

Roger W. Anderson, Dr.P.H., R.Ph. President

Gay Dodson, R.Ph.
Executive Director/Secretary

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Annual Report FY2003



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

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

Doyle E. High, R.Ph. Vice President Haskell 12/19/01-8/31/07

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

Juluette F. Bartlett-Pack, Ph.D. Houston 1/13/03 - 8/31/07

W. Michael Brimberry, R.Ph., MBA Austin 12/19/01-8/31/07 Kim A. Caldwell, R.Ph. Plano 10/27/97-8/31/03

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

Wiki Erickson, M.A. Public Member Waco 10/27/97-8/31/03

Donna Burkett Rogers, M.S., R.Ph. San Antonio 10/27/97-8/31/03

STAFF

Office of the Executive Director

Executive Director

Gay Dodson, R.Ph.

Executive Assistant

Kay Wilson, C.P.S.

Receptionist

Estella Casarez

Administrative Services & Licensing

Division Director

Cathy Stella, P.H.R.

Chief Accountant

Jane Bennett

Accountant II

Mary Helen Oviedo

Accountant IV

Sandra Morton

Staff Services Officer II

Robbi Dana

Information Resources Manager

Steve Rapp

Web Technician

Todd Hayek

Purchaser

Darlene Guthrie

Licensing Specialists

Lisa Ake

Rachel Glass

René Howard

Melinda Uballe

Professional Services

2

Division Director

Steve Morse, R.Ph.

Administrative Assistant

Retta Cole

Note: The organizational structure reflects the organization as of August 31, 2003.

STAFF

Legal

General Counsel

Kerstin Arnold, J.D.

Assistant General Counsel

Julie Hildebrand, J.D. Lori Tullos Barta, J.D. Legal Assistants

Georgienne Nassauer Cheryl Sepulveda

Enforcement

Division Director

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

Assistant Director

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

Chief Investigator

Joe Lewis

Chief Compliance Officer

Cy Weich, R.Ph.

Staff Compliance Officers

Ben Santana, R.Ph.

Enforcement Specialist

Janelle Nastri

Enforcement Officers

Sarah Guevara

Amy Shroeder

Jill McGahey

Senior Administrative Assistant

Sherry Stevenson, C.P.S.

Investigators

Anita Arnet Gordon Lunsford

Robert Ebrom

Wayne Jones

Richard Klemme

In-House Investigator

Melissa Weeden

Compliance Officers

Mike Ethridge, R.Ph.

Iona Grant, R.Ph.

Richard Thompson, R.Ph.

Compliance Specialist

Carol Willess

Administrative Assistants

Patty Galan

Angela Hicks

Diane Torres

Note: The organizational structure reflects the organization as of August 31, 2003.

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 FY2003.

Task Force on Pharmacy Compounding

Lawrence A. Trissell, B.S., PharmD, F.A.S.H.P. (Chair), Houston Dr. Loyd Allen, Ph.D., R.Ph., Edmond, OK Howard Biel, R..Ph., Waco Pat Downing, R.Ph., Longview Ben Fry, R.Ph., San Benito Allan Hawkins, M.S., R.Ph., Austin Steve Sims, Austin Karen Tannert, R.Ph., Austin

Board Member Liaisons Roger Anderson, Dr.P.H., R.Ph., Houston Oren Peacock, R.Ph., Sachse

FY2003 ANNUAL REPORT (September 1, 2002 - August 31, 2003)

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 (FY2003-2007)

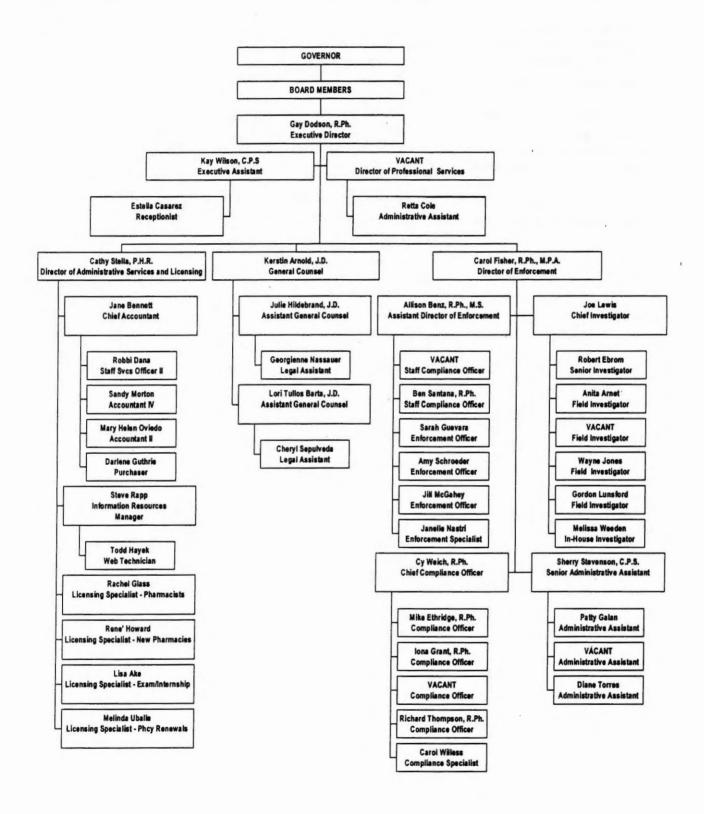
- We will establish and implement reasonable standards for pharmacist education and practice, and for the
 operations of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of
 Texas.
- We will assertively and swiftly enforce all laws relating to the practice 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.
- 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 FY2003 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 2003



FY2003 FISCAL REPORT

The following represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2003 (September 1, 2002 - August 31, 2003). 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 "FY03 Annual Financial Report."

FY2003 was a financially stressful year, in that the legislature mandated a 7% reduction to all agencies due to an overall budget shortfall within the state of Texas. This reduction occurred in mid-year, and amounted to \$208,538 for the TSBP. Reductions were made to many areas such as postage, newsletters, travel, membership fees, printing, publications, capital expenditures, salaries, and per diem.

The cost saving measures taken by board and staff enabled the agency to comply with the above reduction and ended its fiscal year with an unexpended balance of approximately \$9,962 or 0.34% under budget.

FINANCIAL STATEMENT — FISCAL YEAR 2003

September 1, 2002 - August 31, 2003

		BUDGETED	EXPENDED	REMAINING BUDGET	PERCENT REMAINING
1008	Professional Fees	119,606.87	119,606.87	0.00	0.00%
3002	Gas, Other Fuels & Lubricants	10,197.00	9,917.83	279.17	2.74%
3003	Vehicles - Maintenance	6,952.00	6,803.11	148.89	2.14%
3004	Consumable Supplies & Materials	17,727.36	16,835.24	892.12	5.03%
3005	Postage	26,098.87	26,098.87	0.00	0.00%
3006	Telephone	35,287.17	35,287.17	0.00	0.00%
3014	Subscriptions	9,995.00	9,995.00	0.00	0.00%
3015	Postage - Newsletter	7,000.00	3,065.03	3,934.97	56.21%
3018	Travel - Board Members (Service)	16,864.00	16,738.33	125.67	0.75%
3019	Travel - Bd Members (Conference)	3,721.21	3,675.01	46.20	1.24%
3020	Travel - Bd Members (Conf-Out of State)	1,767.95	1,767.95	0.00	0.00%
3027	Travel - State Vehicle	684.12	684.12	0.00	0.00%
8028	Travel - Staff (Service)	60,522.80	60,228.31	294.49	0.49%
8037	Travel - Conf - State Vehicle	30.00	30.00	0.00	0.00%
8038	Travel - Staff (Conference)	4,320.47	4,240.79	79.68	1.84%
039	Travel - Staff (Conf-Out of State)	1,514.90	1,514.90	0.00	0.00%
516	Membership Fees & Dues	2,387.00	2,387.00	0.00	0.00%
518	Administrative Support Service	16,855.01	16,855.01	0.00	0.00%
520	Witness Expense	211.90	211.90	0.00	0.00%
521	Criminal Investigative Expense	1,000.00	337.92	662.08	66.21%
534	Freight & Delivery Service	2,392.99	2,392.99	0.00	0.00%
535	Maint & Repair - Furn & Equip	6,015.44	6,015.44	0.00	0.00%
536	Rental of Furn & Equip	13,657.68	13,657.68	0.00	0.00%
537	Rental of Space	3,355.49	3,355.49	0.00	0.00%
538	Bonds & Insurance	6,273.25	6,273.25	0.00	0.00%
539	Maintenance & Repair-Building	9.64	9.64	0.00	0.00%
540	Reproduction & Printing	16,231.34	16,231.34	0.00	0.00%
541	Printing Newsletter	14,320.00	13,211.49	1,108.51	7.74%

FINANCIAL STATEMENT - FISCAL YEAR 2002

		BUDGETED	EXPENDED	REMAINING BUDGET	PERCENT REMAINING
3545	Computer Expenses (Northrop)	119,879.00	119,008.46	870.54	0.73%
3570	Registration Fees	10,356.50	10,356.50	0.00	0.00%
3571	Board Member Registration	4,485.00	4,485.00	0.00	0.00%
3581	Furn & Equip - Not Inventoried	4,592.87	4,592.87	0.00	0.00%
3585	Computer Software - Capitalized	7,800.00	7,800.00	0.00	0.00%
3586	Computer Equip-Inventoried	371.00	371.00	0.00	0.00%
3587	Computer Equip Capitalized-Capital Bdgt	42,117.00	42,117.00	0.00	0.00%
3588	Books & Recorded Materials	1,530.89	1,530.89	0.00	0.00%
3590	Miscellaneous (HPC transfer)	33,241.00	33,241.00	0.00	0.00%
3590	Miscellaneous -Fees	2,309.49	2,309.49	0.00	0.00%
3595	Awards	675.50	675.50	0.00	0.00%
5001	Purchase of Vehicles	28,652.00	28,652.00	0.00	0.00%
7001	Exempt Salaries	70,000.00	70,000.00	0.00	0.00%
7002	Classified Salaries - Full Time	1,969,133.09	1,969,133.09	0.00	0.00%
7017	Merit	17,500.00	17,500.00	0.00	0.00%
7020	Hazardous Pay	2,114.00	2,114.00	0.00	0.00%
7022	Longevity	32,300.00	32,300.00	0.00	0.00%
7023	Lump Sum Payment	37,838.53	37,838.53	0.00	0.00%
7025	Compensatory Per Diem	5,850.00	4,753.77	1,096.23	18.74%
7047	Retention Bonus	3,000.00	3,000.00	0.00	0.00%
7219	Subscription Fee - Profile	131,698.00	131,698.00	0.00	0.00%
7947	State Office of Risk Management	12,904.00	12,479.98	424.02	3.29%
	TOTAL	2,943,347.33	2,933,384.76	9,962.57	0.34%

EXECUTIVE DIRECTOR'S SUMMARY

This FY2003 Annual Report reflects the objectives accomplished and activities conducted by the agency necessary to implement its Strategic Plan. The agency continued to enjoy an excellent reputation with a broad range of customers as a consumer protection advocate and also has the support of its activities by the regulated profession.

Numerous accomplishments were achieved by TSBP staff that are highlighted at the beginning of each division report. Although specific activities are highlighted under each Division Director's Objectives, TSBP experienced the following major accomplishments and constraints in FY2003.

FY2003 SIGNIFICANT ACCOMPLISHMENTS

- 1. The agency accomplished or partially accomplished 100% of its 106 objectives [102 accomplished (96.2%) and 4 partially accomplished (3.8%)]. The agency also met or exceeded eight (73%) of its 11 key performance measures listed in the Appropriations Act, which are required to be reported on an annual basis to the Legislative Budget Board as indicated below. The two cost measures (Average Cost of Issuing an Individual and Facility License) were not met because of the passage of S.B. 187 by the 77th Legislature. This bill mandated the agency to charge each licensee a subscription fee of \$10, payable to the Texas OnLine Authority. Targets for this performance measure were established before passage of this legislation. The third performance measure that was "not met" was the number of jurisdictional complaints received. This performance measure is one that cannot be controlled by the agency.
- Significant efficiencies and/or benefits, primarily for Board customers, have been or will be gained through the implementation of a number of projects that included:
 - Implementation of the Pharmacist Online license renewal system;
 - Implementation of wireless handheld devices for inspection program; and
 - Active computer virus monitoring and firewall installation.
- The agency continued its exemplary record of excellence in operation as evidenced by the following:
 - a 100% compliance rating by the Texas Building and Procurement Commission on the Pre-Payment & Procurement audit of service contracts;
 - a 98% compliance rating by the Texas Building and Procurement Commission on a Post-Procurement audit of service contracts; and
 - an unqualified certification of the agency's FY2002 key performance measures, conducted by agency internal auditor.
 - a January 2003 Department of Information Resources (DIR) controlled penetration test to assess the security of the agency's computer systems network, and a test of dial-up lines for modem access which resulted in an inability to penetrate the firewall's defenses that protect the internal network, and no vulnerabilities were found through the test of dial-up lines.

EXECUTIVE DIRECTOR SUMMARY

4. The agency received more complaints in FY2003 than it did during the prior four fiscal years, as indicated in the chart below. In addition, TSBP significantly improved the agency's complaint resolution time in FY2003: a 31% decrease from 221 days in FY2002 to 153 days in FY2003, as indicated in the chart below.

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY99	1533		1335		87%	221 Days	
FY00	1577	+3%	1513	+13%	96%	220 Days	-0.45%
FY01	1683	+7%	1667	+10%	99%	262 Days	+19%
FY02	1836	+9%	2137	+28%	116%	221 Days	-16%
FY03	1935	+5%	1887	-12%	97.5%	153 Days	-31%

- In April 2003, TSBP implemented a new program that required new pharmacies to be inspected before receiving a pharmacy license. This procedure will help ensure that a pharmacy license (a license that allows an individual to purchase prescription drugs) is issued to legitimate operations. From May -August 2003 (four months of FY2003), Compliance Officers conducted 22 pre-inspections.
- 6. TSBP entered significantly more disciplinary orders in FY2003 than in any prior fiscal year (a 17% increase over FY2002). As indicated in the following chart, 98.1% of the disciplinary cases were settled through the entry of Agreed Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and costs.

Fiscal Year	Number of Board Orders (BOs)	Number of Agreed Board Orders (ABOs)	Number of Disciplinary Orders (BOs & ABOs)	% Increase in Disciplinary Orders	% ABOs of Total Orders
FY99	0	108	108	-	100%
FY00	0	126	126	17%	100%
FY01	4	141	145	15%	97%
FY02	2	179	181	25%	98.9%
FY03	4	209	213	17%	98.1%
TOTAL	11	763	773	97% OVER 5 YRS.	98.7%

- 6. The following TSBP Board Members were appointed to offices, received honors, or received recognition in FY2003:
 - Roger W. Anderson, Dr.P.H., R.Ph., was selected as a member of the National Association of Boards of Pharmacy (NABP) Task Force to Examine NABP's Data Resources.

EXECUTIVE DIRECTOR SUMMARY

- B. W. Michael Brimberry, R.Ph., MBA, was selected as a member of the NABP Committe on Law Enforcement and Legislation.
- Kim A Caldwell, R.Ph., served as chair of the NABP Task Force to Examine NABP's Data Resources.
- Rosemary Forester Combs was selected as a member of the NABP Committee on Law Enforcement and Legislation.
- E. Wiki Erickson, M.A., was selected as an alternate member of the NABP Task Force on Evaluation and Modification of the NABP Constitution and Bylaws.
- F. Doyle E. High, R.Ph., was selected as an alternate member of the NABP Committee on Constitution and Bylaws.
- G. Oren Peacock, R.Ph., was elected as the District 6 representative to the NABP Executive Committee; and served as chair of the NABP Task Force on Evaluation and Modification of the NABP Constitution and Bylaws.

FY2003 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

- Budget Reductions of FY2003: In January 2003, agencies were informed of a projected overall budget shortfall of \$1.8 billion and instructed by the Governor, Lieutenant Governor, and Speaker of the House to reduce FY2003 budgets by 7%. Specifically, agencies were instructed to eliminate foreign travel and out-of-state travel not necessary for statutory obligations, reduce or eliminate planned capital purchases for the remainder of FY2003, and contracts for consultants and professional services. Further reductions to be considered included administrative costs, a hiring freeze or reduction in force if necessary and reductions to current activities not required by law. The TSBP accomplished these reductions by outsourcing the agency lawbook, greatly reducing out-of-state travel, significantly reducing all other expenditures, and lapsing a number of vacant positions in the Enforcement Division for the remainder of FY2003.
- 2. Legislative Changes due to State Fiscal Crisis: The state budget for the FY2004/2005 biennium was balanced by closing a projected \$10 billion shortfall without raising taxes. However, a number of legislative changes that affect all state employees were enacted that reduced or will ultimately reduce the earning dollar of these employees. These legislative changes include:
 - reducing the budgets of state agencies, which, in many cases, means a reduction or elimination of merit pay for outstanding performance;
 - significant increases to out-of-pocket costs for health coverage by all state employees;
 - reduced state contribution of health care coverage for part-time employees;

EXECUTIVE DIRECTOR SUMMARY

- implementing a 90-day waiting period for health insurance and state retirement contribution for new state employees;
- increasing the minimum age for retiree insurance; and
- allowing a lump sum incentive payment for eligible retirees, which must be paid out of agency appropriations, thus reducing the funds available to the agency.
- 3. Employee Turnover: TSBP experienced significant turnover of employees in FY 2003 with a total of eight employees leaving employment with the agency. Included in this number were two long-term employees as follows:
 - Division Professional Services Director Steve Morse resigned after 19 years of dedicated service to the Board. Due to the Director's resignation many of the responsibilities of the Division, were delegated to other Divisions within the agency for the remainder of FY2003.
 - After 21 years of loyal service to TSBP, Chief Compliance Officer Cy Weich, R.Ph., retired at year end FY2003 (effective August 31, 2003). Mr. Weich was consistently a top performer, providing assistance and guidance to pharmacists who appreciated his experience, insight, and expertise. His absence will have a negative impact on the Division's performance in FY2004.

FY2003 GOALS AND OBJECTIVES OFFICE OF THE EXECUTIVE DIRECTOR

GOAL

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

Objectives (New)

 To provide testimony, attend public hearings, and provide any fiscal or technical information, as required by the 78th Legislature, and to review all legislation introduced by the 78th Legislature and monitor the progress of any legislation that has a potential impact on TSBP operations or the practice of pharmacy throughout FY2003.

Status: ACCOMPLISHED

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

A. A total of 6,208 bills were introduced in the 78th Regular Legislative Session, and the 1st, 2nd, and 3rd Called Sessions. The Executive Director reviewed or assigned a staff member to review of each of these bills. A total of 446 bills that affected the agency or the practice of pharmacy were tracked and monitored as follows.

	78 _{th}	Legislature, Regular Ses	sion	
	Sessio	n Totals	TSBP Tra	acked Bills
	Filed	Passed	Filed	Passed
House	3,736	839	270	52
Senate	2,018	565	143	51
Regular Session Totals	5,754	1,404	413	103

	78th	Legislature, 1st Called Ses	ssion	
	Sessio	n Totals	TSBP Tra	acked Bills
	Filed	Passed	Filed	Passed
House	151	4	15	0
Senate	65	1	3	0
1st Called Session Totals	216	5	18	0

	78th	Legislature, 2nd Called Sess	ion	
-	Sessio	n Totals	TSBP Tra	acked Bills
	Filed	Passed	Filed	Passed
House	62	0	5	0
Senate	10	0	1	0
2 nd Called Session Totals	72	0	6	0

	78th	Legislature, 3₁₁ Called Ses	ssion	
	Sessio	Session Totals TSBI		
	Filed	Passed	Filed	Passed
House	126	11	7	3
Senate	40	3	2 .	0
3 rd Called Session Totals	166	14	9	3
Grand Totals	6,208	1,423	446	106

B. The Executive Director met with Legislators or their staff or testified before Legislative committees a total of 17 times as follows.

Date	Legislator or Committee	
9/5/02	Legislative Budget Board Staff Hearing on Budget	
9/24/02	Senate Public Health Meeting on Interim Charges	
10/1/02	Meeting with staff of Governor Perry's office to discuss Legislative Appropriations Request	
2/11/03	Senate Finance Committee Hearing (SB 1)	
2/14/03	House Appropriations Committee Hearing (HB 1)	
2/19/03	House Public Health Committee Meeting	
2/19/03	House Government Reorganization Committee Meeting	
3/5/03	Meeting with and individual concerning SB 939	
3/10/03	Senate Nominations Committee Hearing — Confirmation Hearing for New Board Members	
3/17/03	Senate Health and Human Services Committee Meeting (HB 1686)	
3/18/03	Senate Health and Human Services Committee Meeting (SB 144, SB 939 and SB 803)	
3/20/03	Meeting with Senate Staff (SB 1746)	
3/25/03	Meeting with HPC meeting (HB 2985)	

Date	Legislator or Committee
3/25/03	Meeting with HPC (HB 2985)
3/26/03	House Public Health Committee Hearing (HB 2985)
3/28/03	Senate Finance Committee Hearing (SB 1)
4/24/03	House Public Health Committee Hearing (HJR 120, HB 3486, HB 1381, and HB 2996)
4/30/03	House Public Health Committee Meeting (HB 963, HB 2046, HB 3451, SB 939, and SB 803)
5/4/03	Conference Committee Hearing on HB 1
7/10/03	House Appropriations Committee Meeting (HB 74)

- C. Significant legislation passed by the 78th Legislature that will impact the operation of the agency and/or the practice of pharmacy in Texas include:
 - 1. H. B. 1 Appropriations Act
 - (A) The FY2004-2005 base appropriation to the agency was approximately 12.5% less than the FY2002-2003 biennium. The agency FTE cap was reduced by two, to 45.
 - (B) A rider for the implement the registration of pharmacy technicians is contingent upon the agency generating \$246,432 in excess of \$3,651,000 (Object Code 3562) in fiscal year 2004 and \$479,837 in excess of \$3,881,000 (Object Code 3562) in fiscal year 2005. If this additional revenue is generated, the agency is:
 - (1) appropriated an additional \$246,432 in fiscal year 2004 and \$479,837 in fiscal year 2005; and
 - (2) the FTE cap is increased by 3 to 48 in FY2004 and by 6 to 54 in FY2005.
 - H.B. 7 Supplemental Appropriations FY2003. This bill:
 - (A) Cuts FY2003 expenditures by 7%.
 - (B) Redirects revenue received from the sale of surplus property in FY03, to GR.
 - H.B. 1166 Online license information to Department of Information Resources (DIR)
 - (A) This bill specifies that:
 - (1) DIR must establish a system that will allow a person regulated by one or more licensing authorities to file a single change of address on-line and DIR must provide the new address to each appropriate licensing authority.

- (2) DIR may expand the system to include additional categories of updated information that license holders may need to provide to more than one licensing authority; and
- (3) If the DIR uses TexasOnline to implement the system, they may recover costs.
- (B) Licensing agencies shall electronically share information regarding license holders, especially information regarding disciplinary information, with other licensing agencies to the extent it is feasible to do so and allowed by other law, under appropriate controls for the privacy, security, accuracy, and, when applicable, confidentiality of the information.
- 4. H.B. 9 relating to Homeland Security
 This bill adds a new Section 562.055, (titled Report to Texas Department of
 Health) to the Texas Pharmacy Act (Occupations Code, Subchapter J). This new
 section requires a pharmacist to report to the Texas Department of Health "any
 unusual or increased prescription rates, unusual types of prescriptions, or
 unusual trends in pharmacy visits that may be caused by bioterrorism, epidemic
 or pandemic disease, or novel and highly fatal infectious agents or biological
 toxins that might pose a substantial risk of a significant number of human
 fatalities or incidents of permanent or long-term disability."
- 5. H.B. 1095 Relating to the authority of advanced practice nurses and physician assistants to administer, provide, and carry out or sign a prescription drug order. This bill amends the definition of practitioner in Section 551.003 (34) of the Texas Pharmacy Act (Occupations Code, Subchapter J) and Section 483.001 (12) of the Texas Dangerous Drug Act (Health and Safety Code, Chapter 483) to include this new authority for advanced practice nurses and physician assistants.
- 6. H.B. 1686 Relating to pharmacies that maintain emergency medication kits at certain institutions.

 This bill amends Section 562.108(a) of the Texas Pharmacy Act (Occupations Code, Subchapter J) to allow a Class E (Non-Resident) Pharmacy to maintain drug in an emergency medication kit in a nursing home in this state provided the pharmacy is not more than 20 miles from the pharmacy.
- 7. S.B. 957 relating to emergency medication kits maintained for a veterans home. This bill also amends Section 562.108(a) of the Texas Pharmacy Act (Occupations Code, Subchapter J) to allow a United States Department of Veterans Affairs pharmacy or another federally operated pharmacy to maintain drugs in an emergency medication kit in a veterans home.
- H.B. 2292 Relating to state policy relating to financing of certain health and human services programs.

