



# **Texas State Board of Pharmacy**

## **Annual Report**

### **Fiscal Year 2016**

**Jeanne Waggener, R.Ph.**  
President

**Gay Dodson, R.Ph.**  
Executive Director/Secretary

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Austin, Texas 78701  
512/305/8000  
[www/pharmacy.texas.gov](http://www/pharmacy.texas.gov)

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## Board Members

Jeanne D. Waggener, R.Ph.  
President  
Waco  
8/10/06 - 8/31/17

Christopher M. Dembny, R.Ph.  
Vice President  
Richardson  
9/26/13 – 8/31/17

Buford T. Abeldt, Sr., R.Ph.  
Treasurer  
Lufkin  
5/9/08 - 8/31/19

L. Suzan Kedron  
Public Member  
Dallas  
5/9/08 - 8/31/19

Alice G. Mendoza, R.Ph.  
Kingsville  
8/10/06 - 8/31/17

Bradley A. Miller, Ph.T.R.  
Austin  
9/26/13 – 8/31/19

Phyllis Stine  
Public Member  
Abilene  
8/31/2011 - 8/31/2017

Chip Thornsburg  
Public Member  
San Antonio  
10/6/2015 – 8/31/2021

Suzette Tijerina, R.Ph.  
San Antonio  
10/6/2015 – 8/31/2021

Dennis F. Wiesner, R.Ph.  
Austin  
5/9/08 - 8/31/19

Jenny Yoakum, R.Ph  
Longview  
10/6/2015 – 8/31/2021

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**Office of the Executive Director****Executive Director**

Gay Dodson, R.Ph.

**Director Information Resources**

Jennifer Pigeon

**Executive Assistant**

Becky Damon

**Support Systems Specialist**

Vacant

**Network Specialist**

Todd Hayek  
Matthew Hays

**Receptionist**

Debra Dukes

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**Administrative Services & Licensing****Division Director**

Cathy Stella, P.H.R.

**Chief Accountant**

Jane Bennett

**Licensing Manager**

Misty Anderson

**Staff Services Officer II**

Robbi Dana

**Licensing Specialists**

Rachel Glass  
Melinda Uballe  
Lisa Ake  
Marcie Tapia  
Barbara Racca  
Sarah Broaddus  
Tiffany Reyes  
Tammy Baker  
Sarah Moody  
Audric Fowler

**Accountant III**

Sandra Morton

**Accountant II**

Chantell Solomon

**Accountant I**

Taylor King

**Accountant IV**

Vacant

**Purchaser**

David Hardy

## STAFF

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### Enforcement

**Division Director**

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

**Chief of Investigations**

John Hargis

**Chief of Compliance**

Ben Santana, R.Ph.

**Senior Compliance Officer**

Iona Grant, R.Ph.

**Compliance Program Officer**

Tera McConnell, R.Ph., Pharm.D.

Michelle McDiffett, R.Ph.

Synthia Hill, R.Ph.

**Compliance Officers**

Terri Burrow, R.Ph.

Kathy Salinas, R.Ph.

James Clark, R.Ph.

**Compliance Inspector**

David Meryman, Ph.T.R.

Adrienne Bauer, Ph.T.R.

Michelle Raibon, Ph.T.R.

Javier Ledesma, Ph.T.R.

Kimberly Miles, Ph.T.R.

Jennifer Trook, Ph.T.R.

Vacant (2)

**Investigator (9)****Senior Staff Investigator**

Melissa Weeden

**Investigative Case Manager**

Cynthia Fazin

**Enforcement Program Administrator**

Robert Rivera, Ph.T.R.

**Enforcement Program Officer**

Nelma Sanchez, Ph.T.R.

**Enforcement Program Specialist**

Janelle Dooley

**Enforcement Officer**

Linda Yazdanshenas

Lori Gonzales, Ph.T.R.

**Senior Compliance Specialist**

Jessica Rodriguez-Reyes, Ph.T.R.

**Compliance Specialist**

Gracie Lara, Ph.T.R.

**Program Specialist**

Debra Beall

**Enforcement Specialist**

Elaine Naivar, Ph.T.R.

Brandy Plummer

Christina Bishop, Ph.T.R.

Lydia Moreno

Mary Newman, Ph.T.R.

Misty Plant, Ph.T.R.

Yvette Muniz

Marisa Sanchez, Ph.T.R.

Angela Castillo, Ph.T.R.

**Enforcement Technician**

Noreen Gomez

Carissa Garcia, Ph.T.R.

Irene Zapata

**Administration Assistant**

Demetria Manning

## STAFF

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### Professional Services

**Division Director**

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

**Educational Coordinator**

Shayda Bakhshi

**Senior Administrative Assistant**

Lauren Ivey  
Margarita Zamarippa

**Prescription Monitoring Program  
Manager**

BJ Slack

**Research Specialist**

Jared Jenkins  
Sofia Bishop

**Administrative Assistant**

Vacant (2)

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### Legal

**General Counsel**

Kerstin Arnold, J.D.

**Assistant General Counsel**

Caroline Hotchkiss, J.D.

**Staff Attorney**

Megan Holloway, J.D.  
Ginger Shuffer, J.D.  
Mary Martha Murphy

**Legal Assistant Team Manager**

Ann Driscoll, Ph.T.R.

**Legal Assistant**

Tabatha Lowden  
Kelly Clark  
Amanda Debs, Ph.T.R.  
Jessica Hirn  
Amy Burt  
Alfredo Garcia  
Yvette Latin  
Vacant

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## **Board Mission**

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

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## **Board 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.

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## **Board Strategic Goals (FY2015-2019)**

