187 creates the Texas On-line Authority to establish and implement a common electronic infrastructure for online government. SB 187 is also called the "profile bill" because it requires specific agencies to create profiles of their license holders and have these profiles available to the public on the Internet.

Division Director met with staff of the Department of Information Resources (DIR) and the contractor, KPMG, to discuss the various aspects of these bills as well as develop a proposal to implement the on-line renewal of pharmacists and pharmacies. An Opportunity Proposal for the on-line renewal of pharmacists and pharmacies was ultimately approved by the Texas On-line Authority and reported to the Board. The anticipated implementation date was FY2002; however, this project was placed on hold due to the passage of the above-referenced bills.

B. Imaging System

Steve Rapp, TSBP Information Resource Manager, continued to chair the Health Professions Council (HPC) Committee to implement an imaging system for HPC agencies. This project was completed in FY2001. As a result, one scan station was installed in the TSBP office, and two scan stations were installed in the HPC office for all HPC agencies use.

C. Web Development

Division Director initiated the formation of a Web Committee, comprised of employees from all divisions, both management and non-exempt. Responsibility was assigned to members to periodically review the overall content of the web site and make each division accountable for the information contained on the site. Many cosmetic changes were made, various applications were updated, and a new on-line complaint form was designed for consumer use.

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

Status: PARTIALLY ACCOMPLISHED

Comment: Division Director assisted Executive Director in drafting an amendment to the agency's Legislative Appropriation Request, requesting reduction from 16 to 8 staff needed to register/regulate pharmacy technicians for the biennium FY2002-03, with the intent of asking for the remaining 8 staff for FY2004-05, if needed.

However, during the 77th Texas Legislature, no additional staff or funding was appropriated to TSBP to register/regulate technicians. Division Director, in cooperation with the Executive Director and other Division Directors discussed several options of how the agency could implement a program to register technicians, without additional funding. The Executive Director discussed the matter with the Board at its business meeting on August 7-8, 2001, at which time the Board determined to establish a Task Force to study the issue.

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 FY2001.

Status: ACCOMPLISHED

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

- | | | |
|------|--|--|
| (1) | Accounting Policy Statement 001:
DUE: As transaction occurs | Fund reimbursement for Employee Benefit |
| (2) | Accounting Policy Statement 003:
DUE: Within 30 days of receipt of
statement (revised 7/01/00) | Reimbursement for Unemployment Compensation
Payments. |
| (3) | Accounting Policy Statement 004:
DUE: As transaction occurs | All transactions involving GAAP Agency/Suspense Funds. |
| (4) | Accounting Policy Statement 007:
DUE: As transaction occurs | Deposit of revenues intended to increase revenue and
expenditure budget. |
| (5) | Accounting Policy Statement 008:
DUE: Every 3 days | Deposit of sales tax and hotel occupancy tax collected by
state - Attorney General Opinion JM-987 (Agencies must
follow sales tax laws and file sales tax reports). |
| (6) | Rapid Deposit Bill:
DUE: Every 3 days | To account for and deposit all revenues collected within
three days of receipt. |
| (7) | Prompt Pay Act (HB 275):
DUE: As transaction occurs | Mandates state agencies pay for goods and services within
30 days. |
| (8) | Physical Inventory:
DUE: Annually | Due to the Comptroller's Office and the State Auditor. |
| (9) | Notice to State Agency
DUE: September 2000 | Fiscal Year 2001 allocation of appropriations. Responsible
for setting up new program cost accounts appropriations
and budget amounts for appropriations. |
| (10) | Accounting Policy Statement 010:
DUE: As transaction occurs | Travel advance, evidence fund, and petty cash fund -
auditing, reconciling, and ensuring the funds are properly
reimbursed and that agency policy and procedures are in
compliance with the Comptroller's guidelines. |
| (11) | Accounting Policy Statement 011:
DUE: Annually (revised 01/05/99) | Benefits to be proportional by fund due to Comptroller and
SAO. |
| (12) | Accounting Policy Statement 013:
DUE: As transaction occurs | Refunds of deposits - required guidelines for refunds of
erroneous collections. |
| (13) | Accounting Policy Statement 014:
DUE: As transaction occurs | Interagency payments and receipts. |
| (14) | Accounting Policy Statement 016:
DUE: As transaction occurs | Multiple employments with the state. |
| (15) | Accounting Policy Statement 017:
DUE: Within 30 days of receipt of
statement | Reimbursement for Workers Compensation Payments. |

- | | | |
|------|--|--|
| (16) | Accounting Policy Statement 018:
DUE: 30 days after the close of
the fiscal year (revised 7/01/00) | Encumbrance report and lapsing of appropriations. |
| (17) | Accounting Policy Statement 019:
DUE: September 15, 2000 | Salary Benefit Appropriation allocations. |
| (18) | Accounting Policy Statement 021:
DUE: As transaction occurs | Cost allocation procedure and expenditure transfer
procedure. Corrective transactions-bookkeeping entries. |
| (19) | Accounting Policy Statement 022:
DUE: As savings are approved | Employee Incentive Award transfers. |
| (20) | Accounting Policy Statement 027:
DUE: As transactions occur | Accounting for uncollectible accounts. |
| (21) | Accounting Policy Statement 028: | Reporting of debts and tax delinquencies. |
| (22) | Accounting Policy Statement 026: | Capital Budget Rider Appropriations. |
| (23) | Accounting Policy Statement 029: | Recognition of Revenues from convenience fees and
expenditures for transaction fees; credit card fees; and
other charges associated with receiving payments. |
| (24) | State Legislation Impact Assistance:
DUE: Annually | Calendar year expenditures. |
| (25) | Federal Relations Report:
DUE: Quarterly | Details agency efforts to maximize federal funds. |
| (26) | Notice to State Agencies:
DUE: As transaction occurs | Complete revision on procedures for interagency payments. |
| (27) | Notice to State Agencies:
USAS Profile Rollover AY01
DUE: September 1, 2001 | Review and correct Appropriation Structure for FY02. |
| (28) | Notice to State Agencies: | Benefit Replacement Pay Allocation. |
| (29) | Notice to State Agencies: | USAS Security Coordinator and user class updates. |
2. To prepare and submit all required accounting and fiscal reports and reconciliations to the Executive Director throughout FY2001, no later than ten days from the monthly due date.

Status: ACCOMPLISHED

Comment: A monthly report was submitted to the Executive Director/Secretary which outlined major financial reports completed for the prior month. All reconciliations were completed for the fiscal year, and all required reports were submitted on a timely basis. The agency's Annual Financial Report (AFR) for the year ending August 31, 2000, was submitted on November 20, 2000, in accordance with the requirements established by the Comptroller of Public Accounts. This report was audited by the State Auditor as part of the statewide annual financial report and TSBP was commended by the State Comptroller on the accuracy of the AFR. State Property Accounting also commended the

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TSBP on the reconciliation between the Uniform Statewide Accounting System and the Statewide Property Accounting System.

3. To review and recommend to the Executive Director additional sources of spendable revenue and to assess fees charged for Board services throughout FY2001.

Status: **ACCOMPLISHED**

Comment: A quarterly operating budget was presented to the Board at their 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 FY02/03, to comply with the new Riders regarding additional appropriations. Recommended fee increases to initial licensure and renewal of pharmacy and pharmacist licenses were presented and approved by the Board Members in August 2001 with implementation scheduled for October 2001.

A review of the costs the agency assesses its customers for the purchase of lawbooks, mailing lists, labels, diskettes, and tapes was also made, and no changes to the current fee structure were recommended.

4. To assess the material needs of the agency and supervise the purchasing and supply activities in accordance with all General Services Commission rules and procedures throughout FY2001.

Status: **ACCOMPLISHED**

Comment: Although no audits were conducted by any oversight agencies during this fiscal year, the Chief Accountant continued to review all specifications, product tabulations and purchase requisitions for compliance with agency policies and procedures and General Services Commission rules. This oversight ensures that the appropriate procurement method is identified, the agency receives the best value for the product or service purchased, and that funds are always available. In addition, TSBP staff were advised on proper interpretation and application of purchasing policies and procedures.

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 FY2001.

Status: **ACCOMPLISHED**

Comment: The Executive Assistant continued to act as the agency representative to the Hobby Building Users Group and coordinate any on-site maintenance. The Employee Relations Coordinator continued to coordinate any space needs required.

6. To serve as the agency's Human Resources Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2001.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished as follows:

- A. The Texas Commission on Human Rights certified that the personnel policy and procedural systems of the agency were in compliance with the Texas Commission on Human Rights Act.

- B. The Division Director, in coordination with the management staff, completely revised the agency's Personnel Policies and Procedures, and distributed to all staff.
- C. All newly hired employees received EEO/sexual harassment training as required by state law.
- D. The agency reviewed its Recruitment Plan/Affirmative Action Plan and made updates as necessary. No employee grievances or discrimination complaints were filed, and there were no employment discrimination charges pending with the Texas Commission on Human Rights.
- E. The agency received 189 applications for employment during this fiscal year, which resulted in seven new hires.
- F. The following table reflects the agency's EEO profile for employees hired, promoted, or terminated during FY01, as well as an applicant profile report.

AGENCY EEO DATA	WHITE			BLACK			HISPANIC			OTHER			TOTAL		
	M	F	TOT	M	F	TOT	M	F	TOT	M	F	TOT	M	F	TOT
BOARD MEMBERS	5	2	7	1	0	1	0	1	1	0	0	0	6	3	9
ADMINISTRATORS	1	4	5	0	0	0	0	0	0	0	0	0	1	4	5
PROFESSIONALS	10	9	19	0	1	1	2	1	3	0	0	0	12	11	23
PARA-PROFESSIONALS	0	7	7	0	3	3	0	2	2	0	1	1	0	13	13
ADMIN SUPPORT	0	1	1	0	1	1	0	2	2	0	0	0	0	4	4
TOTALS	16	23	39	1	5	6	2	6	8	0	1	1	19	35	54

NEW HIRES	WHITE			BLACK			HISPANIC			OTHER			TOTAL		
	M	F	TOT	M	F	TOT	M	F	TOT	M	F	TOT	M	F	TOT
ADMINISTRATORS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROFESSIONALS	0	5	5	0	0	0	0	0	0	0	0	0	0	5	5
PARA-PROFESSIONALS	0	1	1	0	0	0	0	1	1	0	0	0	0	2	2
ADMIN SUPPORT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTALS	0	6	6	0	0	0	0	1	1	0	0	0	0	7	7

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

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

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APPLICANTS	WHITE			BLACK			HISPANIC			OTHER			TOTAL		
	M	F	TOT	M	F	TOT	M	F	TOT	M	F	TOT	M	F	TOT
ADMINISTRATORS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROFESSIONALS	20	16	36	2	4	6	5	2	7	1	1	2	28	23	51
PARA-PROFESSIONALS	40	58	98	5	9	14	9	13	22	2	2	4	56	82	138
ADMIN SUPPORT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTALS	60	74	134	7	13	20	14	15	29	3	3	6	84	105	189

7. To manage the information resource needs (data processing and telecommunication) of the agency throughout FY2001.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- A. Steve Rapp, TSBP Information Resource Manager, continued to chair the Health Professions Council (HPC) committee to implement an imaging system for HPC agencies. This project was completed in FY2001. As further validation of the benefits of this particular imaging system, this particular imaging system was selected as Exhibitor Best Solution for the Government Technology Conference in 2001.
- B. In FY01, TSBP received 90,701 web-site inquiries, an average of 7,558 "hits" each month, as compared to approximately 5,373 "hits" each month in FY00, a 41% increase. The division was successful in reclassifying an existing employee, Todd Hayek, as a Network Specialist. Mr. Hayek is currently working on his certification as a Web Master and has been instrumental in maintaining and developing the agency web site.
- C. In 2001, Information Systems focused on refreshing old technology and security. Priority for refresh was the web server and one-third of the agency's desktops and laptops. Like many organizations, the agency's web presence increased in importance, forcing the need for a more robust and secure system. Desktop and laptop replacements were done as scheduled, keeping the staff downtime at a minimum.
- D. With regard to virus activity, a dramatic increase occurred which was addressed by upgrading the anti-virus software and implementing automatic updates which take the human response time out of the equation, thus keeping virus incidents extremely low. Aggressively maintaining recommended security updates on the web server limited exposure to a single low impact web defacement. In an effort to prevent unauthorized systems access, the agency has also taken a more assertive stance toward user passwords, forcing users to change passwords more frequently and to adhere to stricter standards.
- E. The agency volunteered to participate in a penetration test, sponsored by the Department of Information Resources. The test was completed by Sprint and upon completion included formal recommendations to increase agency computer systems security.

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 FY2001.

Status: ACCOMPLISHED

Comment: Division staff destroyed 62.22 cubic feet of records, in accordance with the TSBP record retention schedule. The Records Retention Schedule was reviewed, and various amendments were submitted to the State Library for approval. Division licensing staff began the process of imaging licensing records.

9. To coordinate the sale and distribution of the pharmacy law reference manual and cooperate with the Compliance Division to assure the publication of any updates of the manual throughout FY2001.

Status: ACCOMPLISHED

Comment: Approximately \$58,288 was generated in spendable revenue due to the sale of the *Texas Pharmacy Laws and Regulations*. An update of the Texas Pharmacy Rules was developed and distributed free of charge to approximately 5,000 board customers. The Administrative Services staff continued to provide the support necessary to determine fees, maintain mailing lists, and maintain property inventory levels of these manuals.

10. To provide verbal and written information to Board staff and customers throughout FY2001 including, by the assigned due dates, the preparation of:

- A. LBB Performance and Funds Management Report and other special reports as requested by LBB, legislative committees, legislators, and others, in conjunction with other Divisions as necessary;
- B. responses to surveys and questionnaires; and
- C. a report of the types and numbers of surveys/questionnaires/reports completed by all Divisions during FY2001.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- A. Statutorily Required Reports

REPORT TITLE	RECIPIENT(S)	DIVISION REPORTING
Registrations	Ethics Commission	Administration
FTE State Employees	State Auditor	Administration
Annual Financial Report	Governor's Office; LBB; State Comptroller; State Auditor.	Administration
Recycled Materials Expenditures	LBB	Administration
Historically Underutilized Business Progress Reports	Governor's Office; Lt. Governor; Speaker of House	Administration
Encumbrance Reports	State Comptroller; State Auditor; LBB	Administration
Operating Budget FY01	Governor's Office; LBB; State Comptroller; Legislative Reference Library	Administration
Non-Resident Bidders	LBB	Administration

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REPORT TITLE	RECIPIENT(S)	DIVISION REPORTING
EEO Information Report	Commission on Human Rights	Administration
Minority Hiring Practices	Commission on Human Rights	Administration
Historically Underutilized Minority Businesses - Contracts	General Services Commission; State Comptroller	Administration
Risk Management - Losses	Office of Risk Management	Administration
Performance and Funds Management Reports	Legislative Budget Board	Administration and Enforcement
Contract Workforce Report	State Auditor	Administration
Open Records On-line Monthly Report	Legislative Budget Board	All

B. Other Surveys and Questionnaires:

REPORT TITLE	RECIPIENT(S)	DIVISION REPORTING
Office Space Needs Assessment	General Services Commission	Administration
Open Records Survey	General Services Commission	All
Vehicle Operations Guidelines	General Services Commission	Administration
Survey re: Risk Management Audit	State Office of Risk Management	Administration
Statistics regarding Number of Pharmacists in Texas compared to Total Population	Comptroller Office	Licensing
Biennial Operating Plan for Information Resources	Legislative Budget Board	Information Resources
Turnover Statistics	House Appropriations Committee	Administration
Information regarding Pharmacies by County	Representative Lucio	Licensing
Job Descriptions for Inspectors and Investigators	State Auditor Office	Administration

C. Types and numbers of surveys/questionnaires/reports completed by all Divisions: See Professional Services Ongoing Objective #10, Legal Services Ongoing Objective #8, and Enforcement Ongoing Objective #10. In addition, the agency as a whole, responded to 19,914 requests for information, both written and electronic.

D. Division (Licensing) staff responded to approximately 16,000 telephone calls, 1,400 e-mail inquiries, mailed 3,619 packets of information to new licensees and/or pharmacy owners, and responded to 83 requests for lists and labels.

11. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2001.

Status: **ACCOMPLISHED**

Comment: Division staff participated in the following activities:

- A. Implementation of an Imaging System - Division staff (Steve Rapp) continued to chair a committee to implement the indexing and scanning of documents for the HPC agencies.
 - B. Division Director participated in an interagency workgroup of the HPC and Small Agency Task Force, to recommend legislative initiatives for the January 2001 Legislative Session.
 - C. HPC Annual Report - Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
 - D. The TSBP continued to participate in several HPC centralized services, such as the Centralized Mail Center, Courier Service, and Copy Center; Shared Employee Training; and Shared Information Resource Technology staff.
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 FY2001.

Cathy Stella, Division Director
Small Agency Task Force, Legislative Issues Committee and HB 609 (Internal Auditor)
NAPLEX Computerized Exam Presentations to the University of Houston, Texas Southern University College of Pharmacy, and Texas Tech University
Health Professions Council Meetings
Numerous meetings with KPMG regarding E-commerce and state portal system.
Human Resources Seminar
e-Records 2000 Symposium
DIR Task Force on E-Renewal
Pre-Retirement Seminar
Managing Electronic Records
SCAH Hearing
TSHRA Meeting - Results of Legislative Session
Meeting with HEB representatives regarding change of ownership
EEO Law Seminar
Conference Call Meeting of Exam Retake Committee
Exam Grade Download Program Training at National Association of Boards of Pharmacy
New Hire Orientation for 7 New Hires

Jane Bennett, Chief Accountant
100 Day Report Seminar
USAS User Group Meetings
Small Agency Task Force Meeting re: LAR
GASB Teleconferences and seminars
Texas Basic Public Purchasing Class.
Small State Agency Task Force

ADMINISTRATIVE SERVICES AND LICENSING**Robbi Polanco, Employee Relations Coordinator**

Insurance Summer Enrollment Training

USPS Monthly Users Meetings

New staff orientation for seven new hires

Hobby Building Tenant Meetings

Numerous meetings with KPMG, DIR & Comptroller regarding e-Commerce & state portal system

Employment Discrimination/Sexual Harassment Training

SORM Annual State Agency Report Training

Texas Workers' Compensation Educational Conference

Managing Electronic Records

Personal Safety

Imaging System Navigation Training

Sandy Morton, Accountant

USAS Monthly User Meetings

Excel 2000 Advance

How to Supervise People for New Supervisors

TINS On-line Training

Darlene Guthrie, Purchaser

EEO Training

Access Introduction

State of TX Purchasers Conference

AT&T Wireless Data Solutions

Women's Conference

Tex-An Roadshow

Kay Wilson, Executive Assistant

Governor's Center for Management Development Leadership Series – Customer Service

Attorney General's Open Government Conference

Hobby Building Users' Meetings

Sonya Whalon, Administrative Technician

United Parcel Service State of Texas Seminar

The Essentials of Managing the Front Desk

Ethics Training

Texa\$aver Informational Meeting

Steve Rapp, Information Resource Manager

New staff onentation for seven new hires

DIR Power to Purchase Seminar

Todd Hayek, Network Specialist

Web Certification Classes to include paint shop program, dream weaver, interface design, web management, American with Disabilities, world wide web, photo shop, flash.