- (A) This bill adds a new Section 562.1085, (titled Unused Drugs Returned by Certain Pharmacists) and a new Section 562.1086, (titled Limitation on Liability), to the Texas Pharmacy Act (Occupations Code, Subchapter J). New Section 562.1085 allows a consultant pharmacist in a nursing home to return to a pharmacy certain unused drugs, other than a controlled substance, that were purchased from the pharmacy. The section further specifies what drugs are eligible for return to a pharmacy.
- (B) Section 562.1086 limits the liability of pharmacists who return the drugs and pharmacies that accept return of the drugs. The bill requires the Board of Pharmacy to adopt rules to implement these new sections by December 1, 2003.
- H.B. 2376 relating to the correction or removal from the statutes of obsolete references regarding the surety bonds of state officers and employees. This bill repeals Section 554.108 of the Texas Pharmacy Act (Occupations Code, Subchapter J).
- S.B. 144 relating to the requirement that certain information be provided to health care practitioners regarding the use and abuse of certain drugs.
 - (A) This bill adds a new Section 554.014 (titled Information Provided to License Holders) to the Texas Pharmacy Act (Occupations Code, Subchapter J), and new 554.015 (titled Poison Control Center Information). Section 554.014 requires the Board of Pharmacy to provide information at least every two years to license holders on:
 - prescribing and dispensing pain medications, with particular emphasis on Schedule II and Schedule III controlled substances;
 - abusive and addictive behavior of certain persons who use prescription pain medications;
 - common diversion strategies employed by certain persons who use prescription pain medications, including fraudulent prescription patterns; and
 - (4) the appropriate use of pain medications and the differences between addiction, pseudo-addiction, tolerance, and physical dependence.
 - (B) Section 554.015 requires the Board of Pharmacy to provide to licensees, information regarding the services provided by poison control centers.
 - (C) This bill requires this same information be provided to licensees by the Medical, Dental, Nursing, Chiropractic and Optometry Board. The bill requires the Boards by January 1, 2004, to:

- (1) cooperate in developing the materials; and
- (2) ensure, to the extent possible, that the same information is contained in the materials used by each agency.
- S.B. 803 relating to the advertisement and promotion of certain compounded drug products by a pharmacy or pharmacist.
 - (A) This bill adds a new Section 562.151 (titled Compounding Service and Compounded Drug Products). The new section specifies that a compounding pharmacist or pharmacy may advertise or promote:
 - non-sterile prescription compounding services provided by the pharmacist or pharmacy; and
 - specific compounded drug products that the pharmacy or pharmacist dispenses or delivers.
 - (B) The new section tracks a recent United States Supreme Court Decision regarding the advertising of compounded products by a pharmacy.
- SB 939 relating to the ratio of pharmacists to pharmacy technicians in certain pharmacies.

This bill creates a new Section 568.006 of the Texas Pharmacy Act (Occupations Code, Subchapter J), (titled Ratio of Pharmacists to Pharmacy Technicians). The section allows the ratio of pharmacists to pharmacy technicians to be 1 to 5 in a pharmacy that dispenses not more than 20 different prescription drugs and does not produce intravenous or intramuscular drugs onsite.

- SB 1315 relating to the establishment of pharmacy license classifications by the Texas State Board of Pharmacy.
 - (A) This bill creates a new Section 560.063 of the Texas Pharmacy Act (Occupations Code, Subchapter J) (titled Establishment of Additional Pharmacy Classifications). The new section allows the Board of Pharmacy, by rule, to establish a new class of pharmacy license if the Board determines that:
 - the practice setting will provide pharmaceutical care services to the public;
 - the existing classifications of pharmacy licenses are not appropriate for that practice setting; and
 - (3) establishment of a new classification of pharmacy license is necessary to protect the public health, safety, and welfare.

- (B) The bill also adds a new subsection (g) to Section 562.101 of the Texas Pharmacy Act (Occupations Code, Subchapter J). This new subsection allows the Board to adopt rules regarding the pharmacist supervision of a pharmacy created under new Section 560.063. The supervision must require at least continuous supervision by a pharmacists according to the needs of the pharmacy.
- To direct the submission of, provide testimony for, and monitor the progress of the agency's Legislative Appropriation Request and corresponding performance measures for FY2004-2005.

Status: ACCOMPLISHED

Comment:

In January 2003, agencies were informed of a projected overall budget shortfall of \$1.8 billion and instructed by the Legislative Leadership to reduce FY2003 budgets by 7%. Specifically, agencies were instructed to eliminate foreign travel and out-of-state travel not necessary for statutory obligations, reduce or eliminate planned capital purchases for the remainder of FY2003, and contracts for consultants and professional services. Further reductions to be considered included administrative costs, a hiring freeze or reductions in force, if necessary, and reductions to current activities not required by law. The TSBP accomplished these reductions by outsourcing the agency lawbook, eliminating out-of-state travel, significantly reducing all other expenditures, and lapsing a number of vacant positions in the Enforcement Division for the remainder of FY2003.

In addition, agencies were asked to review their core functions and essential services and reduce their current funding budget for FY2004/2005 by 12.5%. As the 78th Legislative Session progressed, several different budget scenarios were presented to the LBB. Performance measures, capital budgets, and rider language were continuously revised to accommodate the 12.5% budget reduction mandate. Preliminary budget hearings were held in September and October 2002, and public hearings/markup were held in February 2003 with the Senate Finance Committee, House Appropriations Committee, and the House Committee on Government Reform. The final budget passed in May 2003 with mixed results.

The agency's base appropriation was reduced by 12.5%, but the Legislature approved additional appropriations to fund the Pharmacy Technician Registration Program and corresponding Texas Online subscription fee, and funding for the newly created Office of Patient Protection. Significant reductions occurred in the areas of travel, salaries, information resource technologies, vehicles, agency newsletter, registration and training, and merit pay. The budget reductions occurred at the same time that new funding was approved to implement the existing agency statutory mandate, the registration of pharmacy technicians. As a result, although there was a net increase over the biennium, the agency will be doubling its population of licensees in FY2004, and this will cause a dramatic increase in the public's demand for agency services in every area of its operation.

To direct the agency response to the Sunset Review process including the preparation of the agency selfevaluation report throughout FY2003.

Status: ACCOMPLISHED

Comment:

The Executive Director attended a meeting with the staff of the Sunset Advisory Commission on May 19, 2003, to discuss the Sunset Review process. On June 6, 2003, the Commission sent TSBP the 21 pages of written instructions for completing the agency's Self-Evaluation Report (SER). On June 20, 2003, the Executive Director met with management staff to discuss timelines and assignments. The SER was submitted to the Sunset Advisory Commission by the approved due date (August 20, 2003).

 To direct the planning for implementation of the new program to register and regulate pharmacy technicians, if the program is funded by the 78th Texas Legislature.

Status:

ACCOMPLISHED

Comment:

The 78th Texas Legislature appropriated approximately \$726,000 for the agency to implement pharmacy technician registration during the FY2004-2005 biennium. A project timeline was developed, and during the time period May - August 2003, five staff meetings and two meetings with the agency's computer resources vendor (Northrop Grumman) were held to discuss the various tasks and milestones that would be required in FY2004 to ensure the success of this major project. Revenue projections were compiled, and rules regarding the registration fees for pharmacy technicians were proposed at the August 2003 Board Business Meeting.

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

Status:

ACCOMPLISHED

Comment:

An orientation for new Board member, Juluette F. Bartlett-Pack, Ph.D., public member, was held on February 28 - March 1, 2003.

Objectives (Ongoing)

To manage and monitor the agency's performance and operational efficiency throughout FY2003.

Status:

ACCOMPLISHED

Comment:

The agency accomplished or partially accomplished 100% of its 106 objectives [102 accomplished (96.2%) and 4 partially accomplished (3.8%)]. The agency also met or exceeded eight (73%) of its 11 key performance measures listed in the Appropriations Act and required to be reported on an annual basis to the Legislative Budget Board as indicated below. The two cost measures (Average Cost of Issuing an Individual and Facility License) were not met because of the passage of S.B. 187 by the 77th Legislature. This bill mandated the agency to charge each licensee a subscription fee of \$10, payable to the Texas OnLine Authority. Targets for this performance measure were established before passage of this legislation. The third performance measure that was "not met" was the number of jurisdictional complaints received. This performance measure is one that cannot be controlled by the agency.

Performance Measure	FY03 Projected Performance	FY03 Performance Attained	Projected Target Met?*
A. Goal: Maintain Standards - To establish and implement reasonable standards operations of pharmacies to assure that safe and effective pharmaceutical ca			and for the
Outcome (Results/Impact)			
Percent of Licensees with No Recent Violations	99%	96.68%	Met
A.1.1. Strategy: Licensing - To operate a timely, cost-effective applic pharmacists.	cation and renewal licens	sure system for pharm	nacies and
Output (Volume)			
Number of New Licenses Issued to Individuals	800	806	Exceeded
Number of Licenses Renewed (Individuals)	10,450	11,005	Exceeded
Efficiencies			
Average Licensing Cost Per Individual License Issued	\$9.07	\$18.19	Not Met
Average Licensing Cost Per Facility License Issued	\$31.20	\$41.14	Not Met
Explanatory			,
Total Number of Business Facilities Licensed	5,480	5,794	Exceeded
ealth and safety is protected from unprofessional conduct, fraud, and misreprescription drugs from pharmacies. Outcome (Results/Impact)			-, -,, -, -, -, -, -, -, -, -, -, -,
Description of Installational Completes Description in Disciplinary Auties			
Percent of Jurisdictional Complaints Resulting in Disciplinary Action	10%	11.89%	Exceeded
B.1.1. Strategy: Enforcement - Emphasize preventative enforcement providing technical assistance, licensee information and educational promotioning compliance with disciplinary orders resulting from board adj	by conducting complian rograms; receiving, invest	ce inspections of pha	armacies;
B.1.1. Strategy: Enforcement - Emphasize preventative enforcement providing technical assistance, licensee information and educational presentation.	by conducting complian rograms; receiving, invest	ce inspections of pha	armacies;
B.1.1. Strategy: Enforcement - Emphasize preventative enforcement providing technical assistance, licensee information and educational prediction of the providing compliance with disciplinary orders resulting from board adjusted.	by conducting complian rograms; receiving, invest	ce inspections of pha	armacies;
B.1.1. Strategy: Enforcement - Emphasize preventative enforcement providing technical assistance, licensee information and educational promonitoring compliance with disciplinary orders resulting from board adjusted (Volume)	by conducting complian rograms; receiving, investudication.	ce inspections of pha stigating, and resolving	armacies; ng complaints; a
B.1.1. Strategy: Enforcement - Emphasize preventative enforcement providing technical assistance, licensee information and educational promonitoring compliance with disciplinary orders resulting from board ad Output (Volume) Number of Jurisdictional Complaints Resolved	by conducting complian rograms; receiving, investudication.	ce inspections of pha stigating, and resolving	armacies; ng complaints; a
B.1.1. Strategy: Enforcement - Emphasize preventative enforcement providing technical assistance, licensee information and educational promonitoring compliance with disciplinary orders resulting from board adjustic (Volume) Number of Jurisdictional Complaints Resolved Efficiencies	by conducting complian rograms; receiving, investudication.	ce inspections of pha stigating, and resolving	armacies; ng complaints; a Exceeded
B.1.1. Strategy: Enforcement - Emphasize preventative enforcement providing technical assistance, licensee information and educational promonitoring compliance with disciplinary orders resulting from board ad Output (Volume) Number of Jurisdictional Complaints Resolved Efficiencies Average Time for Jurisdictional Complaint Resolution	by conducting complian rograms; receiving, investudication.	ce inspections of pha stigating, and resolving	armacies; ng complaints; a Exceeded
B.1.1. Strategy: Enforcement - Emphasize preventative enforcement providing technical assistance, licensee information and educational promonitoring compliance with disciplinary orders resulting from board ad Output (Volume) Number of Jurisdictional Complaints Resolved Efficiencies Average Time for Jurisdictional Complaint Resolution Explanatory	by conducting complian rograms; receiving, investudication. 1,300 350 2,000	ce inspections of phastigating, and resolving 1,850	ermacies; ng complaints; a Exceeded Exceeded
B.1.1. Strategy: Enforcement - Emphasize preventative enforcement providing technical assistance, licensee information and educational promonitoring compliance with disciplinary orders resulting from board adj Output (Volume) Number of Jurisdictional Complaints Resolved Efficiencies Average Time for Jurisdictional Complaint Resolution Explanatory Number of Jurisdictional Complaints Received	by conducting complian rograms; receiving, investudication. 1,300 350 2,000	ce inspections of phastigating, and resolving 1,850	ermacies; ng complaints; a Exceeded Exceeded

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

 To coordinate the development of proposed goals and objectives and budget for FY2004, based on the Strategic Plan and projected budget, for submission to the Board two weeks prior to the 2003 Annual Policy Meeting.

Status:

ACCOMPLISHED

Comment:

The TSBP 2004 Goals and Objectives and FY2004 operating budget were submitted to the Board as scheduled and were approved by the Board at its August 5-6, 2003, Board Business Meeting.

 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 FY2003.

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 #?

and Legal Division's Ongoing Objective #? 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 FY2003.

Status: ACCOMPLISHED

Comment: During FY2003, the Executive Director reviewed the United States Supreme Court Decision

(Thompson et al. v. Western States Medical Center et al., U.S. Supreme Court Case No. 01-344, Decided April 29, 2002). This decision upheld the lower court's decision and deleted the pharmacy compounding provisions contained in the Food and Drug Administration Modernization Act of 1997. This action left the federal law without any provisions that allowed pharmacy compounding. A Board-appointed Task Force on Compounding met two times during this fiscal year to discuss pharmacy compounding and presented recommendations to the Board at the August 2003

meeting.

5. To personally participate and represent Board policies and programs to local, state, and national pharmacy, health-related, and consumer organizations during FY2003.

Status: ACCOMPLISHED

Comment: A. The Executive Director gave 12 presentations to 1,450 persons as indicated below.

Date	Name of Association/Location of Meeting	Attendance (Approximate)	
9/14/02	9/14/02 Board of Pharmacy Update, University of Texas Postgraduate Seminar — Austin		
9/30/02	University of Texas Law Class — Austin	65	
10/1/02	Texas Department of Human Services Vendor Drug Pharmacists – Austin	20	
10/4/02	Texas Federation of Drug Stores Annual Meeting – Austin	50	
10/26/02	2 Texas Pharmacy Association's West Texas Educational Fair – El Paso		
10/31/02	10/31/02 National Association of Boards of Pharmacy/American Association of Colleges of Pharmacy 6 th District Meeting – St. Louis, MO		
3/8/03	El Paso Society of Health System-Pharmacists Annual Frontiers in Pharmacy Seminar	100	
4/5/03	Board of Pharmacy Update, Texas Society of Health-System Pharmacists Annual Seminar – Arlington	60	

Date	Name of Association/Location of Meeting	Attendance (Approximate)
5/2/03	Board of Pharmacy Update, West Texas Pharmaceutical Association's Annual Meeting – Amarillo	75
7/17/03	Preceptor Training, Texas Pharmacy Association – Galveston	30
7/19/03	TSBP Forum, Texas Pharmacy Association's Annual Meeting – Galveston	300
8/24/03	Pharmacy Peer Review, National Association of Chain Drug Stores Pharmacy and Technology Conference – Philadelphia, PA	75
	TOTALS	1,450

B. The Executive Director attended 19 meetings or conferences representing the agency as indicated below.

Date	Name of Association/Location of Meeting
9/10/02	Texas Conference for Women – Austin
10/1/02	Meeting with staff of the Governor's Office – Austin
10/2-10/3/02	Texas Tech School of Pharmacy Dean's Advisory Council Meeting – Amarillo
1/17/03	Task Force on Compounding Meeting – Austin
1/22/03	Meeting with representatives of PurduePharma – Austin
2/3/03	State Employees Charitable Campaign Awards Ceremony – Austin
2/10/03	Meeting with representatives of the Attorney General's Office regarding Internet Pharmacy – Austin
2/11/03	Senate Finance Committee Meeting – Austin
2/12/03	Federal Food and Drug Administration Conference Call on the Importation of Prescription Drugs – Austin
2/24/03	Meeting with representatives of Albertson - Austin
3/7/03	Meeting with representatives of HEB – Austin
3/26/03	House Public Health Committee Hearing (SB 2985) – Austin
3/31/03	Meeting with representatives of PCS – Austin
4/29/03	Meeting with TSBME regarding Online Pharmacies – Austin
5/6/03	Conference Call with representatives from Baxter – Austin
5/19/03	Orientation of the Sunset Process – Austin
5/27/03	Meeting with Director of the Pharmacists Recovery Network – Austin
6/12/03	Meeting with representatives of Medco Health – Austin
6/17/03	Meeting with representatives of FDA regarding online pharmacies – Austin

To act as the Board's liaison to the pharmacy professional associations throughout FY2003.

Status:

ACCOMPLISHED

Comment:

The Executive Director attended 11 meetings of professional associations and committees of the associations to serve as a liaison to the Board as follows.

Date	Name of Association/Location of Meeting	
10/4/02	Texas Federation of Drug Stores Annual Meeting – Austin	
10/26/02	Texas Pharmacy Association's West Texas Educational Fair – El Paso	
10/31-11/2/03	National Association of Boards of Pharmacy/American Association of Colleges of Pharmacy District 6 Meeting – St. Louis, Missouri	
11/12/02	Joint Committee on Internship Programs Meeting – Austin	
11/12-11/13/02	Texas Pharmacy Congress Meeting – Austin	
11/14-11/17/02	National Association of Boards of Pharmacy Fall Educational Conference – San Antonio	
1/13/03	Meeting with representatives of the Texas Society of Health-System Pharmacists – Austin	
3/20/03	Texas Pharmacy Association's Academy of Consultant Pharmacists	
5/9/03	Meeting with representatives of TSHP – Austin	
5/27-5/28/03	Texas Pharmacy Congress Meeting - Austin	
8/19-8/20/03	Texas Pharmacy Congress Meeting – Austin	

 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 FY2003.

Status:

ACCOMPLISHED

Comment:

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

Date	Activity	
9/16/02	Health Professions Council Meeting	
12/9/02	Health Professions Council Meeting	
12/9/02	HPC Administrative Committee Meeting	
12/17/02	HPC Administrative Committee Meeting	
1/30/03	HPC Administrative Committee Meeting	
2/20/03	HPC Administrative Committee Meeting	
3/4/03	Health Professions Council Meeting	

Date	Activity
3/31/03	HPC Budget and Administration Committees Meeting – Austin
6/23/03	Health Professions Council Meeting
7/8/03	HPC IT Consolidation Committee Meeting – Austin
8/1/03	HPC IT Consolidation Committee Meeting – Austin
8/7/03	HPC Budget and Planning Committee Meeting – Austin
8/12/03	HPC IT Consolidation Committee Meeting – Austin
8/29/03	HPC IT Consolidation Committee Meeting – Austin

To continue to support and participate in the Texas Pharmacy Congress throughout FY2003.

Status:

ACCOMPLISHED

Comment:

The Executive Director attended all four of the Texas Pharmacy Congress (TPC) meetings held in November 2002, February 2003, May 2003, and August 2003 and provided staff support to President Roger Anderson, Dr.PH, R.Ph., and Vice President Doyle High, R.Ph., at these meetings.

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
FY2003.

Status:

ACCOMPLISHED

Comment:

The agenda for each meeting of the Board included discussion of possible suggestions for changes to the Pharmacy Act. As a result of these discussions, the Board approved the following for inclusion in the Sunset Self Evaluation Report.

A. Pharmacy Practice Issues

- Drug therapy management authority Amend the Texas Pharmacy Act and Chapter 157 of the Medical Practice Act to allow pharmacists the authority to carry-out or sign prescription drugs.
- Administration of drugs Amend the Texas Pharmacy Act to clarify a pharmacist's authority to administer medications.
- Pharmacist professional discretion Clarify that pharmacists have professional discretion when deciding to dispense a prescription or medication order.

- 4. Pharmacy Peer Review Currently, the Texas Peer Review authority does not include a provision that specifies the Board may require all pharmacies to establish peer review programs. Because of the broad authority for rule making included in the Pharmacy Act, the Board could adopt rules that require such a program. However, this authority would be clear if the Act were amended to specify the Board has the authority to mandate peer review.
- Preventing medication errors by requiring prescriptions to be legible Recently, Florida has passed a law that requires the practitioner to legibly print or type a prescription, so it is "capable of being understood by the pharmacists filling the prescription. Texas laws could be in a similar fashion.
- Valid practitioner-patient relationship Amend the Texas Pharmacy Act to specifically state that a pharmacist cannot dispense a drug he knows or should have known is not based on a valid practitioner-patient relationship, and define the parameters which constitute such a relationship.

B. Enforcement Related Issues

- 1. Disciplinary grounds for pharmacists
 - (A) Modify disciplinary grounds to allow the agency to discipline a pharmacist for the following:
 - not properly supervising pharmacy technicians;
 - (2) violation of disciplinary order; and
 - (3) violation of contract with a committee of a professional society with a program to aid licensees impaired by chemical abuse or mental or physical illness.
 - (B) Give the Board the option to make a second order against a person who has a chemical, mental or physical impairment non-confidential.
 - (C) Allow the Board to discipline a licensee:
 - who has been convicted of or received deferred adjudication for a <u>misdemeanor</u> or a felony involving a violation of the Dangerous Drug or Controlled Substances Acts;
 - (2) who has been convicted of or received deferred adjudication for a misdemeanor involving moral turpitude or a felony; and
 - (3) when a disciplinary action has been imposed in another state without limiting the type of disciplinary action.

- Disciplinary grounds for pharmacies located in Texas Modify the disciplinary grounds for pharmacies to allow the agency to take disciplinary action when:
 - (A) a pharmacy has been subject to disciplinary action by another jurisdiction's licensing agency. This change would allow the agency to take disciplinary action without having to prove the merits of the case, based on the due process received in another state, so long as the violation would also be a violation of Texas law:
 - (B) the owner or managing officer has violated the drug laws under the Texas Controlled Substances Act, the Texas Dangerous Drug Act, the Comprehensive Drug Abuse Prevention and Control Act of 1970, and certain provisions of the Health and Safety Code relating to Abusable Volatile Chemicals: and
 - (C) the pharmacy has audit shortages.
- Disciplinary grounds for pharmacies located outside of Texas Modify the disciplinary grounds for pharmacies to allow the agency to take disciplinary action against an out-of-state pharmacy for the same reasons as a pharmacy located in Texas. An out-of-state pharmacy that ships into Texas should be required to follow the same laws as a pharmacy located in Texas, unless complying with Texas law would violate the other state's law. This change would place in-state and out-of-state pharmacies on a level playing field and allow the Board to consistently and fairly enforce the pharmacy laws of the state.
- 4. Disciplinary grounds for pharmacy technicians Allow the Board to discipline a pharmacy technician for grounds similar to those of a pharmacist, including engaging in unprofessional conduct, as defined by Board rule, or acting in a negligent manner. This change would allow the Board to take action against a technician for those acts that the technician should be held responsible for, and would allow for a similar range of disciplinary grounds for all licensees.
- 5. Disciplinary sanctions for pharmacies or pharmacists Remove the restriction for limited sanctions for rule violations and allow the Board to determine the sanction based on the severity of the violation, and add the ability to impose general terms and conditions as part of a probation. These changes should result in overall fairness and consistency in disciplinary actions.
- 6. Disciplinary sanctions for interns Allow for a greater range of disciplinary sanctions, such as reprimand, administrative penalty, or probation, similar to the sanctions allowed for other licensees. This change allows the Board to discipline a pharmacist-intern for minor violations without either restricting the internship or denying the ability to participate in the internship completely.

- 7. Disciplinary sanctions for pharmacy technicians Allow for a greater range of disciplinary sanctions, such as reprimand, administrative penalty, restriction, or probation, similar to the sanctions allowed for other licensees. This change allows the Board to discipline a pharmacy technician without requiring that he/she cease practicing. Also, allow the Board to reinstate a registration if a pharmacy technician has demonstrated rehabilitation.
- 8. Emergency suspension process Modify the procedure to allow a panel of the Board to hear the temporary suspension hearing and proceed to the State Office of Administrative Hearings for a hearing under the Administrative Procedure Act. The ability to suspend the license without notice or hearing should be maintained so long as disciplinary action is instituted at the same time and an informal conference is held within a specified period of time.

The ability for the panel to meet by telephone should also be included to expedite the hearing if the public is endangered by not acting immediately.