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

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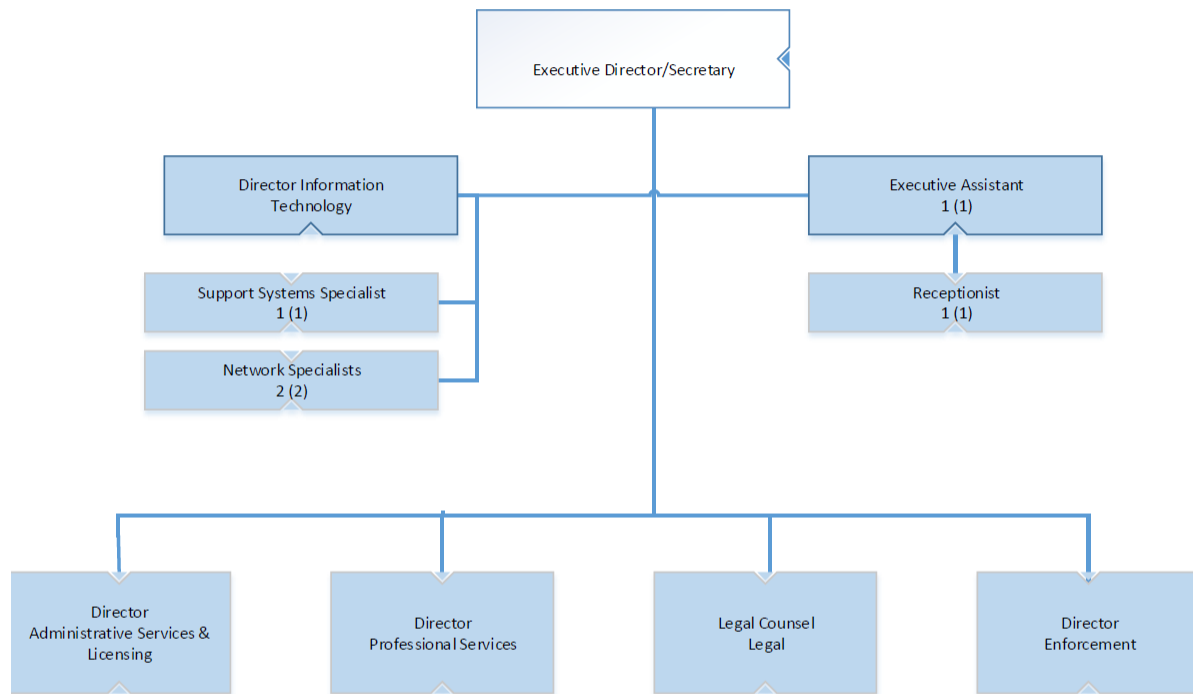
## **Board Structure**

The Board's functional structure at the end of FY2016 was composed of the Office of the Executive Director and four Divisions:

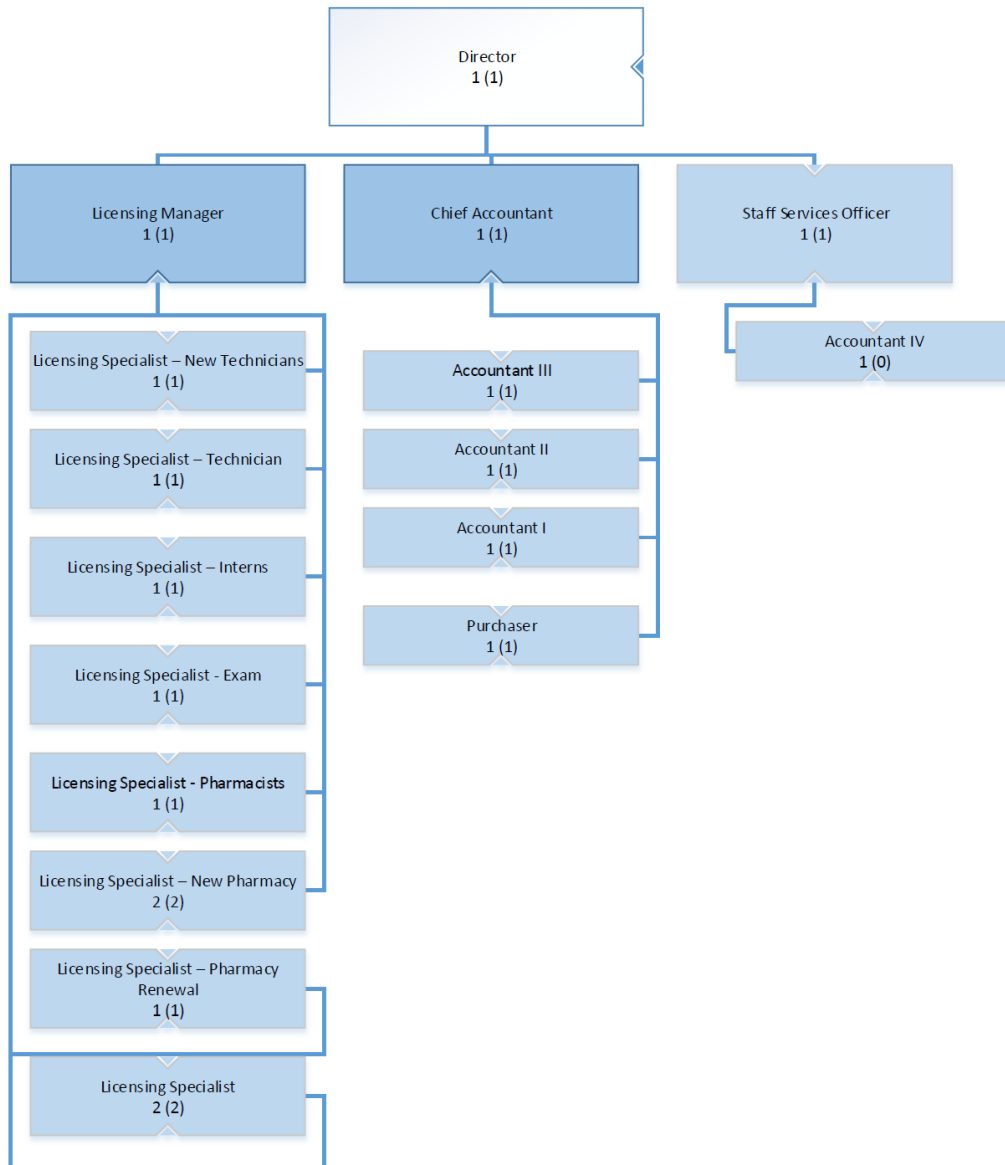
- Division of Administrative Services and Licensing;
- Division of Professional Services;
- Division of Enforcement; and
- Division of Legal Services