Rachel Glass, Pharmacist Licensing Specialist

Customer Service

Access 2000 introduction training

Melinda Uballe, Licensing Technician

Access 2000 Introduction class

Women's Conference

Conflict Management Skills for Women

13. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2001.

Status: **ACCOMPLISHED**

Comment: The Division achieved a 100% completion rate of evaluations scheduled for this fiscal year.

NAME	DATE SCHEDULED	DATE CONDUCTED
Nicki Green	September 2000	January 2001
Rene Howard	September 2000	December 2000
Sandy Morton	November 2000	November 2000
Patty Powers	December 2000	May 2001
Steve Rapp	January 2001	February 2001
Robbi Polanco	February 2001	June 2001
Sonya Whalon	March 2001	June 2001

ADMINISTRATIVE SERVICES AND LICENSING

NAME	DATE SCHEDULED	DATE CONDUCTED
Todd Hayek	April 2001	May 2001
Rachel Glass	June 2001	May 2001
Melinda Ubalde	June 2001	June 2001
Jane Bennett	June 2001	June 2001
Darlene Guthrie	May 2001	June 2001

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 FY2001.

Status: ACCOMPLISHED

Comment: A complete revision of the agency's Personnel Policy and Procedure Manual was undertaken by management staff; the publication was distributed in October 2000. In addition, the Division Director, on advice of the Texas Human Rights Commission and in consultation with management staff, revised the following policies:

- Recruitment Plan/Affirmative Action Plan
- Americans with Disabilities (ADA)
- Reduction in Force and Recall Guidelines
- Disciplinary Actions
- Sexual Harassment Policy
- Employee Performance Evaluation

As a result, the agency's personnel policy and procedural system were certified as compliant by the Texas Commission on Human Rights.

15. To recommend policies and procedures to the Executive Director which will enhance the efficiency and effectiveness of the agency throughout FY2001.

Status: ACCOMPLISHED

Comment: See remarks under Administrative Services Ongoing Objectives #5, #7, #8, #11, and #14.

16. To recommend changes to the Texas Pharmacy Act and Rules which will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2001.

Status: ACCOMPLISHED

Comment: Rules suggested for adoption included:

- (1) Amendments to §283.9 concerning examination fees. This amendment set the exam fee at \$300 for calculating the pharmacist renewal late fee.
- (2) New Rule §281.19 concerning assignment of autos; and
- (3) Amendments to §§291.6 and 295.5 concerning pharmacist and pharmacy licensing fees.

17. To prepare and submit a report on the accomplishment of Division objectives for incorporation into the agency's *FY2000 Annual Report* to be presented to the Board by its May 2001 Board Meeting.

Status: ACCOMPLISHED

Comment: The first draft of the FY00 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 the meeting held May 2-3, 2001.

Objectives (Ongoing) - Licensing

1. To coordinate the collection of licensing data for *Key Performance Targets* required under the 2000-2001 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2001.

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 83% of these measures (12 measures; 2 measures were not met). The chart below reflects year-end data for TSBP licensing and cost performance measures:

PERFORMANCE MEASURES	TARGET FY01	ACCOMPLISHED FY01	Key or Non Key (K-NK)	Expectations
Percent of Licensees with No Recent Violations	99	98.3	K	Met
Individuals Examined (examinations administered)	1400	1430	NK	Exceeded
Number of Licenses Renewed (Individuals)	15,032	15,278	K	Exceeded
Number of New Licenses Issued to Individuals	868	781	K	Not Met
Average Licensing Cost Per Individual License Issued	\$6.25	\$6.06	K	Met
Average Licensing Cost Per Facility License Issued	\$18.21	\$20.31	K	Not Met
Average Cost Per Exam Administered	\$62.68	\$57.83	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	20,300	20,679	NK	Exceeded
Total Number of Business Facilities Licensed	5,620	5,603	K	Met
Pass Rate	87%	91.18	NK	Exceeded

2. To determine the eligibility of all pharmacist applicants applying to take the NAPLEX and Multi-State Pharmacy Jurisprudence Examination (MPJE) for initial licensing or licensing by reciprocity throughout FY2001.

Status: ACCOMPLISHED

ADMINISTRATIVE SERVICES AND LICENSING

Comment: The following statistics relate to all examinations that were determined eligible and received a score for the NAPLEX and MPJE in FY2001:

JURISPRUDENCE (MPJE)	Total Exams Administered
Candidates Passing	800
Candidates Failing	69
TOTAL EXAMS JURISPRUDENCE	869

NAPLEX	Total Exams Administered
Candidates Passing	504
Candidates Failing	57
TOTAL EXAMS NAPLEX	561

In addition, the Exam/Internship Licensing Specialist responded to 4,631 inquiries by the National Association of Boards of Pharmacy (NABP) regarding an applicant's eligibility to sit for these exams, responded to approximately 5,000 telephone calls, 942 e-mail inquiries, and mailed 2,282 packets of information to examination applicants.

Regarding reciprocity (license transfer) in and out of Texas, 234 candidates were licensed by reciprocity in FY2001, and the agency responded to 675 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 2001, Texas led the number of requests for licensure transfer into the state for the second year in a row, at 334; however, Texas also ranked third in requests to transfer to other states with an almost equal number, 329.

3. To provide staff support to the *Examination Retake Committee* and any other advisory committee related to licensing issues as required in FY2001.

Status: **ACCOMPLISHED**

Comment: The Examination Retake Committee was formed as a direct result of legislation passed during the 73rd Legislative Session which required an applicant who has failed the Board licensing examination(s) three times to complete college course work prior to retaking the examination(s). The Committee is made up of a representative of each of the Texas colleges of pharmacy and one current Board Member.

During FY01, eight candidates failed either the NAPLEX or the MPJE three times and either completed or were in the process of completing the required course work recommended by the Examination Retake Committee. Of these eight candidates, five candidates fulfilled all requirements and were licensed as Texas pharmacists.

4. To issue an initial and/or renewal certificate to all pharmacy license applicants within seven working days of receipt of the required fee and all required documents throughout FY2001.

Status: **ACCOMPLISHED**

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

In FY2001, the average processing time to issue a license from receipt of a completed application was two working days for a pharmacy renewal and seven working days for a new pharmacy license. The number of pharmacy licenses issued (new and renewal) was as follows:

PHARMACIES LICENSED FY01	
Class A (Community)	4,052
Class B (Nuclear)	34
Class C (Institutional)	824
Class D (Clinic)	459
Class E (Non Resident)	234
TOTAL	5,603

In addition to these statistics, the Pharmacy Licensing Specialist responded to 7,000 telephone calls and 250 e-mail inquiries. A total of 1,252 pharmacy applications were processed as follows:

PHARMACY APPLICATIONS PROCESSED	
New Opens	339
Change of Ownership	351
Change of Location	168
Change of Name	94
Closings	300
TOTAL	1,252

5. To issue renewal certificates to all pharmacist candidates within four working days of receipt of the required fee and all required documents throughout FY2001.

Status: **ACCOMPLISHED**

Comment: The agency renewed 15,278 pharmacist licenses on a biennial basis during FY2001. The average processing time to issue a renewal license from receipt of a completed application was one business day. The total population of licensed pharmacists for this fiscal year is as follows:

PHARMACISTS LICENSED - FY01	
Active Status	19,451
Inactive Status*	1,228**
TOTALS	20,679

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

** Of the above number, 146 pharmacists have been practicing in Texas for more than 50 years, and are classified as "exempt."

ADMINISTRATIVE SERVICES AND LICENSING

The Pharmacist Licensing Specialist also responded to approximately 4,000 telephone calls from licensees and other board customers.

6. To issue a pharmacist license by examination, score transfer, or reciprocity within 10 working days after the date the agency receives the examination results throughout FY2001.

Status: **ACCOMPLISHED**

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

NEW PHARMACISTS LICENSED - FY01	
Graduates of Texas Colleges of Pharmacy	365
Graduates of Out-of-State Colleges of Pharmacy	385
Credentialed by the Foreign Pharmacist Equivalency Committee	31
Total	781

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

Status: **ACCOMPLISHED**

Comment: All qualified pharmacist-interns were registered within 20 working days after receipt of all requirements for certification.

In addition to certifying interns, the exam/internship office registers all qualified pharmacist preceptors. In FY2001, 892 pharmacist preceptors were certified within three days of their application request.

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 FY2001.

Status: **ACCOMPLISHED**

Comment: In FY2001, 348 audits were conducted. Of this total number, 99% of the audits were closed or referred to the Enforcement/Legal Division as indicated in the chart below.

CONTINUING EDUCATION AUDITS	
Status	Number
Active	1
Closed	336
Referred to Enforcement	11
TOTAL	348

PROFESSIONAL SERVICES DIVISION

FY2001 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of the Division's 19 Objectives for FY2001 (17 objectives were accomplished and 2 objectives were partially accomplished).
2. With the reorganization effective October 1, 2001, several goals and objectives of the former Compliance Division were reassigned to the Enforcement Division. In addition to providing better coordination of enforcement functions, the reorganization allows the new Division of Professional Services to more efficiently and effectively handle the Division's goals.
3. Division staff developed the policies and procedures to review petitions for exemption from certification as a pharmacy technician, resulting in the review of 265 petitions during FY2001.
4. 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.
5. Division Director was reappointed to a third term on the MPJE Review Committee. This appointment has allowed staff to work closely with the National Association of Boards of Pharmacy to adjust the MPJE and was particularly evident with the changes made by the 77th Legislature. During FY2001, Mr. Morse worked closely with the MPJE psychometrician to identify and make changes needed in the Texas MPJE item pool due to the Legislature's actions.
6. The Task Force to Develop Standards for Pharmacists Peer Review Committees completed its work resulting in Board approval of a document titled, *Guidelines for Establishing Pharmacist Peer Review Committees*. The Division Director drafted, revised, and finalized the document's content, while Senior Administrative Assistant Retta Cole prepared the final document for printing.
7. The Division Director staffed two task forces which made recommendations for remote pharmacy services. The two task forces had to be formed quickly to meet deadlines for rules imposed by the 77th Texas Legislature.
8. Presentations given by the Division Director to pharmacy related groups increased by 150% with a 214% increase in attendance at the presentations.
9. The Division staff, consisting of two individuals, prepared and mailed or e-mailed 3,289 pieces of information during FY2001. This is significant compared to FY2000, when the former Compliance Division had six staff members who handled 5,013 pieces of information. This equates to one-third of the staff handling 65% of the previous year's volume.
10. The Division Director, in cooperation and conjunction with the Executive Director and other Division Directors, formulated uniform objectives for employee evaluations.

PROFESSIONAL SERVICES DIVISION

FY2001 SIGNIFICANT DISAPPOINTMENTS / CONSTRAINTS

1. Due to the reorganization, the Enforcement Division became responsible for most of the routine letters previously handled by the Compliance Division; as a result, the number of letters answered by the Division of Professional Services dropped sharply during FY2001. However, the number of e-mail questions increased dramatically from an approximate average of 25 per month in FY2000 to 71 per month in FY2001.
2. Since the Division Director is no longer directly involved in the compliance program, it is difficult to stay current with changes to the policies and procedures for inspections. More time must be spent on coordination to ensure that responses to inquiries are consistent with the compliance program's policies and procedures. As a result of this concern, the Division Director will attend Enforcement staff meetings during FY2002.
3. Due to workload issues for the Division, primarily created by technician issues and deadlines to adopt rules implementing recent legislation, drafts for inclusion in the Division's policy and procedure manual could not be finalized.
4. A significant amount of the Division Director's time is required to train new employees with respect to the laws and rules enforced by the agency. The high turnover rate in state government, including this agency, continues to divert agency staff from their primary tasks to the ancillary task of training new employees.

PROFESSIONAL SERVICES DIVISION

FY2001 ANNUAL REPORT

Goal

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

Objectives (New)

1. To assist the Executive Director, in cooperation with other Divisions, in:
 - A. preparing testimony, attending public hearings, reviewing legislation, and providing any fiscal or technical information as required by the 77th Legislature; and
 - B. reviewing all legislation introduced by the 77th Legislature that has an impact on the practice of pharmacy or agency operations and monitor the progress of this legislation throughout FY2001.

Status: ACCOMPLISHED

Comment: During the fiscal year, the Division was not assigned the task of preparing testimony or attending public hearings. The Division Director provided legislative assistance as follows:

- A. Drafted the initial text of S.B. 332 relating to the provision of a drug by a physician to certain indigent patients. Additional assistance was provided to Senator Moncrief's staff as changes were made to the bill.
 - B. Assisted the Executive Director with changes to the Texas Dangerous Drug Act and the Texas Pharmacy Act to include the new federal prescription requirement, "Rx only," in the definition of "dangerous drug."
 - C. Analyzed 25 bills assigned by the Executive Director, provided comments, and followed their progress through the Legislature. Special concerns were expressed to the Executive Director relating to privacy of prescription records, donation of unused drugs to a charitable organization, and legislative intent concerning an agency rule.
 - D. Continuously reviewed the introduction of new legislation and forwarded bills identified as impacting the practice of pharmacy or agency operations to the Executive Director for assignment to an analyst.
2. To assist the Executive Director, in cooperation with other Divisions, in the implementation of the new program to register and regulate pharmacy technicians.

Status: PARTIALLY ACCOMPLISHED

Comment: This objective was partially accomplished through the following activities:

- A. Registration

PROFESSIONAL SERVICES

Division Director participated in preliminary discussions concerning policies, procedures, staffing, and logistics needed for implementation of technician registration. However, during the 77th Texas Legislature, no additional staff or funding was appropriated to TSBP to register/regulate technicians. The Division Director, in cooperation with the Executive Director and other Division Directors, discussed several options of how the agency could implement a program to register technicians, without additional funding. The Executive Director discussed the matter with the Board at its meeting on August 7-8, 2001, at which time the Board determined to establish a task force to study the issue.

B. Certification

The Texas Pharmacy Act allows certain exemptions from certification as a pharmacy technician. Division staff designed the exemption petition form and coordinated mailing to all licensed pharmacies. Subsequent to this mailing, Division staff designed the exemption notice, reviewed 265 petitions for exemption from certification, and granted 180 petitions.

3. To assist the Executive Director, in cooperation with other Divisions, in accomplishing any initiatives or objectives related to technology which impact the agency or pharmacy practice.

Status: ACCOMPLISHED

Comment: The Division Director reviewed an inspection process used by the Board of Barber Examiners in which inspectors enter data regarding inspections into small, hand-held computers. The inspection data is then checked and automatically uploaded into the Board's database, eliminating data entry by office staff. This information was shared with the Enforcement Division and steps have been taken to implement a similar system for Compliance inspections of pharmacies.

Objectives (Ongoing)

1. To assist the Board, throughout FY2001, in its review of the Texas colleges of pharmacy degree and internship programs to determine if the programs are adequate to prepare a student for pharmacy practice.

Status: ACCOMPLISHED

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

DATE	COLLEGE/SCHOOL OF PHARMACY	BOARD MEMBER
6/20/01	Texas Tech	Bill Pittman
6/21/01	University of Texas	Donna Rogers
7/3/01	Texas Southern University	Wiki Erickson
7/3/01	University of Houston	Wiki Erickson

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 7-8, 2001, meeting.

In addition, the Division sent a Questionnaire on Texas Colleges of Pharmacy Internship Programs to the four Texas colleges of pharmacy. Responses were reviewed by the Division Director and

presented to the Board on August 7, 2001, resulting in approval of the internship programs for the 2001-2002 academic year.

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

Status: ACCOMPLISHED

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

DATE	ACTIVITY	PERSONNEL
10/00	Review of new test items for possible inclusion in the Texas item pool	Steve Morse, Allison Benz, Milton Jez, Marilyn Pearce, Mike Ethridge
1/10/01	Review of Texas item pool	Steve Morse, Allison Benz, Ben Santana, Milton Jez
2/8-11/01	Item Writing Workshop - drafted 30 new items	Steve Morse
4/4-7/01	Attended MPJE Review Committee Meeting	Steve Morse
5/01	Coded new MPJE items with Michael Mone, Executive Director, KY Board of Pharmacy	Steve Morse
5/10/01	Took the MPJE Exam as an NABP Secret Shopper. Evaluation sent to NABP	Steve Morse
5/9-29/01	Review of new test items for possible inclusion in the Texas item pool	Steve Morse, Allison Benz, Heidi Holmes
7/01	Worked with MPJE Psychometrician to identify, locate, and review potential problems with the Texas item pool due to Legislative changes	Steve Morse

The Division Director completed his second two-year term as a member of the MPJE Review Committee and on February 9, 2001, was reappointed to a three-year term by NABP President, Jerry Moore.

3. To publish a minimum of three issues of the *Newsletter* during FY2001, in order to promote voluntary compliance with the law by providing information to educate pharmacists about their responsibilities under current law and rules, and to provide information consistent with the responsibilities of the Board.

Status: ACCOMPLISHED

Comment: Division Director Steve Morse, serving as the Managing Editor, and Senior Administrative Assistant Retta Cole, serving as Editorial Assistant, coordinated publication of the following three issues of the Newsletter during FY2001:

- Fall/Winter 2000/2001
- Spring 2001
- Summer 2001

PROFESSIONAL SERVICES

Every Issue Contained	Significant Articles in FY2001
Adopted Rules and Summary	Pharmacists Can Now Play a Bigger Role in Reducing Drug Problems (Guest article by Carlton Erickson, Ph.D., U.T. College of Pharmacy)
Disciplinary Actions	Legislative Changes Affecting Your Practice
Compliance Reminders	Guidelines for Establishing Pharmacist Peer Review Committees
Complaint Corner	Appeals Court Ruling and Counseling

4. To provide periodic updates of the Texas State Pharmacy Law reference manual to Board Members, staff, and NABP for inclusion in NABPLAW during FY2001.

Status: ACCOMPLISHED

Comment: Updates to the Texas State Pharmacy Law reference manual were completed in September 2000 and May 2001 and distributed to the Board and staff. Due to the significant changes in the September 2000 update, it was also distributed to external customers.

Updates to NABPLAW were submitted as requested to the National Association of Boards of Pharmacy on February 28, 2001, and August 20, 2001.

5. To develop rules for consideration by the Board relating to professional issues and assist other Divisions with the development of rules pertaining to Board operations; coordinate rule reviews; act as agency liaison to the *Texas Register*; and coordinate and monitor all submissions to the *Texas Register* throughout FY2001.