- Maintenance of pharmacy records Amend the Pharmacy Act to provide for a specific record retention period for prescription records maintained by a pharmacy of a minimum of five years from the date of dispensing.
- Cancellation of license Return the ability to cancel a license by amending Section 565.051 of the Pharmacy Act.
- Authorization for inspections Expand the Board's inspection authority to include the ability to enter a pharmacy for general regulation purposes.
- Access to financial and pricing data Expand the Board's inspection authority to include the ability to inspect financial data, sales data, and pricing data.

C. Miscellaneous Issues

- Licensing procedures Modify Sections 558.051 and 558.101 of the Pharmacy
 Act for pharmacists' qualifications for license and Section 568.002 for pharmacy
 technicians to include a provision that the applicants be in the United States
 legally and be legally able to work prior to issuing a license for pharmacists and
 pharmacy technicians.
- Board member qualifications Amend Section 555.004(b) of the Pharmacy Act
 to allow faculty members of colleges of pharmacy to serve on the TSBP. This
 change would allow for valuable input from a section of pharmacy practice that
 has not previously been represented on the Board.
- Confidentiality of pharmacist home addresses Amend the Texas Pharmacy
 Act, or other appropriate act, to allow home addresses of pharmacists to be
 exempted from release under the Texas Public Information Act. This
 amendment would protect this private information from public disclosure.

- Non-pharmacist preceptor Amend the Texas Pharmacy Act to allow a nonpharmacist to be a preceptor under certain limited circumstances in collegebased internship programs.
- 5. Board member per diem Amend the Pharmacy Act, Section 552.009, to indicate that all travel expenses, including meals and lodging, are reimbursable. This amendment would make the Pharmacy Act consistent with other state law, and allow for Board Members who are serving in the public interest to be reimbursed for expenses directly related to their service to the public.
- Peace Officers ability to carry a firearm and arrest Amend the Pharmacy Act to allow peace officers to carry a firearm in limited situations and to make arrests.
 The ability to carry a firearm would be limited to carrying the firearm outside a pharmacy unless a life-threatening situation exists.
- 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 FY2003.

Status:

ACCOMPLISHED

Comment:

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

Employee	Date of Evaluation	Person Conducting Evaluation
Kerstin Amold	8/28/03	Gay Dodson
Carol Fisher	8/29/03	Gay Dodson
Estella Casarez	8/28/03	Kay Wilson
Steve Morse	Resigned May 31, 2003	
Cathy Stella	8/26/03	Gay Dodson
Kay Wilson	8/19/03	Gay Dodson

Division staff participated in professional and interpersonal development seminars, cross training and on-the-job training throughout FY2003 as follows:

Kay Wilson, Executive Assistant	
EAP Presentations on Stress Reduction	
Orientation Session for Coordinators of the	State Employees Incentive Program
Texas Department of Health Seminar on th	e Development of Wellness Programs
AED/CPR Training	·
State Travel Training Seminar	

Estella Casarez, Receptionist

EAP Presentation on Stress Reduction

Hobby Building Tenant Meetings

 To provide the Board's Executive Committee information necessary to conduct performance evaluation of the Executive Director by August 31, 2003.

Status:

ACCOMPLISHED

Comment:

A self and staff evaluation of the Executive Director was presented to the Board at its August 2003

meeting. The Board conducted the performance evaluation at this meeting.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION FY2003 SIGNIFICANT ACCOMPLISHMENTS

- The division accomplished or partially accomplished 100% of its objectives (30 accomplished and 1 partially accomplished).
- Significant efficiencies and/or benefits, primarily for board customers, have or will be gained through the implementation of a number of projects which included:
 - Implementation of the Pharmacist Online license renewal system;
 - Implementation of wireless handheld devices for inspection program; and
 - Active computer virus monitoring and firewall installation.
- The agency received a 100% compliance rating by the Texas Building and Procurement Commission on the Pre-Payment & Procurement audit of service contracts.
- The agency received a 98% compliance rating by the Texas Building and Procurement Commission on a Post-Procurement audit of service contracts.
- The agency received an unqualified certification of the agency's FY2002 key performance measures, conducted by agency Internal Auditor.
- 6. In January 2003, the Department of Information Resources (DIR) ran a controlled penetration test to assess the security of the agency's computer systems network, and a test of dial-up lines for modem access. DIR was unable to penetrate the firewall's defenses that protect the internal network, and no vulnerabilities were found through the test of dial-up lines.
- 7. As computer virus and hacker activity continues to dramatically increase, the agency has been successful in keeping security incidents extremely low. Upgrading anti-virus software, implementing automatic updates, weekly scans, and taking an assertive stance towards user passwords, as well as aggressively maintaining recommended security updates on the web server and firewall, has limited agency exposure to a single low-impact web defacement and virus infection to zero.
- The Division met or exceeded 83% of the performance measures required to be submitted to the Legislative Budget Board.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION FY2003 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

- 1. Budget Reductions of FY2003: In January 2003, agencies were informed of a projected overall budget shortfall of \$1.8 billion and instructed by the Governor, Lieutenant Governor, and Speaker of the House to reduce FY2003 budgets by 7%. Specifically, agencies were instructed to eliminate foreign travel and out-of-state travel not necessary for statutory obligations, reduce or eliminate planned capital purchases for the remainder of FY2003, and contracts for consultants and professional services. Further reductions to be considered included administrative costs, a hiring freeze or reduction in force if necessary and reductions to current activities not required by law. The TSBP accomplished these reductions by outsourcing the agency lawbook, greatly reducing out-of-state travel, significantly reducing all other expenditures, and lapsing a number of vacant positions in the Enforcement Division for the remainder of FY2003.
- 2. Legislative Changes due to State Fiscal Crisis: The state budget for the FY2004/2005 biennium was balanced by closing a projected \$10 billion shortfall without raising taxes. However, a number of legislative changes that affect all state employees were enacted that reduced or will ultimately reduce the earning dollar of these employees. These legislative changes include:
 - reducing the budgets of state agencies, which, in many cases, means a reduction or elimination of merit pay for outstanding performance;
 - significant increases to out-of-pocket costs for health coverage by all state employees;
 - reduced state contribution of health care coverage for part-time employees; implementing a 90-day waiting period for health insurance and state retirement contribution for new state employees;
 - increasing the minimum age for retiree insurance; and
 - allowing a lump sum incentive payment for eligible retirees, which must be paid out of agency appropriations, thus reducing the funds available to the agency.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION FY2003 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

- To assist the Executive Director, in cooperation with other divisions, in:
 - preparing testimony, attending public hearings, and providing any fiscal or technical information as required by the 78th 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 FY2003.

Status:

ACCOMPLISHED

Comment:

The Division Director reviewed and analyzed 150 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 FY2004-2005.

 To monitor the progress of the agency's Legislative Appropriation Request and corresponding performance measures for FY2004/2005.

Status:

ACCOMPLISHED

Comment:

In January 2003, agencies were informed of a projected overall budget shortfall of \$1.8 billion and instructed by the Governor, Lieutenant Governor, and Speaker of the House to reduce FY2003 budgets by 7%. Specifically, agencies were instructed to eliminate foreign travel and out-of-state travel not necessary for statutory obligations, reduce or eliminate planned capital purchases for the remainder of FY2003 and contracts for consultants and professional services. Further reductions to be considered included administrative costs, a hiring freeze or reductions in force if necessary and reductions to current activities not required by law. The TSBP accomplished these reductions by outsourcing the agency lawbook, greatly reducing out-of-state travel, significantly reducing all other expenditures, and lapsing a number of vacant positions in the Enforcement Division for the remainder of FY2003.

In addition, agencies were asked to review their core functions and essential services and reduce their current funding budget for FY2004/2005 by 12.5%. As the 78th Legislative Session progressed, several different budget scenarios were presented to the LBB. Performance measures, capital budgets and rider language were continuously revised to accommodate the 12.5% budget reduction mandate. Preliminary budget hearings were held in September and October 2002, and public hearings/markup were held in February 2003 with the Senate Finance Committee, House Appropriations Committee, and the House Committee on Government Reform. The final budget passed in May 2003, with mixed results.

The agency's base appropriation was reduced by 12.5%, but the Legislature approved additional appropriations to fund the Pharmacy Technician Registration Program and corresponding Texas Online subscription fee and funding for the newly created Office of Patient Protection. Significant reductions occurred in the areas of travel, salaries, information resource technologies, vehicles, agency newsletter, registration and training, and merit pay. The budget reductions occurred at the same time that new funding was approved to implement the existing agency statutory mandate, the registration of pharmacy technicians. As a result, although there was a net increase over the biennium, the agency will be doubling its population of licensees in FY2004, and this will cause a dramatic increase in the public's demand for agency services in every area of its operation.

 To assist the Executive Director, in cooperation with other divisions, in the agency Sunset Review Process, including preparation of the agency Self- Evaluation Report, throughout FY2003.

Status:

ACCOMPLISHED

Comment:

The Sunset Occupational Licensing Model was reviewed in preparation for the Sunset Review Process. On June 6, 2003, the Sunset Advisory Commission sent TSBP 21-pages of written instructions for completing the agency's Self-Evaluation Report (SER). On June 20, 2003, the Executive Director met with management staff to discuss timelines and assignments. Division Director met with Fiscal and Licensing staff to research and prepare data and statistics for the SER. Recommendations were made to areas pertaining to Administration, Fiscal, and Licensing. The SER was submitted to the Commission by the approved due date (August 20, 2003).

4. To assist the Executive Director, in cooperation with other Divisions, in planning for implementation of the new program to register and regulate pharmacy technicians, if the program is funded by the 78th Texas Legislature.

Status:

ACCOMPLISHED

Comment:

The 78th Texas Legislature passed an Appropriations Act that included funding for the agency to register and regulate pharmacy technicians. A project time line was developed, and during the time period May - August 2003, five staff meetings and two meetings with the agency's computer resources vendor (Northrop Grumman) were held to discuss the various tasks and milestones that would be required in FY2004 to ensure the success of this major project. Revenue projections were compiled, and rules regarding the registration fees for pharmacy technicians were proposed at the August 2003 Board Business Meeting to become effective in December 2003.

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

Status:

ACCOMPLISHED

Comment:

Division Director assisted the Executive Director with the orientation of new public member, Juluette F. Bartlett-Pack, Ph.D., by updating New Member Orientation Manuals and participating in an on site orientation on February 28 - March 1, 2003.

Objectives (Ongoing) - Administrative Services

 To comply with all Comptroller Accounting Policies, Notices to State Agencies, and Attorney General Opinions relating to fiscal matters by specified due dates throughout FY2003.

Status:

ACCOMPLISHED

Comment:

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

To prepare and submit all required accounting and fiscal reports and reconciliations to the Executive Director throughout FY2003, no later than ten days from the monthly due date.

Status:

ACCOMPLISHED

Comment:

Under HB 609, an Internal Audit was required to be conducted and a report issued to the Governor, LBB, Sunset Commission and the State Auditor's Office. In response to this legislation, an audit of LBB Performance Measures was conducted by the agency's Internal Auditor and all measures were certified with no exceptions. In addition, an evaluation of the agency computer systems and security was conducted by the Department of Information Resources (DIR). DIR was unable to penetrate the firewall's defenses that protect the agency's internal network, and no vulnerabilities were found in a test of the agency's dial-up lines for modem access.

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

To review and recommend to the Executive Director additional sources of spendable revenue and to assess fees charged for Board services throughout FY2003.

Status:

ACCOMPLISHED

Comment:

A quarterly operating budget was presented to the Board at each of the regularly scheduled business meetings and recorded as such in the official minutes of the Board. Revenue projections were made and closely monitored to ensure that expenditures did not exceed the required amount of revenue collected. Revenue projections were completed for FY2004/2005, to comply with the new Riders regarding additional appropriations for the registration of pharmacy technicians and the new Office of Patient Protection. Recommended fee changes to initial licensure and renewal of pharmacy and pharmacist licenses, as well as pharmacy technician fees, were presented and approved by the Board Members with implementation in January 2004.

 To assess the material needs of the agency and supervise the purchasing and supply activities in accordance with all Texas Building and Procurement Commission rules and procedures throughout FY2003.

Status:

ACCOMPLISHED

Comment:

A Procurement and Pre-Payment audit was conducted by the Texas Building and Procurement Commission, resulting in a 100% compliance rating. In addition, the final findings of a Post-Procurement audit conducted in FY2002 were released, which revealed a 98% compliance level. The Chief Accountant continued to review all specifications, product tabulations, and purchase requisitions for compliance with agency policies and procedures and Texas Building and Procurement Commission rules. This oversight ensured that the appropriate procurement method was identified, the agency received the best value for the product or service purchased, and that funds were always available.

 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 FY2003.

Status:

ACCOMPLISHED

Comment:

The objective was accomplished by the following:

- A. As an additional security enhancement to the Hobby Building and with the cooperation of the Department of Public Safety, magnetic locking devices were installed on the North, South, and East entrances to the Hobby Building. All non-employee visitors are directed to the front entrance and must sign in and obtain a visitor badge. In addition, lobby elevators to the Hobby Parking Garage are only operable by magnetic card, and only the outside elevators are accessible to the public. The above measures were placed to enhance security by limiting building access by unauthorized people.
- B. The agency's off-site storage was eliminated and all surplus property was either sold or recycled.
- C. Division staff spent a number of hours reviewing office blueprints and re-designing office space to accommodate the new employees that will be added to the agency next year.
- To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2003.

Status:

ACCOMPLISHED

Comment:

This objective was accomplished as follows:

A. All newly hired and current employees received Equal Employment Opportunity/Sexual Harassment Training as required by state law.

- B. The agency reviewed its Recruitment Plan/Affirmative Action Plan and made updates as necessary. No employee grievances or discrimination complaints were filed, and there were no employment discrimination charges pending with the Texas Commission on Human Rights.
- C. The agency received 180 applications for employment during this fiscal year, which resulted in four new hires and three promotions. (Note: Providing EEO information by applicants is strictly voluntary. Nine (9) applicants did not provide the information.)
- D. The following table reflects the agency's EEO profile for employees hired, promoted, or terminated during FY2003, as well as an applicant profile report.

AGENCY EEO DATA	V	VHIT	E	В	LAC	K	HIS	PAN	IC	C	THE	R	T	OTA	_
	M	F	TOT	M	F	TOT	M	F	TOT	M	\$F	TOT	M	常日謝	TOT
BOARD MEMBERS	5	2	7	0	1	1	0	1	1	0	0	0	5	4	9
ADMINISTRATORS	1	4	5	0	0	0	0	0	0	0	0	0	1	4	5
PROFESSIONALS	7	8	15	0	1	1	1	2	3	0	0	0	8	11	19
PARA-PROFESSIONALS	3	10	13	0	2	2	0	5	5	0	0	0	3	17	20
ADMIN SUPPORT	0	1	1	0	0	0	Ó	1	1	0	0	0	0	2	2
TOTALS	16	25	41	0	4	4	1	9	10	0	0	0	17	38	55

NEW HIRES	V	VHIT	E	В	LAC	K	HIS	SPAN	IIC	0	THE	R	T	OTA	L
	M	K.F.	TOT	M	₩ Fib	TOT	M	· Fix	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	1	1	0	0	0	0	0	0	0	0	0	0	1	1
PARA-PROFESSIONALS	_ 1	1	2	0	0	0	0	0	0	0	1	0	1	2	3
ADMIN SUPPORT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTALS	1	2	3	0	0	0	0	0	0	0	1	0	1	3	4

PROMOTIONS	V	VHIT	E	В	LAC	K	HIS	SPAN	IIC	C	THE	R	T	OTA	L
	M	作用	TOT	M	F	TOT	M	和日本	TOT	Ma	高品	TOT	M	多日	TOT
ADMINISTRATORS	0	1	1	0	0	0	0	0	0	0	0	0	0	1	1
PROFESSIONALS	0	2	2	0	0	0	0	0	0	0	0	0	0	2	2
PARA-PROFESSIONALS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ADMIN SUPPORT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTALS	0	3	3	0	0	0	0	0	0	0	0	0	0	3	3

TERMINATIONS	W	HIT	E	В	LAC	K	HIS	SPAN	IIC	0	THE	R	T	OTAL	
	M	F	TOT	₩ Mœ	F	TOT	M	≗ FA	TOT	M	F	TOT	M	F	TOT
ADMINISTRATORS	1	0	1	0	0	0	0	0	0	0	0	0	1	0	1
PROFESSIONALS	2	1	3	0	0	0	0	1	1	0	0	0	2	2	5
PARA-PROFESSIONALS	2	0	2	0	0	0	0	0	0	0	0	0	2	0	2
ADMIN SUPPORT	0	1	1	0	0	0	0	0	0	0	0	0	0	1	1
TOTALS	5	2	7	0	0	0	0	1	1	0	0	0	5	3	8

APPLICANTS	V	/HIT	E	В	LACI	K	HIS	PAN	IC	0	THE	R	T	ОТА	L
	M	F	TOT	M	F	TOT	M	Fin	TOT	M	F	TOT	M	日	TOT
ADMINISTRATORS	0	1	0	0	0	0	0	0	0	0	0	0	0	1	1
PROFESSIONALS	14	19	33	0	4	4	2	7	9	1	1	2	17	31	48
PARA-PROFESSIONALS	44	24	68	20	10	30	14	4	18	4	2	6	82	40	122
ADMIN SUPPORT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTALS	58	44	102	20	14	34	16	11	27	5	3	8	99	72	171

 To manage the information resource needs (data processing, telecommunication and web site) of the agency throughout FY2003.

Status:

ACCOMPLISHED

Comment:

This objective was accomplished as follows:

- A. Security and system availability remained a top priority. Approximately 50 anti-virus updates were implemented; firewall alerts/logs were reviewed; critical equipment was replaced in a timely manner. In January 2003, the Department of Information Resources (DIR) ran a controlled Penetration Test to assess the security of our computer systems network, and a test of dial-up lines for modem access. DIR was unable to penetrate the firewall's defenses that protect the internal network, and no vulnerabilities were found through the test of dial-up lines.
- The Compliance Inspection Project development on the handheld devices was completed, tested and implemented.
- All necessary hardware/software, including a new server installation, 14 PC's or laptops, five PC's or drives were replaced.
- The existing web content was reviewed and updated.
- E. The Imaging Project for licensing was completed and the Board Order Project begun.
- F. The Customer Service data base was developed.
- G. In FY2003, TSBP received 160,937 web site inquiries (average of 13,411 "hits" each month). This compares to prior years as follows:

Fiscal Year	Number of Web Site Inquiries	Cumulative Increase Since FY2000
FY2000	64,476	-
FY2001	90,701	40.67%
FY2002	112,184	73.93%
FY2003	160,937	149.60%

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 FY2003.

Status:

ACCOMPLISHED

Comment:

Agency staff destroyed 113.01 cubic feet of records, in accordance with the TSBP record retention schedule, and 169.5 cubic feet of records were sent to the State Library for retention.

 To coordinate the sale and distribution of the pharmacy law reference manual and cooperate with the Professional Services Division to assure the publication of any updates of the manual throughout FY2003.

Status:

ACCOMPLISHED

Comment:

At year-end, approximately \$29,363 was generated in spendable revenue due to the sale of this publication. Due to the state's budget crisis, the Texas Pharmacy Laws and Regulations was outsourced to a private vendor in mid-year. The Administrative Services staff continued to provide the administrative support necessary to determine fees, maintain mailing lists, and proper inventory levels of these manuals.

10. To assist the Executive Director, in conducting a survey of agency customers regarding the quality of service delivered by the agency as specified in Chapter 2113 of the Government Code, throughout FY2003.

Status:

ACCOMPLISHED

Comment:

A customer service access data base was developed, and beginning January 1, 2003, customer service surveys were mailed to new pharmacist applicants, new pharmacist interns, new pharmacy owners, and renewing pharmacists and complainants. At year-end, a total of 7,235 surveys had been mailed by the agency as a whole. The analysis of these responses will be completed and reported to the Governor's Office in FY2004.

- 11. To provide verbal and written information to Board staff and customers throughout FY2003 including, by the assigned due dates, the preparation of:
 - 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
 - a report of the types and numbers of surveys/questionnaires/reports completed by all divisions during FY2003.

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
Governmental Employees Quarterly Report	Texas Workforce Commission	Administration
Deferred Compensation (457) Plan Confirmation of Reconciliation	Employees Retirement System	Administration
Employer's Quarterly Federal Tax Return	Internal Revenue Service	Administration

Report Title	Recipient(s)	Division Reporting
Retirement Contributions Reconciliation Report	Employees Retirement System	Administration
Annual Financial Report	Governor's Office; LBB; State Comptroller; State Auditor.	Administration
Non-Financial Annual Report	Governor's Office; LBB; State Comptroller; State Auditor.	Administration
Recycled Materials Expenditures	Texas Building & Procurement Commission	Administration
Historically Underutilized Business Progress Reports	Governor's Office; Lt. Governor; Speaker of House; Texas Building & Procurement Commission	Administration
Encumbrance Reports	State Comptroller; State Auditor; LBB	Administration
State Use Report	Texas Building & Procurement Commission	Administration
Non-Resident Bidders	LBB	Administration
EEO Information Report	Commission on Human Rights	Administration
Minority Hiring Practices	Commission on Human Rights	Administration
Membership & Training Report	LBB	Administration
Risk Management - Losses	Office of Risk Management	Administration
Performance and Funds Mgmt. Reports	Legislative Budget Board	Administration Enforcement
Contract Workforce Report	State Auditor, LBB, Governor	Administration
Open Records Online Monthly Report	Legislative Budget Board	All
Resource Efficiency Plan and Updates	Comptroller	Administration
Internal Audit Report	Governor's Office; LBB; State Comptroller; State Auditor, Sunset Advisory Commission	Administration

B. Other Surveys and Questionnaires:

Report Title	Recipient(s)	Division Reporting
Indirect Cost Sub-Strategy Report	Governor's Budget Office	Administration
Workforce Summary Review	State Auditor's Office	Administration
2 nd Budget Submission	LBB	Administration
3 rd Budget Submission	LBB	Administration
Budget Testimony	House Appropriations Committee/Senate Finance Committee/House Committee on Government Reform	Administration
Texas Online Report	Legislative Budget Board	Administration
Human Resources Survey	Small State Agency Task Force	Administration
Revised FY04/05 Performance Measures with Budget Reductions	LBB	Administration
Revised Biennial Operating Plan with Budget Reductions	LBB	Administration
Email Survey	State Auditor	Administration
Information Resources Survey	State Auditor	Administration

Report Title	Recipient(s)	Division Reporting
Licensing Functions Process Survey	Texas Department of Licensing & Regulation	Licensing
Internal Auditor Survey	State Auditor	Administration
Electronic Records Management Survey	State Auditor	Administration
Information Technology Survey	Health Professions Council	Information Resources
Capital Budget with Budget Reduction	LBB	Administration
Survey regarding HIP-DB	Health & Human Services	Enforcement
Questionnaire on Agency Procedures regarding Intake & Resolution of Complaints	House Committee on Public Health	Enforcement/Legal
Network Security Survey	DIR	Legal
Customer Satisfaction Survey	State Law Library and State Office of Administrative Hearings	Legal
Sunset Self-Evaluation Report	Sunset Commission	All

- C. Types and numbers of surveys/questionnaires/reports completed by all Divisions: See Professional Services Ongoing Objective #9, Legal Services Ongoing Objective #8, and Enforcement Ongoing Objective #7. In addition, the agency reported 156,543 requests for information, both written and electronic, to the Texas Building & Procurement Commission.
- 12. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to division activities throughout FY2003.

Status: ACCOMPLISHED

Comment: Division staff participated in the following activities:

- A. HPC Annual Report Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
- B. The TSBP continued to participate in several HPC centralized services, such as the Centralized Mail Center, Courier Service, and Copy Center; Shared Employee Training; and Shared Information Resource Technology staff.
- C. Division director participated in the development of a method to allocate the shared costs to member agencies, of the use of the imaging system.
- 13. To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training and on-the-job training throughout FY2003.