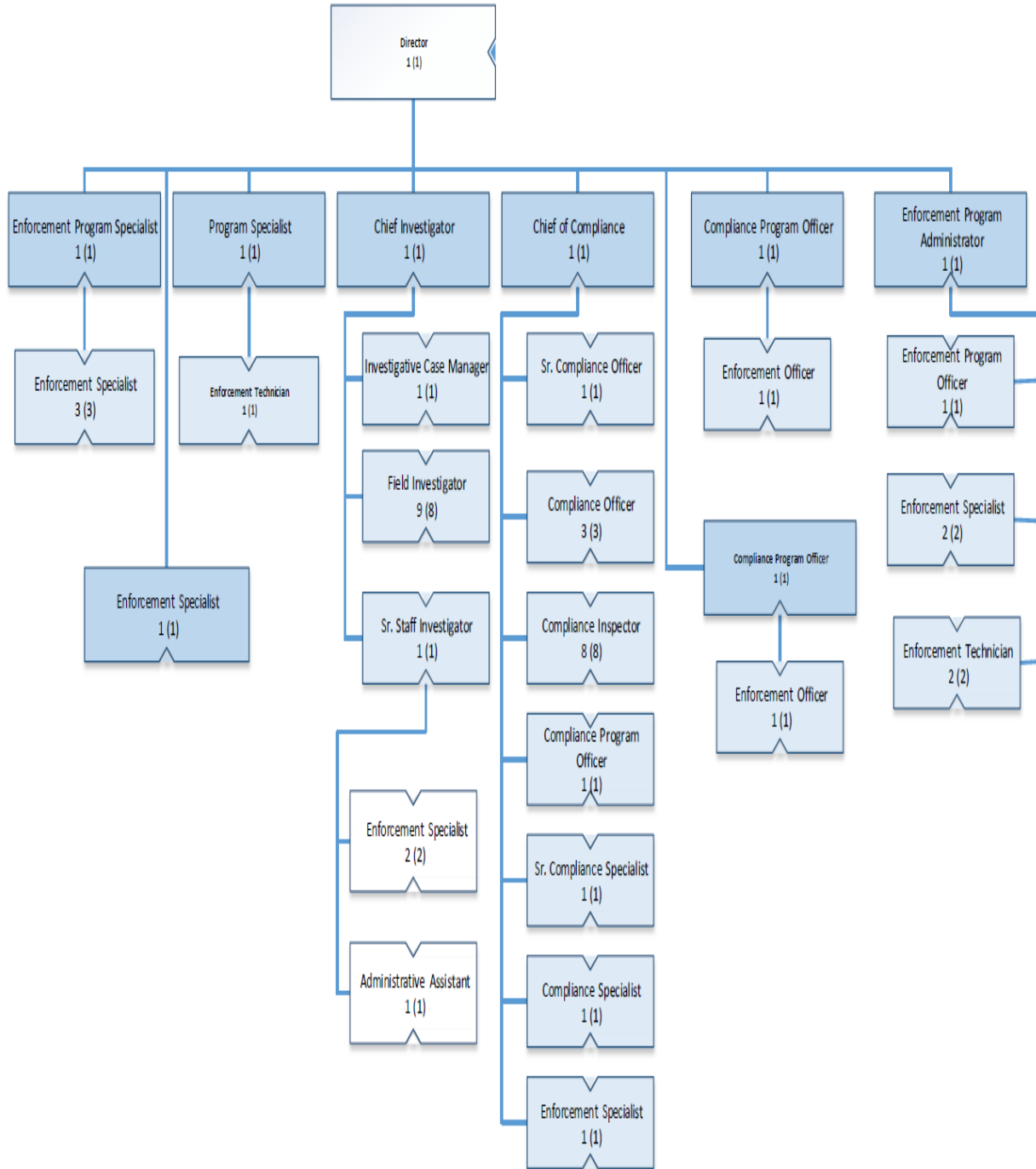
Texas State Board of Pharmacy  
Fiscal Year 2016



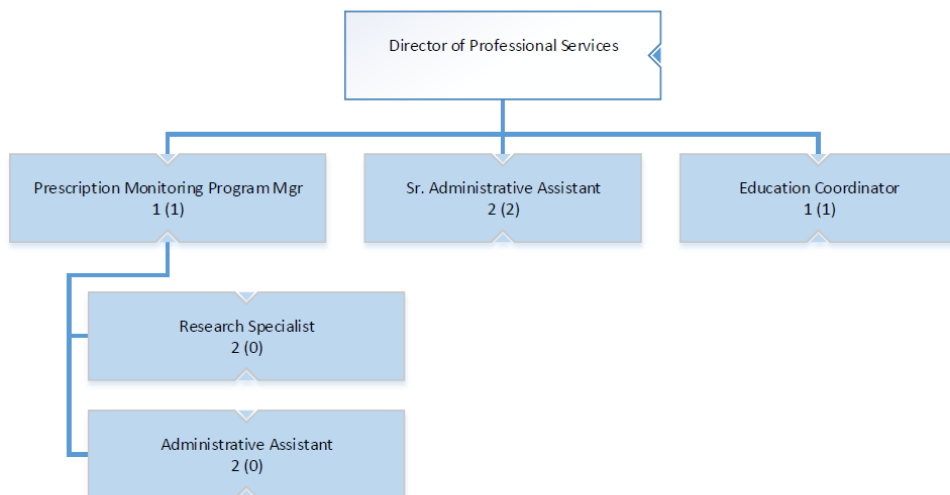
Texas State Board of Pharmacy  
Administrative Services & Licensing Division  
Fiscal Year 2016



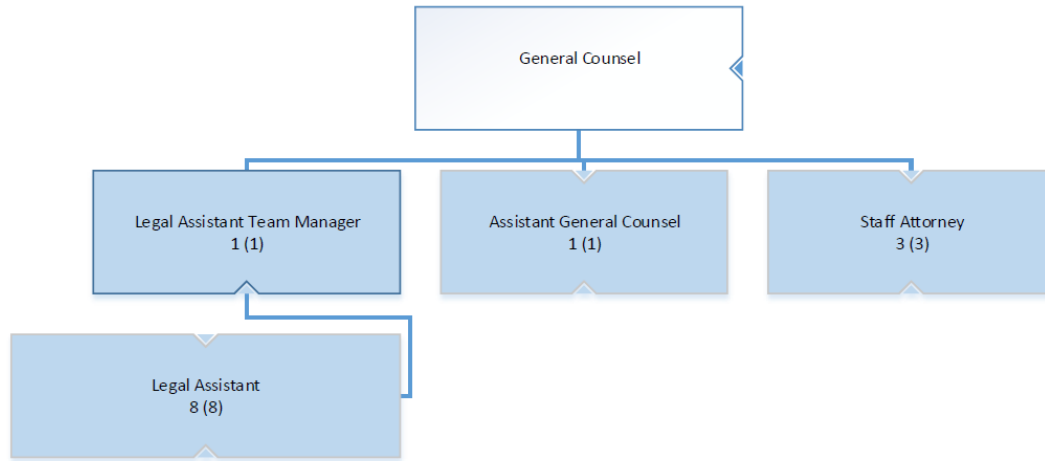
Texas State Board of Pharmacy  
Enforcement Division Fiscal  
Year 2016



Texas State Board of Pharmacy  
Professional Services Division  
Fiscal Year 2016



Texas State Board of Pharmacy  
Legal Division  
Fiscal Year 2016



## FY2016 FISCAL REPORT

The attached report represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2016 (September 1, 2015 - August 31, 2016). 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 *"FY2016 Annual Financial Report."*

As of August 31, 2016, the unexpended balance for FY2016 was approximately \$65,575 or .86% under budget.