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 11 rules and assisted others in the drafting of nine additional rules as follows:

RULES
Drafted Proposed:
Amendments to §§283.2 and 283.4 concerning duties and responsibilities of pharmacist-interns
Amendments to §291.23 concerning extensions to pilot projects
Amendments to §291.32, 291.33, 291.36, 291.73, and 291.74 concerning final checks when using automation
Amendments to §§291.34 and 291.36 concerning electronic replication of prescribers signature on written Rx's
New §305.2 concerning standards for technician training programs
Amendments to §§283.5, and 283.6 concerning preceptor requirements and supervision of pharmacist-interns

RULES
Amendments to §§291.33 and 291.74 concerning an automated final checking device
Amendments to §291.93 concerning biennial renewal of Class D petitions
Amendments to §295.8 concerning CE for Board meetings
Amendments to §§291.32, 291.36, 291.53, and 291.73 concerning the display of a pharmacy technician's certification certificate
Amendments to §295.8 concerning approved continuing education programs
Assisted the Executive Director in drafting:
Amendments to §291.72 concerning the definition of inpatient
Amendments to §§281.24, 291.21, 295.11 concerning Internet complaints, notification, and pharmacy/pharmacists profiles
Amendments to §283.10 concerning changes due to the increase in required continuing education from 24 to 30 hours every two years
New §291.20 and amendments to §§291.33, 291.36, 291.74 concerning remote pharmacy services
Assisted the Legal Division in drafting:
Amendments to §§281.2, 281.4, 281.6-281.9, 281.11, 281.15, 281.22, and 281.55 updating to codified citations
Amendments to §§291.34 and 291.36 concerning pharmacist's responsibility with respect to valid patient-practitioner relationships
Assisted the Administrative Services and Licensing Division in drafting:
Repeal/New §283.9 concerning examination fees
Amendments to §281.19 concerning assignment of autos
Amendments to §§291.6 and 295.5 concerning pharmacist and pharmacy license fees

RULE SUBMISSIONS TO THE TEXAS REGISTER

During FY2001, 40 submissions to the *Texas Register* were made which proposed, adopted, reviewed, repealed, or withdrew Texas Pharmacy rules. Division staff met all deadlines for submissions to the *Texas Register*, monitored the submissions for action, and notified Board Members, TSBP staff, and other interested parties of the status of rules as follows:

RULES	TYPE OF ACTION	PUBLISHED IN TxReg AS PROPOSED	MEMO TO STAFF AND OTHERS	PUBLISHED IN TxReg AS ADOPTED	MEMO TO STAFF AND OTHERS
§§281.2, 281.4, 281.6-281.9, 281.11, 281.15, 281.22, 281.55	Amendment	9/22/00	9/13/00 *	12/22/00	12/21/00 *
§§283.2, 283.4	Amendment	9/22/00	9/13/00 *	12/22/00	12/21/00 *
§283.9	Repeal/New	9/22/00	9/13/00 *	12/22/00	12/21/00 *
§291.23	Amendment	9/22/00	9/13/00 *	12/22/00	12/21/00 *
§291.32, 291.33, 291.36, 291.73, 291.74	Amendment	9/22/00	9/13/00 *	12/22/00	12/21/00 *
Chapter 291 (§291.21)	Rule Review	9/22/00	9/13/00 *	12/22/00	12/21/00 *
Chapter 295 (§295.11)	Rule Review	9/22/00	9/13/00 *	12/22/00	12/21/00 *

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RULES	TYPE OF ACTION	PUBLISHED IN TxReg AS PROPOSED	MEMO TO STAFF AND OTHERS	PUBLISHED IN TxReg AS ADOPTED	MEMO TO STAFF AND OTHERS
§§291.34, 291.36	Amendment	12/29/00	12/21/00 *	3/2/01	2/23/01 *
§291.72	Amendment	12/29/00	12/21/00 *	3/2/01	2/23/01 *
§305.2	New	12/29/00	12/21/00 *	3/2/01	2/23/01 *
Chapter 291 (§291.13)	Rule Review	12/29/00	12/21/00 *	3/2/01	2/23/01 *
Chapter 295 (§295.23)	Rule Review	12/29/00	12/21/00 *	3/2/01	2/23/01 *
§§283.5, 283.6	Amendment	3/23/01	3/28/01	6/15/01	6/25/01
§§291.33, 291.74	Amendment	3/23/01	3/28/01	6/15/01	6/25/01
§§291.34, 291.36	Amendment	3/23/01	3/28/01	6/15/01	6/25/01
§291.93	Amendment	3/23/01	3/28/01	6/15/01	6/25/01
§295.12	Withdrawn	3/23/01	3/28/01	6/15/01	6/25/01
§§295.13, 295.15	Withdrawn	3/23/01	3/28/01	6/15/01	6/25/01
§281.19	Amendment	6/22/01	6/25/01	> FY2001	> FY2001
§§291.32, 291.36, 291.53, 291.73	Amendment	6/22/01	6/25/01	> FY2001	> FY2001
§291.6	Amendment	6/22/01	6/25/01	> FY2001	> FY2001
§295.5	Amendment	6/22/01	6/25/01	> FY2001	> FY2001

* Advanced Notice

TEXAS REGISTER - OPEN MEETING SUBMISSIONS

During FY2001, six notices of open meetings were submitted by the Division to the *Texas Register* for publication as follows:

TYPE OF SUBMISSION	DATE PUBLISHED
Open Meeting - 11/14/2000 Board Meeting	11/1/00
Open Meeting - 2/6/01 Board Meeting	1/26/01
Open Meeting - 5/22/01 Public Hearing & Board Meeting	5/9/01
Open Meeting - 7/21/01 Open Forum	7/13/01
Open Meeting - 8/7/01 Board Meeting	7/27/01

- To review and monitor the *Texas Register* for activities of other agencies which would impact the policy and procedures of the Board throughout FY2001.

Status: ACCOMPLISHED

Comment: Division Staff reviewed every issue of the *Texas Register* for items which 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	INFORMATION	REPORTED TO
10/00	DEA treatment of ephedrine, pseudoephedrine, and phenylpropanolamine	Pharmacist Staff
10/00	Purchasing Rules from General Services	Administrative Services
7/01	Revised DPS Controlled Substances Rules	Board & Professional Staff
8/01	Purchasing Rules from General Services	Administrative Services

7. To provide professional staff support to the Task Force on Peer Review and any other Board-appointed task force, as assigned, in FY2001.

Status: ACCOMPLISHED

Comment: The Division's staff provided professional staff support to five meetings of three task forces during FY2001 as follows:

DATE	TASK FORCE
11/6/00	Task Force to Develop Standards for Pharmacists Peer Review Committees
1/26/01	Task Force to Develop Standards for Pharmacists Peer Review Committees
3/23/01	Task Force to Develop Standards for Pharmacists Peer Review Committees
6/27/01	Task Force to Implement SB 768 (Emergency Medication Kits) & SB 65 (Automated Pharmacy Systems)
6/28/01	Task Force to Implement SB 98 (Telepharmacy Systems)

8. To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2001.

Status: ACCOMPLISHED

- Comment:**
- A. The Division Director assisted the Texas Department of Public Safety in the review and approval of nine plans from Texas pharmacies to fill prescriptions for Schedule II controlled substances issued by out-of-state practitioners.
 - B. A meeting was held on January 8, 2001, with representatives from the Texas Optometry Board to discuss prescription requirements and the legal possession of prescription drugs.
 - C. Senior Administrative Assistant Retta Cole maintained close contact with *Texas Register* staff as needed to prepare and publish rules in the *Texas Register*.
 - D. The Division Director had telephone contact with numerous agencies as indicated below:

AGENCY	TELEPHONE CONTACTS
Drug Enforcement Administration	7
Food and Drug Administration	5
State Comptroller's Office	1
Texas Attorney General's Office	1

PROFESSIONAL SERVICES

AGENCY	TELEPHONE CONTACTS
Texas Commission on Alcohol and Drug Abuse	3
Texas Department of Criminal Justice	5
Texas Department of Health	15
Texas Department of Human Services	10
Texas Department of Public Safety	10
Texas Optometry Board	2
Texas State Board of Medical Examiners	3
Texas State Board of Nurse Examiners	4
Texas State Board of Veterinary Medical Examiners	1
TOTAL AGENCY CONTACTS	67

9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council throughout FY2001.

Status: ACCOMPLISHED

Comment: Due to workload issues for the Division, no activities were assigned to the Division by the Executive Director regarding this objective.

18. 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 FY2001.

Status: ACCOMPLISHED

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

- A. The Division mailed 3,289 pieces of written information as indicated in the following chart:

WRITTEN INFORMATION	
Packets of Information	254
Memos Regarding Rules & Open Meetings	1,765
Letters	408
Emails	855
Surveys	7
TOTAL	3289
AVERAGE PER MONTH	274

- B. The Division Director gave nine presentations and served as a resource on 18 occasions as indicated in the following charts:

DATE	PRESENTATIONS Steve Morse	ATTENDANCE (Approximate)
10/6/00	Texas Federation of Drug Stores, Austin	35
10/6/00	Texas Pharmacy Association, Region D, South Padre	80
10/18/00	Bryan/College Station Pharmacy Association, College Station	80
11/4/00	Texas Pharmacy Association, Academy of Pharmacy Technicians, Austin	50
2/24/01	Texas Pharmacy Association, Academy of Chain Pharmacists, Austin	30
3/31/01	Texas Society of Health-System Pharmacists' Annual Convention, Austin	150
4/27/01	Texas Pharmacy Association, Region D, Corpus Christi	60
6/22/01	Walgreen's Interns, Austin	20
7/21/01	Texas Pharmacy Association Annual Convention, Houston	250
TOTAL		755

DATE	RESOURCE Steve Morse	ATTENDANCE (Approximate)
9/8/00	Representative of HEB	1
9/13/00	Individual - Manufacturer's Indigent Drug Programs	1
9/19/00	Tour of HEB Fulfillment Center	10
9/27/00	Tour of St. David's Hospital - Robot Rx	2
11/1/00	Joint Committee on Internship Programs	5
11/1-2/00	Texas Pharmacy Congress	20
11/8/00	Representatives of MedPort and Valicert - Electronic Signatures	3
12/4/00	Representative of Purdue Pharma	1
1/8/01	Representatives of the Texas Optometry Board	2
2/13/01	Joint Committee on Internship Programs	5
2/16/01	Representatives of TelePharmacy Solutions and ADDS, Inc.	4
3/1/01	Representatives of NextRx and Seton	4
6/11/01	Representatives of Lexis Nexis Publishing	1
6/18/01	Representatives of Cardinal Health, Pyxis	3
6/18/01	Representatives of a Texas Law Review Course	2
6/22/01	Representatives of Merck Medco	2
7/20/01	Tour of KVM Technologies	5
8/24/01	Representative of HEB	1
TOTAL		72

PROFESSIONAL SERVICES

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

Training Activities

DATE	TRAINING	PERSONNEL
9/00	New Employee Orientation to Division of Professional Services	Darlene Guthrie, Operations Vicki Kimbrell, Enforcement
9/00	Laws/Rules	Vicki Kimbrell, Enforcement
12/7/00	Rules from 11/00 Board meeting	Enforcement Staff
3/01	New Employee Orientation to Division of Professional Services and Laws/Rules	Korena Schaaf, Enforcement
4/01	New Employee Orientation to Division of Professional Services and Laws/Rules	Melissa Rivera, Enforcement Carol Willess, Enforcement
6/6/01	Rules from 5/01 Board Meeting	Enforcement Staff
7/9/01	Orientation to Division of Professional Services	Katie Musil, Pharmacist-Intern

Other Activities

- 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 Web Site Committee and Division staff, monitored a portion of the site for currency of the information presented, and forwarded changes and/or updates to Network Specialist Todd Hayek.
- Senior Administrative Assistant Retta Cole assisted the Division of Administrative Services and Licensing with data entry of a technician survey sent to all pharmacies in Texas.

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 FY2001.

Status: ACCOMPLISHED

Comment: Division staff completed the following education activities:

Retta Cole	
9/29/00	Document Imaging Training, Part 1
10/2/00	Document Imaging Training, Part 2
12/8/00	All Staff Ethics Training
12/15/00	Microsoft Access Training

Steve Morse	
9/29/00	In-house Microsoft Access Training - Counts Program
10/13/00	In-house Microsoft Access Training - Counts Program
12/15/00	Microsoft Access Training
1/2/01	TX Legislative Service Telecon Training
3/21-4/2/01	Texas Society of Health-System Pharmacist's Annual Seminar
7/18-21/01	Texas Pharmacy Associations' Annual Meeting
7/13/01	Employee's Retirement System Summer Enrollment Session
12/8/00	All Staff Ethics Training
12/8/00	Personal Safety Training by DPS

12. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division by August 31, 2001.

Status: ACCOMPLISHED

Comment: The annual review for Retta Cole occurred on May 11, 2001. Due to a reorganization, the Compliance program was moved to the Enforcement Division on October 1, 2000. Since staff of the new Professional Services Division had supervised Compliance staff prior to that date, they assisted with the annual reviews of some of the Compliance staff previously under their supervision as follows:

DATE	ENFORCEMENT STAFF PERSON	ACTIVITY
12/21/00	Angela Hicks	Evaluation Prepared & Conducted by Retta Cole
3/21/01	Cy Weich	Evaluation Prepared & Conducted by Steve Morse
6/6/01	Iona Grant	Evaluation Prepared & Conducted by Steve Morse

13. To destroy records in accordance with the agency's record retention plan throughout FY2001; to update the Division's *Policy and Procedure Manual* as needed and submit any substantive revisions to the Executive Director/Secretary for approval throughout FY2001.

Status: PARTIALLY ACCOMPLISHED

Comment: During FY2001, the Division accomplished this goal as follows:

A. Records Management

- During FY2001, Division staff destroyed 19½ cubic feet of records, in accordance with the TSBP record retention schedule.
- At the time of the reorganization on October 1, 2000, records for the Compliance program were transferred to the Enforcement Division who assumed responsibility for those records.

PROFESSIONAL SERVICES**B. Policies and Procedures**

Senior Administrative Assistant Retta Cole prepared the first drafts of policies and procedures for:

- agency submissions to the *Texas Register*, and
- preparing the *Newsletter*.

Due to workload issues, these drafts were not finalized during FY2001 for the Division's policy and procedure manual. Therefore, this objective is indicated as partially accomplished.

14. To recommend policies and procedures to the Executive Director which will enhance the efficiency and effectiveness of the agency throughout FY2001.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division Director assisted in the reorganization of the Enforcement program and revised the job descriptions for Division staff accordingly.
- B. Division Director participated in the planning sessions to revise employee performance evaluations and revised the Division's evaluation forms accordingly.
- C. Division Director recommended the formation of a *Newsletter* committee to discuss the content for each issue of the *Newsletter*. This committee was established and assisted with two of the three issues of the *Newsletter* published during FY2001.
- D. Senior Administrative Assistant Retta Cole designed the petition form and the approval notice for exemptions from certification as a pharmacy technician.
- E. Division Director recommended and implemented the procedures for processing and approval or denial of petitions for exemption from certification as a pharmacy technician.
- F. Senior Administrative Assistant Retta Cole designed or redesigned numerous forms for the licensing and enforcement programs. In addition, several of these forms were designed for posting on the TSBP web site.
- G. Division Director reviewed and made comments to the Director of Enforcement Carol Fisher on a draft of a new Compliance inspection form.
- H. Division Director developed and recommended procedures to obtain continuing education credit for attending a Board meeting. Senior Administrative Assistant Retta Cole designed the continuing education certificate.

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 FY2001.

Status: ACCOMPLISHED

Comment: Division Director recommended that:

- A. TSBP change the definition of in-patient to include a person confined in any correctional institution operated by the state of Texas. Executive Director Gay Dodson provided the concept which implemented the recommendation.
- B. TSBP develop rules to allow an automated checking device similar to the system used by the Texas Department of Criminal Justice.
- C. TSBP amended the Class D rules to clarify that a petition for an expanded formulary or alternative visitation schedule be renewed every two years in conjunction with the pharmacy license's renewal cycle.

16. To prepare and submit a report on the accomplishment of Division objectives for incorporation in the agency's *FY2000 Annual Report* to be presented to the Board by its May 2001 Board Meeting.

Status: ACCOMPLISHED

Comment: The Division's first draft of the *FY2000 Annual Report* was submitted to the Executive Director by the due date. Senior Administrative Assistant combined the various Divisions' reports into one report which was presented and approved by the Board at its May 2001 meeting.

ENFORCEMENT DIVISION

FY2001 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of the Division's 22 Objectives for FY2001 (18 objectives were accomplished and 4 objectives were partially accomplished). In addition, TSBP met or exceeded (within a 5% variance) 12 of 15 (80%) FY2001 projections for enforcement-related performance measures (15 measures: 6 key measures and 9 non-key measures). One key measure (relating to average complaint resolution time) was not met and two non-key measures were not met.
(See Ongoing Objective #1.)
2. The agency received and closed more complaints in FY2001 than it did during the prior three fiscal years, as indicated in the chart below:

Fiscal Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY97	1736		1697		98%	171 Days	
FY98	1314	-24%	1504	-11%	114%	222 Days	+30.00%
FY99	1533	+17%	1335	-11%	87%	221 Days	-0.45%
FY00	1577	+3%	1513	+13%	96%	220 Days	-0.45%
FY01	1683	+7%	1667	+10%	99%	262 Days	+19.00%

3. Effective October 1, 2000, several of the goals and objectives of the former Compliance Division were reassigned to the Enforcement Division, including the responsibility of the field inspection program. This reorganization will provide better coordination of enforcement functions. Field Compliance Officers developed a universal inspection form to be used in all classes of pharmacies. Having only one inspection form will saving printing costs and inventory space (in field offices/TSBP office).
4. In line with the agency's "lead agency" philosophy, TSBP investigators made an extraordinary number of contacts with other law enforcement agencies. See Ongoing Objective #5. In addition, Division implemented joint team meetings for investigators and compliance officers. Accordingly, all in-house and field enforcement personnel were able to meet together and discuss areas of mutual concern.
5. With the Executive Director's approval, the Division Director reorganized functions and replaced three vacant pharmacist positions with non-pharmacist personnel, as follows: two in-house Compliance Officers (positions vacated by Marilyn Pearce, R.Ph., and Roger Hernandez, R.Ph.) were replaced with in-house investigators; and the in-house Chief Compliance Officer (vacated when Iona Grant, R.Ph., requested to fill the vacant Houston field compliance officer position) was replaced with an Executive Assistant (Compliance Specialist). Accordingly, substantive savings were realized with regard to the budget line item for salaries.
6. In September 2000, the Division employed Vicki Jackson-Kimbrell, its first non-pharmacist in-house investigator (Enforcement Officer), who greatly improved the timeliness of resolving complaints not requiring a field investigation. When the Division experienced turnover in five positions in FY2001 (four resignations

and one retirement), the Division Director took the opportunity, with the Executive Director's approval, to reorganize functions and create new job descriptions, including two additional Enforcement Officer positions. Division operations were dramatically enhanced with the employment of the personnel who filled vacant positions in FY2001: Janelle Nastri, Enforcement Specialist (who was promoted/transferred from the TSBP Legal Division); Anita Arnet, Austin Field Investigator; Carol Willess, Compliance Specialist; Korena Schaaf, Enforcement Officer; and Melissa Rivera, Investigator II. In August 2001, Sarah Guevara and Amy Herring were offered and accepted the two vacant Enforcement Officer positions.