Status: ACCOMPLISHED

Comment: Division staff participated in the following activities:

Cathy Stella, Division Director

Texas Online Implementation and Profile Meetings

LBB/GBO Hearings

Small State Agency Task Force Meetings

Internal Audit Meetings

Orientation for new staff members and interns

Health Professions Council Meetings & Subcommittee on Consolidation of Fiscal Activities

Joint Committee on Internship

Human Resources Training Course

Senate Finance/House Appropriation Budget Hearings

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

Occupational Licensing Steering Committee

Telicon Legislative Seminar

EAP Presentations on Handling Stress

Jane Bennett, Chief Accountant

100 Day Report Seminar

USAS User Group Meetings

Internal Audit Meetings

SORM Risk Allocation Public Hearing & User's Meetings

Small Agency Task Force Meetings

AFR Training

LBB Hearings

Wellness Committee Meeting

Texa\$aver 401K & 457 Presentation

EAP Presentation on Handling Stress

Bearing Point - Expenditure Refunds

Board meetings re: Internal Operating Budget and LAR

Robbi Dana, Employee Relations Coordinator

Insurance Summer Enrollment Training

USPS Monthly Users Meetings

New staff orientation

EAP Presentation on Handling Stress

Texa\$aver, May 1 Health Insurance Changes

SORM Users Meeting

USAS Core Training Lab

ERS Online Training

ERS Web Cast Training on Coordinator's Reference Manual

Managing Projects

USPS Year-End Training

Small Agency Task Force Meeting

TASBAA Meeting

Sandy Morton, Accountant

USPS Year-End Processing Workshop

Policies Government State Employee Compensation & Personnel Actions

Behavior Course in Traffic Safety Education

EAP Presentation on Stress Reduction

1099 & W-2 Training

USPS Workshops

Darlene Guthrie, Purchaser

Introduction to NIGP Code System and Combined Purchasing Subjects

Ergonomics in the Workplace

FleetFocus 5.2

Basics of Purchase Rules and Guidelines

Public Purchasing Law

Procurement Card - Regional Conversion Session

Environmental Purchasing in Texas

State Use Orientation

How to pass a TBPC Audit

EAP Presentation on Stress Reduction

Mary Helen Oviedo

Principles of Accounting (Austin Community College)

Procurement Card Services Term Contract Regional Conversion Session (Bank One)

CPR/AED Training

Survey of Organizational Excellence ACT Committee

Lisa Ake, Exam/Intern Specialist

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

NABP Lotus Notes Workshop - Chicago

Conflict Management and Confrontation Skills

Behavioral Course in Traffic Safety Education

EAP Presentation on Stress Reduction

Steve Rapp, Information Resource Manager

New staff orientation for new hires

DIE 2003 Technology Issues Briefing

CPR/AED Training

Access Level II training

Exchange Server 2000 Class

EAP Presentation on Stress Reduction

Win2K courses

Todd Hayek, Network Specialist

Access 2000 Levels I and II

Web Database Class

EAP Presentation on Stress Reduction

Rachel Glass, Pharmacist Licensing Specialist

EAP Presentation on Stress Reduction

Newsletter Committee

Citistreet 401K Meeting

Technician Registration Development Committee

Rene Howard, Pharmacy Licensing Specialist

EAP Presentation on Stress Reduction

Survey of Organizational Excellence ACT Committee

Melinda Uballe, Licensing Technician

EAP Presentation on Stress Reduction

 To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2003.

Status: ACCOMPLISHED

Comment: The Division achieved a 100% completion rate of evaluations scheduled for this fiscal year. All 11

employees were evaluated in July - August 2003.

15. 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 FY2003.

Status: PARTIALLY ACCOMPLISHED

Comment:

Although the Employee Handbook was not updated, revisions were made to a number of other plans, including the Agency HUB Plan, Procurement Plan, Resource Efficiency Plan, Risk & Safety Manual and the Disaster Recovery Manual. Various licensing procedures were either updated or developed, including the new requirements to open a pharmacy and pre-inspection procedures, procedures regarding the online renewal of pharmacists licenses, and a number of web site forms and instructions.

16. To recommend policies and procedures to the Executive Director that will enhance the efficiency and effectiveness of the agency throughout FY2003.

Status:

ACCOMPLISHED

Comment:

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

- Implementation of the Pharmacist Online license renewal system;
- Implementation of wireless handlheld devices for inspection program; and
- Active computer virus monitoring and firewall installation.
- 17. To recommend changes to the Texas Pharmacy Act and rules that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2003.

Status:

ACCOMPLISHED

Comment:

Two key areas of licensing were reviewed in depth and new programs implemented. These included new rules and procedures with regard to new pharmacy (facility) openings, and the registration of pharmacy technicians. Recommendations to both of these areas required a number of meeting with Licensing, Enforcement and management staff to review rule language and develop procedures, instructions, and application forms. As major milestones were accomplished, information was distributed to the licensees via the agency web site.

18. To prepare and submit a report on the accomplishment of Division objectives for incorporation into the agency's FY2002 Annual Report to be presented to the Board by its May 2003 Board Meeting.

Status:

ACCOMPLISHED

Comment:

The division's first draft of the FY2002 Annual Report was submitted to the Executive Director by the due date. The final draft of the TSBP Annual Report was presented to and approved by the Board at its May 2003 Board meeting.

Objectives (Ongoing) - Licensing

To coordinate the collection of licensing data for Key Performance Targets required under the 2002-2003
 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2003.

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). With regard to the average cost of an individual and facility license, the 77th Texas Legislature passed S.B. 187, which mandates the agency to charge each licensee a subscription fee of \$10.00, payable to the Texas Online Authority. Targets for this performance measure were made before this legislation passed, which nearly doubled the cost of a license.

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

Performance Measures	Target FY03	Accomplished FY03	Key or Non Key (K-NK)	Expectations
Percent of Licensees with No Recent Violations	99	96.68%	К	Met
Individuals Examined (examinations administered)	1430	1,576	NK	Exceeded
Number of Licenses Renewed (Individuals)	10,450	11,005	К	Exceeded
Number of New Licenses Issued to Individuals	800	806	К	Exceeded
Average Licensing Cost Per Individual License Issued	\$9.07	\$18.19	К	Not Met
Average Licensing Cost Per Facility License Issued	\$31.20	\$41.14	К	Not Met
Average Cost Per Exam Administered	\$67.39	\$55.30	NK	Exceeded
% of New Licenses Issued within 10 Days	98%	99%	NK	Exceeded
% Individual Licenses Issued within 7 Days	98%	100%	NK	Exceeded
Total Number of Individuals Licensed	21,440	21,570	NK	Exceeded
Total Number of Business Facilities icensed	5,480	5,794	К	Exceeded
Pass Rate	90%	89.21%	NK	Met

 To determine the eligibility of all pharmacist applicants applying to take the NAPLEX and Texas Pharmacy Jurisprudence Examination (MPJE) for initial licensing or licensing by reciprocity throughout FY2003.

Status:

ACCOMPLISHED

Comment:

The following statistics relate to all applicants that were determined eligible and received a score for the NAPLEX and MPJE in FY2003:

JURISPRUDENCE (MPJE)	Total Exams
Candidates Passing	877 (89%)
Candidates Failing	103(11%)
TOTAL EXAMS JURISPRUDENCE	980 (100%)

NAPLEX	Total Exams Administered	
Candidates Passing	. 529 (89%)	
Candidates Failing	67 (11%)	
TOTAL EXAMS NAPLEX	596 (100%)	

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

NEW PHARMACISTS LICENSED - FY02				
Graduates of Texas Colleges of Pharmacy	330 (41%)			
Graduates of Out-of-State Colleges of Pharmacy	429 (53%)			
Credentialed by the Foreign Pharmacist Equivalency Committee	47 (06%)			
Total	806 (100%)			

Regarding reciprocity (license transfer) in and out of Texas, 260 candidates were licensed by reciprocity in FY2003, and the agency responded to requests from NABP for verification of licensure status of Texas licensees desiring to transfer to other states. The National Association of Boards of Pharmacy reports that in calendar year 2003, Texas had 315 requests for licensure transfer into the state and 418 licensure requests to transfer to other states.

 To provide staff support to the Examination Retake Committee and any other advisory committee related to licensing issues as required in FY2003.

Status:

ACCOMPLISHED

Comment:

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

4. To issue an initial and/or renewal certificate to all pharmacy license applicants within seven working days of receipt of the required fee and all required documents throughout FY2003.

Status:

ACCOMPLISHED

Comment:

In April 2003, TSBP implemented a new program and rules with regard to new pharmacy (facility) openings. This new program required a number of meetings with Licensing, Enforcement and management staff to review rule language and develop procedures, instructions, and application forms. The most significant change requires new pharmacies to be inspected before receiving a pharmacy license. This procedure will help ensure that a pharmacy license (a license that allows an individual to purchase prescription drugs) is issued to legitimate operations.

The following chart represents the total number of pharmacy licenses (business or facilities) issued by the agency, and includes five classes of pharmacy licenses. The average processing time to issue a license from receipt of a completed application was 3.5 working days for a pharmacy renewal and 5.5 working days for a new pharmacy license. The total number of active pharmacy licenses at the end of the fiscal year was as follows:

PHARMACIES ACTIVE FY03				
Class A (Community)		4,131		
Class B (Nuclear)		37		
Class C (Institutional)		875		
Class D (Clinic)		445		
Class E (Non Resident)		306		
	OTAL	5,794		

A total of 4,246 pharmacy applications were processed as follows:

PHARMACY APPLICATIONS PROCESSED				
Pharmacy Renewals	2,539			
Remote Pharmacies	699			
New Opens	413			
Change of Ownership	95			
Change of Location	174			
Change of Name	76			
Closings	250			
TOTAL	4,246			

To issue renewal certificates to all pharmacist candidates within four working days of receipt of the required fee and all required documents throughout FY2003.

Status:

ACCOMPLISHED

Comment:

The Texas Online System was implemented for pharmacist renewals in October 2002. At year end, approximately 21.60% of eligible pharmacists renewed their licenses online. Overall, the agency renewed 11,005 pharmacist licenses on a biennial basis during FY2003. The average processing time to issue a renewal license from receipt of a completed application was 1.5 business days. The total population of licensed pharmacists for this fiscal year is as follows:

PHARMACISTS LICENSED - FY03			
Active Status	20,339		
Inactive Status*	1,231**		
TOTALS	21,570		

- Not practicing pharmacy in Texas and not reporting continuing education credits.
- ** Of the above number, 238 pharmacists have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as "exempt."

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

WORKLOAD	STATISTIC		
Changes of Address	2,566		
Changes of Employment	3,600		
Telephone Calls Received	10,000		
Email Inquiries Answered	4,000		
Information Packets Mailed	779		
Customer Service Surveys Mailed	6,679		

To issue a pharmacist license by examination, score transfer, or reciprocity within ten working days after the date the agency receives the examination results throughout FY2003.

Status:

ACCOMPLISHED

Comment:

The agency issued 806 new pharmacist licenses with an average turnaround time of five business days from the download of the examination results. Examination results were downloaded approximately once every five business days with the exception of the May - August period. During these months, examination grades were downloaded once every ten business days. Barring any other requirements that might be due for initial licensure, licensure candidates received notice of their new license within an average of ten business days of their examination date.

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

Status:

ACCOMPLISHED

Comment:

335 new intern registrations were issued in FY2003 and all interns were certified within six business days after receipt of all required documents. A total of 1,066 pharmacist preceptors were certified within 3.5 days of receipt of required documents.

8. To audit the pharmacists' compliance with continuing education and to initiate complaints on pharmacists who are not in compliance with the rules regarding pharmacists' mandatory continuing education for relicensure, in cooperation with the enforcement team, throughout FY2003.

Status: ACCOMPLISHED

Comment: Of the total number of audits conducted, 100% of the audits were closed.

PROFESSIONAL SERVICES DIVISION FY2003 SIGNIFICANT ACCOMPLISHMENTS

- Division staff accomplished or partially accomplished all of the Division's 19 Objectives for FY2003 (16 objectives were accomplished and 3 objectives were partially accomplished).
- Division staff supervised production and publication of the Board's pharmacy law manual.
- 3. The Texas version of the Multi-State Pharmacy Jurisprudence Examination (MPJE) continues to be an effective licensing tool to determine competency with respect to pharmacy law. With the assistance of pharmacist personnel from the Enforcement Division to review, develop, and evaluate questions, the MPJE continues to progress and remain a viable instrument.
- Division Director Steve Morse 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 78th Legislature. During FY2003, Division Director Steve Morse worked closely with the MPJE psychometrician to identify and make changes needed in the Texas MPJE item pool due to statutory and rule changes.
- Division staff, consisting of two individuals, prepared and mailed or e-mailed 2,096 pieces of information during FY2003.

PROFESSIONAL SERVICES DIVISION FY2003 SIGNIFICANT DISAPPOINTMENTS / CONSTRAINTS

1.	In April 2003, Division Director Steve Morse resigned after 19 years of dedicated service to the Board. Due
	to the Director's resignation, many of the responsibilities of the Division were delegated to other Divisions
	within the agency for the remainder of FY2003.

PROFESSIONAL SERVICES DIVISION **FY2003 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:
 - preparing testimony, attending public hearings, reviewing legislation, and providing any fiscal or A. technical information as required by the 78th Legislature; and
 - reviewing all legislation introduced by the 78th Legislature that has an impact on the practice of B. pharmacy or agency operations and monitor the progress of this legislation throughout FY2003.

ACCOMPLISHED Status:

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:

- Analyzed bills assigned by the Executive Director, provided comments, and followed their A. progress through the Legislature.
- B. 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.
- To assist the Executive Director, in cooperation with other Divisions, in the agency Sunset Review Process 2. including the preparation of the agency self evaluation report throughout FY2003.

ACCOMPLISHED Status:

Senior Administrative Assistant Retta Cole compiled various aspects of the report into one Comment: document, which was submitted to the Sunset Review Commission in August 2003.

To assist the Executive Director, in cooperation with other Divisions, in planning for implementation of the 3. new program to register and regulate pharmacy technicians, if the program is funded by the 78th Texas Legislature.

Status: ACCOMPLISHED

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

4. To assist the Executive Director, in cooperation with other Divisions, in the orientation of a new Board Member within 90 days of appointment by the Governor.

Status:

ACCOMPLISHED

Comment:

Division Director assisted the Executive Director with the orientation of new member, Juluette F. Bartlett-Pack, Ph.D., public member, by updating New Member Orientation Manuals and participating in an on-site orientation on February 28 - March 1, 2003.

Objectives (Ongoing)

 To assist the Board, throughout FY2003, 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:

Due to the resignation of the Division Director in April 2003, the Assistant Director of Enforcement Allison Benz, with the assistance of a Board Member, conducted on-site reviews of the internship records of the four Texas colleges of pharmacy as follows.

Date	College / School of Pharmacy	Board Member		
6/18/03	University of Houston	Juluette Bartlett-Pack		
6/18/03	Texas Southern University	Roger Anderson		
6/19/03	University of Texas	Mike Brimberry		
6/23/03	Texas Tech	Kim Caldwell		

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 5-6, 2003, meeting.

In addition, a Questionnaire on Texas Colleges of Pharmacy Internship Programs was sent to the four Texas colleges of pharmacy. Responses were reviewed by the Assistant Director of Enforcement and presented to the Board on August 5, 2003, resulting in approval of the internship programs for the 2003-2004 academic year.

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

Status:

ACCOMPLISHED

Comment:

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

Date	Activity	Personnel
1/9 - 1/12/03	MPJE Item Writing Workshop, Chicago, IL	Steve Morse, Heidi Bragg
3/12/03	MPJE Texas Item Writing Workshop, Austin, TX	Steve Morse
4/3 - 4/6/03	Attended MPJE Review Committee Meeting, Chicago, IL	Steve Morse
5/29 - 6/1/03 MPJE Texas Item Pool Review, Chicago, IL		Allison Benz, Heidi Bragg

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

To publish a minimum of four issues of the Newsletter during FY2003, 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: PARTIALLY 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 Newsletter during FY2003. Due to budget constraints, only two issues of the Newsletter were published during FY2003.

The issues contained the following regular features:

- President's Column
- Adopted Rules and Summary
- Disciplinary Actions
- Compliance Reminders
- Complaint Corner
- To provide periodic updates of the Texas State Pharmacy Law reference manual to Board Members, staff, and NABP for inclusion in NABPLAW during FY2003.

Status: ACCOMPLISHED

Comment: Law Reference

Due to budget constraints, the Texas State Pharmacy Law Reference manual was not published by TSBP. However, Division staff worked closely with the publisher to ensure that the manual met TSBP requirements.

Law Reference Updates

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

- September 10, 2002
- December 11, 2002
- March 6, 2003

NABPLAW Updates

Updates to NABPLAW were submitted as requested to the National Association of Boards of Pharmacy on the following dates during FY2003:

- November 4, 2002
- December 30, 2002
- April 8, 2003

NABP Survey of Pharmacy Law Updates

The NABP publication, Survey of Pharmacy Law, is updated annually. During FY2003, the updated was completed by the Executive Director and returned to NABP in the Summer 2003.

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
FY2003.

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 27 rules and assisted others in drafting of 7 additional rules as follows:

Rules Drafted Proposed: Amendments to §283.6 regarding Preceptor Requirements Amendments to §281.35 regarding Official Prescription Requirements New §291.37 regarding Centralized Prescription Dispensing New §291.38 regarding Centralized Prescription Processing Amendments to §§291.33, 291.36, 291.74, and 291.104 regarding references to Centralized Prescription Dispensing or Processing Amendments to §§291.8, 291.12, 291.14-291.18, and 291.29 updating citations and cleanup Amendments to §§291.91 and 291.93 regarding Class D Pharmacies Amendments to §§303.1 and 303.2 regarding Destruction of Drugs in Nursing Homes Amendments to §291.32 regarding Supervision of Pharmacy Technicians Amendments to §291.30, 291.54, and 291.74 regarding Drug Regimen Review Amendments to §291.104 regarding Professional Judgement by Pharmacist in a Class E Pharmacy Amendments to §295.8 regarding Continuing Education

Rules

Assisted the Executive Director in drafting:

New §§291.25 and 291.26 regarding Compounding Non-sterile and Sterile Pharmaceuticals (1st draft)

Assisted the Legal Division in drafting:

New §281.20 regarding Criminal Convictions

Amendments to §281.22 regarding Informal Disposition of a Contested Case

Amendments to §291.8 regarding Grounds for Discipline of a Pharmacist

Assisted the Enforcement Division and Administrative Services and Licensing Division in drafting:

Amendments to §§291.1 and 291.4 regarding Change of Ownership of a Pharmacy

RULE SUBMISSIONS TO THE TEXAS REGISTER

During FY2003, 47 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
§§291.1, 291.4	Amendment	9/13/02	9/10/02*	12/6/02	12/11/02
§§291.33, 291.36	Amendment	9/13/02	9/10/02*	12/6/02	12/11/02
§291.37	New	9/13/02	9/10/02*	12/6/02	12/11/02
§291.38	New	9/13/02	9/10/02*	12/6/02	12/11/02
§291.74	Amendment	9/13/02	9/10/02*	12/6/02	12/11/02
§291.104	Amendment	9/13/02	9/10/02*	12/6/02	12/11/02
§281.8	Amendment	12/20/02	12/11/02*	3/7/03	3/6/03*
§§291.8, 291.12, 291.14, 291.15, 291.16, 291.17, 291.18, 291.29	Amendment	12/20/02	12/11/02*	3/7/03	3/6/03*
§§291.91, 291.93	Amendment	12/20/02	12/11/02*	3/7/03	3/6/03*
§§303.1, 303.2	Amendment	12/20/02	12/11/02*	3/7/03	3/6/03*
Chapter 283 (283.1-283.11)	Rule Review	12/20/02	12/11/02*	3/7/03	3/6/03*
Chapter 291 (291.1-291.19, 291.27- 291.29)	Rule Review	12/20/02	12/11/02*	3/7/03	3/6/03*
Chapter 291 (291.91-291.94)	Rule Review	12/20/02	12/11/02*	3/7/03	3/6/03*
Chapter 303 (303.1-303.3)	Rule Review	12/20/02	12/11/02*	3/7/03	3/6/03*
§291.32	Amendment	3/21/03	3/6/03*	6/20/03	6/25/03
§§291.33, 291.36	Amendment	3/21/03	3/6/03*	6/20/03	6/25/03

Rules	Type of Action	Published in TxReg as Proposed	Memo to Staff and Others	Published in TxReg as Adopted	Memo to Staff and Others
§291.54	Amendment	3/21/03	3/6/03*	6/20/03	6/25/03
§291.74	Amendment	3/21/03	3/6/03*	6/20/03	6/25/03
§291.104	Amendment	3/21/03	3/6/03*	6/20/03	6/25/03
§295.8	Amendment	3/21/03	3/6/03*	6/20/03	6/25/03
§281.20	New	6/27/03	6/25/03*	FY2004	FY2004
§281.22	Amendment	6/27/03	6/25/03*	FY2004	FY2004
§283.6	Amendment	6/27/03	6/25/03*	FY2004	FY2004
§291.35	Amendment	6/27/03	6/25/03*	FY2004	FY2004
Chapter 291 (291.35)	Rule Review	6/27/03	6/25/03*	FY2004	FY2004
Chapter 295 (295.1-295.9)	Rule Review	6/27/03	6/25/03*	FY2004	FY2004
Chapter 291 (291.101-291.105)	Rule Review	6/27/03	6/25/03*	FY2004	FY2004

^{*} Advanced Notice

TEXAS REGISTER - OPEN MEETING SUBMISSIONS

During FY2003, five notices of open meetings were submitted by the Division to the *Texas Register* for publication as follows:

Type of Submission	Date Published	
Open Meeting - 9/13/02 Election of Officers	9/13/02	
Open Meeting - 11/19/02 Board Meeting	11/7/02	
Open Meeting - 2/4/03 Board Meeting	1/22/03	
Open Meeting - 5/13/03 Board Meeting	5/1/03	
Open Meeting - 7/19/03 Board Forum	7/9/03	
Open Meeting - 8/5/03 Board Meeting	7/24/03	

 To review and monitor the Texas Register for activities of other agencies that would impact the policy and procedures of the Board throughout FY2003.

Status:

ACCOMPLISHED

Comment:

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

Date	Rules from the Texas State Board of Pharmacy	Action	
9/10/02	Proposed and Adopted Rules from the August 2002 Board Meeting	Reported to Board Members/Staff and Interested Parties	
12/11/02 Proposed and Adopted Rules from the November 2002 Board Meeting		Reported to Board Members/Stat and Interested Parties	
3/6/03	Proposed and Adopted Rules from the February 2003 Board Meeting	Reported to Board Members/Staff and Interested Parties	

Date	Rules from Other Agencies	Action Reported to Board Members/Staff	
9/20/02	Proposed Rules from the Texas Workers' Compensation Commission		
10/17/02	Proposed Rules on Standards for Law Enforcement Officers	Reported to Chief of Investigations	
10/21/02	Proposed Rules from the Health and Human Services Commission	Reported to Board Members/Staff	
10/21/02	Proposed Rules from the Texas Department of Public Safety	Reported to Board Members/Staff	
10/28/02	18/02 Proposed Rules from the State Office of Risk Management Reported to Di Services & Lic		
11/4/02	Proposed Rules on Emergency Preparedness	Reported to Executive Director, Enforcement staff	
11/13/02	Proposed Rules from the Department of Information Resources	Reported to Director of Administrative Services & Licensing	
12/11/02	Proposed Rules from the Texas Department of Health	Reported to Board Members/Staff	
12/30/02	Adopted Rules on Standards for Law Enforcement Officers	Reported to Chief of Investigations	
2/18/03	Proposed Rules from the Department of Information Resources	Reported to General Counsel, Director of Enforcement	

 To provide professional staff support to Board-appointed task forces, and complete other special projects as assigned, throughout FY2003.

Status:

ACCOMPLISHED

Comment:

The Division's staff provided professional staff support to two meetings for the Task Force on Pharmacy Compounding during FY2003 on the following dates:

- September 5, 2002
- January 17, 2003

The Division Director prepared the Task Force report that was presented to the board at the February 2003 Board meeting.

 To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2003.

Status:

ACCOMPLISHED

Comment:

- A. Senior Administrative Assistant Retta Cole maintained close contact with *Texas Register* staff as needed to prepare and publish rules in the *Texas Register*:
- B. The Division Director had telephone contact with numerous agencies as indicated below:

	Agency
United Sta	ates Department of Human Services
Drug Enfo	rcement Administration
Food and	Drug Administration
Texas Dep	partment of Mental Health Mental Retardation
Health Pro	fessions Council
Texas Dep	partment of Health
Texas Dep	partment of Human Services
Texas Dep	partment of Public Safety
Texas Stat	e Board of Medical Examiners
Texas Stat	e Board of Nurse Examiners
Texas Stat	e Board of Veterinary Medical Examiners

State Boards of Pharmacy	
Arizona Board of Pharmacy	
Florida Board of Pharmacy	
Kentucky Board of Pharmacy	
Massachusetts Board of Pharmacy	
New Jersey Board of Pharmacy	
New York Board of Pharmacy	
North Carolina Board of Pharmacy	
South Carolina Board of Pharmacy	
Virginia Board of Pharmacy	

 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 FY2003.