TEXAS STATE BOARD OF PHARMACY  
EXPENDITURES - Fiscal Year 2016 - 4th Quarter  
as of August 2016

Code	Description	Budget	Expended	Unexpended Balance/ Lapse	Remaining Budget	Percent Remaining
1008	(a) Professional Fees & Svcs (Other)	352,096.93	343,721.48		8,375.45	2.38%
1010	(b) Professional Fees & Svcs (TPA)	186,260.00	186,260.00		0.00	0.00%
3002	Gas, Other Fuels & Lubricants	25,000.00	24,369.50		630.50	2.52%
3003/3008	Vehicles - Maintenance	16,564.00	14,874.94		1,689.06	10.20%
3001/3004	Consumable Supplies & Materials	41,147.85	37,680.78		3,467.07	8.43%
3005	Postage	71,800.00	70,165.70		1,634.30	2.28%
3006	Telephone	44,280.75	44,280.75		0.00	0.00%
3014	Subscriptions	12,601.29	11,084.43		1,516.86	12.04%
3018	Travel - Board Members (Service)	37,075.15	27,294.35		9,780.80	26.38%
3019/20	Travel - Board Mbr Conference	14,024.85	10,411.14		3,613.71	25.77%
3027	Travel - State Vehicle	1,200.78	1,200.78		0.00	0.00%
3028	Travel - Staff (Service)	97,424.22	95,275.01		2,149.21	2.21%
3037	Travel - Conference - State Vehicle	44.00	44.00		0.00	0.00%
3038	Travel - Staff (Conference)	4,818.94	653.64		4,165.30	86.44%
3039	Travel - Staff (Conf Out Of State)	12,637.06	12,637.06		0.00	0.00%
3516	Membership Fees & Dues	3,285.00	3,285.00		0.00	0.00%
3518/3517	Administrative Support Service	58,876.00	57,217.28		1,658.72	2.82%
3518(b)	HPC Shared Regulatory Database	270,666.00	270,666.00		0.00	0.00%
3521	Criminal Investigative Expense	1,051.42	837.68		213.74	20.33%
3534	Freight & Delivery Service	10,180.56	9,072.46		1,108.10	10.88%
3535	Maint & Repair - Furn & Equip	13,038.80	6,830.54		6,208.26	47.61%
3536	Rental of Furn & Equip	10,012.40	10,012.40		0.00	0.00%
3537	Rental of Space	5,110.00	5,019.66		90.34	1.77%
3538	Bonds & Insurance	10,291.00	10,291.00		0.00	0.00%
3539	Maintenance and Repair-Building	500.00	0.00		500.00	100.00%
3540	Reproduction & Printing	20,498.51	20,383.01		115.50	0.56%
3550	Hearing Expense	1,100.00	994.10		105.90	9.63%
3570	Registration Fees	12,705.00	10,754.29		1,950.71	15.35%
3571	Board Member Registration	4,970.00	4,970.00		0.00	0.00%
3581	F & E - Not Capitalized or Inventoried	18,010.67	16,949.92		1,060.75	5.89%
3582	F & E -Under \$1000-Inventory	14,391.42	10,976.43		3,414.99	23.73%
3583	F & E -Over \$1000-Inventory	4,275.54	0.00		4,275.54	100.00%
3588	Books & Recorded Materials	633.73	633.73		0.00	0.00%
3590	Miscellaneous (HPC Transfer and Fees)	65,937.93	65,937.93		0.00	0.00%
3595	Awards	1,776.05	1,776.05		0.00	0.00%
7001	Exempt Salaries	130,461.96	130,461.96		0.00	0.00%
7002	Classified Salaries - Full Time	4,881,999.39	4,881,999.39		0.00	0.00%
7004	Salaries/Wages-Non-Permanent Full-Time Employee:	23,417.91	23,417.91		0.00	0.00%
7006/07	Salaries/Wages-Hourly Part-time FTE	7,263.85	7,263.85		0.00	0.00%
7017	One-Time Merit Increase	151,833.46	151,833.46		0.00	0.00%
7020	Hazardous Pay	2,820.00	2,820.00		0.00	0.00%
7021	Overtime Pay	4,872.00	4,872.00		0.00	0.00%
7022	Longevity	95,220.00	95,220.00		0.00	0.00%
7023	Lump Sum Termination Payment	19,531.78	19,531.78		0.00	0.00%
7025	Compensatory Per Diem	7,850.00	0.00		7,850.00	100.00%
7033	Employees Retirement - Other	690.06	690.06		0.00	0.00%
7040	Addl Payroll Retirement Contribution	23,762.58	23,762.58		0.00	0.00%
7042	Payroll Health Insurance Contribution	48,981.91	48,981.91		0.00	0.00%
7219	Texas Online Fee	254,829.00	254,829.00		0.00	0.00%
7947	State Office of Risk Management	6,048.39	6,048.39		0.00	0.00%
	Controlled Substance Forfeiture Funds (UB)	170,547.11	0.00	170,547.11	0.00	0.00%
	Federal Grant PMP (UB)	250,000.00	0.00	250,000.00	0.00	0.00%
	Capital Budget - PC Replacement (UB)	34,010.51	0.00	34,010.51	0.00	0.00%
	Capital Budget - Acquisition of Inf Technology (UB)	56,941.20	0.00	56,941.20	0.00	0.00%
Total ADMIN, LIC & ENF		7,615,366.96	7,038,293.33	511,498.82	65,574.81	0.86%

# Office of the Executive Director

This FY2016 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 has the support of its activities by the regulated profession.

The numerous accomplishments achieved by TSBP staff are highlighted in each of the division reports. Although specific activities are highlighted under each Division Director's Objectives, TSBP experienced the following major accomplishments and disappointments/constraints in FY2016.