7. The field Compliance team exceeded its goal of 2,300 inspections by conducting 2,529 inspections. This goal was accomplished even with vacancies in three regions (West Houston, West Texas, and Austin). The West Houston region was vacant from September through November 2000, following the resignation of May Woo, R.Ph., in August 2000. The Austin region was vacant from November 2000 through August 2001, following the resignation of Marilyn Pearce, R.Ph., in October 2000. The West Texas region became vacant in June 2001, upon the resignation of Carey Bridges, R.Ph. The vacancy in the West Houston position was quickly filled within three months when Iona Grant, R.Ph., assumed this position. Ben Santana, R.Ph., in-house Compliance Staff Officer, assumed the responsibility for inspecting pharmacies in the Austin area, effective FY2002. The vacant West Texas Compliance Officer position will be filled in FY2002.
8. Job descriptions for all 25 Division staff were updated.
9. Division Director, in cooperation and conjunction with the Executive Director and other Division Directors, and with input from Division staff, formulated uniform objectives for employee evaluations. This accomplishment was in compliance with the requirements of the Texas Human Rights Commission. In addition, Division Director, in cooperation and conjunction with the Executive Director and other Division Directors, implemented a procedure to ensure equity in determining merit awards.
10. Joe Lewis, Chief of Investigations, worked in cooperation with TSBP Purchaser Darlene Guthrie to replace the field personnel's communication devices (pagers, cell phones) with more cost-effective devices. Accordingly, the agency experienced a substantial savings.

ENFORCEMENT DIVISION

FY2001 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The Division began FY2001 with two vacant positions (field investigator for Austin area and Investigator II). During FY2001, the Division experienced an additional turnover in 5 positions (4 resignations and 1 retirement). This high turnover rate resulted in Division staff spending a significant amount of time and efforts advertising for vacant positions, evaluating applications, interviewing applicants, and orienting/training new employees. (See Ongoing Objective #15.)
2. Division staff continued to spend a significant amount of time monitoring compliance with the terms of disciplinary orders that were entered by TSBP in FY2001. A large number (131 disciplinary orders or 90% of the total number of disciplinary orders entered in FY2001) required some type of intensive monitoring. Many of these Orders required the licensee to submit policies and procedures (e.g., Quality Assurance Programs including peer review procedures). (See Ongoing Objective #7.)
3. The average time to close a complaint in FY2001 was 262 days, as compared to 220 days in FY2000, an increase of 19% (see chart included in Significant Accomplishments #3).
4. The Division was not able to reduce its complaint backlog in FY2001, due to the factors described in Constraints (1), (2), and (3) above.
5. The Division continues to be plagued with lack of adequate space for closed complaint files.

ENFORCEMENT DIVISION FY2001 ANNUAL REPORT

GOAL

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

Objectives (New)

1. To assist the Executive Director, in cooperation with other Divisions, in:
 - A. preparing testimony, attending public hearings, reviewing legislation and providing any fiscal or technical information as required by the 77th Texas Legislature; and
 - B. reviewing all legislation introduced by the 77th Texas Legislature that has an impact on the practice of pharmacy or agency operations and monitor the progress of this legislation throughout FY2001.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- A. Division Director assisted Executive Director with her preparation of testimony for the agency's budget hearings. Division Director also attended one budget hearing on January 29, 2001, before the House Appropriations Subcommittee on Regulatory.
 - B. Division Director reviewed and offered comment on four bills relating to the following issues: pharmacist-profile; substitution (dispensing directive); study of complaint process used by HPC member agencies; and press releases (H.B. 876).
2. To assist the Executive Director, in cooperation with other Divisions, in the implementation of the new program to register and regulate pharmacy technicians.

Status: PARTIALLY ACCOMPLISHED

Comment: Division Director assisted Executive Director in drafting an amendment to the agency's Legislative Appropriation Request, requesting reduction from 16 to 8 staff needed to register/regulate pharmacy technicians for the biennium FY2002-03, with the intent of asking for the remaining 8 staff for FY2004-04, if needed.

However, during the 77th Texas Legislature, no additional staff or funding was appropriated to TSBP to register/regulate technicians. Division Director, in cooperation with the Executive Director and other Division Director discussed several options of how the agency could implement a program to register technicians, without additional funding. The Executive Director discussed the matter with the Board at its business meeting on August 7-8, 2001, at which time the Board determined to establish a task force to study the issue.

TSBP Intern Katie Musil, a student from the University of Texas College of Pharmacy, conducted

research on how other states registered and regulated technicians. This information was presented to the Board at the August 2001 Board meeting.

3. To assist the Executive Director, in cooperation with other Divisions, in accomplishing any initiatives or objectives related to technology which has an impact on the agency or pharmacy practice, including e-commerce initiatives, imaging system (managed by the Health Professions Council), and Health Integrity and Protection Data Bank (HIPDB).

Status: **ACCOMPLISHED**

Comment: As required by the Health Insurance Portability and Accountability Act of 1996 and newly enacted federal rules, Division staff entered information regarding disciplinary orders into the data base of the Health Integrity and Protection Data Bank (HIPDB), a national healthcare fraud and abuse data collection program. Information about all disciplinary orders entered by TSBP after September 1, 2000, regardless of sanction, were reported to HIPDB, as required by federal law/rules. Division staff drafted an article published in the Fall 2000 issue of the *TSBP Newsletter*, notifying licensees about the HIPDB program.

Objectives (Ongoing)

1. To submit data regarding enforcement and peer assistance program data for Key Performance Targets required under the 2000-01 Appropriations Act to Executive Director by specified due dates throughout FY2001; 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: **PARTIALLY ACCOMPLISHED**

Comment: Throughout FY01, Division Director collected data relating to enforcement performance measures and Assistant Division Director Allison Benz, R.Ph., M.S., collected data relating to peer assistance performance measures. The statistical data was certified and submitted to the Legislative Budget Board (LBB) and Governor's Budget Office (GBO) by the prescribed due dates, in conjunction with the licensing performance measures.

Statistics regarding three enforcement-related performance measures (Number of Jurisdictional Complaints Resolved, Average Complaint Resolution Time, and Number of Individuals Participating in a Peer Assistance Program) were reported to the LBB and GBO on a quarterly basis throughout FY01. The other 12 measures were reported to the LBB and GBO at year-end (annual basis).

As indicated in the chart below, TSBP met or exceeded, within a 5% variance, 80% of the FY2001 projections for 15 enforcement-related performance measures (met or exceeded 5 of 6 key measures and 7 of 9 non-key measures).

ENFORCEMENT

ENFORCEMENT PERFORMANCE MEASURE	FY01 PROJECTED PERFORM.	FY01 PERFORM. ATTAINED	KEY OR NON-KEY (K/NK)	PROJECTED TARGET MET?*
Outputs:				
Inspections	2,300	2,529	NK	Exceeded
Jurisdictional Complaints Resolved	1,500	1,614	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	140	153	K	Exceeded
Number of Students Participating in a Peer Assistance Program	0	2	NK	Exceeded
Number of Peer Assistance Months	1,500	1,639	NK	Exceeded
Efficiency:				
Average Cost per Jurisdictional Complaint Resolved	\$663.65	\$685.10	NK	Met
Average Time for Jurisdictional Complaint Resolution	225	267	K	Not Met
Outcomes:				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	10%	10.7%	K	Exceeded
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	99%	98.3%	K	Met
Recidivism Rate of Those Receiving Disciplinary Action	3%	3.8%	NK	Not Met
Percent of Jurisdictional Complaints Resolved within Six Months	70%	58%	NK	Not Met
Recidivism Rate for Participants in Peer Assistance Program	35%	13%	NK	Exceeded
One-Year Completion Rate for Participants in Peer Assistance Program	80%	78%	NK	Met
% of Non-Board Peer Assistance Program Referrals Reported to Board	5%	25%	NK	Exceeded
Explanatory:				
Jurisdictional Complaints Received	1,300	1,642	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").

- To monitor pharmacy inspections and pharmacists' practice by conducting 2,300 inspections, inspection-visits, and visits, including follow-up inspections to "Warning Notices" throughout FY2001.

Status: ACCOMPLISHED

Comment: A total of 2,529 pharmacies were inspected by the Field Compliance Officers through complete inspections; partial-inspections, and inspection visits (terms are defined below). This number of inspections is 10% higher than the objective of 2,300. This accomplishment was achieved during a time when two of the Compliance regions did not have a Compliance Officer for a period of three months, and the Austin Compliance Region (0.20 FTE) did not have a Compliance Officer for a

period of 10 months.

- A. *Inspections* are full inspections of licensed facilities in which Compliance Officers check the facilities for compliance with each of the items on the inspection report form.
- B. *Partial-Inspections* are inspections of licensed facilities in which Compliance Officers check the facility for compliance with a portion of the items on the inspection report form. Included in the partial-inspections are follow-up inspections of pharmacies that received a "Warning Notice" to determine if the pharmacies have complied with the discrepancies listed on the "Warning Notice."
- C. *Inspection-Visits* are inspections in which Compliance Officers generally do not complete an inspection report form. Inspection-visits include inspections of non-licensed facilities that are operating a pharmacy, visits made to pharmacies that have closed (and did not notify the Board), and visits to "new" pharmacies that have not opened for business. The last two situations are discovered by Compliance Officers after arriving at the addresses listed in Board records.

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

Inspections	2,338
Partial-Inspections	60
Inspection-Visits	131
Total FY01	2,529

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

FY01	# OF INSPECTIONS/VISITS (% OF TOTAL)	# OF "WARNING NOTICES" ISSUED*	# OF PHARMACIES RECEIVING "WARNING NOTICES" (% RECEIVING A "WARNING NOTICE")**
Class A Pharmacies	1982 (78%)	683	330 (16.6%)
Class B Pharmacies	2 (0%)	0	0
Class C Pharmacies	348 (14%)	200	99 (28.4%)
Class D Pharmacies	197 (8%)	62	30 (15.2%)
FY01 Totals	2529 (100%)	945	459 (18%)

* 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.

ENFORCEMENT

CLASS A PHARMACIES

Conditions Receiving "Warning Notices"

Percentages are based on the total number of "Warning Notices" issued to Class A Pharmacies in FY2001 (683). Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.

Equipment	113 (16%)	Improper Prepackaging Procedures	16 (2.3%)
Balance Failed Insp	39	Computer Systems	36 (5.0%)
Equipment Insp Due (Not Balance)	44	Computer Records Incomplete	34
Failure to Register Balance	3	Computer Record Non-Compliance	2
Insufficient Equipment	27	Records	17 (2.5%)
Pharmacy Technicians	172 (25%)	Records Not Available	13
No/Incomplete Training	166	DEA Order Forms Incomplete	1
No/Improper Supervision	6	Invoices Not Separated	3
Inadequate Library	102 (15%)	OBRA Violations	18 (2.6%)
Licenses	33 (5.0%)	Written information Not Provided	7
Licenses Not Posted	30	No Patient Counseling	10
Delinquent Licenses	3	PMR Absent or Incomplete	1
Prescriptions	39 (5.7%)	Sterile Pharmaceutical Violations	19 (2.8%)
Lack Proper Information	18	No/Incomplete QA/QC	4
Not Separated into 3 Files	10	No/Incomplete P&P Manual	7
Not Filed Numerically	3	No/Inadequate Preparation Area	7
Prescription Label Incorrect	7	No DUR	1
Triplicate Non-Compliance	1	No/Incomplete Non-Sterile Cpd Records	6 (<1%)
Drug Stock/Environment	33 (4.8%)	Improper Distribution	15 (2.2%)
Out-of-Date Drug Stock	25	No PIC	5 (<1%)
Security	7	Improper Dispensing	5 (<1%)
Unsanitary	1	Aiding and Abetting	3
Inventory	42 (6.2%)	Illegal Dispensing	2
No Annual Inventory	21	Notification Violation	6 (<1%)
No Change of Ownership Inventory	4	Substitution Non-Compliance	3 (<1%)
No Change of PIC Inventory	8	Theft & Loss of C/S Not Reported	2 (<1%)
Incomplete Inventory	9	Fail to Report PIC	1 (<1%)

CLASS C PHARMACIES

Conditions Receiving "Warning Notices"

Percentages are based on the total number of "Warning Notices" issued to Class C Pharmacies in FY2001 (200). Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.

Pharmacy Technicians	75 (37.5%)	Delinquent	1
No/Incomplete Tech Training	74	Improper Prepackaging Procedure	2 (1%)
No/Improper Supervision	1	Policy and Procedures	11 (5.5%)
Sterile Pharmaceutical Violations	30 (15%)	Incomplete P&P Manual	1
No/Inadequate Preparation Area	21	Improper Absence of R.Ph. Procedures	6
No/Incomplete QA/QC	8	Improper ER Dispensing Procedures	4
No/Incomplete PMR	1	Records	9 (4.5%)
Equipment	14 (7%)	Improper Inpatient Records	2
Balance Failed Inspection	4	DEA Order Forms Incomplete	2
Equipment Insp. Due (Not Balance)	10	Records Not Available	3
Inventory	17 (8.5%)	Rx Lack Information	1
No Annual Inventory	7	Invoices Not Separated	1
No Change of Ownership Inventory	3	Improper Environment	9 (4.5%)
Incomplete Inventory	2	Computer Records Incomplete	1 (<1%)
No Change of PIC Inventory	1	Improper Distribution	1 (<1%)
No Perpetual Inventory	4	Improper Registration	1 (<1%)
Inadequate Library	24 (12%)	Aiding & Abetting	2 (1%)
Licenses	4 (2%)		
Not Posted	3		

CLASS D PHARMACIES

Conditions Receiving "Warning Notices"

Percentages are based on the total number of "Warning Notices" issued to Class D Pharmacies in FY2001 (62). Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.

Pharmacy Technicians	18 (29%)	Licenses	3 (4.8%)
No/Incomplete Training	12	Delinquent	1
No/Improper Supervision	6	Not Posted	2
Improper Prepackaging Procedures	14 (22%)	Violation of Limited Formulary	5 (8.0%)
P&P Manual	2 (3.2%)	Incomplete Provision	1 (1.6%)
No P&P	1	Improper Security	2 (3.2%)
Incomplete	1	Out of Date Drug Stock	3 (4.8%)
Inadequate Library	14 (22.5%)		

3. To inspect pharmacies and monitor pharmacists' practice throughout FY2001, according to the following priorities:

- A. pharmacies and pharmacists who are the subject of a complaint received by the Board;
- B. pharmacies and pharmacists who are the subject of a Board Order or Agreed Board Order (including impaired pharmacists);
- C. requests for inspection by another division of the Board or another agency;
- D. new pharmacies;
- E. pharmacies with a recent change of ownership;
- F. requests for inspection by licensee;
- G. pharmacies with a preceptor working in the pharmacy;
- H. pharmacies that have received a "Warning Notice" (follow-up inspections); and
- I. routine inspections.

Status: ACCOMPLISHED

Comment: The total number of inspections, partial-inspections, and inspection-visits by priority are indicated below:

PURPOSE OF INSPECTION (In Order of Priority)	# INSPECTIONS	%OF TOTAL
Complaint	63	2.5%
Follow-up to Board Order/Agreed Board Order	10	<1%
Request of Other Division/Agency	2	<1%
New Pharmacies	159	6.3%

ENFORCEMENT

PURPOSE OF INSPECTION (In Order of Priority)	# INSPECTIONS	%OF TOTAL
Change of Ownership	92	3.6%
Preceptor	241	9.5%
Follow-up to "Warning Notice"	58	2.3%
Routine Inspections	1,904	75.3%
TOTAL	2,529	100%

4. To coordinate and monitor throughout FY2001 the receipt, assignment, and resolution of all complaints filed with the agency; to achieve an average complaint resolution time (overall agency average) of 225 days.

Status: **PARTIALLY ACCOMPLISHED**

Comment: TSBP received 1,683 complaints in FY2001, which represented a 7% increase over the number of complaints received in FY2000, as reflected in the chart below. The staff of the Enforcement and Legal Divisions closed 1,667 complaints in FY2001, which represented a 10% increase over the number of complaints closed in FY2000, as reflected in the chart below. However, it took the agency an average of 262 days to close a complaint, which exceeded the goal of 225 days. For this reason, this objective was only partially accomplished.

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

Fiscal Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY97	1736		1697		98%	171 Days	
FY98	1314	-24%	1504	-11%	114%	222 Days	+30.00%
FY99	1533	+17%	1335	-11%	87%	221 Days	-0.45%
FY00	1577	+3%	1513	+13%	96%	220 Days	-0.45%
FY01	1683	+7%	1667	+10%	99%	262 Days	+19.00%

NUMBER OF COMPLAINTS HANDLED THROUGH FIELD INVESTIGATIONS					
Fiscal Year	Compliance Officers	%	Investigators	%	Total
FY97	127	32%	265	68%	392
FY98	58	17%	279	83%	337
FY99	43	24%	136	76%	179
FY00	67	43%	89	57%	156
FY01	100	34%	191	66%	291

Additional complaint statistics on closed complaints are outlined below:

DATA ON CLOSED COMPLAINTS

FORM OF COMPLAINTS	TOTAL	
Telephone	100	(6%)
Letter	251	(15%)
TSBP Complaint Form	268	(16%)
HPC 300 #	120	(7%)
Fax	68	(4%)
Visit	7	(<1%)
Agency Report	38	(2%)
Inspection	24	(1%)
Interoffice Referral	64	(4%)
Licensure Application	146	(9%)
Data Bank	18	(1%)
Theft/Loss Report	426	(26%)
Investigation	54	(3%)
Intra-Agency Referral	27	(2%)
Malpractice Report	1	(<1%)
Press Clip	4	(<1%)
E-Mail	27	(2%)
Internet	22	(1%)
Other	2	(<1%)
TOTAL FY01	1,667	(100%)

DATA ON CLOSED COMPLAINTS

SOURCE OF COMPLAINTS	TOTAL	
Consumer	580	(35%)
Government Agency	75	(4%)
Pharmacist	67	(4%)
Pharmacist (Self)	70	(4%)
Applicant (Self)	100	(6%)
TSBP	168	(10%)
Doctor	61	(4%)
Other Health Professional	13	(<1%)
NABP	20	(1%)
PIC, Pharmacy Manager, or Supervisor	430	(26%)
Loss Prevention Officer (Corporate)	5	(<1%)
Manufacturing Rep.	0	(n/a)
Pharmacy Recovery Network (PRN)	9	(<1%)
Insurance Company	2	(<1%)
Attorney	9	(<1%)
Employee/Ex-Employee	14	(<1%)
Media	4	(<1%)
Drug Screening	20	(1%)
Other	20	(1%)
TOTAL FY01	1,667	(100%)

DATA ON CLOSED COMPLAINTS

SUBJECTS OF COMPLAINTS	TOTAL
Licensees	1,479 (89%)
Pharmacist	632
In-State Pharmacy	829
Out-of-State Pharmacy	18
Applicants	97 (6%)
Pharmacist	36
Pharmacy	3
Intern	58
Non-Licensees	91 (5%)
Doctor	20
Manufacturer	2
Wholesaler	0
Non-Licensed Facility or Person	38
Insurance Company/PBM	10
Pharmacy Technician	16
Out-of-State Facility	5
Other	0
TOTAL FY01	1,667 (100%)

NATURE OF ALLEGATIONS (CLOSED COMPLAINTS)

ALLEGED VIOLATION	TOTAL	%
Diversion	29	2%
Controlled Substances 17		
Dangerous Drugs 2		
Both 10		
Unauthorized Refills	8	*
Controlled Substances 2		
Dangerous Drugs 2		
Both 4		
Illegal Delivery	5	*
Controlled Substances 1		
Dangerous Drugs 2		
Both 2		
Illegal Possession	2	*
Controlled Substances 2		
Dangerous Drugs 0		
Convictions	105	6%
Felony 8		
Misdemeanor 45		
DWI / PI 50		
Deferred Adjudication, Controlled Substances Act 2		
Dispensing Error	311	19%
Wrong Drug/Strength 189		
Mislabeled 15		
Wrong Quantity 57		
Outdated Drug 6		
Packaging/Delivery 17		
Dispensing Error / Patient Counseling 27		
Patient Counseling +	25	1%
Drug Regimen Review	9	*

+ Agency received an additional 4 complaints which involved alleged violations of patient counseling rules, in addition to "primary" violation (e.g., unauthorized substitution and no counseling).