Status:

ACCOMPLISHED

Comment:

Division staff accomplished this objective through the following activities:

A. The Division mailed 2,096 pieces of written information as indicated in the following chart:

Written Information			
Packets of Information	212		
Memos Regarding Rules & Open Meetings	1,449		
Letters	64		
Emails	364		
Surveys	7		
TOTAL	2096		
AVERAGE PER MONTH	174		

B. The Division Director gave 8 presentations and served as a resource on 6 occasions as indicated in the following charts:

Date	Presentations	Attendance (Approx.)	
9/21/02	West Texas Pharmacy Association, Lubbock		
9/26/02	University of Texas 1st Semester Pharmacy Students, Austin	120	
9/27/02	Texas Association of School Based Health Clinics Conference, Austin	30	
10/18/02	Texas Pharmacy Association, Academy of Consultant Pharmacists	45	
10/26/02	Metroplex-Area Society of Health-Systems Pharmacists, Irving	125	
10/30/02	Texas Tech Pharmacy Students Law Class, Amarillo	80	
11/2/02	Texas Pharmacy Association, Academy of Pharmacy Technicians, Austin	120	
3/20/03	Central East Texas Pharmacy Association	50	
	TOTAL	645	

Date	Resource	Attendance (Approx.)	
10/16/02	Representatives of H.E.B.		
11/12/02	Joint Committee on Internship Programs	7	
11/14-15/02	University of Texas Pharmacy Foundation Advisory Committee	25	
12/3/02	Texas Pharmacy Association, Academy of Managed Care Pharmacists, Dallas	70	
2/11/03	Texas Pharmacy Practice Coalition, Houston	10	
2/12/03	Texas Pharmacy Congress	20	
	TOTAL	135	

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

Training Activities

Date	Training	Personnel	
10/02	New Employee Orientation to Division of Professional Services and Laws/Rules	Jill McGahey, Enforcement	
11/13/02	Orientation to Division of Professional Services	Jason Zucca, Pharmacist-Intern	
12/5/02	Rules from November 2002 Board Meeting	Enforcement Staff	
1/9/03	New Employee Orientation to Division of Professional Services	Rob Lunsford, Enforcement; Mark Comfort, Pharmacist- Intern	
1/13/03	Laws/Rules	Rob Lunsford, Enforcement; Mark Comfort, Pharmacist- Intern	
2/14/03	Orientation of Division of Professional Services	Josh Rodgers, Pharmacist- Intern	
2/19/03	Rules from February 2003 Board Meeting	Enforcement Staff	

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.
- Division Staff assisted other divisions by creating, updating, and/or changing over 25 forms and documents used by other divisions of the agency.
- Senior Administrative Assistant Retta Cole assisted the Division of Administrative Services and Licensing with:
 - processing/data entry of Remote Pharmacy Services;
 - processing/data entry of Pharmacy Closings; and,
 - data entry for Change of Employment, Change of PIC, and Change of Address.
- The Division Director processed 232 notifications of Drug Therapy Management by pharmacists and 6 requests for exemption from technician certification.
- 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 FY2003.

Status: ACCOMPLISHED

Comment:

Division staff completed the following education activities:

Retta Cole	
10/17/02	Creating PDF Files using Acrobat Writer
11/6/02	SEIP Brown Bag Seminar
1/9/03	CPR/AED Training
5/7/03	ERS Presentation

Steve Morse	
9/14-15/02	University of Texas Postgraduate Seminar, Austin
1/8/03	CPR/AED Training

 To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2003.

Status:

ACCOMPLISHED

Comment:

The annual review for Senior Administrative Assistant Retta Cole occurred on August 26, 2003.

12. To destroy records in accordance with the agency's record retention plan throughout FY2003; to update the Division's Policy and Procedure Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2003.

Status:

PARTIALLY ACCOMPLISHED

Comment:

During FY2003, the Division partially accomplished this goal as follows:

- A. Records Management
 No records of the Professional Services Division required destruction during FY2003.
- B. Policies and Procedures The Division's policies and procedures were not reviewed during FY2003 due to the resignation of the Division Director.
- To recommend policies and procedures to the Executive Director which will enhance the efficiency and effectiveness of the agency throughout FY2003.

Status:

ACCOMPLISHED

Comment:

This objective was accomplished through the following activities:

- A. The Division Director recommended a Staff Development program titled "Handling Difficult People."
- B. Division staff implemented PDF and HTML version of Newsletter on website.

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 FY2003.

Status: PARTIALLY ACCOMPLISHED

Comment: Division Director recommended:

- Rules regarding Centralized Prescription Dispensing and Centralized Prescription Processing.
- 15. To prepare and submit a report on the accomplishment of Division objectives for incorporation in the agency's FY2002 Annual Report to be presented to the Board by its May 2003 Board Meeting.

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2002 Annual Report was submitted to the Executive Director by

the due date. Senior Administrative Assistant Retta Cole combined the various Divisions' reports

into one report which was presented and approved by the Board at its May 2003 meeting.

ENFORCEMENT DIVISION FY2003 SIGNIFICANT ACCOMPLISHMENTS

- Division staff accomplished or partially accomplished all of the Division's 20 Objectives for FY2003 (19 objectives were accomplished and 1 objective was partially accomplished). In addition, TSBP met or exceeded (within a 5% variance) 11 of 13 (85%) FY2003 projections for enforcement-related performance measures. The following measures were not met: one key measure (relating to number of complaints received) and one non-key measure (relating to recidivism rate for participants in peer assistance program). The Enforcement Division did not have control over the performance regarding the two measures that were not met. (See Ongoing Objective #1.)
- 2. The agency received more complaints in FY2003 than it did during the prior four fiscal years, as indicated in the chart below. In addition, TSBP significantly improved the agency's complaint resolution time in FY2003: a 31% decrease from 221 days in FY2002 to 153 days in FY2003, as indicated in the chart below.

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY99	1533		1335		87%	221 Days	
FY00	1577	+3%	1513	+13%	96%	220 Days	-0.45%
FY01	1683	+7%	1667	+10%	99%	262 Days	+19%
FY02	1836	+9%	2137	+28%	116%	221 Days	-16%
FY03	1935	+5%	1887	-12%	97.5%	153 Days	-31%

- Field Compliance Officers conducted 2,529 inspections during FY2003, which exceeded the objective of 2,300 inspections by 10%. This accomplishment was achieved despite the Houston Compliance Officer position being vacant for three months of the fiscal year.
- In April 2003, TSBP implemented a new program which required new pharmacies to be inspected before receiving a pharmacy license. This procedure will help ensure that a pharmacy license (a license that allows an individual to purchase prescription drugs) is issued to legitimate operations. From May -August 2003 (four months of FY2003), Compliance Officers conducted 22 pre-inspections.
- Assistant Director of Enforcement Allison Benz, R.Ph., M.S., served as a preceptor to six interns in FY2003 (a record-breaking number of interns). This accomplishment was even more remarkable because it marked the first time that TSBP served as an internship site for students from all four Texas pharmacy colleges (see Ongoing Objective #7).
- 6. Division staff spent significant time and efforts assisting Board Members, the Executive Director and other Board staff (see New Objectives #1-#4 and Ongoing Objectives #8-#10 and #14-#16). Of particular note is the assistance provided by the Division Director in the following areas: drafting a substantial portion of the agency's Self-Evaluation Report that was submitted to the Sunset Advisory Commission; reviewing and/or preparing impact statements regarding various bills being considered by the 78th Texas Legislature; and drafting response to report from the agency's internal change team. In addition, Division staff spent significant time and efforts assisting external customers, particularly responding to requests for information (see Ongoing Objectives #6 and #7).

ENFORCEMENT

- 7. In line with the agency's "lead agency" philosophy, TSBP investigators made an extraordinary number of contacts with other law enforcement agencies (see Ongoing Objective #4).
- 8. Assistant Director of Enforcement Allison Benz, R.Ph., M.S., worked with other agency staff to prepare the bid specifications for the agency's peer assistance program. The contract was awarded to the Pharmacy Recovery Network, effective September 1, 2004 (see Ongoing Objective #9).
- 9. Division staff, with review/approval of TSBP General Counsel, prepared and mailed 13 cease and desist (C&D) letters to businesses/individuals that were operating and advertising as Canadian Storefront pharmacies. Additional C&D letters, investigations, and cooperation with state and federal authorities will be ongoing in order to regulate this type of operation.
- Division staff made numerous recommendations to enhance agency operations and improve the laws/rules governing the practice of pharmacy (see Ongoing Objectives #14 and #15).

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ENFORCEMENT DIVISION FY2003 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

- In mid-FY2003, the agency's appropriation was cut by 7% as a result of shortfalls in the state's revenue.
 As a result, the agency was forced to reduce expenses, which included not filling four positions in the Enforcement Division that became vacant in FY2003, as described below:
 - Field Investigator (terminated in January 2003) this position was vacant for eight months;
 - Administrative Assistant (on extended medical leave, then resigned in May 2003) this position
 was vacant for eight months;
 - Staff Compliance Officer (resigned in May 2003) this position was vacant for four months; and
 - Field Compliance Officer (resigned in June 2003) this position was vacant for three months.

The budget cuts mandated by the 78th Texas Legislature also required the agency to reduce spending for staff training and conference travel expenses. Accordingly, the agency did not display its professional exhibit at any professional meetings in FY2003.

- In addition to the four vacancies described in (1) above, the Division experienced additional turnover and vacancies, as described below:
 - one Field Investigator (resigned in September 2002) -- this position was vacant for four months until the position was filled in January 2003; and
 - one Enforcement Officer was on medical leave for three months during FY2003.

These six vacancies had a negative impact on the number of complaints that the agency was able to close in FY2003 (see chart on page 67 which reflects that the agency closed 12% fewer complaints in FY2003 than in FY2002). The vacancies will also have a negative impact on the average complaint resolution time in FY2004.

3. TSBP received more complaints in FY2003 than in any prior fiscal year, which taxed the Division's human resources. The most common type of consumer complaint is a complaint in which the complainant alleged that a dispensing error was committed by a pharmacist and/or pharmacy. The following chart indicates the number of dispensing error complaints closed during the past five years:

DATA ON DISPENSING ERROR COMPLAINTS CLOSED FY99 - FY03

Type of Dispensing Error	FY99	FY00	FY01	FY02	FY03	5-Year Avg.
Wrong Drug/Strength or Wrong Directions for Use	151	173	189	213	152	176
Mislabeling	10	15	15	16	10	13
Dispensed Wrong Quantity	28	28	57	85	66	53
Dispensed Outdated Drug	4	4	6	12	4	6
Packaging/Delivery Error	12	15	17	24	10	16
Error + No Counseling		•	27	26	25	
Total # Dispensing Error Complaints	205	235	311	376	267	279
Total # Complaints Closed	1,335	1,513	1,667	2,137	1,887	1,708
% Dispensing Error Complaints	15%	16%	19%	18%	14%	16%

Data not collected as such during FY99 and FY00.

- 4. Factors contributing to the increase in the number of complaints that TSBP received in FY2003, include the following:
 - ability for complainants to file on-line complaints;*
 - increased number of complaints filed against Internet pharmacies/websites advertising prescription services and Canadian Storefront pharmacies;
 - increased number of complaints were opened by TSBP following the receipt of a professional liability claim (malpractice report), an inspection by TSBP Compliance Officers, or an agency investigation; and
 - increased number of complaints were opened as a result of pharmacists who were in noncompliance with the terms of their previously entered disciplinary orders. Specifically, TSBP
 opened 88 complaints in FY2002 for non-compliance with terms of disciplinary orders [54 of the 88
 complaints (61%) were due to problem drug screens], as compared to FY2003 when TSBP
 opened 146 complaints for non-compliance issues [with 84 of the 146 complaints (58%) regarding
 problem drug screens]. Accordingly, TSBP experienced a 66% increase in the number of
 complaints regarding non-compliance issues between FY2002 and FY2003, primarily due to
 problem drug screens (i.e., a 56% increase from 54 complaints in FY2002 to 84 complaints in
 FY2003 opened as a result of drug screening violations).
 - * TSBP first offered on-line complaint filing via the agency's website (Internet) in the Spring of FY2001. In FY2002 (the first full fiscal year that TSBP customers could file complaints on-line), TSBP received 214 Internet complaints. In FY2003, TSBP received 318 Internet complaints (49% increase as compared to prior fiscal year). However, TSBP experienced a decrease in the number of complaints received via e-mail in FY2003 as compared to FY2002. TSBP makes a distinction between e-mail complaints (where the complainant sends an electronic complaint message to a TSBP employee) and Internet complaints (where the complainant completes the TSBP complaint form on-line). Refer to chart below for comparison of all electronic complaints received in the past three fiscal years.

	FY01	FY02	FY03	% Change from FY02 to FY03
E-mail Complaints	31	47	26	-45%
Internet Complaints	60+	214	318	+49%
Total Electronic Complaints Received	91	261	344	32%

⁺ Ability to file an on-line complaint was not available for the entire fiscal year in FY2001.

- 5. Division staff continued to spend significant time/efforts monitoring compliance with the terms of disciplinary orders that were entered by TSBP in FY2003. A large number (185 disciplinary orders or 87% of the total number of disciplinary orders entered in FY2003) required some type of intensive monitoring. Many of the disciplinary orders required the licensee to submit policies and procedures (e.g., Quality Assurance Programs including peer review procedures). See Ongoing Objective #5.
- 6. After 21 years of loyal service to TSBP, Chief Compliance Officer Cy Weich, R.Ph., retired at year end FY2003 (effective August 31, 2003). Mr. Weich was consistently a top performer, providing assistance and guidance to pharmacists who appreciated his experience, insight, and expertise. His absence will have a negative impact on the Division's performance in FY2004.

ENFORCEMENT DIVISION FY2003 ANNUAL REPORT

GOAL

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

Objectives (New)

- To assist the Executive Director, in cooperation with other Divisions, in:
 - preparing testimony, attending public hearings, reviewing legislation and providing any fiscal or technical information as required by the 78th Texas Legislature; and
 - B. reviewing all legislation introduced by the 78th Texas Legislature that has an impact on the practice of pharmacy or agency operations and monitor the progress of this legislation throughout FY2003.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

A. Interim Session

Division Director/Assistant Director assisted the Executive Director in the preparation of the testimony for the public hearing on the agency's budget request and attended the public hearing on September 4, 2002.

In September 2002, Division Director assisted the Executive Director in the preparation of the responses to the following surveys: survey from the House Public Health Interim Committee regarding the agency's complaint process; and survey from the Task Force on Personal Privacy. Division Director also assisted Executive Director in the preparation of the testimony for the public hearing regarding the agency's complaint process (that was scheduled before the House Public Health Interim Committee) and attended the public hearing on September 24, 2002.

B. Reports to Legislature

Division Director assisted the Health Professions Council (HPC) in preparing a report to the 78th Texas Legislature regarding the complaint processes of the HPC member agencies and the methods used by the agencies to provide public access to complaint information. The report was the culmination of an eighteen-month study of agencies' procedures. Division Director was the chair of the HPC committee that was responsible for the study of the agencies' procedures. The final report was approved by the Council as whole on December 17, 2002, and submitted to the Governor by the due date

(January 1, 2003). The report, which was mandated by H.B. 2408 (77th Texas Legislature), contained both a summary of the complaint study as well as ten recommendations for standardizing HPC agencies' procedures regarding the complaint/disciplinary process and disclosure of complaint information to the public.

Upon request of Representative Deshotel, Division Director prepared a special report regarding disciplinary orders that were entered by TSBP during FY2001 and FY2002.

C. Regular Session of 78th Texas Legislature – Division Director reviewed and/or prepared impact statements regarding the following 10 bills:

S.B. 803	_	pharmacies advertising compounded drugs
S.B. 925	-	referral of diagnostic services when health provider has
		financial interest in the business doing the service
H.B. 2046	_	pharmaceutical manufacturers who provide sample drugs
S.B. 1353	-	regarding HPC's authority to pass rules
S.B. 939	-	pharmacies using 5 to 1 tech/pharmacist ratio
H.B. 2985	-	Office of Patient Protection
H.B. 2933	_	transfer of Office of Human Rights to Office of Attorney
		General
H.B. 1814	_	consolidation of TSBP into Texas Health Department
H.B. 2996	_	mobile pharmacies
S.B. 1315		allowing TSBP to establish a new class of pharmacy license

On behalf of the Executive Director, Division Director served as a resource witness at the public hearing on S.B. 1315, and met with representatives of the Speaker of the House regarding H.B. 2985.

To assist the Executive Director, in cooperation with other Divisions, in the agency Sunset Review Process including the preparation of the agency self evaluation report throughout FY2003.

Status: ACCOMPLISHED

Comment:

With the Executive Director and at her request, Division Director attended a meeting with the staff of the Sunset Advisory Commission on May 19, 2003, to discuss the Sunset Review process. On June 6, 2003, the Commission sent TSBP the 21-pages of written instructions for completing the agency's Self-Evaluation Report (SER). On June 20, 2003, the Executive Director met with management staff to discuss time lines and assignments. Division Director accomplished the following activities: drafted the responses to most of the questions in five sections of the SER (Key Functions, Powers, and Duties; History and Major Events; Policymaking Structure; Guide to Agency Programs; and Agency Performance Evaluation); made recommendations for the section regarding Policy Issues; and assisted with the review and preparation of the final draft of the SER. The SER was submitted to the Sunset Advisory Commission by the approved due date (August 20, 2003).

 To assist the Executive Director, in cooperation with other Divisions, in the planning for implementation of the new program to register and regulate pharmacy technicians, if the program is funded by the 78th Texas Legislature.

Status: ACCOMPLISHED

Comment:

In May 2003, the 78th Texas Legislature passed the Appropriations Act which included funding for TSBP to register and regulate pharmacy technicians. During May-July 2003, Division staff attended meetings with the Director and staff of the Administrative Services and Licensing Division for the purpose of discussing procedures and proposed rules to implement the pharmacy technician registration program. In July 2003, the Executive Director met with management staff on several occasions to review proposed rules and discuss procedures. On August 5-6, 2003, at a regularly scheduled business meeting, the Board reviewed the proposed rules and voted to publish the proposed rules in the *Texas Register*. Final adoption of the rules will occur in FY2004, whereupon the implementation of the technician registration program will begin.

4. To assist the Executive Director, in cooperation with other Divisions, in the orientation of a new Board Member within 90 days of appointment by the Governor.

Status:

ACCOMPLISHED

Comment:

Division Director assisted the Executive Director with the orientation of new member, Juluette F. Bartlett-Pack, Ph.D., public member, by updating New Member Orientation Manuals and participating in an on-site orientation on February 28-March 1, 2003.

Objectives (Ongoing)

To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2002-03 Appropriations Act to Executive Director by specified due dates throughout FY2003; to assist in the preparation of applicable reports to the Legislative Budget Board and Governor's Budget Office regarding performance measures; to meet (within a 5% variance) or exceed the Performance Targets over which the Division has control.

Status:

ACCOMPLISHED

Comment:

Throughout FY2003, 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 FY2003. 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, 5 of 6 key measures and 6 of 7 non-key measures. Accordingly, TSBP met or exceeded 85% of the FY2003 projections for 13 enforcement-related performance measures.

Enforcement Performance Measure	FY03 Projected Performance	FY03 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
Outputs:				
Inspections	2,000	2,529	NK	Exceeded
Jurisdictional Complaints Resolved	1,300	1,850	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	150	173	К	Exceeded
Number of Students Participating in a Peer Assistance Program	1'	2	NK	Exceeded
Efficiency:			1	
Average Cost per Jurisdictional Complaint Resolved	\$658.71	\$449.64	NK	Exceeded
Average Time for Jurisdictional Complaint Resolution	350	155	K	Exceeded
Outcomes:				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	10%	11.89%	К	Exceeded
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	99%	96.68%	К	Met
Recidivism Rate of Those Receiving Disciplinary Action	4%	4.59%	NK	Met
Percent of Jurisdictional Complaints Resolved within Six Months	60%	79%	NK	Exceeded
Recidivism Rate for Participants in Peer Assistance Program	20%	28%	NK	Not Met
One-Year Completion Rate for Participants in Peer Assistance Program	75%	91%	NK	Exceeded
Explanatory:				
Jurisdictional Complaints Received	2,000	1,893	К	Not Met

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

- 2. To monitor pharmacy operations and pharmacists' practice by conducting 2,300 inspections, inspection-visits, and visits, including follow-up inspections to "Warning Notices" throughout FY2003. To inspect pharmacies and monitor pharmacists' practice throughout FY2003, according to the following priorities:
 - A. pharmacists and pharmacies who are the subject of a complaint received by TSBP or a disciplinary order entered by TSBP;
 - B. new pharmacies or pharmacies with a recent change of ownership;
 - C. pharmacies that have received a "Warning Notice" (follow-up inspections);
 - D. requests for inspection by licensee;
 - E. pharmacies with a preceptor working in the pharmacy; and
 - F. routine inspections.

Status: ACCOMPLISHED

Comment:

A total of 2,529 pharmacies were inspected by the Field Compliance Officers through complete inspections, partial-inspections, and inspection visits. This number of inspections is 10% higher than the objective of 2,300. This accomplishment was achieved during a time when one of the Compliance regions was not staffed for a period of three months.

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

- A. Inspections are full inspections of licensed facilities in which Compliance Officers check the facilities for compliance with each of the items on the inspection report form.
- 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 pre-inspections for new pharmacy applicants. In addition, partial inspections include follow-up inspections of pharmacies that received a "Warning Notice" to determine if the pharmacies have complied with the discrepancies listed on the "Warning Notice." Follow-up inspections are conducted within six months after the pharmacy has notified the Board in writing that the discrepancies have been corrected.
- C. Inspection-Visits are inspections in which Compliance Officers generally do not complete an inspection report form. Inspection-visits include inspections of non-licensed facilities that are operating a pharmacy (e.g., medical supply house), visits made to pharmacies that have closed (and did not notify the Board), and visits to "new" pharmacies that have not opened for business. The last two situations are discovered by Compliance Officers after arriving at the addresses listed in Board records.

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

Inspections	2382
Partial-Inspections	77
Inspection-Visits	70
Total FY03	2529

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

FY03	Number of Inspections/Visits (% of total)	Number of "WARNING NOTICES" Issued*	Number of Pharmacies Receiving "WARNING NOTICES" (% receiving a "Warning Notice")*
Class A Pharmacies	1964	226	12%
Class B Pharmacies	11	2	18%
Class C Pharmacies	380	48	13%
Class D Pharmacies	174	15	9%
FY03 TOTALS	2529	291	12%

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

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

Conditions Receiving "Warning Notices"

Percentages are based on the total number of "Warning Notices" issued to Pharmacies in FY2003 (530). Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.

Equipment	46 (9%)	Computer Systems	24 (5%)
Balance Failed Insp	24	Computer Records Incomplete	22
Equipment Insp Due (Not Balance)	11	Computer Record Non-Compliance	2
Insufficient Equipment	11	Records	29 (5%)
Pharmacy Technicians	93 (18%)	Records Not Available	19
No/Incomplete Training	55	DEA Order Forms Incomplete	2
No/Improper Supervision	22	Absence of R.Ph. Record	3
Improper Registration	16	Rx Not Separated	3
Inadequate Library	76 (14%)	No Provision Log (Class D)	2
Licenses	66 (12%)	OBRA Violations	13 (2%)
Licenses Not Posted	54	Written Information Not Provided	3
Delinquent Licenses	12	No Patient Counseling	5
Prescriptions	19 (4%)	PMR Absent or Incomplete	5
Lack Proper Information	5	Sterile Pharmaceutical Violations	33 (6%)
Prescription Label Incorrect	6	No/Incomplete QA/QC	10
Triplicate Non-Compliance	8	No/Incomplete P&P Manual	4
Drug Stock/Environment	32 (6%)	No/Inadequate Preparation Area	14
Improper Environment	5	No DUR	5
Out-of-Date Drug Stock	20	No/Incomplete Non-Sterile Cpd Records	2 (1%)
Security	3	Improper Distribution	5 (1%)
Unsanitary	1	No PIC	3 (1%)
Prohibited Drugs (Class D)	3	Improper Dispensing	5 (1%)
nventory	59 (11%)	Aiding and Abetting	4
No Annual Inventory	26	Illegal Dispensing	1
No Change of Ownership Inventory	4	Notification Violation	11 (2%)
No Change of PIC Inventory	7	Theft & Loss of C/S Not Reported	4 (1%)
Incomplete Inventory	17	Gray Market Diversion	3
No Perpectual (Class C)	1	Improper Closing/Change of Ownership	2
Improper Prepackaging Procedures	7 (1%)	Improper Inpatient Procedures (Class C)	1

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

Purpose of Inspection (In Order of Priori	ty)	Number of Inspections	% of Tota
Complaint		55	2%
Follow-up to Disciplinary Order		44	2%
Pre-Inspection New		22	1%
New Pharmacies		156	6%
Change of Ownership		68	2%
Preceptor		227	9%
Follow-up to "Warning Notice"		53	2%
Routine Inspections		1,886	75%
Other		18	1%
	TOTAL	2,529	100%

- 3. To coordinate and monitor throughout FY2003, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants; to achieve an average complaint resolution time (overall agency average) of 300 days. To investigate complaints throughout FY2003, according to the following priorities:
 - A. Complaints filed against pharmacists who have a chemical, mental or physical impairment;
 - B. Complaints involving the diversion of prescription drugs, through the following illegal means:
 - delivering prescription drugs without a prescription;
 - dispensing prescription drugs pursuant to a prescription of a practitioner not issued for a legitimate medical purpose or in the usual course of medical practice;
 - dispensing prescription drugs to patients when the pharmacist knew or should have known there was no valid doctor-patient relationship, such as prescriptions dispensed following an internet consultation;
 - dispensing prescription drugs by a pharmacist not in the usual course of pharmacy practice;
 - distributing prescription drugs pursuant to forged or altered prescriptions;
 - failing to keep and maintain records of controlled substances; and
 - unauthorized refills.
 - C. Complaints involving applicants for licensure;
 - D. Complaints involving dispensing errors;
 - Complaints involving violations of rules relating to patient counseling or drug regimen review;
 - Complaints against licensees who have been convicted of a felony or misdemeanor involving offenses that are related to the practice of pharmacy;
 - G. Complaints involving health-care fraud or fraud, deceit, and misrepresentation in the practice of pharmacy, including aiding and abetting a non-licensed individual in the practice of pharmacy;
 - Complaints against licensees who have been convicted of a felony or misdemeanor involving offenses that are not related to the practice of pharmacy;
 - Complaints against licensees who have been subject to a disciplinary action by another state board of pharmacy; and
 - Complaints involving other violations of the laws and rules relating to the practice of pharmacy.