## FY2016 SIGNIFICANT ACCOMPLISHMENTS

1. The agency accomplished all (100%) of the 111 objectives. In addition, the agency met or exceeded 9 (90%) of the 10 key performance measures listed in the Appropriations Act and reported on an annual basis to the Legislative Budget Board (LBB). (See Executive Director Ongoing Objective #1 for additional details).
2. Agency staff spent considerable time working with the Sunset Commission staff and their evaluation of the agency. The Sunset Commission's report on the agency recommended that the agency be continued until August 31, 2029, and contained the following statement about the agency: "During the review of the Texas State Board of Pharmacy, the Sunset Commission found an effective, well-run agency."
3. Agency management staff worked extensively throughout FY2016 implementing Senate Bill 195 which transferred the Prescription Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy. The program was successfully transferred by the due date of September 1, 2016 (FY2017).
4. The agency was successful in applying for and receiving a one-time federal grant that allowed the agency to move forward with implementation of the Prescription Monitoring Program (PMP) and to contract with a vendor to develop and operate the PMP. The grant was necessary since a drafting error in Senate Bill 195 delayed the agency from collecting money from the regulatory agencies whose licensees are authorized to use the PMP until September 1, 2016.
5. The agency received and resolved more complaints in FY2016 than the agency received and resolved in FY2015. In addition, the agency's average complaint resolution time decreased by four days (2% decrease). For additional details regarding complaint data, see Enforcement Ongoing Objective #3 and 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
FY12	5,830	+2%	5,766	-1%	99%	204 Days	+5%
FY13	5,927	+2%	6,552	+14%	111%	187 Days	-8%
FY14	5,561	-6%	5,606	-14%	101%	176 Days	-6%
FY15	5,925	+7%	5,955	+6%	101%	170 Days	-3%
FY16	6,146	+4%	6,265	+5%	102%	166 Days	-2%



## Office of the Executive Director

6. Agency Staff gave a total of 281 presentations to 6,660 individuals during FY2016 (55 live presentations to approximately 4,355 individuals and 16 Web presentations to 1,599 individuals). (See Professional Services Ongoing Objective #4, Enforcement Ongoing Objectives #7, Administrative Services and Licensing Ongoing Objective #17, and Executive Director Ongoing Objective #6 for more details).
7. During FY2016, TSBP Compliance Field Staff conducted 3,640 inspections of pharmacies located in Texas, as compared to 2,991 inspections conducted in FY2015 (an impressive increase of 22%). They continued to do an excellent job inspecting pharmacies that compound sterile preparations prior to the pharmacies' expiration dates, in order to implement TSBP rules which require this type of pharmacy to be inspected during its renewal period. (See Enforcement Ongoing Objective #2 regarding inspection data).
8. Throughout FY2016, Compliance Field Staff collected 134 samples of compounded preparations from 125 Texas pharmacies, which included 120 sterile preparations and 14 non-sterile preparations. No sample failed sterility, fungal, or endotoxin testing. However, 18 of the 134 samples (13%) failed to yield acceptable potency results. (See Ongoing Objective #2 for additional information about the sample collection program).
9. Approximately 98% of the disciplinary cases against pharmacists and pharmacies and 99% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders or Default Board Orders, and 2% were settled with the entry of Remedial Plans, which resulted in significant efficiencies both in terms of complaint resolution time and agency expenditures.
10. The following TSBP Board Members and staff were elected or appointed to offices, received honors, or received recognition in FY 2016.
  - A. Board President Jeanne D. Waggener, R.Ph. was elected to serve as President-Elect of the National Association of Boards of Pharmacy.
  - B. Board Member Dennis Wiesner, R.Ph. was appointed to serve as Chairperson of the National Association of Boards of Pharmacy Task Force on Pharmacist Prescriptive Authority.
  - C. Board member Joyce Tipton, R.Ph., M.B.A. was appointed as a member of the National Association of Boards of Pharmacy Task Force on Pharmacist Prescriptive Authority.
  - D. Board Member Phyllis Stine, B.S. was appointed as a member of the National Association of Boards of Pharmacy Task Force on the Regulation of Pharmacist Care Services.
  - E. Board Member Buford Abeldt, Sr, R.Ph. was appointed as a member of the National Association of Boards of Pharmacy Committee on Law Enforcement/Legislation.
  - F. Board Member Christopher Dembny, R.Ph. was appointed as an alternate member of the National Association of Boards of Pharmacy Committee on Law Enforcement/Legislation.

## **Office of the Executive Director**

- G. Board Member L. Suzan Kedron, J.D. was appointed as an alternate member of the National Association of Boards of Pharmacy Committee on Law Enforcement/Legislation.
- H. Board General Counsel, Kerstin Arnold, JD was appointed as a member of the National Association of Boards of Pharmacy Task Force on Pharmacist Prescriptive Authority.
- I. Allison Benz, R.Ph., M.S. was appointed as a member of the National Association of Boards of Pharmacy Task Force on the Regulation of Pharmacist Care Services.
- J. Executive Director/Secretary Gay Dodson, R.Ph. was appointed to serve as:
  - the District 6 Representative on the NABP Executive Committee after the resignation of John Monk, Executive Director of the Oklahoma Board of Pharmacy due to illness; and
  - a member of the National Association of Boards of Pharmacy Task Force on the Implementation of VPP.

## Office of the Executive Director

### FY2016 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Due to space restrictions, agency staff continued to be located in three different areas of the Hobby Building, which had a negative impact on team communication. In addition, agency staff members located in Tower 3 were required to travel to Tower 1 to retrieve files such as inspection reports and other documents that are filed in the pharmacy license files and all agency staff had to retrieve and file complaint files that were retained in filing cabinets located in four different areas of the Hobby Building.
2. All of the Licensing Services Programs continue to grow resulting in the following increases in workload.

License/Registration	FY11	FY12	FY13	FY14	FY15	FY16	% Increase
Pharmacists	27,329	28,417	29,498	30,707	31,807	33,130	21.2%
Pharmacies	6,964	7,185	7,350	7,656	7,914	8,074	15.9%
Pharmacy Technicians	37,507	39,973	41,497	41,700	41,990	41,678	11.1%
Pharmacy Technician Trainees	11,839	13,195	15,187	15,751	18,777	20,823	75.9%
Pharmacist Interns	2,806	2,805	2,938	2,949	3,725	4,002	42.6%
<b>Totals/Avg.</b>	<b>86,445</b>	<b>91,575</b>	<b>96,470</b>	<b>98,763</b>	<b>104,213</b>	<b>107,707</b>	<b>24.6%</b>

3. The agency's office continued to be located in the Hobby Building which underwent major re-wiring during FY2016. As a result, the agency experienced several electrical shutdowns over the course of several weekends, which inconvenienced agency customers (e.g., no access to the TSBP webpage or ability to renew licenses on-line during the electrical outage) and required additional work from agency employees to prepare for the shutdowns and to restart operation upon conclusion of the shutdowns.

## Office of the Executive Director

### FY2016 ANNUAL REPORT

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#### 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.