* Percentage is less than 1%.

NATURE OF ALLEGATIONS (CLOSED COMPLAINTS), Continued

Theft/Loss	424	25%
Aiding & Abetting	14	*
Action by Other Board	42	3%
Substitution	38	2%
Non-Compliance with Disciplinary Order	56	3%
Interference with Doctor/Patient Relationship	23	1%
Confidentiality	7	*
Failed to Keep Records	9	*
Impairment	32	2%
Probable Cause	8	
Drug & Alcohol	6	
Drug	11	
Alcohol	4	
Physical	0	
Mental	3	
Negligence	1	*
Unsafe Practice	4	*
Unprofessional Conduct	2	*
Gross Immorality	1	*
Fraud, Deceit & Misrepresentation	1	*
False Response to Warning Notice	1	*
Falsified Application	19	1%
Filled/Passed Forged Prescription	5	*
Changed Prescription	29	2%
Insurance Fraud	0	N/A
Provider Fraud	2	*
Non-Therapeutic Dispensing	16	1%
Excessive Purchases of Controlled Substances	1	*
Anabolic Steroids	0	N/A
Grey Market Diversion	1	*
Samples	9	*

* = Percentage is less than 1%

NATURE OF ALLEGATIONS (CLOSED COMPLAINTS), Continued

Improper Security	2	*
Problem with OTC Drug	2	*
Closed Pharmacy Improperly	13	*
Operating Pharmacy without Pharmacy License	8	*
Working Conditions	11	*
Delinquent License	17	*
Kickbacks	1	*
No PIC	3	*
Recordkeeping Error	41	2%
Notification Violation	4	*
No Annual Inventory / No PIC Inventory	2	*
C-II Rx	3	*
Improper Rx's Issued by Doctors	14	*
Advertising	22	1%
Overcharging	0	N/A
Billing Dispute	45	3%
Customer Service	65	4%
Hot Check	4	*
CE Audit	21	1%
Default on Student Loans	3	*
Other Allegations	138	8%
Texas Pharmacy Act	12	
Texas Dangerous Drug Act	1	
Texas Controlled Substance Act	11	
Food Drug & Cosmetic Act	11	
TSBP Rule	59	
Other Laws/Rules	44	
Reinstatement	6	*
Modification	11	*
TOTAL FY01	1,667	100%

* = Percentage is less than 1%

ACTION TAKEN BY AGENCY TO CLOSE COMPLAINTS IN FY2001

	# of Cpts.	Percentage
Telephone	270	16%
Letters	57	3%
Certified Letter	54	
Phone/Certified Letter	2	
Non-Certified Letter	1	
Inspections	59	4%
Inspection	48	
Inspection/Visit	5	
Inspection/Warning Notice	6	
Investigations	583	35%
Investigate/Certified Letter	355	
Investigate/Insufficient Evidence	171	
Investigate/No Violation	14	
Investigate/Other	43	
Investigation/Disciplinary Action	181	11%
Agreed Board Order	167 *	
Board Order	6 *	
Preliminary Notice Letter/Warning Letter	2	
Informal Conference/Warning Letter	5	
Informal Conference/Case Dismissed	1	
Referrals	44	3%
Medical Board	5	
PRN Program	9	
Supervisor	10	
Other	20	
No Action Because	115	7%
No Violation	71	
No Jurisdiction	27	
Insufficient Information	13	
Other	4	
Other **	358	21%
Total FY2001	1,667	100%

* These figures represent the number of complaints resolved with at least one Disciplinary Order. See the Legal Division's Ongoing Objective #3 for the number of (and details about) Disciplinary Orders entered by TSBP in FY2001. One complaint may be closed with more than one Order; also one Order may close more than one complaint.

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

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

Classification	Class "A"	Class "C"	Hospital Stock	Total Shortage in DU
Registered Pharmacist	24	1		43,432
Certified Pharmacy Technician	26	5		109,681
Pharmacy Technician	3			5,750
Pharmacy Technician Trainee	10	1		15,725
Registered Nurse			35	2,713
Certified Registered Nurse Anesthetist			2	129
Licensed Vocational Nurse			6	652
Nurse's Aid			3	588
Delivery in or out of Pharmacy	7			2,186
Pharmacy Cashier-Pharmacy Clerk	12			32,076
Pharmacy Staff	11	2		16,475
Hospital Staff			14	465
Hospital Staff-Pharmacy Staff		6	1	927
Miscellaneous or Unidentified Persons	11	1		31,013
TOTALS	104	16	61	261,812

Classification	% of Complaints	% of Drugs Diverted
Registered Pharmacist	14.04%	16.59%
Certified Pharmacy Technician	17.42%	41.90%
Pharmacy Technician	1.69%	2.20%
Pharmacy Technician Trainee	6.18%	6.01%
Registered Nurse	19.66%	1.04%
Certified Registered Nurse Anesthetist	1.12%	0.05%
Licensed Vocational Nurse	3.37%	0.25%
Nurse's Aid	1.69%	0.23%

Classification	% of Complaints	% of Drugs Diverted
Delivery in or out of Pharmacy	3.93%	0.84%
Pharmacy Cashier-Pharmacy Clerk	6.74%	12.26%
Pharmacy Staff	7.30%	6.30%
Hospital Staff	7.87%	0.18%
Hospital Staff-Pharmacy Staff	3.93%	0.36%
Miscellaneous	6.74%	11.85%

5. To investigate complaints throughout FY2001, according to the following priorities:
- A. Pharmacists who have a chemical, mental or physical impairment;
 - B. Diversion of prescription drugs, through the following illegal means:
 - (1) Delivering prescription drugs without a prescription;
 - (2) 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 or the dispensing of a prescription by a pharmacist not in the usual course of pharmacy practice.
 - (3) Failing to keep and maintain records of controlled substances;
 - (4) Distributing prescription drugs pursuant to forged or altered prescriptions; and
 - (5) Unauthorized refills.
 - C. Dispensing errors;
 - D. Violations of regulations relating to patient counseling or drug regimen review;
 - E. Felony and misdemeanor convictions involving offenses that are related to the practice of pharmacy;
 - F. Violations 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;
 - G. Violations regarding the practice of pharmacy and the sale, delivery, or distribution of prescription drugs by facilities that operate or provide pharmacy services via the Internet;
 - H. Felony or misdemeanor convictions involving offenses not related to the practice of pharmacy;
 - I. Actions by other state boards of pharmacy; and

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- J. Other violations of the laws and rules relating to the practice of pharmacy.

Status: **ACCOMPLISHED**

Comment: A review of disciplinary orders entered in FY2001 substantiate that the agency handled complaints in accordance with the priorities set forth above.

6. To notify complainants, throughout FY2001, of the receipt, status and disposition of their complaints, in accordance with statutory requirements.

Status: **PARTIALLY ACCOMPLISHED**

Comment: Division staff spent considerable time and effort communicating with complainants. Approximately 1,970 letters were mailed to complainants in FY01, regarding the receipt, status, and resolution of complaints. Not all complainants were notified within guidelines. For this reason, this objective was only partially accomplished.

7. 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 FY2001.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. All investigators regularly work joint investigations with the Drug Enforcement Administration (DEA), Texas Department of Public Safety Narcotic Section (DPS), and local law enforcement agencies.
- B. Richard Klemme, Investigator, gave a course of instructions to compliance officers on Drug Recognition Program used by law enforcement in the State of Texas in regards to impaired persons.
- C. Richard Klemme, Investigator, gave a course of instruction to Eckerd Loss Prevention in regards to the Drug Recognition Program, so that Eckerd's investigators would better understand impaired employees.
- D. Investigators worked several investigations jointly with TSBP compliance officers.
- E. Investigative staff made an extraordinary number of contacts with other law enforcement agencies, as indicated in the charts below:

STATE/LOCAL AGENCIES	DIVISION AND/OR LOCATION
Department of Public Safety	Narcotic Division: Austin, San Antonio, Victoria, Beeville, San Marcos, Corpus Christi, San Angelo, Mineral Wells, Wichita Falls, Temple, Dallas, Lufkin, Beaumont, Fort Worth, Garland, Lone Oak, and Waco; Special Crimes Unit: San Antonio; Texas Rangers: San Antonio, El Paso, Temple, and Kames County, Texas

STATE/LOCAL AGENCIES	DIVISION AND/OR LOCATION
Sheriffs' Offices	Karnes County, Fayette County, Kerr County, Bee County, Bexar County, Walker County, Harris County, Hardin County, Shelby County, Collingsworth County, Travis County
Attorney General's Office	Medicaid Fraud-Austin, and Dallas, Texas
TX Alcoholic Beverage Commission	Karnes County, and Dallas, Texas
TX State Board of Medical Examiners	Austin, Dallas, San Antonio, and Houston, Texas.
TX State Board of Veterinary Medical Examiners	Austin, Texas
TX Board of Vocational Nurse Examiners	Austin, Texas
TX State Board of Nurse Examiners	Austin, Texas
Texas Department of Insurance	Fraud Unit-Austin, and State Fire Marshall's Office-Austin, Texas
TX Worker Compensation Commission	Austin, and Dallas, Texas
Texas Optometry Board	Austin, Texas
Texas State Board of Podiatry	Dallas, Texas
Dept of Health & Human Services	Dallas, Texas
Texas Department of Health	Austin, Texas
Police Departments	Karnes City, Beeville, Hallettsville, San Antonio, Boerne, Schulenberg, Austin, Round Rock, Georgetown, Live Oak, North Richland Hills, Helotes, Victoria, Temple, Killeen, Cleveland, Angleton, Bellaire, Houston, Oak Ridge North, Lakeview, Carthage, Conroe, Beaumont, Orange, Jasper, Rowlett, Plano, Garland, Arlington, Richardson, El Paso, Abilene, Ballinger, Graham, Manor, and Port Arthur, Texas
District Attorneys and County Attorneys	Offices of District Attorneys: San Antonio, Karnes County, Harris County, Fort Bend County, and Galveston County; Offices of County Attorneys: Travis County, Grayson County, and Harris County
Narcotic/Organized Crime Task Forces	Fort Bend County, Fayette County, Bell County, Harris County Organized Crime and Narcotic Task Force, Organized Crime Unit Houston PD, Major Offenders Houston PD, North Texas Task Force, Northeast Drug Interdiction Task Force, TNT Task Force, Health Care Fraud Task Force, Williamson County Task Force, and Tarrant County Task Force
Others	Senator Ken Armbristi-Victoria, Municipal Court Judge-Karnes County, Medical Examiner-Dallas, Dallas County Auditors, Farm Bureau Investigations-Austin, and Williamson County Probation, Georgetown Texas.

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FEDERAL AGENCIES	DIVISION AND/OR LOCATIONS
Drug Enforcement Administration	Dallas, Houston, San Antonio, El Paso, Fort Worth, and Tyler, Texas
United States Attorney's Office	Victoria, San Antonio, Dallas, Houston, Waco, and Beaumont, Texas
Internal Revenue Service	Dallas, and Houston, Texas
Federal Bureau of Investigations	Dallas, Bryan/College Station, San Antonio, Victoria, Houston, and Texas City, Texas
U.S. Department of Defense	Waco and Grand Prairie, Texas
Alcohol, Tobacco, and Firearms	Temple, and San Antonio, Texas
United States Food & Drug Administration/Office of Criminal Investigations	Austin, Dallas, and Houston, Texas

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

NATIONAL ASSOCIATIONS	DIVISION AND/OR LOCATION
National Association of Boards of Pharmacy	Chicago, Illinois
National Association of Drug Diversion Investigators (NADDI)	Dallas, Texas

OUT OF STATE AGENCIES	DIVISION AND/OR LOCATION
Pharmacy Boards	Alabama, Arizona, Arkansas, California, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Maryland, Missouri, New Hampshire, New Jersey, New Mexico, New York, Pennsylvania, Tennessee, and Washington
Police Department	Kingsford, Tennessee

RETAIL PHARMACIES-LOSS PREVENTION DEPARTMENTS	DIVISION AND/OR LOCATION
Eckerd Drugs	Dallas, San Antonio, Houston, Texas, and Clearwater, Florida
Walgreens Company	Dallas, Fort Worth, Houston, and Austin, Texas
Wal-Mart	Bentonville, Arkansas
Hermann Hospital Risk Management	Houston, Texas
Cardinal Health	Columbus, Ohio
Wyeth Labs Investigations	Houston, Texas

8. To monitor compliance with all Board Orders and Agreed Board Orders, including Orders relating to impaired pharmacists, throughout FY2001.

Status: **ACCOMPLISHED**

Comment: TSBP entered 131 disciplinary orders during FY01 that required some type of intensive monitoring, which means 90% of the 145 disciplinary orders entered by TSBP required monitoring. Division staff ensured that wall certificates of revoked and suspended licenses were returned to TSBP (upon the date of the revocation or suspension) or were returned to the licensee (upon reinstatement of the license or completion of the suspension period). Division staff, in conjunction with Accounting staff, ensured that administrative penalties (fines) and probation fees were paid. Division staff monitored the submission of required CE, policy and procedure manuals, and other reports.

In addition to the in-house monitoring described above, Compliance Officers conducted 10 inspections of pharmacies for the purpose of monitoring compliance with the terms of the Orders, particularly individuals/facilities who were revoked, suspended, or subject to a probated suspension (see Ongoing Objective #3).

The following chart indicates the types of Orders entered in FY01, which required the Division to monitor the licensee's compliance with the Order, in some manner.

TYPES OF TSBP DISCIPLINARY ORDERS ENTERED IN FY01 REQUIRING INTENSIVE MONITORING		
SANCTION	ORDERS (#)	PERCENTAGE
Revocation, Cancellation, and Retirement	9	6%
Suspension	7	5%
Restricted	3	2%
Rehabilitation Orders*	16	11%
Reinstatement	3	2%
Fines and/or Probation Fee	34	23%
Fines and/or Probation Fee + CE or Other Requirements	40	28%
Continuing Education or Other Requirements	19	13%
TOTAL NUMBER OF ORDERS REQUIRING INTENSIVE MONITORING	131	90%
TOTAL NUMBER OF ORDERS NOT REQUIRING INTENSIVE MONITORING	14	10%
TOTAL ORDERS FY2001	145	100%

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

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During FY01, TSBP entered 36 confidential disciplinary Orders. These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below.

CONFIDENTIAL DISCIPLINARY ORDERS ENTERED BY TSBP IN FY2001	
NATURE OF VIOLATION	TOTAL
Action by Other Boards	2
Audit Shortages	3
Alcohol-Related Conviction	2
Non-Compliance with ABO	8
Drug Theft	3
Created Fraudulent Rx	0
Felony Conviction	1
Illegal Possession of Controlled Substances	0
Unauthorized Refills of Controlled Substances	0
Probable Cause	9
Modification of ABO	5
Request for Retirement	1
Reinstatement	2
TOTAL FY01	36

Of the 36 confidential Orders entered in FY2001, there were 21 Orders resulting in an impaired/recovering pharmacist being added to the number who were being monitored at the end of FY00, as reflected in the chart below. However, 18 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, 2001, a total of 85 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
FY97 through FY01**

Fiscal Year	Total Orders*	Total New Orders**	Total Being Monitored+
FY97	40	21	99
FY98	38	25	101
FY99	34	22	89
FY00	35	18	82
FY01	36	21	85

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

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

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

9. To respond to open records requests throughout FY2001, in accordance with the procedures set forth in the Texas Public Information Act.

Status: ACCOMPLISHED

Comment: As indicated in the chart below, the number of verbal and written requests for enforcement information peaked in FY98. The number of verbal and written requests decreased following the implementation of the TSBP website.

**OPEN RECORDS REQUESTS HANDLED BY
ENFORCEMENT DIVISION — FY97 through FY01**

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
FY97	935	1,321	299	1,277	1,234	2,598	103	217		
FY98	1,063	1,538	452	2,730	1,515	4,268	126	356	+23%	+64%
FY99	544	841	413	4,953	957	5,794	80	483	-37%	+36%
FY00	168	177	339	2,078	507	2,255	42	188	-47%	-61%
FY01	124	125	276	3,642	400	3,767	33	314	-21%	+67%

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

10. To provide verbal and written information to Board staff and customers, through compliance inspections, display of the TSBP exhibit at meetings, public speaking engagements, and responses to surveys and questionnaires, as needed and required throughout FY2001.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

A. COMPLIANCE INSPECTIONS

The Division conducted 2,529 inspections in FY2001 (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 6,986 callers.

C. PROFESSIONAL DISPLAY

The Division displayed the TSBP exhibit at the Texas Society of Health System Pharmacists (TSHP) Annual Meeting (April 2-3, 2001) and the Texas Pharmacy Association (TPA) Annual Meeting (July 18-22, 2001). The display at the TSHP meeting focused on TSBP services and the display at the TPA meeting focused on new laws passed by the 77th Texas Legislature, including amendments to the Texas Pharmacy Act.

D. PRESENTATIONS (PUBLIC SPEAKING ENGAGEMENTS)

DATE	PRESENTATIONS Name of Association/Presentation and Location of Meeting	STAFF PERSON	ATTENDANCE (Approx.)
9/2/00	Dallas County Pharmacy Association	Cy Weich	68
9/16/00	West Texas Pharmacy Association Fall CE Seminar	Carey Bridges	85
9/20/00	Walgreens	Heidi Holmes	60
10/25/00	Coastal Bend Pharmaceutical Association	Mike Ethridge	120
10/25/00	Texas Tech Pharmacy School Law Class	Carey Bridges	92
5/2/01	Texas Southern University College of Pharmacy Students	Iona Grant	101
5/5/01	Lubbock Area Society of Health System Pharmacists	Carey Bridges	20
5/7/01	Denton County Pharmacy Association	Cy Weich	50
8/10/01	Voluntary Hospitals of America Southwest	Cy Weich	20
TOTAL			616

E. SURVEYS/QUESTIONNAIRES

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

- (1) Legislative Budget Board — Division staff, in cooperation with other Divisions, submitted data to LBB with regard to the number of written requests for information that are handled by TSBP each month.
- (2) Oklahoma Board of Pharmacy — Division Director completed a survey regarding salaries of pharmacists employed by TSBP.
- (3) Health Professions Council — Division Director, with input from TSBP's Executive Director and General Counsel, completed lengthy survey regarding agency's complaint/disciplinary process, performance measures, record retention policies, and laws/policies/procedures relating to confidentiality of enforcement records.