Status: PARTIALLY ACCOMPLISHED

Comment:

TSBP received 1,935 complaints in FY2003, which represented a 5% increase over the number of complaints received in FY2002, as reflected in the chart below. TSBP staff closed 1,887 complaints in FY2003, which represented a 12% decrease over the number of complaints closed in FY2002, as reflected in the chart below. However, TSBP staff significantly improved the agency's average complaint resolution time in FY2003: a 31% decrease from 221 days in FY2002 to 153 days in FY2003. However, not all notifications were mailed to complainants in a timely manner. For this reason, this objective was only partially accomplished.

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

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY99	1533		1335		87%	221 Days	
FY00	1577	+3%	1513	+13%	96%	220 Days	-0.45%
FY01	1683	+7%	1667	+10%	99%	262 Days	+19%
FY02	1836	+9%	2137	+28%	116%	221 Days	-16%
FY03	1935	+5%	1887	-12%	97.5%	153 Days	-31%

Fiscal Year	Compliance Officers	%	Investigators	%	Total
FY99	43	24%	136	76%	179
FY00	67	43%	89	57%	156
FY01	100	34%	191	66%	291
FY02	59	21%	228	79%	287
FY03	76	31	166	69%	242
-Year Average	69	30%	162	70%	231

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

DATA ON COMPLAINTS CLOSED FY2001 - FY2003

Form of Complaints	FY01	FY02	FY03	%	3-Yr. Avg.	%
Telephone	100	101	74	4%	92	5%
Letter	251	332	223	12%	269	14%
TSBP Complaint Form	268	342	224	12%	278	15%
HPC 800 #	120	150	84	4%	118	6%
Fax	68	100	97	5%	88	5%
Visit	7	15	16	<1%	13	<1%
Agency Report	38	46	48	3%	44	2%
Inspection	24	32	26	1%	27	1%
Interoffice Referral	64	53	52	3%	56	3%
Licensure Application	146	128	127	7%	134	7%
Data Bank	18	16	8	<1%	14	<1%
Theft/Loss Report	426	504	460	24%	463	24%
Investigation	54	52	88	5%	65	3%
Intra-Agency Referral	27	48	31	2%	35	2%
Malpractice Report	1	4	10	<1%	5	<1%
Press Clip	4	3	4	<1%	4	<1%
Email *	27	23	45	2%	32	2%
Internet *	22	187	270	14%	160	8%
Other	2	1	0	N/A	1	<1%
TOTAL	1,667	2,137	1,887	100%	1,897	100%

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

DATA ON COMPLAINTS CLOSED FY2001 - FY2003

Source of Complaints	FY01	FY02	FY03	%	3-Yr. Avg.	%
Consumer	580	865	629	33%	691	36%
Government Agency	75	96	88	5%	86	5%
Pharmacist	67	69	99	5%	78	4%
Pharmacist (Self)	70	86	75	4%	77	4%
Applicant (Self)	100	61	87	5%	83	4%
TSBP	168	163	181	10%	171	9%
Doctor	61	90	65	3%	72	4%
Other Health Professional	13	24	28	1%	22	1%
NABP	20	18	16	<1%	18	<1%
PIC, Pharmacy Manager, or Supervisor	430	516	461	24%	469	25%
Loss Prevention Officer (Corporate)	5	7	0	<1%	4	<1%
Manufacturing Rep.	0	19	4	<1%	8	<1%
Pharmacy Recovery Network (PRN)	9	17	4	<1%	10	<1%
Insurance Company	2	7	9	<1%	6	<1%
Attorney	9	6	10	<1%	8	<1%
Employee/Ex-Employee	14	21	17	<1%	17	<1%
Media	4	1	6	<1%	4	<1%
Drug Screening	20	48	86	5%	51	3%
Other	20	23	22	1%	22	1%
TOTAL	1,667	2,137	1,887	100%	1,897	100%

DATA ON CLOSED FY2001 - FY2003 COMPLAINTS

Subjects of Complaints	FY01	FY02	FY03	3-Yr. Avg.
Licensees	1,479 (89%)	1,955 (92%)	1,633 (87%)	1,689 (89%)
Pharmacist	632	755	671	686
In-State Pharmacy	829	1,120	906	952
Out-of-State Pharmacy	18	80	56	51
Applicants	97 (6%)	72 (3%)	104 (6%)	91 (5%)
Pharmacist	36	25	43	35
Pharmacy	3	8	7	6
Intern	58	39	54	50
Non-Licensees	91 (5%)	110 (5%)	150 (8%)	117 (6%)
Doctor	20	20	20	20
Manufacturer	2	1	1	1
Wholesaler	0	0	2	1
Non-Licensed Facility or Person	38	- 22	76	45
Insurance Company/PBM	10	8	4	7
Pharmacy Technician	16	47	35	33
Out-of-State Facility	5	9	12	9
Other	0	3	0	1
TOTAL	1,667	2,137	1,887	1,897 (100%)

NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2001 - FY2003

Alleged Violation	FY01	FY02	FY03	3-Yr. Avg.	%
Diversion	29	29	22	27	1%
Controlled Substances	17	19	19		
Dangerous Drugs	2	5	2		
Both	10	5	1		
Unauthorized Refills	8	21	11	13	
Controlled Substances	2	3	3		
Dangerous Drugs	2	12	7		
Both	4	6	1		
Illegal Delivery	5	7	2	5	*
Controlled Substances	1	0	0		
Dangerous Drugs	2	4	1		
Both	2	3	1		
Illegal Possession	2	2	4	3	
Controlled Substances	2	2	2		
Dangerous Drugs + Controlled Substances	0	0	2		
Convictions	105	91	89	95	5%
Felony	8	9	15		
Misdemeanor	45	37	33		
DWI / PI	50	.44	38		
Deferred Adjudication, Controlled	2	1	3		
Dispensing Error	311	376	267	318	17%
Wrong Drug/Strength	189	213	152		
Mislabeling	15	16	10		
Wrong Quantity	57	85	66		
Outdated Drug	6	12	4		
Packaging/Delivery	17	24	10		
Dispensing Error / Patient Counseling	27	26	25		
Patient Counseling	25	22	30	26	1%
Orug Regimen Review	9	18	22	18	•
Theft/Loss	424	512	469	468	25%

^{* =} percentage is less than 1%

Alleged Violation	FY01	FY02	FY03	3-Yr. Avg.	%
Aiding & Abetting	14	6	10	10	
Action by Other Board	42	52	40	45	2%
Substitution	38	115	62	72	4%
Non-Compliance with Disciplinary Order	56	84	151	97	5%
Interference with Doctor/Patient Relationship	23	59	42	41	2%
Confidentiality	7	23	14	15	
Failed to Keep Records	9	5	5	6	
Impairment	32	45	28	35	2%
Probable Cause	8	7	90		
Drug & Alcohol	6	12	4		
Drug	11	17	6		
Alcohol	4	4	3		
Physical .	0	1	2		
Mental	3	4	4		
Negligence	1	1	1	1	
Unsafe Practice	4	2	6	4	•
Unprofessional Conduct	2	3	4	3	
Gross Immorality	1	0	0	0	•
Fraud	28	41	36	35	2%
Fraud, Deceit & Misrepresentation	1	5	1		
Falsified Response to Warning Notice	1	3	0		
Falsified Application	19	9	23		
Filled/Passed Forged Prescription	5	15	6		
Insurance Fraud	0	6	3		
Medicare Fraud	2	3	3		
Changed Prescription	29	61	48	46	2%
Non-Therapeutic Dispensing	16	32	21	23	1%
Excessive Purchases of Controlled Substances	1	4	0	2	•
Anabolic Steroids	0	0	2	1	•
Grey Market Diversion	1	5	3	3	

^{* =} Percentage is less than 1%

Alleged Violation	FY01	FY02	FY03	3-Yr. Avg.	%
Samples	9	12	0	7	
Technician Violation	0	6	6	4	
Improper Security	2	4	3	3	
Problem with OTC Drug	2	2	1	2	
Closed Pharmacy Improperly	13	14	19	15	
Operating Pharmacy without Pharmacy License	8	5	3	5	
Working Conditions	11	18	21	17	
Delinquent License	17	5	6	9	
Kickbacks	1	1	0	1	
No PIC	3	2	4	3	
Recordkeeping Error	41	96	84	74	4%
Notification Violation	4	2	2	3	*
No Annual Inventory / No PIC Inventory	2	2	4	3	•
C-II Rx	3	1	4	3	•
Improper Rx's Issued by Doctors	14	13	7	11	
Advertising	22	16	59	32	2%
Overcharging	0	1	2	1	
Billing Dispute	45	63	34	47	2%
Customer Service	65	69	52	62	3%
Hot Check	4	2	2	3	*
CE Audit	21	17	4	14	•
Default on Student Loans	3	1	0	1	
Other Allegations	138 ·	154	164	152	8%
Texas Pharmacy Act	12	32	39		
Texas Dangerous Drug Act	1	5	1		
Texas Controlled Substance Act	11	8	13		
Food Drug & Cosmetic Act	11	11	11		
TSBP Rule	59	72	59		ı
Other Laws/Rules	44	26	41		
Reinstatement	6	8	7	7	•
Modification	11	7	10	9	
TOTAL	1,667	2,137	1,887	1,897	100%

^{* =} Percentage is less than 1%

ACTION TAKEN BY TSBP TO CLOSE COMPLAINTS FY2001 - FY2003

	FY2001	FY2002	FY2003	3-Yr. Avg.	%
Investigations Not Resulting in Disciplinary Action	1,327	1,724	1,469	1,506	79%
Investigate + Dismissal Letter	412	449	389	417	22%
Investigate + Complaint Closed with Telephone Call	270	483	387	380	20%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	228	418	313	320	17%
Inspections	53	20	45	39	2%
Inspection + Warning Notice or Dismissal (Warning) Letter	6	5	10	7	<1%
Other*	358	349	325	344	18%
Investigations Resulting in Disciplinary Action	181	236	236	218	12%
Agreed Board Order	167	208	213		
Board Order	6	3	7		
Preliminary Notice Letter + Dismissal (Warning) Letter	2	2	1		
Informal Conference + Dismissal Letter	5	5	10		
Informal Conference + Case Dismissed	1	18	5		
Referrals To:	44	87	108	80	4%
Medical Board	5	2	4		
PRN Program	9	9	10		
Supervisor	10	18	7		
Other Agency	20	58	87		
No Action Because:	115	90	74	93	5%
No Violation	71	49	48		
No Jurisdiction	27	27	19		
Insufficient Information	13	13	7		
Other	4	1	0		
TOTAL	1,667	2,137	1,887	1,897	100%

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

REPORTS RECEIVED IN FY2003 INVOLVING THEFT OR LOSS OF CONTROLLED SUBSTANCES BY EMPLOYEE PILFERAGE

Classification	Class "A"	Class "C"	Hospital Stock	Total Shortage in DU
Registered Pharmacist	19	2	0	42,2582
Certified Pharmacy Technician	60	2	2	312,205
Pharmacy Technician	0	0	0	0
Pharmacy Technician Trainee	13	0	0	52,623
Registered Nurse	0	0	42	3,439
Certified Registered Nurse Anesthetist	0	0	0	0
Licensed Vocational Nurse	0	. 0	12	1,260
Nurse's Aid	0	0	0	0
Delivery in or out of Pharmacy	28	5	0	18,469
Pharmacy Cashier-Pharmacy Clerk	24	1	0	58,038
Pharmacy Staff-Unidentified	47	4	1	15,198
Hospital Staff-Unidentified	0	0	18	1,119
Hospital Staff-Pharmacy Staff	0	3	2	79
Miscellaneous	30	0	3	42,876
TOTALS - FY2003	221	17	80	547,564

Classification	% of Complaints	% of Drugs Diverted
Registered Pharmacist	6.98%	7.72%
Certified Pharmacy Technician	21.26%	57.02%
Pharmacy Technician	0.00%	0.00%
Pharmacy Technician Trainee	4.32%	9.61%
Registered Nurse	13.95%	0.63%
Certified Registered Nurse Anesthetist	0.00%	0.00%
Licensed Vocational Nurse	3.99%	0.23%
Nurse's Aid	0.00%	0.00%
Delivery in or out of Pharmacy	10.96%	3.37%
Pharmacy Cashier-Pharmacy Clerk	8.31%	10.60%
Pharmacy Staff-Unidentified	17.28%	2.78%
Hospital Staff-Unidentified	5.98%	0.20%
Hospital Staff-Pharmacy Staff	1.66%	0.00%
Miscellaneous	10.96%	7.83%

4. To provide technical assistance, maintain liaison, and coordinate joint investigations of pharmacists, interns, pharmacy technicians, and pharmacies, in line with the "lead agency approach," with federal, state, and local law enforcement agencies, including health regulatory or administrative agencies, throughout FY2003.

Status:

ACCOMPLISHED

Comment:

This objective was accomplished through the following activities:

State / Local Agencies	Division and / or Location
Department of Public Safety .	Waco, Temple, Belton, Killeen, Dallas, Bryan, College Station, Huntsville, Conroe, San Angelo, Georgetown, Burnet, Ozona, San Antonio, Midland, Corpus Christi, Laredo, Beeville, Victoria, Austin, Karnes City, Kerrville, McAllen, Lubbock, Houston, Garland, Dallas, Sherman, Kaufman, Texarkana, Longview, Odessa, Midland, Tyler, Lufkin, Beaumont, Bay City, El Paso, Fort Stockton, Abilene, Lubbock, and Amarillo, Texas.
Sheriffs' Offices	Williamson County, Georgetown, Texas; Travis County, Austin, Texas; Bell County, Belton, Texas; Tom Green County, San Angelo, Texas; Brazos County, Bryan, Texas; Burnet County, Burnet, Texas; Live Oak County, George West, Texas; George West County, Atascosa County, Jourdanton, Texas; Wilson County, Floresville, Texas; Dewitt County, Cuero, Texas; Fayette County, La Grange, Texas; Victoria County, Victoria, Texas; Bee County, Beeville, Texas; Karnes County, Karnes City, Texas; Colorado County, Columbus, Texas; San Patricio County, Sinton, Texas; Grayson County, Sherman, Texas; Ector County, Odessa, Texas; Cook County, Gainesville, Texas; Dallas County, Dallas, Texas; Tarrant County, Fort Worth, Texas; Montgomery County, Conroe, Texas; Harris County, Houston, Texas, Brazoria County, Angleton, Texas; and Walker County, Huntsville, Texas.
Police Departments	Austin, Plano, Dallas, Lubbock, Sherman, Denison, McKinney, Irving, Allen, Longview, Fort Worth, Denton, The Colony, Live Oak, Boerne, Pleasanton, Schulenburg, Kenedy, Karnes City, Beeville, Lewisville, San Antonio, Gonzales, Helotes, Georgetown, Temple, Round Rock, Bryan, Conroe, College Station, Lufkin, Waco, Midland, Odessa, Abilene, Bonham, Houston, League City, Baytown, Tyler, Amarillo, Dumas, and Palestine PD.
District Attorneys' Office	Williamson County, Georgetown, Texas; Travis County, Austin, Texas; Brazos County, Bryan, Texas; Bell County, Belton, Texas; 81st District Attorney Office, Jourdanton, Texas; Karnes County, Karnes City, Texas; Bexar County, San Antonio, Texas; Ector County, Odessa, Texas; Grayson County, Sherman, Texas; Harris County, Houston, Texas; Smith County, Tyler, Texas; Tarrant County, Fort Worth, Texas, Denton County, Denton, Texas; Dallas County, Dallas, Texas.
Narcotic Task Force	DEA Task Force in Houston, Texas; East Texas Task Force, Beaumont, Texas; 81st Narcotic Task Force, Floresville, Texas; TNT Task Force, Sulphur Springs, Texas; 24st and 25th District Task Force, Seguin, Texas; Harris County Organized Crime Task Force, Houston, Texas; and the Multi-Narcotic Task Force in Dallas/Fort Worth, Texas.
Dental Board Examiners	Austin, Dallas, and Fort Worth, Texas
Board of Medical Examiners	Pottsboro, Houston, Austin, and Dallas, Texas
Attorney General's Medicaid Fraud Control Units	Austin, Texas
Dept. of Human Health Service Commission	Austin, Texas
Other	Parkland Hospital Police Department, Dallas, Texas; Harris County Hospital District Police, and Harris County Attorney's Office.

Federal Agencies	Division and / or Locations
Drug Enforcement Administration	Dallas Office, El Paso Office, Fort Worth Office, Houston Office, San Antonio Office, Fort Worth Office, Tyler Office, and the Waco Office
United States Attorney's Office	Houston, Dallas, San Antonio, Tyler and Beaumont, Texas
Federal Bureau of Investigations	Bryan, Houston, and Dallas
United States Food & Drug Administration/Office of Criminal Investigations	Austin, Dallas, San Antonio, and Houston

Retail Pharmacies-Loss Presvention Departments	Division and / or Locations
Eckerd Drugs	Dallas, Fort Worth, Houston, Texas, and Clearwater, Florida
Walgreens Company	Dallas, Fort Worth, Houston and Austin, Texas, and Deerfield, Illinois
Wal-Mart	Bentonville, Arkansas
Kroger	Dallas, Texas

 To monitor compliance with all Board Orders and Agreed Board Orders, including Orders relating to impaired pharmacists, throughout FY2003.

Status: ACCOMPLISHED

Comment:

As indicated in the chart below, 87% of the 213 disciplinary orders that TSBP entered during FY2003 required some type of 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 continuing education (CE), policy and procedure manuals, and other reports.

In addition to the in-house monitoring described above, Compliance Officers conducted 44 inspections of pharmacies for the purpose of monitoring compliance with the terms of the Orders, particularly individuals/facilities who were revoked, suspended, or subject to a probated suspension (see Ongoing Objective #2).

The following chart indicates the types of Orders entered in FY2003, which required the Division to monitor the licensee's compliance with the Order, in some manner.

TYPES OF TSBP DISCIPLINARY ORDERS ENTERED IN FY03	REQUIRING MON	IG MONITORING		
Sanction	Orders (#)	Percentage		
Revocation, Cancellation, and Retirement	17	8%		
Suspension	10	5%		
Restricted	5	2%		
Rehabilitation Orders*	22	10%		
Reinstatement/Relicensure	4	2%		
Fines and/or Probation Fee Only	42	20%		
Continuing Education and/or Pharmacy Law Course (could also include fines and/or probation fees)	43	20%		
Other: Continuous Quality Improvement Program, Self Assessments (ISMP), Policies/ Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	42	20%		
TOTAL NUMBER OF ORDERS REQUIRING MONITORING	185	87%		
TOTAL NUMBER OF ORDERS NOT REQUIRING MONITORING	28	13%		
TOTAL ORDERS FY03	213	100%		

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

During FY2003, TSBP entered 48 confidential disciplinary Orders. These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below.

Nature of Violation	Total	
Action by Other Boards	2	
Audit Shortages	4	
Alcohol-Related Conviction	3	
Non-Compliance with ABO	18	
Theft of Prescription Drugs	5	
Created Fraudulent Rx	2	
Convictions	1	
Deferred Adjudication	3	
Illegal Possession of Controlled Substances	1	
Unauthorized Refills of Controlled Substances	0	
Probable Cause	4	
Request for Modification of ABO	4	
Request for Retirement or Revocation	0	
Request for Reinstatement	1	
TOTAL FY03	48	

Of the 48 confidential Orders entered in FY2003, there were 23 Orders resulting in an impaired/recovering pharmacist being added to the number who were being monitored at the end of FY2002, 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, 2003, a total of 102 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 (FY99 through FY03)

Fiscal Year	Total Orders*	Total New Orders**	Total Being Monitored+
FY99	34	22	89
FY00	35	18	82
FY01	36	21	85
FY02	63	35	97
FY03	48	23	102

- * 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).
- To respond to open records requests throughout FY2003, in accordance with the procedures set forth in the Texas Public Information Act.

Status: ACCOMPLISHED

Comment:

As indicated in the chart below, TSBP experienced a 20% increase in the number of requests for enforcement records in FY2003, as compared to FY2002. However, on average, inquiries in FY2003 asked for less information (fewer number of licensees per request) as compared to FY2002 (24% decrease in the number of licensees who were the subjects of inquiry). The number of verbal and written requests significantly decreased following the implementation of the TSBP web site in FY99.

OPEN RECORDS REQUESTS HANDLED BY ENFORCEMENT DIVISION — FY99 through FY03

Fiscal	1111111		Written	Requests	Total # of Requests		Monthly Average		% Change from Prior Fiscal Year	
Year	# of Requests	# of Licensees	# of Requests	# of Licensees	# of Requests	# of Licensees	# of Requests	# of Licensees	# of Requests	# of Licensees
FY99	544	841	413	4953	957	5794	80	483	-37%	+36%
FY00	168	177	339	2078	507	2255	42	188	-47%	-61%
FY01	124	125	276	3642	400	3767	33	314	-21%	+67%
FY02	82	82	385	2121	467	2203	39	184	+17%	-42%
FY03	108	108	452	1569	560	1677	47	140	+20%	-24%

 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 FY2003.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

A. COMPLIANCE INSPECTIONS

The Division conducted 2,529 inspections in FY2003 (see Ongoing Objective #2).

B. TELEPHONE CALLS

Division staff provided technical assistance and answered questions regarding laws and rules governing the practice of pharmacy from approximately 6,706 callers.

C. WRITTEN INFORMATION

During FY2003, Division staff mailed 365 packets of information to TSBP customers.

D. PROFESSIONAL DISPLAY

Due to budget cutbacks mandated by the 78th Texas Legislature, the agency did not display its professional exhibit at any professional meetings in FY2003.

E. PRESENTATIONS (PUBLIC SPEAKING ENGAGEMENTS)

DATE	PRESENTATIONS Name of Association/Presentation and Location of Meeting	STAFF PERSON	ATTENDANCE (Approx.)
09/30/02	University of Houston Pre-Pharmacy Students	Iona Grant	50
01/21/03	University of Houston 2 nd Year Students	Heidi Holmes	120
11/25/02	Big Country Pharmacy Association of Abilene	Richard Thompson	25
03/18/03	National Association of Drug Diversion Investigators	Joe Lewis	50
11/20/02	Presentation to UT Open House regarding Internships at TSBP	Allison Benz	30
02/10/03	TSBP's Role in Addiction; Co-Presenter with Julie Hildebrand; University of Houston College of Pharmacy, Houston, Texas	Allison Benz	100
		TOTAL	375

F. 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) Division Director and Assistant Director completed a survey regarding the HIP-DB.

G. TECHNICAL ASSISTANCE TO BOARD MEMBERS

- (1) Division Director assisted in the development of the FY2004 Calendar of Events, as well as proposed Goals and Objectives for FY2004. These proposals were subsequently presented to and approved by the Board at its meetings held in May 2003 and August 2003, respectively.
- (2) Division Director and Assistant Division Director made presentations at all Board meetings held in FY2003. Presentations included information about proposed Agreed Board Orders and reports regarding the number of active/pending complaints.
- (3) Division Director assisted in the review/editing of drafts of minutes of four Board meetings.
- (4) Division staff assisted with the orientation of new Board Member (see New Objective #1).

H. 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 two articles for the two TSBP Newsletters which were published during FY2003;
 - 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 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:
 - Staff Compliance Officers provided technical assistance with regard to Class B and Class D Pharmacy licenses (see Ongoing Objective #8);
 - (b) Division Director and Assistant Division Director assisted TSBP's Licensing Division, with respect to;
 - eligibility for licensure and internship (from individuals who had checked "yes" on the attest questions on TSBP applications); and
 - eligibility of individuals wishing to serve as preceptors.
 - (c) Division staff 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 expert witnesses for two formal disciplinary hearings conducted by the State Office of Administrative Hearings.
 - (c) Division staff attended 23.5 days of informal conferences.