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#### Objectives (New)

1. To reviewing and implement legislation passed by the 84th Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2016.
2. To assist and participate with the Board in updating and preparing the *TSBP Strategic Plan for FY2017-2021* and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date.
3. To direct the preparation of a proposed budget for the FY2018-2019 biennium for review and approval by the Board at the FY2016 Board Budget Meeting.
4. To direct the preparation and submission of the agency's Legislative Appropriation Request for FY2018-2019 and corresponding performance measures by the due date.
5. To coordinate and participate in the orientation of new Board Members within 90 days of appointment by the Governor.
6. To direct the implementation of the transfer of the Texas Prescription Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy.
7. To direct the evaluation of agency activities by the Sunset Advisory Commission.

**Status: ACCOMPLISHED**

#### Comment:

1. A chart containing the action steps to implement provisions of bills passed during the 2015 Legislative Session was developed with timelines for action. An updated chart was presented to the Board at each meeting showing progress of the implementation.
2. The agency researched the trends and resulting issues expected to have the most significant impact on the profession and the agency over the next five years and asked for input from pharmacy associations. The Board Members worked with staff to develop issue statements and approved the final Strategic Plan at the May 2016 Board Business Meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.
3. The Executive Committee reviewed and approved staff's recommendations for the exceptional items contained in the Legislative Appropriation Request (LAR) at an April 18, 2016, meeting. The full Board met on May 2, 2016, and after review, approved the agency's LAR for FY2016-2017.

## Office of the Executive Director

4. The Legislative Appropriation Request for FY 2018-2019, was presented and approved by the Board Executive Committee at an April 18, 2016, meeting. The proposed budget was approved by the full Board at the August 4, 2016, Board Business Meeting. See Comments under Administrative Services and Licensing, Ongoing Objective #3 for additional information. Exceptional items requested in the LAR, included funding for:
  - executive director salary increase;
  - merit increases for high performing staff;
  - reclassification of staff positions and equity increases;
  - technology and imaging increases;
  - vehicle replacement;
  - funding for two additional employees;
  - annual leave payout for retiring employees;
  - Pharmacist Recovery Network increase;
  - Health Professionals Counsel increase; and
  - funding for 14 additional employees.
5. On October 6, 2015, Governor Greg Abbott Appointed Isaac “Chip” Thornsburg, Suzette Tijerina, R. Ph., and Jenny Downing Yoakum, R. Ph., to the Texas State Board of Pharmacy. Orientation for these new members was held on October 27 – 28, 2016.
6. The Prescription Monitoring Program (PMP) implementation was assigned to the Professional Services Division of the Agency and Director of Professional Services, Allison Benz worked with the Executive Director, Director of Administrative Services and Licensing, Cathy Stella, and General Counsel, Kerstin Arnold to develop a Request for Proposal for the administrator of the program. The responses were reviewed in early January 2016, and the contract was awarded to Appriss. Throughout FY2016 weekly status meetings were conducted with the vendor to implement optimal program specifications. A program manager, and two research analysts were hired and brought on board for the “go live” date of September 1, 2016.

Due to a determination by the Comptroller of Public Accounts (CPA) that the authority to collect and transfer funds from the other licensing agencies to fund the PMP could not begin until September 1, 2016, TSBP had no state funds to develop the new PMP in FY2016. As a result, TSBP applied for and received a one-time federal grant in FY2016. This grant allowed the agency to move forward with implementation of the program and to contract with a vendor to develop and operate the PMP.
7. The Executive Director and all Division Directors participated in the initial “Overview” meeting with Sunset Advisory Commission (Sunset) staff on October 1, 2015. and the “Exit” meeting on March 21, 2016. During these five plus months Sunset staff spent significant time at the agency and the Executive Director, all of the Division Directors, and agency staff assisted the Sunset staff in their review of agency operations. Agency staff activities included the following:
  - participating in numerous interviews;
  - responding to numerous requests for data including data on inspections; complaints; disciplinary actions; “pill-mill” pharmacies; impaired pharmacists; and criminal history of applicants;
  - attending and observing disciplinary hearings; and
  - demonstrating the process of inspecting pharmacies. Specifically, Sunset staff accompanied Compliance Field Staff on inspections of various classes of pharmacies in different parts of the state (San Antonio, Austin, Houston, and Dallas-Fort Worth area).

## Office of the Executive Director

### Objectives (Ongoing)

1. **To manage and monitor the agency's performance and operational efficiency throughout FY2016.**

**Status:** **ACCOMPLISHED**

**Comment:** The agency accomplished or partially accomplished all (100%) of the 111 objectives. In addition, the agency met or exceeded 9 (90%) of the 10 key performance measures listed in the Appropriations Act and reported on an annual basis to the Legislative Budget Board (LBB) as indicated below.

Performance Measure		FY16 Projected Performance	FY16 Performance Attained	Projected Target Met?
<b>A. GOAL: MAINTAIN STANDARDS</b>				
Outcome (Results/Impact)				
	Percent of Licensees with No Recent Violations	96.0%	96.4 %	Met
	Percent of Licensees Who Renew Online	93%	97.17%	Exceeded
<b>A.1.1 STRATEGY: LICENSING</b>				
Output (Volume)				
	Number of New Licenses Issued to Individuals	1,450	1,734	Exceeded
	Number of Licenses Renewed (Individuals)	15,329	16,131	Exceeded
Explanatory				
	Total Number of Business Facilities Licensed	7,200	7,914	Exceeded
<b>B. GOAL: ENFORCE REGULATIONS</b>				
Outcome (Results/Impact)				
	Percent of Jurisdictional Complaints Resulting in Disciplinary Action	15.0%	11.38%	Met
<b>B.1.1 STRATEGY: ENFORCEMENT</b>				
Output (Volume)				
	Number of Jurisdictional Complaints Resolved	5,420	5,922	Exceeded
Efficiencies				
	Average Time for Jurisdictional Complaint Resolution	180	170	Exceeded
Explanatory				
	Number of Jurisdictional Complaints Received	5,620	5,536	Met
<b>B.1.2. STRATEGY: PEER ASSISTANT</b>				
Output (Volume)				
	Number of Licensed Individuals Participating in a Peer Assistant Program	180	160	Not Met

## Office of the Executive Director

2. **To coordinate the development of proposed goals and objectives and budget for FY2015 based on the *Strategic Plan* and projected budget, for submission to the Board two weeks prior to the August 2016 meeting.**

**Status:** **ACCOMPLISHED**

**Comment:** The agency researched the trends and resulting issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years and solicited comments from the regulated community and interested parties.