F. TECHNICAL ASSISTANCE TO BOARD MEMBERS

- (1) In October 2000, Division Director prepared revised goals and objectives for FY2001 following an agency reorganization. The revision was necessary, in that the reorganization resulted in the Enforcement Division assuming responsibility for the field inspection program and several other activities assigned to the former Compliance Division.
- (2) Division Director developed proposed Goals and Objectives for FY02, which were presented to and approved by the Board at its meeting held August 7-8, 2001.
- (3) Division Director and Assistant Division Director made presentations at all Board meetings held in FY01. Presentations included information about proposed Agreed Board Orders and reports regarding number of active/pending complaints.
- (4) Division Director assisted in the review/editing of drafts of minutes of four Board meetings.

G. TECHNICAL ASSISTANCE TO BOARD STAFF

- (1) Division staff assisted Director of Professional Services, as follows:
 - (a) Division staff assisted with the *TSBP Newsletter*, as follows:
 - authored 8 articles for the three *TSBP Newsletters* which were published during FY01;
 - provided the following information for publication in *TSBP Newsletter*: descriptions of disciplinary actions and statistics regarding confidential disciplinary orders; and
 - served on the *TSBP Newsletter* committee.

- (b) Division Director attended three meetings of the Task Force on Peer Review Guidelines and assisted in the review/editing of the Guidelines, which were approved by the Board at its meeting on May 22-23, 2001.
 - (c) Assistant Division Director attended the meeting of the Task Force on Telepharmacy Systems.
 - (d) Compliance Staff Officer Milton Jez attended the meeting of the Task Force on Automated Pharmacy Systems and Emergency Medication Kits.
 - (e) Division Director provided information regarding disciplinary sanctions for publication in NABP's Survey on Pharmacy Law (includes information about the operation of pharmacy boards in the 50 states).
 - (f) Division staff assisted in the development, review and evaluation of the Texas question pool for the Multistate Jurisprudence Exam administered by the National Association of Boards of Pharmacy.
- (2) Division staff assisted Director of Administrative Services and Licensing, as follows:
- (a) Staff Compliance Officers provided technical assistance with regard to Class B and Class D Pharmacy licenses (see Ongoing Objective #11);
 - (b) Division Director and Assistant Division Director assisted TSBP's Licensing Division, with respect to:
 - eligibility for licensure and internship (from individuals who had checked "yes" on the attest questions on the TSBP application); and
 - eligibility of individuals wishing to serve as preceptors.
 - (c) Division Director assisted with the update of the TSBP Employee Handbook regarding the following:
 - policies and procedures for employee education and training; and
 - policies and procedures for evaluating employees, in compliance with directives from the Texas Commission on Human Rights.
 - (d) Division staff served on the in-house TSBP web site committee.
- (3) Division staff assisted the Legal Division as follows:
- (a) At the request of TSBP General Counsel, Division Director or Assistant Division Director reviewed drafts of Preliminary Notice Letters (PNLs) prior to the PNLs being finalized and mailed.

(b) Division staff served as an expert witness for several formal disciplinary hearings conducted by the State Office of Administrative Hearings.

(4) Division staff assisted with orientations of new TSBP employees regarding Division activities, such as Compliance inspections; the complaint process; investigations of complaints; monitoring licensees and responding to inquiries for enforcement records. New employees included: Vicki Jackson-Kimbrell; Anita Arnet; Darlene Gutherie; Korena Schaaf; Carol Willess; Melissa Rivera; and Georgienne Nassauer.

H. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS

(1) Division Director notified various agencies regarding disciplinary orders entered by the Board (e.g., DEA, DPS, TDH, MHMR, HHS, USP, and NABP).

(2) Division staff assisted the Director of the Pharmacy Recovery Network (PRN) program. (See Ongoing Objective #12.)

(3) Division staff assisted the Health Professions Council. (See Ongoing Objective #13.)

(4) Texas Optometry Board was assisted as follows:

(a) Division Director assisted the Executive Director of the Texas Optometry Board with questions regarding the TSBP peer assistance program.

(b) Upon the written request of the Executive Director of the Texas Optometry Board, TSBP investigative staff obtained evidence from two pharmacies which indicated that an optometrist issued numerous prescriptions without the authority to issue the prescriptions.

(5) Investigative staff assisted numerous other law enforcement agencies. (See Ongoing Objective #7.)

(6) Division Director assisted Curtis Burch, R.Ph., Texas Drug Vendor Program, by providing statistics regarding patient counseling violations (i.e., number of closed complaints and disciplinary orders entered involving licensees who failed to provide written or verbal counseling or drug regimen review).

11. 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 FY2001.

Status: **ACCOMPLISHED**

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

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NUMBER	ACTIVITY
25	New Class D (Clinic) Pharmacy applications
1	New Class B (Nuclear) Pharmacy applications
80	Petitions for Expanded Formulary for Class D (Clinic) Pharmacies
10	Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies
10	Notifications of Temporary Locations for Class D (Clinic) Pharmacies

12. 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 TX-PRN throughout FY2001.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. Board Member Wayne McConnell served as an ex-officio member of the TX-PRN State Committee throughout FY01.
- B. The TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY01.
- 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 April 11, 2001, and the results of the audit were reported to the Board at its meeting held May 22-23, 2001.
- D. Division Director and Assistant Division Director, in cooperation with the TSBP Executive Director and the TSBP General Counsel, worked with the TX-PRN Program Director to develop a business plan, mission and goals/objectives for the TX-PRN Program.
- E. Division Director and Assistant Division Director, in cooperation with TSBP Executive Director and TSBP General Counsel, prepared proposed amendments to the TSBP-PRN contract for FY2002-03. The Board approved the new contract terms at its meeting held on May 22-23, 2001.
- F. Throughout FY01, Division Director and Assistant Division Director reviewed monthly activity reports submitted to TSBP by TX-PRN Director.
- G. Assistant Division Director attended two TX-PRN State Advisory Committee meetings – September 9, 2000, and March 3, 2001.
- H. Throughout FY01, Assistant Division Director worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

13. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2001.

Status: ACCOMPLISHED

Comment: Division staff participated in the following activities:

- A. HPC Annual Report — Division Director submitted agency enforcement performance data to be incorporated into the HPC Annual Report.
- B. On March 15, 2001, Division Director attended the HPC meeting on behalf of the TSBP Executive Director. On July 16, 2001, Division Director attended the HPC meeting to present a status report on the HPC Complaint Study Committee.
- C. In June 2001, the Division Director was selected to chair the HPC Committee charged with studying the complaint processes used by HPC member agencies, as mandated by H.B. 2408. The HPC Study Committee's initial meeting was held on July 16, 2001. Division Director and HPC Administrative Officer drafted a questionnaire with five sections (agency data; complaint and disciplinary process; confidentiality; record retention; and performance measures). After input from committee members on two survey drafts, the final version of the survey was distributed to HPC Member agencies in August 2001. Work on this project will continue until a final report is made to the Legislature on or before January 1, 2003.
- D. HPC Toll-Free Complaint Hotline — HPC member agencies are billed for hotline calls received by the respective agency. When complainants call the hotline, they may leave a message advising the agency of the complainant's name, address, and telephone number, or they may "zero out" and speak to an HPC staff member for clarification of procedures. During FY01, TSBP mailed 851 complaint forms to individuals requesting forms on the HPC toll-free complaint hotline and 725 complaint forms to individuals who called the TSBP voice mail complaint line. The number of requests received, as compared to the previous fiscal years, is depicted in the following chart:

**COMPLAINT FORMS PROCESSED BY
ENFORCEMENT DIVISION — FY97 through FY01**

Fiscal Year	Requests for Complaint Forms Via HPC 800#	% Change	Requests for Complaint Forms via TSBP Voice Mail	% Change
FY97	626		157	
FY98	742	+18%	209	+33%
FY99	836	+13%	361	+73%
FY00	1,498	+79%	603	+67%
FY01	851	-43%	725*	+20%

* Cumulative Increase from FY97 to FY01 — 362%

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14. 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 FY2001.

Status: **ACCOMPLISHED**

Comment: In FY2001, Division staff attended several team meetings, Division staff meetings, general staff meetings and in-house training sessions. Division staff also attended the following joint training sessions (with other agency staff):

December 8, 2000 (1) Ethics Training
 (2) Personal Safety Training

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

ENFORCEMENT DIVISION STAFF MEMBERS

Carol Fisher, R.Ph., M.P.A.	
11/12-14/00	NABP Health Law Officers Conference (Biloxi, MS); Gave presentation regarding "Regulating for Outcomes" (75 persons in attendance)
11/30/00	e-Records 2000: Developing a Vision for the Future (Austin, TX)
4/1-4/01	TSHP Annual Meeting (Austin, TX)

Allison Benz, R.Ph., M.S.	
9/10/00	PRN Training Session (Austin, TX)
10/23/00	Business Records Affidavits, In-house Training
11/14/00	Neurobiology of Addiction, TSBP Board Meeting (Austin, TX)
1/2/01	Texas Legislative Service Training (Austin, TX)
1/17/01	Nineteen Strategies for Successful Leaders (Austin, TX)
3/4/01	PRN Training Session (Austin, TX)
4/1-4/01	TSHP Annual Meeting (Austin, TX)
7/10/01	Professional Development Center Seminar: "What it takes to be a Great Leader"
7/18-22/01	Texas Pharmacy Association Annual Meeting (Houston, TX)

Milton Jez, R.Ph.	
9/10/00	PRN Training Session (Austin, TX)
2/9/01	Excel Software Training (Austin, TX)
3/4/01	PRN Training Session (Austin, TX)
7/18-22/01	Texas Pharmacy Association Annual Meeting (Houston, TX)
In addition, Milton is attending classes at the University of Texas, College of Pharmacy, working towards a Master of Science Degree in Pharmacy Administration, outside of his work at TSBP (i.e., no cost to TSBP).	

Ben Santana, R.Ph.	
10/23/00	Business Records Affidavits, In-house Training
12/15/00	Microsoft Access Training (Austin, TX)
4/1-4/01	TSHP Annual Meeting (Austin, TX)

Roger Hernandez, R.Ph.	
6/30/01	Retired

Marilyn Pearce, R.Ph.	
11/17/00	Resigned

Korena Schaaf	
2/01	Orientation and On-the-Job Training (Austin, TX)
3/4/01	PRN Training Seminar (Austin, TX)
4/2/01	TSHP Annual Meeting and Exhibits (Austin, TX)
5/4/01	TCIC/NCIC Training - 4 hours - Police Course (Manor, TX)

Vicki Jackson-Kimbrell	
9/00	Orientation and On-the-Job Training (Austin, TX)
10/22/00	Business Records Affidavit Training, in-house Training
10/24/00	EEO Training
6/17/01	Resigned

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Sherry Stevenson	
11/1/00	iPortal Product Orientation Training (Austin, TX)
11/28/00	2000 Statewide Privacy and Open Government Conference (Austin, TX)
8/27/01	Open Government Conference Update (Austin, TX)

Janelle Natri	
11/3/00	Austin Conference for Women (Austin, TX)

Patty Galan	
11/13/00	Access 2000: Introduction (Austin, TX)
8/29/01	WordPerfect 8.0: Advance Course (Austin, TX)

Diane Torres	
11/13/00	Access 2000: Introduction (Austin, TX)
12/12/00	Conflict Management Skills for Women (Austin, TX)
8/29/01	WordPerfect 8 (Austin, TX)

Angela Pompa	
9/29/00	User Training for Imaging System (Austin, TX)
11/10/00	Resigned

Angela Hicks	
2/7/01	How to Become a Great Communicator (Austin, TX)
3/15/01	Microsoft Excel 2000 Intermediate (Austin, TX)

Investigative Staff

Joe Lewis	
5/01	Rx Program Training (updated) - Audit Program (Austin, TX)
5/01	TCIC/NCIC Training-4 hours-Police Course (Manor, TX)

Robert Ebrom	
9/00	Intoxilyzer Training and Exam (Kames City, TX)
9/00	Diversion Training-DPS (Austin, TX)
10/00	Firearms Training (Kames City, TX)
1/01	Insurance Fraud-Texas Department of Insurance (Austin, TX)
2/01	Stress Management (Austin, TX)
2/01	Defensive Driving (Kames City, TX)
3/01	Pistol Qualifications (Kames City, TX)
5/01	Rx Program Training (updated) - Audit Program (Austin, TX)
7/01	Texas Narcotic Officers Conference and Training (El Paso, TX)

Johnny Martin	
1/01	Insurance Fraud (Austin, TX)
2/01	Cultural Diversity (Computer / Lavalla, TX)
2/01	Ethics for Law Enforcement (Computer / Lavalla, TX)
5/01	Family Violence (Computer / Lavalla, TX)
5/01	Rx Program Training (updated) - Audit Program (Austin, TX)

Dwayne Darter	
9/00	Basic Narcotics/Diversion (Austin, TX)
12/00	TCLEOSE Training - 3232/3939 (Austin, TX)
1/01	Insurance Fraud (Austin, TX)
5/01	Rx Program Training (updated) - Audit Program (Austin, TX)
6/01	NADDI Conference (Dallas, TX)
6/01	Updated Legislative Training (Austin, TX)
7/01	Texas Narcotic Officers Association Conference (El Paso, TX)
8/01	Defensive Driving Training (Dallas, TX)

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Richard Klemme	
9/00	On-the-Job Training (Houston and Lufkin, TX)
9/00	Basic Narcotics/Diversion (Austin, TX)
9/00 - 10/00	Compliance Training (Houston, TX)
11/00	Case Preparation Training (Houston, TX)
12/00	TCLEOSE Training - 3232/3939 (Austin, TX)
1/01	Drug Recognition Expert Instructor Training (Bryan, TX)
1/01	Insurance Fraud (Austin, TX)
3/01	Drug Recognition Expert Instructor Practical Exercise (Irving, TX)
5/01	Rx Program Training (updated) - Audit Program (Austin, TX)
6/01	Updated Legislative Training (Austin, TX)
7/01	Texas Narcotic Officers Association Conference (El Paso, TX)
8/01	Defensive Driving Training (Houston, TX)

Anita Ann Arnet	
11/00	Orientation Training (Austin, TX)
11/00	On-the-Job Training (Austin, TX)
2/01	Stress Management (Austin, TX)
5/01	Rx Program Training (updated) - Audit Program (Austin, TX)
5/01	TCIC/NCIC Training - 4 hours - Police Course (Manor, TX)
7/01	Texas Narcotic Officers Association Conference and Training (El Paso, TX)

Melissa Rivera	
4/01	Orientation and On-the-Job Training (Austin, TX)
5/01	TCIC/NCIC Training - 40 hours - Operator (Waco, TX)

Compliance Staff

Cy Weich, R.Ph.	
3/31/01 - 4/4/01	Texas Society of Health-System Pharmacists Annual Meeting (Austin, TX)
7/18-22/01	Texas Pharmacy Association Annual Meeting (Houston, TX)

Carey Bridges, R.Ph.	
3/31/01 - 4/2/01	Texas Society of Health-System Pharmacists Annual Meeting (Austin, TX)
6/8/01	Resigned

Carol Willess	
3/01	Orientation
3/31/01 - 4/4/01	Texas Society of Health-System Pharmacists Annual Meeting (Austin, TX)
4/11/01	EEO Training
5/2/01	Intro to Access
5/4/01	TCIC/NCIC Training - 4 hours - Police Course (Manor, TX)
6/25-27/01	Texas Association of Business Administrators Association Annual Meeting
7/18-22/01	Texas Pharmacy Association Annual Meeting (Houston, TX)

Mike Ethridge, R.Ph.	
10/14/00	Central Texas Society of Health System Pharmacists – Fall Seminar (San Antonio, TX)
4/24-30/01	Texas Pharmacy Association Region D Meeting (Corpus Christi, TX)

Iona Grant, R.Ph.	
3/31/01 - 4/2/01	Texas Society of Health-System Pharmacists Annual Meeting (Austin, TX)
7/18-22/01	Texas Pharmacy Association Annual Meeting (Houston, TX)

Heidi Holmes, R.Ph.	
9/8/00 & 10/13/00	Intro to Access
10/11/00 & 11/17/00	Intermediate Access
2/1/01	Defensive Driving
7/18-22/01	Texas Pharmacy Association Annual Meeting (Houston, TX)

15. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2001.

Status: ACCOMPLISHED

Comment: Formal performance reviews were conducted as follows:

Enforcement Division Staff Members

Employee	Date of Evaluation	Evaluation By
Allison Benz, R.Ph., M.S.	June 15, 2001	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Joe Lewis	September 22, 2000	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Sherry Stevenson	May 31, 2001	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Carol Willess	Employed March 12, 2001; Evaluation scheduled in FY2002	
Roger Hernandez, R.Ph.	Retired June 30, 2001	
Milton Jez, R.Ph.	June 6, 2001	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement
Ben Santana, R.Ph.	June 1, 2001	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement
Vicki Kimbreil-Jackson	Resigned June 17, 2001	
Korena Schaaf	Employed February 2, 2001; Evaluation scheduled in FY2002	
Janelle Natri	June 11, 2001	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement
Patty Galan	May 29, 2001	Sherry Stevenson Sr. Administrative Assistant
Diane Torres	April 3, 2001	Sherry Stevenson Sr. Administrative Assistant
Angela Pompa	Resigned November 10, 2000	
Robert E. Ebrom, Jr.	April 26, 2001	Joe Lewis Chief Investigator
Johnny M. Martin	June 7, 2001	Joe Lewis Chief Investigator
Walter D. Darter	June 7, 2001	Joe Lewis Chief Investigator
Richard C. Klemme	June 6, 2001	Joe Lewis Chief Investigator
Anita A. Arnet	June 5, 2001	Joe Lewis Chief Investigator
Melissa Rivera	Employed April 1, 2001; Evaluation scheduled in FY2002	

Employees of Former Compliance Division Who Were Transferred to Enforcement Division on October 1, 2001

Employee	Date of Evaluation	Evaluation By
Cy Weich, R.Ph.	March 21, 2001	Steve Morse, R.Ph. Former Director of Compliance
Iona Grant, R.Ph.	June 6, 2001	Steve Morse, R.Ph. Former Director of Compliance
Mike Ethridge, R.Ph.	August 1, 2001	Cy Weich, R.Ph. Chief Compliance Officer
Heidi Holmes, R.Ph.	June 6, 2001	Cy Weich, R.Ph. Chief Compliance Officer
Marilyn Pearce, R.Ph.	Resigned November 17, 2000	
Carey Bridges, R.Ph.	Resigned June 8, 2001	
Angela Hicks	December 21, 2000	Retta Cole, Former Sr. Administrative Asst. to Director of Compliance

The Division began FY2001 with three vacant positions (field Compliance Officer for Houston area, in-house Investigator II and field investigator- Austin area) due to the resignation of May Woo, R.Ph., and the retirements of Pat Dobbs and H.C. Wallace, effective August 31, 2000. During FY2001, the Division experienced an additional turnover in five positions (four resignations and one retirement). The chronology of employee hires/turnover and other personnel actions in FY2001 is listed below:

- September 2000**
- (1) Vicki Jackson-Kimbrell began employment, effective 09-18-01, as a Complaint Specialist.
 - (2) Division made preparations to assume field Compliance inspection program and in-house technical assistance (Compliance telephone calls), effective 10-01-01. Job descriptions for then Enforcement Officers Milton Jez, R.Ph., and Ben Santana, R.Ph., were changed and these positions were retitled as Staff Compliance Officers. Vicki Jackson-Kimbrell's title was changed to Enforcement Officer.
 - (3) Former Assistant Director of Compliance Iona Grant, R.Ph., was named Chief Compliance Officer, effective 10-01-01.
- October 2000**
- (1) Iona Grant, R.Ph., decided to fill the vacant field Compliance Officer position in Houston and Carey Bridges, R.Ph., was named Acting Chief Compliance Officer, effective 11-01-01.
 - (2) Anita Arnet was employed to fill the vacant field Investigator/Austin area, effective 11-01-01.
 - (3) Two employees resigned (Administrative Assistant Angela Pompa & Staff Compliance Officer Marilyn Pearce, R.Ph.).