(4) Division Director assisted with the orientation of Estella Casarez. Division staff participated in the orientation of new Division employees: Jill McGahey and Rob Lunsford. Division staff also participated in the orientation of the following six interms:

> November - December 2002 January - February 2003 February - March 2003 April - May 2003 July - August 2003 August - September 2003

Jason Zucha, Texas Southern University Mark Comfort, University of Texas Josh Rodgers, Texas Tech University Melissa Sanders, University of Texas Lisa Bernhardt, University of Texas Staci Prescott, University of Houston

Orientation regarding Division activities, such as Compliance inspections; the complaint process; investigations of complaints; monitoring licensees and responding to inquiries for enforcement records.

1. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS

- (1) Division staff responded to 50 requests for complaint/disciplinary information from 23 different boards of pharmacy, as well as 37 requests from the Texas Department of Health.
- (2) Division staff notified various agencies regarding disciplinary orders entered by the Board (e.g., DEA, DPS, TDH, MHMR, HHS, and NABP).
- (3) Division staff assisted the Director of the Pharmacy Recovery Network (PRN) program. (See Ongoing Objective #9.)
- (4) Division staff assisted the Health Professions Council. (See Ongoing Objective #10.)
- (5) Investigative staff assisted numerous other law enforcement agencies. (See Ongoing Objective #4.)
- (6) Division staff assisted Curtis Burch, R.Ph., Texas Drug Vendor Program, by providing statistics regarding patient counseling violations (i.e., number of closed complaints and disciplinary orders entered involving licensees who failed to provide written or verbal counseling or drug regimen review; and number of Warning Notices issued during compliance inspections).
- 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
 FY2003.

Status: ACCOMPLISHED

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

Number	Activity
11	New Class D (Clinic) Pharmacy applications
5	New Class B (Nuclear) Pharmacy applications
37	Petitions for Expanded Formularies for Class D (Clinic) Pharmacies
10	Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies
4	Notifications of Temporary Locations for Class D (Clinic) Pharmacies

 To serve as liaison for the Board to the Pharmacy Recovery Network (PRN) of the Texas Pharmacy Association and to monitor non-financial contractual obligations of PRN throughout FY2003.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- Board Member Donna Rogers served as an ex-officio member of the TX-PRN State Committee throughout FY2003.
- B. The TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY2003.
- C. TSBP requested an independent audit be conducted on the data provided to TSBP (financial data and performance measure data). This audit was conducted on December 13, 2002, and the results of the audit were reported to the Board at its meeting held May 13 14, 2003.
- D. Throughout FY2003, Division Director and Assistant Division Director reviewed monthly activity reports submitted to TSBP by TX-PRN Director.
- E. Assistant Division Director attended two TX-PRN State Advisory Committee meetings (September 7, 2002, and March 8, 2003).
- F. Throughout FY2003, Assistant Division Director worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

In addition, Assistant Division Director worked with other agency staff to prepare the bid specifications for the agency's peer assistance program. The contract was awarded to the Pharmacy Recovery Network, effective September 1, 2004.

 To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2003.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. HPC Annual Report Division Director submitted agency enforcement performance data to be incorporated in the HPC Annual Report.
- B. HPC General Meetings Division Director attended two meetings of the Council as they discussed recommendations regarding HPC member agencies' procedures for handling complaints and disclosing complaint information to the public (see New Objective #1).
- C. HPC Complaint Process Study Committee Division Director assisted in the preparation
 of the final report regarding the HPC Complaint Study (see New Objective #1).
- 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 FY2003, TSBP mailed 628 complaint forms to individuals requesting forms on the HPC toll-free complaint hotline and 634 complaint forms to individuals who called the TSBP voice mail complaint line, which represented a significant decrease in the number of complaint forms being mailed by TSBP to potential complainants. The number of requests for complaint forms received in FY2003, as compared to the four previous fiscal years, is depicted in the following chart.

COMPLAINT FORMS PROCESSED BY ENFORCEMENT DIVISION (FY99 through FY03)

Fiscal Year	Requests for Complaint Forms Via HPC 800#	% Change	Requests for Complaint Forms via TSBP Voice Mail	% Change
FY99	836	+13%	361	+73%
FY00	1,498	+79%	603	+67%
FY01	851	-43%	725	+20%
FY02	735	-14%	789	9%
FY03*	628	-15%	634	-20%

TSBP received a dramatic 49% increase in the number of online complaints that were filed in FY2003 as compared to FY2002 (see Significant Constraints #2). Accordingly, it appears TSBP customers filed complaints via the agency's website rather than call the TSBP office and request a complaint form.

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 FY2003.

Status: ACCOMPLISHED

Comment:

In FY2003, Division staff attended several team meetings, Division staff meetings, and general staff meetings. Division Staff Meetings and General Staff Meetings were held on the following dates:

December 5-6, 2002; February 18-19, 2003; May 20-22, 2003, and August 26-28, 2003.

Division staff attended one joint training session (with other agency staff) on May 21, 2003, regarding *Challenge of Change*. In addition, Division staff attended the following programs, seminars, or events:

Carol Fisher, R.Ph., M.P.A.	
9/8/02	PRN Fall Seminar ("Should I Dispense This?") - Austin
11/12/02	Drug Therapy for Hepatitis C, CAPA Monthly CE Meeting - Austin
11/15-16/02	NABP Fall Conference - San Antonio
2/7-8/03	Federated Association of Regulatory Boards (FARB) Annual Meeting - Austin
3/29/03	Defensive Driving Course - Austin
4/24/03	Update in Asthma Therapy, CAPA Monthly CE Meeting - Austin
6/12/03	Reducing Stress (EAP presentation) - Austin
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

Allison Benz, R.Ph., M.S.	
9/8/02	PRN Fall Seminar ("Should I Dispense This?") - Austin
11/7/02	First Aid/CPR/AED Program; American Red Cross - Austin
3/9/03	PRN Spring Seminar ("Recognizing Personal Boundaries & Re-entry Into the Workplace") - Austin
3/19/03	Counseling for Improved Performance, University of Texas - Austin
6/12/03	Reducing Stress (EAP presentation) - Austin
7/16-20/03	Texas Pharmacy Association Annual Meeting - Galveston
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

Milton Jez, R.Ph.	
9/8/02	PRN Fall Seminar ("Should I Dispense This?") - Austin
3/9/03	PRN Spring Seminar ("Recognizing Personal Boundaries & Re-entry Into the Workplace") - Austin
4/4/03 - 4/7/03	Texas Society of Health System Pharmacist Annual Meeting - Arlington
5/03	Resigned

Ben Santana, R.Ph.	
3/18-19/03	National Association of Drug Diversion Investigators Conference - Austin
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

Amy Herring	
10/10-11/02	Leadership for Women - Austin
1/8/03	First Aid/CPR/AED Program; American Red Cross - Austin
2/24/03	TCIC/NCIC Training - Austin
3/18-19/03	National Association of Drug Diversion Investigators Conference - Austin
7/14-18/03	DEA State and Local Diversion Training - Dallas
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

Sarah Guevara	
12/23/02	Management of Disruptive Behaviors in Geriatric Dementia - Internet
12/23/02	Prescription Errors and Legal Responsibility - Internet
12/23/03	Treatment of Insomnia - Internet
1/8/03	First Aid/CPR/AED Program; American Red Cross - Austin
2/11/03	Respiratory Tract Infections - Internet
3/18-19/03	National Association of Drug Diversion Investigators Conference - Austin
7/14-18/03	DEA State and Local Diversion Training - Dallas
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

Jill McGahey	
10/8/02	EEO Training - Austin
2/24/03	TCIC/NCIC Training - Austin
3/18-19/03	National Association of Drug Diversion Investigators Conference - Austin

Sherry Stevenson		
1/9/03	First Aid/CPR/AED Program; American Red Cross - Austin	
6/12/03	Reducing Stress (EAP presentation) - Austin	
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin	

Janelle Nastri	
1/8/03	First Aid/CPR/AED Program; American Red Cross - Austin
6/12/03	Reducing Stress (EAP presentation) - Austin
7/21-25/03	Texas Commission on Alcohol and Drug Abuse 46th Annual Institute, "Discovering and Using New Ways to Change Lives" - Austin
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

Patty Galan		
11/20/02	Conflict Management Skills for Women - Austin	
8/27/03 Laugh Your Way to Less Stress (EAP presentation) - Austin		

Diane Torres	
11/20/02	Conflict Management Skills for Women - Austin
3/14/03	Behavior Course in Traffic Safety Education - Austin
6/12/03	Reducing Stress (EAP presentation) - Austin
6/18/03	The New Technology of Achievement; #3 - Discovering Your Mission, #4 - Achieving Your Goals (Tape)
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin

Angela Hicks		
10/2/02	WordPerfect 8 Intermediate - Austin	
5/21/03	Resigned	

Joe Lewis		
1/03	Telcon Class; Texas Legislative System - Austin	
3/18-19/03	National Association of Diversion Drug Investigators Conference - Austin	
6/03	Domestic Interdiction/Consensual Searches - San Antonio	
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin	

Robert Ebrom		
9/02	Intoxilyzer Training - Floresville	
12/02	Weapons Training (Pistol, Shotgun, and Rifle) - Karnes City	
4/03	Weapons Training (Pistol and Shotgun Certification) - Karnes City	
6/03	Domestic Interdiction/Consensual Search - San Antonio	
8/03	Texas Narcotic Officers Association Training - Galveston	
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin	

Anita A. Arnet		
3/18-19/03	National Association of Diversion Drug Investigators Conference - Austin	
7/14-18/03	DEA State and Local Diversion Training - Dallas	
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin	

Wayne L. Jones		
3/18-19/03	National Association of Diversion Drug Investigators Conference - Austin	
6/03	Domestic Interdiction/Consensual Search - San Antonio	
8/03	Texas Narcotic Officers Association Training - Galveston	
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin	

Gordon R. Lunsford		
3/18-19/03	National Association of Diversion Drug Investigators Conference - Austin	
6/03	Domestic Interdiction/Consensual Search - San Antonio	
7/14-18/03	DEA State and Local Diversion Training - Dallas	
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin	

Richard C. Klemme	
9/5/02	Resigned

Walter D. Darter		•	
1/21/03	Terminated	•	

Melissa Weeden		
8/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin	

Cy Weich, R.Ph.	
02/21/03	Responding to Change in the Treatment of Opioid Addiction - Dallas
8/31/03	Retired

Carol Willess		
09/01/02	3 Semester Hours - Principles in Marketing - Austin Community College	
10/02/02	TSABAA Bi-Monthly C.E "Debits, Credits, Technology, and You - Austin	
11/01/02	D.I.R.'s I.T. Conference - Austin	
12/11-12/13/02	TSABAA's 23rd Mid-Winter Conference - Kerrville	
01/09/03	First Aid/CPR/AED Program; American Red Cross - Austin	
01/22/03	Microsoft ACCESS Intermediate	
01/25/03	3 Semester Hours - Business Ethics - Austin Community College	
03/09/03	PRN Spring Seminar ("Recognizing Personal Boundaries & Re-entry Into the Workplace") - Austin	
06/22/03 to 06/27/03	TSABAA's 34th Annual Summer Conference - Round Rock	
08/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin	

Mike Ethridge, R.Ph.		
01/29/03	New Frontiers in Coronary Syndrome - Corpus Christi	
08/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin	

Iona Grant, R.Ph.		
07/16-19/03	Texas Pharmacy Association Annual Meeting - Galveston	
08/25/03	Laugh Your Way to Less Stress (EAP presentation) - Austin	

Heidi Holmes Bragg, R.Ph.		
06/03	Resigned	

Richard Thompson, R.Ph.		
10/25/02	Long Arm of Immune System - Internet	
12/07/02	The Enigma of Huntington's Disease - Internet	
02/08/03	Nutrition - Rebuilding The Food Pyramid - Internet	
04/04/03 to 04/07/03	TSHP's Annual Seminar - Arlington	
07/20/03	Censors of the Genome - Internet	
08/18/03	Quest for a Smart Pill - Internet	
08/27/03	Laugh Your Way to Less Stress (EAP presentation) - Austin	

 To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2003.

Status:

ACCOMPLISHED

Comment:

Formal performance reviews were conducted as follows:

Employee	Date of Evaluation	Evaluation By
Allison Benz, R.Ph., M.S.	August 26, 2003	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Joe Lewis	August 27, 2003	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Cy Weich, R.Ph.	May 22, 2003	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Sherry Stevenson	August 28, 2003	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Carol Willess	August 29, 2003	Carol Fisher, R.Ph., M.P.A. Director of Enforcement
Milton Jez, R.Ph.	Resigned May 2003	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement
Ben Santana, R.Ph.	August 27, 2003	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement
Jill McGahey	August 29, 2003	Allison Benz, R.Ph., M.S Asst. Director of Enforcement.

Employee	Date of Evaluation	Evaluation By
Sarah Guevara	August 13, 2003	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement
Amy Herring	August 13, 2003	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement
Janelle Nastri	August 13, 2003	Allison Benz, R.Ph., M.S. Asst. Director of Enforcement
Iona Grant, R.Ph.	May 22, 2003	Cy Weich, R.Ph. Chief Compliance Officer
Mike Ethridge, R.Ph.	May 22, 2003	Cy Weich, R.Ph. Chief Compliance Officer
Richard Thompson, R.Ph.	February 19, 2003	Cy Weich, R.Ph. Chief Compliance Officer
Heidi Holmes, R.Ph.	Resigned June 2003	
Robert Ebrom	August 12, 2003	Joe Lewis, Chief Investigator
Wayne Jones	August 12, 2003	Joe Lewis, Chief Investigator
Dwayne Darter	Terminated January 21, 2003	
Richard Klemme	Resigned September 5, 2002	Joe Lewis, Chief Investigator
Anita Arnet	August 18, 2003	Joe Lewis, Chief Investigator
Melissa Weeden	August 13, 2003	Joe Lewis, Chief Investigator
Patty Galan	July 22, 2003	Sherry Stevenson Sr. Administrative Assistant
Diane Torres	July 22, 2003	Sherry Stevenson Sr. Administrative Assistant
Angela Hicks	September 30, 2002 Resigned May 21, 2003	Sherry Stevenson Sr. Administrative Assistant

13. To destroy records in accordance with the agency's record retention plan throughout FY2003; to update the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2003.

Status:

ACCOMPLISHED

Comment:

The following activities relate to this objective:

A. Records Management

During FY2003, division staff destroyed 39 cubic feet of records, in accordance with the TSBP record retention schedule.

- B. Policies and Procedures
 Division Director updated procedures relating to requests for enforcement records (complaints and disciplinary actions/orders). In addition, Division staff updated procedures regarding conditions that would result in the issuance of a Warning Notice.
- 14. To recommend policies and procedures to the Executive Director which will enhance the efficiency and effectiveness of the agency throughout FY2003.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division Director/Assistant Division Director implemented several changes/improvements to internal forms (e.g., Division Director changed the Medical Release Form so that it could be printed on the front of one page, rather than the front and back of one page).
- B. Division Director implemented several changes to internal procedures to enhance the complaint process (e.g., expedited handling of theft/loss reports that implicate a pharmacist; processing of malpractice reports, to include an initial professional review and then to obtain the patient's medical records prior to assignment of the report to a field investigator; changes to the computerized tracking system).
- Division Director implemented made several changes to improve procedures in handling requests for enforcement records.
- Division Director recommended that NABP discontinue their procedure of allowing a reciprocity applicant to correct a falsified NABP application without TSBP's knowledge.
- E. Assistant Division Director recommended several changes to improve procedures in monitoring licensees (e.g., recommended that Agreed Board Orders that have reporting requirements also include toll language).
- F. Together with the Executive Director and other Division Directors, Division Director responded to the report made by the Agency Change Team (ACT) and implemented numerous changes to implement most of the recommendations of the ACT committee.
- G. Division staff implemented new procedure to notify the TSBP receptionist of the Division staff's weekly schedules, to assist the receptionist in responding to callers wanting to speak to Division staff.
- H. Following input by Board Members at their August 2003 Board meeting, division staff implemented new internal procedures to notify prescribers when their poorly written prescriptions contribute to a dispensing error.
- Division Director worked with the Executive Director and other Division Directors to improve the form that agency employees use to record their time worked for payroll purposes.

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 FY2003.

Status: ACCOMPLISHED

Comment:

- A. Division Director recommended that rules regarding Class E Pharmacies be amended to clarify that Non-Resident Pharmacies may not dispense a prescription drug if the prescription was issued on the basis of an Internet-based or a telephonic consultation without a valid doctor-patient relationship.
- B. Division Director recommended that the agency's self-evaluation report to the Sunset Advisory Commission include the following policy issues:
 - amend the Texas Pharmacy Act with respect to the length of time that a
 pharmacy must keep and maintain prescription records; time period should be
 increased from two to five years to allow the agency to investigate malpractice
 reports which are often not received until two years after the date of the incident;
 - amend the Texas Pharmacy Act to expand inspection authority to cover procedures for outcome-based regulation;
 - amend the Texas Pharmacy Act to clarify that audit discrepancies (shortages/overages) constitute grounds for discipline against a license to practice or operate a pharmacy;
 - amend the Texas Pharmacy Act to allow the agency to investigate financial data, sales data and pricing data, to allow the agency to investigate complaints, such as those involving gray market diversion and overpricing by Internet pharmacies; and
 - amend the Medical Practice Act and the Texas Pharmacy Act to clarify the definition of doctor-patient relationship.
- C. Following input by the Board at its May 2003 Board Meeting, Assistant Division Director drafted proposed amendments to rules regarding preceptors; the amendments will provide guidelines to pharmacists who have been subject to disciplinary sanctions within the previous three years and want to petition the Board to serve as a preceptor.
- D. Division Director/Assistant Director recommended amending the rules that require an applicant for a new pharmacy license to undergo a pre-inspection; the amendments would give the agency staff more flexibility in waiving the pre-inspection requirement.

ENFORCEMENT

- E. Following input by the Board at its August 2003 Board Meeting, Division Director recommended that the agency's self-evaluation report to the Sunset Advisory Commission include the following policy issues:
 - amend the Texas Pharmacy Act to clarify that the Board may register pharmacy technicians that are not currently working in a pharmacy; and
 - amend the Texas Pharmacy Act and other Practice Acts to require written prescriptions to be legible.
- F. Division staff recommended the following changes to the Texas Pharmacy Act:
 - amend the statute to allow the agency to participate in DEA/DPS procedures for asset forfeitures; and
 - amend the statute to allow peace officers employed by the agency, under stringent guidelines set by the Board, to carry weapons and make arrests.
- 16. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2002 Annual Report to be presented to the Board by its May 2003 Board meeting.

Status: ACCOMPLISHED

Comment:

The Division's first draft of the FY2002 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 2003.

ENFORCEMENT

LEGAL DIVISION FY2003 SIGNIFICANT ACCOMPLISHMENTS

- Division staff accomplished all of the Division's Objectives for FY2003.
- 2. The Division sent approximately the same number of Preliminary Notice Letters (PNL) in FY2003 as compared to FY2002, with the Division mailing 240 PNLs as compared to 244 in FY2002, despite not being fully staffed (as described below in Significant Disappointments). The Division significantly decreased the number of days to mail PNLs after the case review date from 74 days in FY2002 to 64.5 days in FY2003.
- The Division conducted 23.5 days of Informal Conferences in FY2003 as compared to 21.5 days in FY2002.
 This increase in Informal Conference days was accomplished despite not being fully staffed, and allowed the Division to resolve a large number of disciplinary cases.
- Division staff updated sample formats for common types of Preliminary Notice Letters and Agreed Board Orders
 to continuously strive to improve clarity and comprehension by licensees.
- The Division resolved four cases which were set for administrative hearing at the State Office of Administrative Hearings (SOAH) prior to proceeding to hearing. The cases were resolved through Agreed Board Orders (ABO) through negotiations with the licensees or their attorneys. These resolutions saved the agency considerable resources both in time and expenditures.
- Three administrative hearings were conducted at SOAH. Four Proposals for Decisions (PFD) were issued by the Administrative Law Judges in favor of TSBP during FY2003, and in each case, the Board adopted a Board Order accepting the PFD.
- 7. TSBP entered significantly more disciplinary orders in FY2003 than in any prior fiscal year (a 17% increase over FY2002). As indicated in the following chart, 98.1% of the disciplinary cases were settled through the entry of Agreed Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and costs.

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF AGREED BOARD ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% INCREASE IN DISCIPLINARY ORDERS	% ABOs OF TOTAL ORDERS
FY99	0	108	108	-	100%
FY00	0	126	126	17%	100%
FY01	4	141	145	15%	97%
FY02	2	179	181	25%	98.9%
FY03	4	209	213	17%	98.1%
TOTAL	10	763	773	97% OVER 5 YRS.	5 YR. AVG. 98.7%

LEGAL DIVISION FY2003 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

- 1. Lori Barta, Assistant General Counsel, was on medical leave for 12 weeks, and then worked on a significantly reduced basis for approximately another 6 months, prior to her resignation effective August 31, 2003. Therefore, the Legal Division was not fully staffed for 8 of the 12 months of the fiscal year, and essentially operated with only one attorney prosecuting disciplinary cases. This situation is not fully reflected in the statistics for FY2003, because several months usually elapse before a backlog is reflected. Therefore, the Legal Division will likely see a decline in the statistics reported for FY2004.
- The Legal Division experienced an increased workload as a result of assuming the responsibility for clarifying open records requests. General Counsel handled these additional telephone calls to requestors to define the parameters of the requests based on referrals from the Enforcement Division.
- The project to image Agreed Board Orders and Board Orders in order to eventually provided access to these
 documents to the public via the TSBP web site was not completed based primarily on budget constraints.

LEGAL DIVISION FY2003 ANNUAL REPORT

GOAL

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

Objectives (New)

- To assist the Executive Director, in cooperation with other Divisions, in:
 - preparing testimony, attending public hearings, reviewing legislation and providing any fiscal or technical information as required by the 78th Texas Legislature; and
 - B. reviewing all legislation introduced by the 78th Texas Legislature that has an impact on the practice of pharmacy or agency operations and monitor the progress of this legislation throughout FY2003.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. General Counsel reviewed and offered comment on approximately 85 bills relating to pharmacy and legal issues.
- B. General Counsel assisted Executive Director with Interim Charge on Prescription Painkillers for Senate Committee on Health and Human Services to prepare for legislative changes to address issues concerned.
- General Counsel responded to requests by Legislative Council to review codification of statutes related to occupational licenses.
- General Counsel assisted Executive Director at a meeting with representatives from a Senator's office on the mobile pharmacy bill.
- 4. To assist the Executive Director, in cooperation with other Divisions, in the agency Sunset Review Process including the preparation of the agency self evaluation report throughout FY2003.

Status: ACCOMPLISHED

Comment:

On June 6, 2003, the Sunset Commission sent TSBP the 21-pages of written instructions for completing the agency's Self-Evaluation Report (SER). On June 20, 2003, the Executive Director met with management staff to discuss time lines and assignments. General Counsel drafted the policy issues for the SER, which outlined the changes to the law, which had previously been approved by the Board, and assisted with the review and preparation of the final draft of the SER. The SER was submitted to the Commission by the approved due date (August 20, 2003).

5. To assist the Executive Director, in cooperation with other Divisions, in the planning for implementation of the new program to register and regulate pharmacy technicians, if the program is funded by the 78th Texas Legislature.

Status:

ACCOMPLISHED

Comment:

In May 2003, the 78th Texas Legislature passed the Appropriations Act which included funding for TSBP to register and regulate pharmacy technicians. During May, June, and July 2003, Division staff attended numerous meetings with the Director and staff of the Administrative Services and Licensing Division for the purpose of discussing procedures and proposed rules to implement the pharmacy technician registration program. In July 2003, the Executive Director met with management staff on several occasions to review proposed rules and discuss procedures. On August 5-6, 2003, at a regularly scheduled business meeting, the Board reviewed the proposed rules and voted to publish the proposed rules in the *Texas Register*. Final adoption of the rules will occur in FY2004, at which time the implementation of the technician registration program will begin.

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

Status:

ACCOMPLISHED

Comment:

General Counsel assisted the Executive Director with the orientation of new member, Juluette F. Bartlett-Pack, Ph.D., public member, on February 28-March 1, 2003.

Objectives (Ongoing)

 To coordinate and monitor throughout FY2003 the receipt, assignment, and resolution of all cases accepted by the Division.

Status:

ACCOMPLISHED

Comment:

This objective was accomplished through the following activities:

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

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

TSBP entered 213 disciplinary orders in FY2003, as reflected in the chart below. This performance was a record-breaking achievement, in that it represented more disciplinary orders being entered by the Board that any prior fiscal year and a 17% increase over the number of disciplinary orders entered in FY2002.