The Board Members reviewed the comments received from interested parties at the November 15, 2015, meeting and at this meeting discussed with staff proposed Issue Statements. The Board members reviewed a staff draft of the External and Internal Assessment for inclusion in the FY2017-2021 Strategic Plan at the February 2, 2016, Board meeting. The Board discussed the order of priority for the issues identified. A final draft of the TSBP FY2017-2021 Strategic Plan was reviewed and approved by the Board at the May 3, 2016, Board meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

3. **To direct TSBP's "lead agency approach" to help assure coordination of TSBP activities with those of other state and federal agencies involved in the regulation of the practice of pharmacy throughout FY2016.**

**Status:** **ACCOMPLISHED**

**Comment:** The Executive Director as well as the agency's Enforcement, Compliance, Investigation, Professional Services, and Legal staffs worked extensively with federal, state, and local regulatory agencies. (See Enforcement Division's Ongoing Objective #5, Legal Division's Ongoing Objective #8, and Professional Services Division's Ongoing Objective #11 for details of these cooperative efforts.)

4. **To manage the information resource needs (data processing, telecommunication, and Website) of the agency throughout FY2016 by:**

- A. **Evaluating and implementing solutions for the evolving computing needs of the agency;**
- B. **Providing a stable infrastructure for existing systems;**
- C. **Increasing the efficiency and productivity of Board operations; and**
- D. **Securing the agencies system against internal and external threats.**

**Status:** **ACCOMPLISHED**

**Comment:** Long-time Director of Information Resources, Steve Rapp resigned from his position with the agency and his last day of employment was March 31, 2016. We immediately began a search for a new person. Jennifer Pigeon was hired for the position and began employment with the agency on May 9, 2016. Even with the change in leadership, the IT Division was able to accomplish the following for this objective.

## Office of the Executive Director

- A. Major accomplishments include:
- (1) an internal security review of the IT system was completed by Gartner;
  - (2) an upgrade of the exchange server and the domain address changed to pharmacy.texas.gov;
  - (3) the system firewall:
    - had no major failures during the year;
    - caught 136 viruses (a 385% increase over last year);;
    - detected and thwarted 1,768 attacks (a 350% increase over last year); and
  - (4) the internal network had an availability of nearly 100%; and
  - (5) the web server averaged 116,506 web hits per month (an increase of 38% over last year).
- B. IT staff was able to maintain a stable infrastructure for existing systems through scheduled, and timely, replacement of hardware/software nearing end of life status.
- C. Penetration tests and internal security assessments are performed regularly to identify gaps and vulnerabilities. These Gaps and vulnerabilities are then remedied by the agency IT security team. Security training is also provided regularly to agency staff.

**5. 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 FY2016.**

**Status: ACCOMPLISHED**

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

**6. As the Executive Director of the Board, throughout FY2016, to:**

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

**Status: ACCOMPLISHED**



## Office of the Executive Director

**Comment:** The Executive Director:

A. Gave 19 presentations to approximately 2,060 persons, as indicated below:

Date	Name of Association/Location of Meeting	Attendance (Approximate)
9/24/2015	American Pharmacies and the Texas Pharmacy Business Council, San Antonio	60
9/26/2015	University of Texas Pharmacy Practice Seminar, Austin	500
10/21/2015	Texas Federation of Drug Stores Annual Meeting, San Antonio	30
10/21/2015	Texas Department of Aging and Disability Services & Texas Vendor Drug Pharmacists, Austin	50
10/23/2015	University of Texas College of Pharmacy 2 <sup>nd</sup> Year Students, Austin	90
10/25/2015	Texas Pain Society 7 <sup>th</sup> Annual Scientific Meeting, San Antonio	100
11/7/2015	University of Texas College of Pharmacy Tailgate, Austin	40
3/19/2016	El Paso Society of Health-System Pharmacists, El Paso	80
4/9/2016	Texas Chapter of the American Society of Consultant Pharmacists' Spring Conference, Dallas	60
4/10/2016	West Texas Pharmacy Association Meeting, San Antonio	50
4/24/2016	Texas Society of Health-System Pharmacists Annual Meeting, Dallas	100
4/29/2016	Texas Pain Society Annual Meeting, Dallas	75
5/5/2016	Dallas County Pharmacy Association, Dallas	75
5/14/2016	NABP Annual Meeting Panel Presentation on Telepharmacy, San Diego	150
6/3/2016	University of Texas Hospital Pharmacy Seminar, Houston	150
7/17/2016	Texas Pharmacy Association's Annual Meeting, Austin	200
8/4/2016	Presentation to United Pharmacy Mangers, Lubbock	50
8/26/2016	Presentation at the Southwestern Regional Pharmacy Meeting, Houston	100
8/27/2016	Presentation to the El Paso Pharmacy Association, El Paso	100

B. Participated in 12 interviews with the press as indicated below:

Date	Interview With
10/28/2015	Telephone Interview with Charlie Ornstein of Propublica regarding a Texas pharmacy and its connection with a pharmacy in California
12/15/2015	Telephone call from Russ Damaris with RV Travel regarding Texas pharmacies dispensing of Canadian prescriptions
1/13/16	Telephone call from Kevin Krause of the Dallas Morning News regarding an action the Board took against a pharmacist.
2/24/2016	Pew Commission Press Conference Call on the release of their report " <i>National Assessment of State Oversight of a Sterile Drug Compounding on Sterile Compounding</i> "

## Office of the Executive Director

Date	Interview With
4/6/2016	Telephone call from Ed Silverman of the Boston Globe regarding a sterile compounding pharmacy
4/6/2016	Telephone call from Paul Stinson, Blumberg Bureau National Affairs, regarding a letter from Public Citizen calling for the suspension of a sterile compounding pharmacy's license in Texas
4/11/2016	Telephone call from Craig Bonder of Virgil Magazine regarding SB 968 that allows electronic reporting of sexual assault
6/28/2016	Telephone call from Loren Sweeny with KPRC, Chanel 2, Houston regarding Compounding pharmacies
7/20/16	Telephone call from Isabel Taft with the Texas Tribune regarding the transfer of the prescription monitoring program from DPS to TSBP and about new federal legislation on opioids
7/28/16	Telephone Call from Jim Street of the Marfa Sentinel regarding the result of the discussion concerning Class H Pharmacies at the August Board meeting
8/24/2016	Telephone call from Yasmin Thomas of Telemundo, Dallas regarding the ID that is acceptable when picking up controlled substance prescriptions.