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- November 2000** Chief Compliance Officer position was posted as an in-house position (internal posting only). No applications were received.
- December 2000** (1) Cy Weich, R.Ph., was named Acting Chief Compliance Officer, effective 12-01-01.
- (2) Vacant Administrative Assistant position replaced with an Executive Assistant position; Janelle Nastri was selected to fill the position, as an Enforcement Specialist, effective 12-15-01.
- January 2001** Vacant Staff Compliance Officer (pharmacist) position was replaced with an Enforcement Officer (non-pharmacist) position; Korena Schaaf was selected to fill this position, effective 02-01-01.
- February 2001** Vacant in-house Chief Compliance Officer position (pharmacist) was replaced with Executive Assistant position (non-pharmacist); Carol Willess was selected to fill the position as a Compliance Specialist, effective 3-12-01.
- March 2001** (1) Melissa Rivera was employed to fill the vacant Investigator II position, effective 04-01-01.
- (2) Chief Compliance Officer position posted as a field supervisor position (internal posting only).
- April 2001** Cy Weich, R.Ph., was selected as Chief Compliance Officer, effective 05-01-01.
- May 2001** (1) Carey Bridges, R.Ph., announced his resignation, effective 06-08-01.
- (2) Vicki Jackson-Kimbrell announced her resignation, effective 6-17-01.
- June 2001** After 25 years of service to TSBP, Staff Compliance Officer Roger Hernandez, R.Ph., retired, effective 06-30-01.
- July 2001** UT College of Pharmacy Student Katie Musil began a 6-week internship rotation at TSBP. Ms. Musil's preceptor was Allison Benz, R.Ph., M.S., Assistant Director of Enforcement.
- August 2001** (1) Vacant Staff Compliance Officer position (pharmacist) was replaced with an Enforcement Officer position (non-pharmacist); Sarah Guevara was selected to fill this position, effective FY2002.
- (2) Amy Herring was selected to fill the Enforcement Officer position vacated by Vicki Jackson-Kimbrell, effective FY2002.

Accordingly, the Division posted and/or filled nine positions during FY01. Other activities related to Division personnel are listed below:

- A. Division staff developed orientation schedules/orientation manuals and conducted orientations for five new staff members (Vicki Jackson-Kimbrell, Anita Arnet, Korena Schaaf, Carol Willess, and Melissa Rivera) and for Katie Musil, Intern.

- B. Division Director updated the job descriptions for all Division staff, and developed new job descriptions for the three new positions (Enforcement Specialist, Compliance Specialist, and Chief Compliance Officer).

- 16. To destroy records in accordance with the agency's record retention plan throughout FY2001; to update the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2001.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished as follows:

- A. Records Management

During FY01, Division staff destroyed 34 cubic feet of records, in accordance with the TSBP record retention schedule.

- B. Policies and Procedures

Division staff updated procedures relating to in-house investigations of complaints. In addition, Division Director and General Counsel assisted Director of Administrative Services and Licensing with the revision of personnel policies in the TSBP Employee Handbook, in compliance with the directives of the Texas Human Rights Commission.

- 17. To recommend policies and procedures to the Executive Director which will enhance the efficiency and effectiveness of the agency throughout FY2001.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. Division staff made several recommendations for changes to enhance the agency's computerized complaint tracking system and associated reports.
- B. Division staff updated TSBP Complaint Form and implemented several changes in the TSBP Complaint process in order to streamline the process.
- C. Chief Investigator Joe Lewis developed guidelines and checklists for field investigations to ensure consistency in the collection of evidence/affidavits and the preparation of the final written report.
- D. Chief Investigator Joe Lewis began preparing a list of drug names (brand and generic), to include the pronunciation of the drug name, and the classification and/or schedule of the drug. This manual will assist investigators and other personnel in pronouncing the names of drugs, especially when presenting cases in administrative hearings and/or criminal courts.
- E. Senior Investigator Robert Ebrom suggested the purchase of digital cameras for taking pictures of evidence in investigations. These pictures can be printed on a color printer and inserted into the

ENFORCEMENT

investigative report as evidence. It further assists the Legal Division in their presentation of each investigation at Informal Conferences.

- F. Enforcement Officer Korena Schaaf recommended that TSBP implement a new drug screening program, using a web-based system, which will result in more efficient and effective monitoring of recovering pharmacists.
 - G. Division Director recommended that TSBP implement additional screening procedures for applicants for a pharmacy license (e.g., pre-licensure inspections; pass pharmacy law test; proof of financial responsibility).
 - H. Division Director recommended procedures for determining merit awards, to ensure consistency between Divisions.
 - I. Division Director implemented new system, whereby drafts of cover letters for Disciplinary Orders were prepared well in advance of Board review of proposed Orders at Board meetings, so that the cover letters could be finalized and mailed to licensees more quickly if the Board approved the proposed Order. Division Director also recommended that TSBP Executive Director and General Counsel sign proposed Agreed Board Orders prior to Board Meetings, in order to expedite the processing of final Orders.
 - J. Division field staff implemented new communication system which eliminated the use of personal pagers, resulting in a significant savings to the agency.
 - K. Division Director recommended that the application for a pharmacy license be amended to add "Internet" as a service, so that TSBP staff would know which pharmacies are Internet pharmacies.
 - L. Division Director recommended that three pharmacist positions be replaced with non-pharmacist personnel, resulting in a substantial savings to the agency.
18. 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 FY2001.

Status: ACCOMPLISHED

Comment: Division staff recommended that:

- A. TSBP clarify the current TSBP rule regarding the length of time an individual could serve as a technician-in-training (i.e., to clarify that the one year restriction would not mean 12 consecutive months).
- B. TSBP promulgate a rule to require employers to conduct background employment checks of technicians prior to employment, in order to ensure that the individuals were eligible to be a technician-in-training (i.e., to ensure that the individual had not served as a technician-in-training for a period in excess of 12 months).
- C. TSBP promulgate a rule to require an individual to pass the Pharmacy Technician Certification Board (PTCB) examination before the individual could become a technician-in-training.

- D. TSBP promulgate a rule to require a technician to post his/her certification certificate in the technician's primary place of practice. Subsequently, the Board promulgated a rule regarding this matter which required technicians to post a copy of their certification certificate at all pharmacies where the technician works.

19. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2000 Annual Report* to be presented to the Board by its May 2001 Board meeting.

Status: **ACCOMPLISHED**

Comment: The Division's first draft of the FY00 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 2001.

LEGAL DIVISION

FY2001 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of the Division's Objectives for FY2001 (17 objectives were accomplished and 1 objective was partially accomplished).
2. The Division sent more Preliminary Notice Letters in FY2001 as compared to FY2000, with the Division increasing the number of PNLs mailed to 197 in FY2001 from 178 in FY2000 (10.7% increase). The Division dramatically decreased the number of days to mail PNLs after the case review date to 112.5 days in FY2001.
3. The Division began FY2001 with all cases entered into the new case management software, which has been very useful in tracking and monitoring the cases assigned to the Division. The system has allowed the attorneys to cease manual tracking of cases assigned and has increased accuracy and efficiency in determining caseloads.
4. General Counsel, in cooperation and conjunction with Executive Director and other Division Directors, and with input from Division staff, formulated uniform objectives for employee evaluations, in compliance with the requirements of the Texas Human Rights Commission, standardized job descriptions and performance measures, and implemented a procedure to ensure equity in determining merit awards.
5. Division staff assumed the additional task of drafting briefing notes for all cases appearing at Informal Conferences. The briefing notes were standardized and streamlined to assist panel members by providing relevant information in a clear and concise format.
6. Division staff completed the compilation of shells for common types of Preliminary Notice Letters (PNL) to provide as sample PNL forms by attorneys in drafting PNL statements of allegations and alleged violations.
7. Division staff worked with Westlaw to replace CD-ROM based Premise system with internet-based Westlaw.com for legal research, which will provide attorneys with more up-to-date cases and statutes and will save expenditures for the agency.
8. The Division implemented new telephone extensions, which include a direct number for the Division and access by Legal Assistants to the attorneys' phones, to improve accessibility to the Division by licensees and the public.
9. Five contested administrative hearings were conducted. One case was settled during the administrative hearing. The other four hearings resulted in Proposals for Decisions (PFD) issued by the Administrative Law Judges. All cases were decided in favor of TSBP, and in each case, the Board adopted a Board Order accepting the PFD.
10. TSBP entered more disciplinary orders in FY2001 than in FY2000. As indicated in the chart below, 97% of the disciplinary cases were settled through the entry of Agreed Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and costs.

LEGAL

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF AGREED BOARD ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% ABOs OF TOTAL ORDERS
FY97	2	132	134	98.5%
FY98	5	179	184	97.3%
FY99	0	108	108	100%
FY00	0	126	126	100%
FY01	4	141	145	97%
TOTAL	11	686	697	5 YR. AVG. 98.4%

LEGAL DIVISION

FY2001 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. The Legal Division lost a Legal Assistant, who transferred to the Enforcement Division, on December 15, 2000, and replaced the position within a six-week period. Division staff spent a significant amount of time and effort advertising for the vacant position, evaluating applications, interviewing applicants, and orienting/training the new employee. The new Legal Assistant did not begin employment until February 20, 2001, which left one Legal Assistant to do the work for two Assistant General Counsel and General Counsel in the interim. Therefore, the work was somewhat delayed by the vacant position.

LEGAL DIVISION

FY2001 ANNUAL REPORT

GOAL

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

Objectives (New)

1. To assist the Executive Director, in cooperation with other Divisions, in:
 - A. preparing testimony, attending public hearings, reviewing legislation and providing any fiscal or technical information as required by the 77th Texas Legislature; and
 - B. reviewing all legislation introduced by the 77th Texas Legislature that has an impact on the practice of pharmacy or agency operations and monitor the progress of this legislation throughout FY2001.

Status: ACCOMPLISHED

- Comment:**
- A. General Counsel reviewed and offered comment on approximately ninety-nine bills relating to pharmacy and legal issues.
 - B. General Counsel assisted Executive Director during an initial meeting with the pharmacy lobbyists to present proposed legislative changes.
 - C. General Counsel provided information and assistance to attorney from Legislative Council regarding changes/corrections to the codification of the Texas Pharmacy Act.
 - D. General Counsel assisted Executive Director by attending meetings with staff of Representative Maxey, Senator Nelson, and Senator Montcrief regarding legislation on automated dispensing systems and pharmacist profiling.

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

Status: PARTIALLY ACCOMPLISHED

Comment: General Counsel assisted Executive Director in drafting an amendment to the agency's Legislative Appropriation Request, requesting reduction from 16 to eight staff needed to register/regulate pharmacy technicians for the biennium FY2002-03, with the intent of asking for the remaining eight staff for FY2004-05, if needed.

However, during the 77th Texas Legislature, no additional staff or funding was appropriated to TSBP to register/regulate technicians. General Counsel, in cooperation with Executive Director and other Division Directors discussed several options of how the agency could implement a program to register technicians, without additional funding. The Executive Director discussed the matter with the Board at its business meeting on August 7-8, 2001, at which time the Board determined to establish a Task Force to study the issue.

3. To assist Executive Director, in cooperation with other Divisions, in accomplishing any initiatives or objectives related to technology which impact the agency or pharmacy practice, including e-commerce initiatives, Health Professions Council imaging system, and HIPDB.

Status: ACCOMPLISHED

- Comment:**
- A. General Counsel assisted Director of Administrative Services and Licensing with the implementation of imaging system by meeting with representatives of imaging vendor to develop implementation procedures.
 - B. General Counsel provided input for an article on HIPDB for the TSBP Newsletter.

Objectives (Ongoing)

1. To coordinate and monitor throughout FY2001 the receipt, assignment, and resolution of all cases accepted by the Division.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

TOTAL ORDERS

Date of Orders	Summary Suspensions	Board Orders	Agreed Board Orders		Total Number of Orders
			Public	Confidential	
Nov. 14-15, 2000	0	0	52	9	61
Feb. 6, 2001	0	0	12	13	25
May 22-23, 2001	0	2	34	7	43
July 21, 2001	0	0	1	0	1
Aug. 7-8, 2001	0	2	6	7	15
TOTAL FY2001	0	4	105	36	145

SANCTIONS IMPOSED BY ENTRY OF DISCIPLINARY ORDERS

			Pharmacist	Pharmacy	Total	
Licenses Removed	9	(6%)				
Revoke			4	0	4	(3%)
Retire			5	0	5	(3%)
Suspensions	42	(29%)				
Summary Suspension			0	0	0	(n/a)
Suspension			6	1	7	(5%)
Suspension/Fine			0	0	0	(n/a)
Suspension/Probation			5	2	7	(5%)
Suspension/Probation w/Conditions			19	5	24	(17%)
Suspension/Probation/Fine			1	1	2	(1%)
Suspension/Probation/Fine w/Conditions			0	2	2	(1%)
Restrictions	3	(2%)	3	0	3	(2%)
Other	77	(53%)				
Fine			12	8	20	(14%)
Fine with Conditions			12	12	24	(17%)
Fine and Reprimand			1	3	4	(3%)
Fine, Reprimand with Conditions			2	2	4	(3%)
Reprimand			2	6	8	(6%)
Reprimand with Conditions			11	6	17	(12%)
Issuance of License	3	(2%)				
Grant with Probation			1	0	1	(<1%)
Grant with Probation and Conditions			0	1	1	(<1%)
Grant with Conditions			1	0	1	(<1%)
Deny			0	0	0	(n/a)
Reinstatements	4	(3%)				
Grant			0	0	0	(n/a)
Grant with Probation/Conditions			3	0	3	(2%)
Deny			1	0	1	(<1%)
Modifications	7	(5%)				
Grant			5	1	6	(4%)
Deny			1	0	1	(<1%)
TOTAL FY2001:	145	(100%)	95	50	145	(100%)

FY2001 Orders Entered Against Pharmacist Licenses	95	66%
FY2001 Orders Entered Against Pharmacy Licenses	50	34%
FY2001 Total Disciplinary Orders	145	100%

NATURE OF VIOLATIONS*

CONTESTED CASES	RPh	Phcy	Total	Total %
Illegal Delivery (CS)	1	0	1	—
Unauthorized Refills (CS)	2	1	3	2%
Audit Discrepancies	15	7	22	15%
Drug	4	7	11	
Continuing Education	11	0	11	
Dispensing Errors	6	14	20	14%
Dispensing Errors/No Counseling	1	1	2	1%
Counseling/DUR	6	5	11	8%
Convictions	5	2	7	5%
Felony	2	2	4	
Alcohol-Related	2	0	2	
Deferred Adjudication/CSA	1	0	1	
Action by Other Boards	4	0	4	3%
Non-Compliance with ABO	10	1	11	8%
Other	31	18	49	34%
Delinquent License	3	3	6	
No Annual or PIC Inventory	3	2	5	
Falsify Response to W/N	2	2	4	
Non-Therapeutic Dispensing	1	2	3	
Fraud	2	0	2	
Triplicate Rx	1	1	2	
Recordkeeping Error	0	1	1	
Unprofessional Conduct	1	0	1	
Theft	4	0	4	
Created False Rx	3	0	3	
Unauthorized Substitution	3	3	6	
Probable Cause	7	1	8	
Possession of Samples	1	3	4	
SUB-TOTAL:	81	49	130	90%
Request for Retirement	4	0	4	3%
Modification	6	1	7	5%
Reinstatement	4	0	4	3%
TOTAL FY2001:	95	50	145	101%**

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

** Due to rounding.

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The Division met on a weekly basis to discuss the status of pending cases, to assess workload allocation, and determine the most effective strategies to complete cases in a timely and excellent manner.

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

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 FY2001.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. During FY2001, Division staff participated in 25 cases and/or complaints meetings. These meetings were held approximately twice a month with participation by Executive Director and Legal and Enforcement Division staff.
- B. Division Staff mailed 197 Preliminary Notice Letters (PNLs) in FY2001, in accordance with the priorities established for the Division, as compared to FY2000, when the Division mailed 178 PNLs (10.7% increase). The Division dramatically decreased the number of days to mail PNLs in FY2001 to 112.5 days and significantly reduced the backlog of disciplinary cases.
3. To plan and conduct a minimum of 15 days of informal conference sessions in FY2001 to adjudicate violators of pharmacy laws/rules.

Status: **ACCOMPLISHED**

Comment: During FY2001, the Division conducted 16.5 days (8 sessions) of informal conferences for 139 licensees, as indicated in the chart below. As compared to FY2000, the number of conference days increased by 10%.

INFORMAL CONFERENCES

DATES OF INF. CONF.	# OF DAYS	# OF LICENSEES	# OF LICENSEES DISMISSED	BOARD MEMBER PARTICIPANT
Sept. 13-14, 2000	2	24	4	Oren Peacock, R.Ph.
Oct. 25-26, 2000	2	13	1	Wicki Erickson
Dec. 5-6, 2000	2	12	2	Doyle High, R.Ph.
Jan. 17-18, 2001	2.5	26	2	Roger Anderson, R.Ph.
1st & 2nd Qtrs.	8.5	75	9 (12%)	
Feb. 28 - Mar. 1, 2001	2	13	4	Rosemary Combs
April 18-19, 2001	2	15	2	Bill Pittman R. Ph.

DATES OF INF. CONF.	# OF DAYS	# OF LICENSEES	# OF LICENSEES DISMISSED	BOARD MEMBER PARTICIPANT
June 13-14, 2001	2	17	3	Kim Caldwell, R.Ph.
July 11-12, 2001	2	19	4	Roger Anderson, R.Ph.
3rd & 4th Qtrs.	8	64	13 (20%)	
TOTAL FY2001:	16.5	139	22 (16%)	

4. To refer disciplinary cases to the State Office of Administrative Hearings (SOAH) throughout FY2001, and file a complaint with SOAH within an average of 120 days of the date that the agency determines the case cannot be settled with an Agreed Board Order.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

At the onset of FY2001, three cases were ongoing at the State Office of Administrative Hearings (SOAH). The Division filed formal Complaints at SOAH, within 120 days that the case failed to settle with an Agreed Board Order, for nine additional cases in FY2001.