LEGAL

TOTAL ORDERS

Date of Orders	Summary Suspensions	Board Orders	Agreed Public	Board Orders Confidential	Total Number of Orders
Nov. 19-20, 2002	0	2	37	19	58
Feb. 4-5, 2003	0	0	50	7	57
May 13-14, 2003	0	1	30	13	44
Aug. 5-6, 2003	0	1	44	9	54
TOTAL FY2003	0	4	161	48	213

Information regarding the 213 disciplinary cases entered in FY2003 are set forth in the following chart.

SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS (FY2003)

			Pharmacist	Pharmacy	Total	
Licenses Removed	17	(8%)				
Revoke			13	3	16	(8%)
Retire			1	0	1	(<1%)
Suspensions	61	(29%)				,
Summary Suspension			0	0	0	(n/a)
Suspension			10	1	11	(5%)
Suspension/Fine			0	0	0	(n/a)
Suspension/Probation			4	5	9	(4%)
Suspension/Probation w	/Conditions	26	3 2 3	29	(14%)	
Suspension/Probation/F	ine	0	2	2	(<1%)	
Suspension/Probation/F	ine w/Condit	ions	3	7	10	(5%)
Restrictions	2	(1%)	2	0	2	(<1%)
Other	114	(54%)				
Fine			14	8	22	(10%)
Fine with Conditions			9	5	14	(7%)
Fine and Reprimand			1	3	4	(<1%)
Fine, Reprimand with Co	onditions		3	14	17	(8%)
Reprimand			12	6	18	(8%)
Reprimand with Condition	ns	26	13	39	(18%)	
ssuance License/Regist.	10	(5%)				
Grant with Probation		•	0	0	0	(n/a)
Grant with Probation and	Conditions	1	0	1	(<1%)	
Grant with Reprimand			3	1	4	(1%)
Grant with Fine			4	0	4	(2%)
Deny			1	0	1	(<1%)

			LEGAL			
			Pharmacist	Pharmacy	Total	
Reinstatements	4	(2%)				
Grant			0	0	0	(n/a)
Grant with Probation	/Conditions		4	0	4	(2%)
Deny			0	0	0	(n/a)
Modifications	5	(2%)				
Grant			5	0	5	(2%)
Deny			0	0	0	(n/a)
TOTAL FY2003:	213	(101%)*	142	71	213	(100%)

^{*} Due to rounding.

FY03 Orders Entered Against Pharmacist Licenses	142	67%
FY03 Orders Entered Against Pharmacy Licenses	71	33%
FY03 Total Disciplinary Orders	213	100%

DISCIPLINARY ORDERS (FY2003) NATURE OF VIOLATIONS*

	RPh	Phcy	Total	Total %
Diversion	13	3	16	8%
Illegal Delivery (C/S)	1	1	2	
Unauthorized Dispensing	3	2	5	
Illegal Possession (C/S)	1	0	1	
Theft of Controlled Substances	6	0	6	
Obtained C/S by Fraud	2	0	6 2	
Convictions	21	1	22	10%
elony	9	0	9	
Misdemeanor	5	1	6	
Deferred Adjudication	4	0	4	
Alcohol-Related	3	0	3	
Audit Discrepancies	14	15	29	14%
Orug	10	15	25	
Continuing Education	4	0	4	
Practice Deficiencies	46	43	89	42%
Dispensing Errors	24	16	40	
Dispensing Errors & No Counsel				
and/or No Drug Regimen Review	14	22	36	
lo Counsel and/or DRR	6	4	10	
Inauthorized Substitution	1	1	2	
Dispensed Rx Drug				
Without Child Resistant Cap	1	0	1	

	RPh	Phcy	Total	Total %
Unprofessional Conduct	39	9	48	23%
No Annual Inventory	1	1	2	
Falsified Application for Licensure	5	1	6	1
Aiding and Abetting	1	2	3	
Delinquent License	1	1	2	
Closed Pharmacy Improperly	1	0	1	
Failed to Operate Pharmacy		0	•	
While Holding License	1	2	3	
Failed to Keep Records	1	1	2	
Operated Without PIC	0	1	1	
Probable Cause	4	0	4	
Action by Other Boards	5	0	5	
Non-Compliance with Previously				
Entered Order	19	. 0	19	
Other				
Modification	5	0	5	2%
Reinstatement	4	0	4	2%
TOTAL FY2003:	142	71	213	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.

 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 FY2003.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. During FY2003, Division staff participated in 23 case and/or complaint review meetings. These meetings were held approximately twice per month with participation by the Executive Director and Legal and Enforcement Division staff.
- B. Division Staff mailed 240 Preliminary Notice Letters in FY2003, in accordance with the priorities established for the Division, as compared to FY2002, when the Division mailed 244 PNLs. The Division decreased the number of days to mail from 74 days in FY2002 to 65.4 days in FY2003 and reduced the backlog of disciplinary cases.

The identified violation was selected as the primary violation.

^{**} Due to rounding.

To plan and conduct a minimum of 15 days of Informal Conference sessions in FY2003 to adjudicate violators
of pharmacy laws/rules.

Status:

ACCOMPLISHED

Comment:

During FY2003, the Division conducted 23.5 days of Informal Conferences for 260 licensees, as indicated in the following chart. As compared to FY2002, the number of conference days increased by 2 days, and the number of licensees heard at Informal Conference increased by 51 licensees.

INFORMAL CONFERENCES

Dates of Informal Conference	Number of Days	Number of Licensees	Number of Licensees Dismissed	Board Member Participant
Sept. 17-19, 2002	3	34	6	Rosemary Combs
Oct. 15-17, 2002	3	30	2	Oren Peacock, R.Ph.
Dec. 2-4, 2002	3	35	4	Rosemary Combs
Jan. 14-16, 2003	3	33	6	Kim Caldwell, R.Ph.
1st & 2nd Qtrs.	12	132	18 (14%)	
Feb. 26-27, 2003	1	9	2	Donna Rogers, R.Ph.
Mar. 17-18, 2003	1.5	22	3	Donna Rogers, R.Ph.
April 15-17, 2003	3	38	4	Mike Brimberry, R.Ph.
June 3-5, 2003	3	31	3	Doyle High, R.Ph.
July 22-24, 2003	3	28	2	Wiki Erickson and Juluette Barlett-Pack
3rd & 4th Qtrs.	11.5	128	14 (11%)	
TOTAL FY2003:	23.5	260	32 (12%)	

4. To refer disciplinary cases to the State Office of Administrative Hearings throughout FY2003, 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 FY2003, four cases were ongoing at the State Office of Administrative Hearings. The Division filed formal Complaints at SOAH, within 120 days that the case failed to settle with an Agreed Board Order, for seven additional cases in FY2003.

Four cases were resolved by Agreed Board Order prior to a full contested administrative hearing being conducted at SOAH.

Three administrative hearings were conducted, which resulted in Proposals for Decisions (PFD) issued by the Administrative Law Judges in favor of TSBP, and in each case, the Board adopted a Board Order accepting the PFD. One additional PFD was issued by an Administrative Law Judge in a case for which a hearing had been conducted in FY2002. The PFD was in favor of TSBP, and the Board adopted a Board Order accepting the PFD.

The other three cases were planned for hearing in FY2004.

SOAH performed 142 hours of work for the TSBP in FY2003, totaling \$13,975.15 in direct hearings expenses and \$16,795.16 in total case expenses. These SOAH hours reflect approximately a 70% increase over FY2002.

5. To research legal issues and when necessary, to draft requests for Attorney General Opinions throughout FY2003; 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 FY2003; and to provide legal advice regarding the administration of the agency.

Status:

ACCOMPLISHED

Comment:

This objective was accomplished through the following activities:

- A. Liaison with the Office of Attorney General
 - Assistant Attorney General Assigned to TSBP
 - (a) Division staff continued to serve as liaison with the OAG throughout FY2003. Joe Pitner served as the Assistant Attorney General assigned to TSBP from the OAG Administrative Law Division.
 - (b) General Counsel coordinated with the Chief of the Elder Law & Public Health Division of the OAG regarding referrals for medical records privacy violations.
 - (c) General Counsel researched and responded to a request by the General Counsel Division to enter into a memo of understanding with the OAG on HIPAA issues, which was not necessary since TSBP is not a covered entity.
 - Appeals; Injunctions; Civil Litigation
 - (a) No disciplinary cases were appealed during FY2003.
 - (b) General Counsel coordinated representation by OAG on case against a Florida pharmacy dispensing veterinary drugs, without a valid veterinarian-clientpatient relationship.

- (c) General Counsel referred cases on importation of Canadian drugs and storefront operations facilitating such importation to the Chief of the Elder Law & Public Health.
- (d) General Counsel coordinated OAG representation on motion to quash subpoena requesting confidential investigative information on impaired pharmacist.
- (e) General Counsel referred a case for injunction regarding an unlicensed entity using "pharmacy" in business name.
- (f) General Counsel requested assistance to resist subpoena regarding confidential information on an impaired pharmacist.

3. Requests for AG Opinions

Division staff drafted and filed 4 requests for open record decisions from the OAG; 2 requests for confidential investigative information and 2 requests for confidential rehabilitation orders on an impaired pharmacist. The OAG issued letter rulings in favor of TSBP.

- Legal Research and Advice on Agency Administration
 - General Counsel reviewed the following documents for legal sufficiency and effectiveness:
 - (a) Request for Information/Bid for vendors to provide drug and alcohol screening services, and assisted with process to select new vendor and terminate services with previous vendor:
 - (b) Invitation for Bid/Contract for Peer Assistance Program;
 - (c) Confidentiality agreement for Multistate Pharmacy Jurisprudence Exam Item Writing committee;
 - (d) Agreement for Information Technology Services with Northrop Grumman;
 - (e) NAPLEX and MPJE State Letter of Agreement; and
 - (f) Interagency Cooperation Contract with Texas Board and Procurement Commission.
 - Division staff researched numerous issues, including the following issues:
 - (a) Importation of prescription drugs from foreign countries;
 - (b) Reporting requirements to OAG for delinquent debts;

- (c) Requirements for Board member orientation prior to assuming official duties;
- (d) Child resistant containers for dispensed prescriptions;
- (e) Collateral attack;
- (f) Guilty pleas and confessions;
- (g) Honorarium payment for VIPPS inspection assistance by NABP;
- (h) Public information response required to incarcerated individuals;
- Medical records privacy;
- (i) Honorarium payment to Board member for committee meeting;
- (k) Attorney work product privilege;
- Confidentiality of investigative information maintained by TSBP;
- (m) Requirement for expiration dates on consumer prescription labels;
- (n) Crimes of moral turpitude;
- (o) Patient assistance programs; and
- (p) Previous determinations by OAG on open records decision requests.

C. Technical Assistance to Local/State/Federal Prosecutors

- General Counsel provided information to Louisiana Board of Pharmacy in response to subpoena for investigative information on pharmacist license applicant.
- Division staff responded to requests from DEA Investigators for information on internet pharmacy operations and on nontherapeutic prescribing and drug regimen review issues.
- General Counsel provided information and assistance to Assistant District Attorney in Dallas County regarding criminal action against licensee with disciplinary action arising from the same allegations.
- General Counsel provided information to an attorney for the Kansas Board of Pharmacy for use in a disciplinary action.
- General Counsel coordinated with Assistant U.S. Attorney regarding disciplinary action and corresponding felony convictions on pharmacist and pharmacy licensees.

- General Counsel assisted the Hawaii Board of Pharmacy and New Hampshire Attorney General with disciplinary action against pharmacy dispensing veterinary drugs over the internet.
- 6. To review and monitor the Texas Register for Attorney General opinions.

Status:

ACCOMPLISHED

Comment:

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

 To assist with open records requests throughout FY2003, in accordance with the procedures set forth in the Texas Public Information Act.

Status:

ACCOMPLISHED

Comment:

This objective was accomplished through the following activities:

- A. Division staff was responsible for answering all telephonic open records requests on licensees subject to disciplinary action. Division staff responded to 130 verbal requests for complaint and disciplinary information in FY2003.
- B. General Counsel reviewed numerous written responses to open records requests, prepared by the Enforcement Division, for legal compliance with the Public Information Act in FY2003. In addition, Division staff assumed the responsibility of clarifying all open records requests requiring telephonic clarification, which resulted in a considerable increase in the workload on open records issues.
- C. Division staff prepared four requests for open records decisions from the OAG, in regard to requests for information seeking documents considered to be confidential, i.e., investigative information and rehabilitation orders. The OAG issued letter rulings in favor of TSBP.
- To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2003.

Status:

ACCOMPLISHED

Comment:

This objective was accomplished through the following activities:

- A. Surveys/Questionnaires and Other Correspondence
 - General Counsel responded to Sunset Advisory Commission staff request for input on recommendations made by Sunset in regard to the State Office of Administrative Hearings.
 - Division staff participated in survey for Department of Information Resources on network security.

- General Counsel completed Customer Satisfaction Survey for the State Law Library and the State Office of Administrative Hearings.
- B. Technical Assistance to Board Members and Board Staff
 - Division staff assisted Board Members and staff by conducting legal research on several issues (see Ongoing Objective #5).
 - Division staff drafted numerous subpoenas to assist with the investigative work of the TSBP investigators.
 - General Counsel provided legal advice and consultation on numerous personnel issues during FY2003, including:
 - (a) prepared documents and legal advice regarding termination of employee;
 - (b) provided information on terminated employee to Texas Workforce Commission;
 - (c) handled issues with pharmacist interns working at TSBP;
 - (d) assisted with disciplinary actions for violations of employment policies and procedures;
 - researched and assisted with implementation of TSBP Wellness Committee;
 and
 - (f) provided advice on retention bonus contracts.
 - 4. General Counsel assisted the Division of Professional Services in the review/drafting of proposed rules and preambles for rules, and the review of rule submissions to the *Texas Register* for all rules either proposed or adopted during FY2003, including rules on pharmacy technicians, library requirements, continuing education requirements, internet prescribing, professional judgment for pharmacists at Class E pharmacies, and central prescription drug/medication order processing.
 - Division staff drafted rules for implementing provisions of the Occupations Code Ch.
 regarding handling of criminal convictions, for default proceedings conducted at Informal Conference, and for the requirement that pharmacist check in controlled substances.
 - General Counsel continued to serve as the agency's Ethics Advisor and continued to assist Board Members and staff with legal and ethical issues.
 - Division staff handled numerous legal questions from all staff regarding a myriad of issues.

- General Counsel reviewed numerous complaint files to verify accuracy of information and citations in warning letters drafted by Enforcement Division staff regarding violations of federal and state law.
- Division staff made presentations at all Board meetings held in FY2003.
 Presentations included information about proposed Agreed Board Orders and proposed Board Orders following a SOAH proceeding, in addition to other issues as required.
- General Counsel assisted in the review and preparation of minutes of four regularly scheduled Board meetings.
- 11. Division staff assisted the Licensing Division with respect to eligibility for licensure and internship (from individuals who checked "yes" on the attestation questions on the TSBP application) by either verifying accuracy of warning letters or by handling the cases through the legal process.
- Division staff informed the Director of Enforcement of disciplinary actions to be taken by the Board prior to entry of the orders, to ensure the correct information is immediately available on the computer system.
- Division staff participated on a committee to develop articles for the TSBP Newsletter and served as editor for the newsletter published in August 2003.
- General Counsel assisted the Director of Enforcement with response to House Committee on Public Health regarding procedures for intake and resolution of complaints.
- Division staff participated in the Agency Change Team which met on several occasions to formulate suggestions for improvements based on the results of the Survey for Organization Excellence.
- 16. General Counsel met with Compliance Officers to answer questions about procedures used for warning notices, referrals to the Legal Division, and issues concerning patient assistance programs, and advised Compliance Officers regarding questions which arose during compliance inspections.
- Division staff assisted the Licensing Division with development of procedures for registration of pharmacy technicians in compliance with the Pharmacy Act and Board rules.
- Technical Assistance to Other Agencies and Organizations
 - General Counsel provided information to the Director of Programs, Travis County Sheriff's Department, regarding proposed program for importation of drugs from Mexico to reduce prescription medication costs for inmates.

- Division staff gave the following presentations during FY2003:
 - (a) Division staff coached a University of Texas mock trial team in preparation for mock trial competition.
 - (b) Division staff served as judges in mock trial competitions.
 - (c) Division staff presented information on TSBP's role in addiction at the "Alcohol, Drugs, and You" seminar at the University of Houston College of Pharmacy.
- Division staff provided information to Medicaid program regarding disciplinary actions taken against pharmacy licenses.
- Division staff attended state agency council meetings during FY2003.
- Division staff answered numerous questions from licensees, attorneys, pharmacy schools, and other members of the public regarding legal issues, including:
 - (a) scope of definition of practice of pharmacy;
 - (b) licensing eligibility;
 - effect of deferred adjudication and/or probation for various crimes on intern registration and pharmacist licensure;
 - (d) availability of investigative information;
 - (e) lack of confidentiality of licensee information;
 - (f) Internet pharmacy practices;
 - (g) change of pharmacy ownership; and
 - (h) theft and loss reporting.
- General Counsel responded to numerous requests for information from television and newspaper reporters on issues including internet pharmacies, disciplinary actions taken by TSBP, drug diversion and counterfeit drugs, and importation of Canadian drugs.
- General Counsel assisted Oregon Board of Pharmacy with questions on implementation of law enforcement database system for background checks.
- General Counsel provided information to the Texas State Board of Medical Examiners
 regarding legality of physicians writing prescriptions to be filled by Canadian
 pharmacies and prohibition against use of physician DEA registration numbers by
 insurance companies.

- General Counsel provided draft questions to the Texas State Board of Medical Examiners for use in developing a new Medical Jurisprudence Examination.
- Division staff participated in a telephone conference with FDA on the issue of importation of Canadian drugs.
- General Counsel responded to request for information from Texas State Board of Veterinary Medical Examiners on procedure for administrative penalties.
- General Counsel provided information about on-line renewal system and attestation questions to Louisiana Board of Pharmacy.
- To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2003.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. General Counsel served as chair of the HPC Legal Committee, which includes attorneys from other agencies. The committee met to discuss implementation of rules required by Occupations Code Ch. 53 on criminal convictions, HIPAA compliance issues, and negotiated rulemaking and ADR rules. General Counsel prepared material and conducted the meeting.
- B. General Counsel coordinated referral procedure for HPC agencies to refer medical records privacy violations to the OAG and presented the new procedure at a HPC meeting.
- General Counsel provided information to Director of HPC regarding status of privacy workgroup set up by the OAG.
- D. General Counsel reviewed and modified Memorandum of Understanding for shared participation of administrative functions of HPC agencies and Interagency Cooperation Contract for toll-free complaint referral service provided by HPC to member agencies.
- 10. To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2003.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

In FY2003, Division staff attended several general staff meetings, and in-house training sessions. In addition, Division staff attended the following programs, seminars, and events:

Kerstin Arnold, J.D.	
9/26-27/02	Advanced Administrative Law Conference (Austin)
1/10/03	Telicon Legislative Conference
2/7-9/03	FARB Forum meeting
2/20/03	Citistreet presentation
5/21/03	EAP presentation on stress
6/6/03	Advanced Administrative Law (TCBA-Austin)
6/12/03	Stress Relief and Relaxation
6/20/03	Texas General Counsel Forum-Legislative Update and Document Retention
8/27/03	Laugh Your Way to Less Stress

Julie Hildebrand, J.D.	
9/26-27/02	Advanced Administrative Law Conference (Austin)
11/7/02	First Aid/CPR AED Training
11/22/02	McKesson seminar
1/10/03	Telicon Legislative Conference
2/7-9/03	FARB Forum meeting
2/20/03	Citistreet presentation
2/28/03	Nuts and Bolts of Administrative Law
3/13/03	Back injury prevention
4/4/03	Bench Bar XVII – Administrative Law Section
4/21/03	ERS presentation on health insurance changes
5/16/03	Basics of Criminal Law (TCBA)
5/21/03	EAP presentation on stress
6/6/03	Advanced Administrative Law (TCBA-Austin)
6/12/03	Stress Relief and Relaxation
7/14-18/03	DEA. Conference (Dallas)
8/27/03	Laugh Your Way to Less Stress

Lori Barta, J.D.	
9/26/02	Constitutional Law Course (Austin)
11/7/02	First Aid/CPR AED Training

Cheryl Sepulveda	
5/03	Building Winning Self Image "Releasing Your Inner Power" (Gateway Research Institute)
5/21/03	EAP presentation on stress
5/21/03	Program on TexaSaver
8/27/03	Laugh Your Way to Less Stress

Georgienne Nassauer	
3/03	SORM Ergonomics class
5/21/03	EAP presentation on stress
6/12/03	Stress Relief and Relaxation
8/27/03	Laugh Your Way to Less Stress

 To conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2003.

Status:

ACCOMPLISHED

Comment:

Formal performance reviews were conducted as follows:

Employee	Date of Evaluation	Evaluation By
Kerstin Arnold, J.D.	August 28, 2003	Executive Director
Julie Hildebrand, J.D.	June 24, 2003	General Counsel
Lori Barta, J.D.	N/A (resigned)	N/A
Cheryl Sepulveda	August 14, 2003	Assistant General Counsel
Georgienne Nassauer	August 4, 2003	Assistant General Counsel

Other activities related to Division personnel are listed below:

- A. General Counsel conducted team meetings approximately once a month with Division staff.
- B. Lori Barta began on medical leave on January 3, 2003. Upon the completion of the 12 week leave, she worked for the agency on a part-time basis until she resigned from employment, effective August 31, 2003.
- C. The Division had a legal intern from the University of Texas School of Law who assisted with preparation for SOAH proceedings during the fall of 2002.
- D. Two undergraduate interns from the University of Texas assisted the Division in the spring of 2003 in drafting documents and reviewing legal cases.
- E. The Division had a legal intern from the University of Texas School of Law who assisted with various research projects during the summer of 2003.
- F. General Counsel prepared and conducted orientations of all new TSBP employees and interns during FY2003 regarding the Legal Division, the legal process, ethics, and Public Information and Open Meetings Acts.
- G. The Division began the hiring process for a new Assistant General Counsel upon Lori Barta's resignation. This process included reviewing the job description, posting the position, developing selection criteria, and interviewing applicants. A new attorney, Stephanie Chambers, was selected to fill the position and hired, effective September 9, 2003.
- 12. To destroy records in accordance with the agency's record retention plan throughout FY2003; to update the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2003.

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

A. Records Management

During FY2003, Division staff destroyed records, in accordance with the TSBP record retention schedule, including general correspondence.

B. Policies and Procedures

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

 To recommend policies and procedures to the Executive Director which will enhance the efficiency and effectiveness of the agency throughout FY2003.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. General Counsel participated in the task force to implement pharmacy compounding.
- B. Division staff suggested new procedure for handling routine cases, such as those cases involving dispensing errors and drug regimen reviews, along with continuing education audits, by mail to allow the licensee to sign a proposed Agreed Board Order without the need for an Informal Conference. The Division then designed new procedures for Informal Conferences to incorporate this recommendation and the new default procedures (see Ongoing Objective #14), and to streamline the process. Accordingly, the forms for all correspondence associated with Preliminary Notice Letters and Agreed Board Orders was updated to reflect the new procedures. Division staff made revisions to the cover letters for PNLs to make the instructions easier to comprehend.
- Division staff updated sample PNLs to provide for consistency in alleging violations of the Texas Pharmacy Act.
- D. Division staff updated a summary of telephone call routing procedures to assist agency staff
 in determining which employee should handle particular types of calls and in routing calls.
- E. General Counsel updated attest questions on pharmacist and pharmacy license applications and renewals regarding criminal history to ensure full disclosure by applicants and licensees.
- F. Division staff prepared new physician affidavits for use by investigators in cases involving dispensing errors with patient harm to ensure all relevant information is obtained from physicians.
- G. Division staff began preparation for implementing a system to image Agreed Board Orders. This project was unfortunately not completed due to budget constraints following the legislative session.
- H. Division staff implemented new procedure to reduce the number of courtesy copies of PNLs provided to pharmacies to reduce copying time and expense.
- Division staff developed a central file for tracking and logging open records decision requests from the OAG.
- 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 FY2003.

Status: ACCOMPLISHED

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

A. Add a requirement for licensure to the Texas Pharmacy Act that applicants must have United States citizenship or otherwise demonstrate ability to legally work in the United States;

- Add rules for handling criminal convictions of licensees as required by Occupations Code Ch.
 (Recommendation was implemented by Board rule); and
- C. Implement rules to allow for informal disposition of contested cases through default proceedings before an Informal Conference panel, which recommends a disposition for approval by Board order (Recommendation was implemented by Board rule).
- 15. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2002 Annual Report to be presented to the Board by its May 2003 Board meeting.

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2002 Annual Report was submitted to the Executive Director by the due date. The final draft of the Annual Report was presented to and approved by the Board at its

meeting held in May 2003.