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

Five contested administrative hearings were conducted. One case was settled during the administrative hearing, as mentioned above. The other four hearings resulted in Proposals for Decisions (PFD) issued by the Administrative Law Judges. All cases were decided in favor of TSBP, and in each case, the Board adopted a Board Order accepting the PFD.

Two cases were dismissed based on lack of jurisdiction (i.e., license expired) and/or lack of sufficient evidence to proceed.

The other two cases were planned for hearing in FY2002.

SOAH performed 95.08 hours of work for the TSBP in FY2001 at an hourly rate of \$90 per hour, totaling \$6823.81. Since the allowable number of hours of SOAH work for the TSBP was 102.8, no additional expenditure was required by TSBP.

5. To research legal issues and when necessary, to draft requests for Attorney General Opinions throughout FY2001; 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 FY2001; 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 (OAG)

1. Assistant Attorney General Assigned to TSBP

Division staff continued to serve as liaison with the OAG throughout FY2001. Assistant Attorney General, Courtney Newton, left employment with the Administrative Law Section of the OAG on August 10, 2001, and no replacement was named by the Administrative Law Section to represent TSBP.

2. Appeals; Injunctions; Civil Litigation

- a. No disciplinary cases were appealed and no injunctions were filed during FY2000.
- b. General Counsel, in consultation with the General Litigation Division of OAG, responded to a subpoena in a lawsuit filed against the Texas Alcohol and Beverage Commission for reverse discrimination.
- c. General Counsel assisted OAG in investigations and in lawsuits against internet pharmacies. Division staff and other agency staff met with an Assistant Attorney General to discuss and develop options for settlement of civil litigation against Class E pharmacies operating on the internet, including an agreed judgment and permanent injunction.
- d. One administrative appeal existed at the beginning of FY2001. General Counsel coordinated with an Assistant Attorney General in the Administrative Law Section for the hearing in the appeal of the reinstatement case, which was heard in Travis County District Court in November 2000. The TSBP Board Order was affirmed, and the District Court decision was not appealed.
- e. General Counsel coordinated OAG representation on the matter of a bankrupt pharmacy owing an administrative penalty to TSBP.

3. Requests for AG Opinions

- a. The Honorable Toby Goodman, Chair of the Committee on Juvenile Justice and Family Issues of the Texas House of Representatives, requested an AG opinion regarding whether a TSBP rule specifying that no drugs shall be included on a list of narrow therapeutic index drugs is consistent with section 562.014 of the Texas Occupations Code, which requires the Board, by rule, to "establish a list of narrow therapeutic

index drugs." General Counsel responded in a brief supporting TSBP's position to adopt a null list of NTI drugs. The OAG issued an opinion that the rule was valid and consistent with legislative intent.

- b. General Counsel drafted a letter to assist OAG regarding an opinion request on the issue of whether federal law preempts regulation by the Texas Department of Health relating to certain drugs shipped to foreign countries.
- c. Division staff requested an open records decision in response to a request for investigative information.

B. Legal Research and Advice on Agency Administration

- 1. General Counsel reviewed the following contractual issues:
 - a. contract with the National Association of Boards of Pharmacy for NAPLEX and MPJE examinations;
 - b. contract with peer assistance provider;
 - c. service level agreement with KPMG to provide on-line renewal for pharmacy and pharmacist licensure renewals; and
 - d. professional service agreement with DrugTest, Inc.
- 2. General Counsel reviewed Internet Privacy Policy for publication on TSBP website.
- 3. General Counsel researched issue of TSBP's authority to adopt a null list of narrow therapeutic index (NTI) drugs and drafted a brief in response to the AG Opinion request regarding the mandate for TSBP to adopt a list of NTI drugs.
- 4. Division staff researched the following issues:
 - use of expert witness testimony and requirements for overcoming challenges to expert testimony
 - mandatory collection of Social Security numbers by state licensing agencies to assist in child support enforcement and suspension of license for failure to pay child support
 - record retention of imaged files
 - federal equivalent to chapter 567 of the Occupations Code for labeling requirements
 - Texas legislative process
 - Federal Food and Drug Administration restrictions on compounding by pharmacists
 - procedures for Board member election
 - possession of a concealed weapon by employees and non-employees

- crimes of moral turpitude
 - internship requirements for foreign pharmacy graduates
 - effect of deemed admissions in an administrative proceeding
 - passive inhalation studies on marijuana
5. Division staff researched and prepared a memorandum to agency staff regarding the legal issues involving the Tort Claims Act and the liability of the agency and the employee for suit against individual employees involved in automobile accidents while on agency business.
 6. General Counsel provided assistance to the Director of Administration and Licensing regarding TSBP response to an audit conducted by the Texas Commission on Human Rights (TCHR) on personnel policy and procedural systems and updated performance guidelines to incorporate TCHR requirements.
 7. General Counsel drafted Goals and Objectives for the Legal Division for FY2002.
- C. Technical Assistance to Local/State/Federal Prosecutors
1. General Counsel provided information regarding licensee to Assistant District Attorney in Dallas County to assist with prosecution.
 2. General Counsel successfully appealed decision by Department of Veterans Affairs to withhold name of pharmacist subject to a pending TSBP investigation.
 3. General Counsel provided information on registration of pharmacy technicians to attorney from Kansas Board of Pharmacy.
 4. General Counsel provided information and drafted a letter regarding the law on Internet prescribing to assist investigator with the Food and Drug Administration.
 5. General Counsel provided information on Texas law regarding NTI drugs to the Director of the Arkansas Pharmacy Board.
 6. Division staff coordinated and participated in an interagency meeting to discuss Internet pharmacy practice, which was attended by representatives of the Texas State Board of Medical Examiners, Federal Food and Drug Administration, Drug Enforcement Agency, and TSBP.
 7. Division staff coordinated with the Oklahoma State Board of Pharmacy, United States Attorney's office, and Federal Food and Drug Administration in the prosecution of Internet pharmacies.
 8. General Counsel provided information at the request of the United States Department of Health and Human Services Office of the Inspector General regarding disciplinary action taken against licensees based on criminal actions.

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 by using the Internet to check the respective web site of the agency publishing the opinions.

7. To assist with open records requests throughout FY2001, in accordance with the procedures set forth in the Texas Public Information Act.

Status: ACCOMPLISHED

Comment: Division staff were responsible for answering all telephonic open records requests on licensees subject to disciplinary action. Division staff responded to an average of approximately 10 verbal requests per month for complaint and disciplinary information. General Counsel reviewed numerous TSBP responses to open records requests for legal compliance with the Public Information Act.

8. To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2001.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

A. Surveys/Questionnaires and Other Correspondence

1. Division staff completed the Survey of Organizational Excellence from the University of Texas and a survey on continuing legal education for attorney from the State Bar of Texas.
2. Division staff prepared responses to requests for information from Indian Health Services regarding the applicability of Texas pharmacy laws to a tribally operated health clinic on reservation land.

B. Technical Assistance to Board Members and Board Staff

1. Division staff assisted Board Members by conducting legal research on several issues (see Ongoing Objective #9).
2. Division staff drafted subpoenas to assist with the investigative work of the TSBP investigators.
3. General Counsel provided legal advice and consultation on numerous personnel issues during FY2001, including:
 - ADA employment issues
 - requests for medical examination of employee
 - disciplinary actions
 - FMLA requests for medical certification

- request for extended medical leave
 - parental leave
 - performance evaluations and job description standards
4. General Counsel assisted in the review/drafting of proposed rules and preambles for rules, and the review of rule submissions to the *Texas Register*, including rules regarding electronically produced signatures on prescriptions, definition of "inpatient," pharmacy technician training programs, pharmacist certification programs, and agency vehicle procedures.
 5. General Counsel continued to serve as the agency's Ethics Advisor and continued to assist Board Members and staff with ethical issues.
 6. Division staff handled numerous legal questions from all staff regarding a myriad of issues.
 7. General Counsel reviewed numerous complaint files to verify accuracy of information and citations in warning letters drafted by Enforcement Division staff.
 8. Division staff prepared and conducted orientations of all new TSBP employees during FY2001 regarding the Legal Division, the legal process, ethics, Public Information Act and Open Meetings Act.
 9. Division staff made presentations at all Board meetings held in FY2001. Presentations included information about proposed Agreed Board Orders and proposed Board Orders following a SOAH proceeding.
 10. General Counsel assisted in the review and preparation of minutes of four regularly scheduled Board meetings and a special Board meeting in July 2001.
 11. Division staff assisted TSBP's Licensing Division, with respect to eligibility for licensure and internship (from individuals who had checked "yes" on the attest questions on the TSBP application) by either verifying accuracy of warning letters or by handling the cases through the legal process.
 12. General Counsel assisted Director of Administrative Services and Licensing with the implementation of imaging system.
 13. General Counsel provided a training session to Enforcement Officers regarding the use of business records affidavits and authorizations for release of information and the referral of cases following a compliance inspection.
 14. General Counsel coordinated a training session by the Texas Ethics Commission for the TSBP staff and developed ethics hypotheticals for use by the trainer.
 15. General Counsel handled a conflict of interest issue involving Board member participation on task force to develop pharmacy technician training program for a community college.

16. Division staff prepared memo to advise Board members of new developments in Open Meetings Act.
17. General Counsel developed modifications to the peer assistance contract for confidentiality provision.
18. General Counsel drafted email disclaimer for use by agency personnel in sending e-mails outside TSBP.
19. Division staff drafted TSBP Newsletter article informing of policy changes regarding administrative penalties for failure to obtain the required continuing education hours and assisted in preparing an article on pharmacist response to subpoenas.
20. General Counsel participated in committee meetings to suggest and implement improvements to the TSBP website.
21. Division staff researched and prepared handout for Board Business meeting regarding requirements for internship hours for foreign pharmacy graduates in other states.
22. Division staff assisted investigator by drafting deposition on written questions of a physician for use during investigation of whether harm resulted from a dispensing error.
23. Division staff participated on a committee to develop articles for the TSBP Newsletter.

N. Technical Assistance to Other Agencies and Organizations

1. Division staff met with representatives of the Texas Pharmacy Association Pharmacy Recovery Network (PRN) to discuss and provide input regarding ongoing goals and activities. General Counsel provided input regarding PRN mission statement and business plan.
2. General Counsel provided legal assistance to an attorney from Texas Department of Health on statutory requirements that prohibit pharmacists from shipping unused drugs from a long-term care facility to a foreign country.
3. Division staff gave the following presentations during FY2001:
 - Lori Tullos coached a University of Texas mock trial team in preparation for mock trial competition.
 - Lori Tullos taught legal writing at the University of Texas Legal Assistant program.

4. General Counsel coordinated with the Texas State Board of Medical Examiners to provide a response to Senator Van de Putte regarding pharmacists filling prescriptions from physicians with a suspended license.
 5. General Counsel responded to a request for information from the Texas State Board of Optometry regarding restrictions on dispensing prescriptions for practitioners' families.
 6. General Counsel assisted Executive Director and Director of Administration and Licensing in meeting with representatives of HEB regarding change of ownership applications for change in corporate entities.
9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2001.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

- A. General Counsel was selected by Executive Director to serve on the HPC Legal Committee, along with attorneys from other agencies.
 - B. General Counsel attended HPC meeting presentation by the United States Department of Health and Human Services Office of the Inspector General regarding Medicare/Medicaid exclusion.
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 FY2001.

Status: ACCOMPLISHED

Comment: In FY2001, Division staff attended several general staff meetings, including training session on ethics by the Texas Ethics Commission, and in-house training sessions on employee benefits (e.g., "Planning Your Retirement Seminar" and insurance benefits). In addition, Division staff attended the following programs, seminars, and events:

Kerstin Arnold, J.D.	
9/30/00	Training on Access Database
10/6/00	Employment Litigation
11/20/00	Multidisciplinary Practice, Conducted by American Inns of Court
01/2/01	Telicon 2001 Legislative Seminar
1/4/01	Travis County Bar Association Guide to 2001 Legislature
1/23/01	Austin Health Lawyers Seminar on 2001 Legislative Issues
2/1-2/01	Advanced Employment Law (Houston, TX)
3/20/01	Legal Ethics conducted by Austin Inns of Court

Kerstin Arnold, J.D.	
07/18-21/01	TPA Annual Meeting (Houston, TX)
08/13-17/01	Governor's Management Development Program

Julie Hildebrand, J.D.	
10/6/00	State Bar Fall 2000 Technology Fair
11/28/00	Office of the Attorney General Privacy Forum and Open Government Conference
1/2/01	Telicon 2001 Legislative Seminar
1/4/01	Travis County Bar Association Guide to 2001 Legislature
1/23/01	Austin Health Lawyers Seminar on 2001 Legislative Issues
2/10/01	Central Texas High School Mock Trial Judge
3/29/01 and 5/08/01	Westlaw Training
7/18-21/01	TPA Annual Meeting (Houston, TX)

Lori Tullos, J.D.	
10/26-27/00	Advanced Administrative Law Conference
11/28/00	Office of the Attorney General Privacy Forum and Open Government Conference
1/4/01	Travis County Bar Association Guide to 2001 Legislature
1/23/01	Austin Health Lawyers Seminar on 2001 Legislative Issues
2/10/01	Central Texas High School Mock Trial Coordinator and Judge
5/4/01	TCIC/NCIC Training
6/16-22/01	University of Utah School on Alcoholism and Drug Addiction

Janelle Nastri	
9/29/00	Training on BCS Imaging System
11/3/00	Austin Conference for Women
12/15/00	Transferred to Enforcement Division

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Cheryl Sepulveda	
11/3/00	Austin Conference for Women
5/4/01	TCIC/NCIC Training

Georgienne Nassauer	
2/20/00	Employment began
2/00	TSBP Orientation
3/5/01	Excel Training
5/4/01	TCIC/NCIC Training
7/01	Motivate Yourself and Others, National Management Institute Tapes
8/01	How to Delegate Effectively, National Management Institute Tapes

11. To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2001.

Status: ACCOMPLISHED

Comment: Formal performance reviews were conducted as follows:

Employee	Date of Evaluation	Evaluation By
Julie Hildebrand, J.D.	June 15, 2001	General Counsel
Lori Tuijos, J.D.	June 15, 2001	General Counsel
Janelle Nastri	Transferred to Enforcement Division on 12/15/00	
Cheryl Sepulveda	November 7, 2001 and May 31, 2001	Assistant General Counsel
Georgienne Nassauer	Employment began on 2/20/01	

Other activities related to Division personnel are listed below:

- A. Division posted and filled a Legal Assistant position (employed February 2000).
- B. Division staff developed orientation schedules/orientation manuals and/or conducted orientations for all new staff hired by TSBP during FY2001.

- C. General Counsel updated job descriptions and performance measures for all employees in Legal Division to reflect changes made by the Management Team.
 - D. General Counsel conducted team meetings every week with Division staff.
12. To destroy records in accordance with the agency's record retention plan throughout FY2001; to update the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2001.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

A. Records Management

During FY2001, Division staff destroyed records, in accordance with the TSBP record retention schedule. In addition, Division staff prepared all FY2001 Board Orders and Agreed Board Orders for microfiche by the State Library.

B. Policies and Procedures

General Counsel provided extensive assistance to the Director of Administrative Services and Licensing and Director of Enforcement with the revision of the TSBP Employee Handbook which was distributed to all employees in December 2000, in compliance with the directives of the Texas Human Rights Commission.

13. To recommend policies and procedures to the Executive Director which will enhance the efficiency and effectiveness of the agency throughout FY2001.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. General Counsel recommended changes to the agency's computerized complaint tracking system to improve messages to the user and to make the system easier to understand, and met with representatives of Department of Information Resources to discuss implementation of the changes.
- B. Division staff implemented a computer tracking system for cases referred for adjudication in FY2001, and beginning September 1, 2000, all active legal cases were entered into the system and accurately tracked.
- C. Division staff modified standard business records affidavit forms for use during the investigative process to assist investigators in preparing affidavits.
- E. General Counsel provided extensive consultation and developed written policies and procedures for the complete revision of TSBP Employee Handbook and associated personnel forms in compliance with the directives of the Texas Human Rights Commission.

- F. Division staff assumed the additional task of drafting briefing notes for all cases appearing at Informal Conferences. The briefing notes were standardized and streamlined to assist panel members by providing relevant information in a clear and concise format.
 - G. General Counsel participated in the task force to develop pharmacy peer review guidelines and provided input and legal advice in the drafting and publication of the guidelines, including confidentiality provisions of the guidelines.
 - H. General Counsel participated in the task forces to implement (1) S.B. 768, Acts of the 77th Legislature, relating to Emergency Medication Kits; (2) S.B. 98, Acts of the 77th Legislature, relating to Automated Pharmacy Systems; and (3) S.B. 65, Acts of the 77th Legislature, relating to Telepharmacy Systems. General Counsel assisted Executive Director and Director of Professional Services in development of rules to implement these statutes.
 - I. General Counsel modified attestation questions for pharmacy and pharmacist licensure applications to improve agency's disciplinary procedures.
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 FY2001.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. Texas Pharmacy Act -- General Counsel or Division staff made the following recommendations to amend the Texas Pharmacy Act as follows:
 - (1) Modify the procedure for temporary suspensions of pharmacists to allow a panel of the Board to hear the suspension proceedings and then allow the case to be heard at SOAH for approval by the Board.
 - (2) Add pharmacies to the temporary suspension provisions.
 - (3) Add the Texas Food, Drug and Cosmetics Act to §565.001(9) of the Pharmacy Act.
- B. TSBP Rules -- General Counsel or Division staff made the following recommendations to amend the Board rules as follows:
 - (1) Change reinstatement procedures that a pharmacist must meet all requirements for initial licensure after 10 years without an active license, and that any reinstatement may impose a requirement for an internship by the pharmacist;
 - (2) §291.34(c)(3)(G): modify to include list of all prescription drug orders dispensed to the patient by any pharmacy;

- (3) §291.34(h)(4): include dangerous drugs in the requirement to verify and initial receipt;
- (4) §281.7(a): include in the definition of *unprofessional conduct*, "violating the provisions of a contract with a board approved peer assistance program to aid impaired pharmacists and pharmacy students";
- (5) §295.2: add provision for relief pharmacists to notify Board of name and address of relief pharmacy company and authorize the company to provide the current place of employment when requested by a representative of the Board;
- (6) §281.19: add section regarding collection process as follows: "The board shall seek to collect damages by following the procedures for the collection of delinquent obligations established by the Office of the Attorney General in the Uniform Guidelines and Referral of Delinquent Collections set forth in 1 TAC §59.2";
- (7) §281.57: add peer review guidelines as a factor for mitigation of disciplinary action

General Counsel worked with the Executive Director to draft the following proposed rules:

- Requirement for valid practitioner-patient relationship prior to dispensing prescriptions
- Automated pharmacy systems
- Emergency medication kits
- Telepharmacy
- Posting of pharmacy technician certificates

C. Proposed Legislation

General Counsel provided legal advice in the drafting process of proposed legislation during the 77th Legislative Session.

15. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2000 Annual Report* to be presented to the Board by its May 2001 Board meeting.

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2000 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 2001.