- C. Attended 72 meetings, conferences, or participated in telephone calls representing the agency as indicated below:

Date	Name of Association/Location of Meeting
9/10/2015	S S.B. 195 (Prescription Monitoring Program Transfer) weekly conference call with Appriss, Austin
9/14-7/17/2015	National Association of Boards of Pharmacy (NABP) District 6, 7, & 8 Meeting, Lake Tahoe, NV
9/22/2015	Meeting with Krista Crockett, Texas Pain Society regarding Prescription Monitoring Program transfer, Austin
10/1/2015	Sunset Overview and Orientation Meeting with Sunset Staff, Austin
10/1/2015	Meeting with the Department of Public Safety (DPS) regarding the transfer of the Prescription Monitoring Program from DPS to the Texas State Board of Pharmacy (TSBP), Austin
10/5/2015	Meeting with the DPS and Appriss regarding the transfer of the Prescription Monitoring Program (PMP) from DPS to TSBP, Austin
10/8/2015	PMP implementation conference call with Appriss, Austin
10/13-10/14/2015	NABP Interactive Executive Officer Forum, Chicago
10/15/2015	S.B. 195 (PMP Transfer) weekly conference call with Appriss, Austin
10/15/2015	University of Texas College of Pharmacy Advisory Council Meeting, Austin
10/19/2015	Quarterly Interagency Council Meeting regarding the PMP Program, Austin
10/22/2015	S.B. 195 (PMP Transfer) weekly conference call with Appriss, Austin
10/29/2015	Meeting with Justin Hudman, Rene Garza and Joe DaSilva with Texas Pharmacy Association regarding legislation passed by the 2015 Texas Legislature, Austin
11/4/2015	Meeting with representatives from CVS regarding interviews of employees during investigations, Austin

## Office of the Executive Director

Date	Name of Association/Location of Meeting
11/5/2015	Meeting with the Texas Facilities Commission, Texas Medical Board, Texas Board of Nursing regarding office move, Austin
11/5/2015	S.B. 195 (PMP Transfer) weekly conference call with Appriss, Austin
11/9/2015	Telephone Call from Tom Rasnick with Pharmedium regarding inspections
11/12/2015	S.B. 195 (PMP Transfer) weekly conference call with Appriss, Austin
11/19/2015	S.B. 195 (PMP Transfer) weekly conference call with Appriss, Austin
11/20/2015	Meeting with Mari Robinson, Executive Director of the Texas Medical Board regarding Electronic Prescribing for Controlled Substances, Austin
11/24/2015	Meeting with Texas Medical Board and the Board of Nursing regarding NTSB safety recommendations, Austin
12/3/2015	Meeting with Sunset Staff regarding PMP request for proposal update, Austin
12/9/2015	Interview with Sunset Staff regarding review of the agency, Austin
12/14/2015	Meeting with representatives from the Texas Society of Health-System Pharmacists, Austin
12/15/2015	Telephone call from David Armstrong with STAT in Boston regarding the tracking of the theft of drugs from couriers
12/16/2015	Telephone call with Stephen Ogle, Sunset Commission
1/7/2016	Telephone Call from Jay Campbell, Executive Director of the North Carolina Board of Pharmacy regarding regulation
1/11/2016	Orientation of TSBP for the Legislative Budget Board (LBB) staff assigned to TSBP, Austin
1/12/2016	Meeting with Sunset Staff regarding "Pill Mills," Austin
1/15/16	Telephone Call from Steven Ogle, Sunset Commission
1/15/2016	Meeting with the Board of Directors of the Texas Pain Society regarding distribution of controlled substances from wholesalers to retail pharmacies and state reporting requirements, Austin
1/22/2016	Texas PMP AWA <sub>R</sub> x <sub>E</sub> Project Kick-off Meeting, Austin
1/25/2016	Quarterly Interagency Council Meeting regarding the PMP Program, Austin
2/1/2016	Monday morning call with Appriss, Austin
2/16/16	TALKCOM Meeting (Arkansas, Louisiana, Kansas, Oklahoma, Missouri, Mississippi, Tennessee, and Texas Boards of Pharmacy), Oklahoma City
2/17/2016	Meeting with Kathy Thomas regarding the PMP Program, Austin
2/18/2016	Conference call with the Pew Commission regarding a the pending release of their report <i>"National Assessment of State Oversight of a Sterile Drug Compounding" on Sterile Compounding</i>
2/25/2016	Meeting with Sunset staff regarding a preview of their recommendations for the agency, Austin
3/1/2016	TSBP Sterile Compounding Stakeholders Meeting, Austin
3/2/2016	Hobby Tenant Relocation Project, Kick-off Meeting, Austin
3/21/2016	Exit meeting with Sunset Staff, Austin

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Date	Name of Association/Location of Meeting
3/21/2016	Fighting Opioid Abuse with E-Prescribing of Controlled Substances Seminar, Austin
3/23/2016	PMP AWARxE status call, Austin
4/11/2016	Telephone call from Wendy of the Alabama Board of Pharmacy regarding legislation concerning the regulation of non-pharmacist management
4/22/2016	Hobby Building Tenant Relocation Meeting, Austin
4/22-24/2016	Texas Society of Health-System Pharmacists Annual Meeting, Austin
4/25/2016	Quarterly Interagency Council Meeting regarding the PMP Program, Austin
4/29/2016	NABP Telepractice Conference Call, Austin
5/2/2016	Meeting with Everett McAllister with the Pharmacy Technician Certification Board, Austin
5/9/2016	Telephone call from Dr. Steven Austin, of the Texas Dental Board regarding Sunset Review
5/10/2016	Small State Agency Taskforce Meeting, Austin
5/16/2016	Telephone Call from Matthew Beyer, U.S. General Accounting Office regarding pharmacy compounding
5/14-17/2016	NABP Annual Meeting, San Diego
6/9/2016	Telephone Call from Jim Street regarding a Class H Pharmacy
6/23/2016	Sunset Public Hearing on the TSBP Sunset Report, Austin
6/28/2016	Telephone call from Dawn Lewis with the Jump Start Program regarding physicians giving samples at a Health Fair
7/6/2016	PMP AWARxE status call, Austin
7/11/2016	Quarterly Interagency Council Meeting regarding the PMP Program, Austin
7/11/2016	PMP AWARxE status call, Austin
7/15-17/2016	Texas Pharmacy Association Annual Meeting, Austin
7/19/2016	Telephone call from a pharmacist regarding a recall on a compounded product
7/25/2016	Conference Call with Walgreen regarding a pilot project, Austin
7/26/2016	Telephone call from Dana Wilkerson of Christus Santa Rosa regarding the sublease of an IV room of a retail pharmacy
7/27/2016	Discussion with CommuniCare regarding drug distribution using an Automated Dispensing System
8/12/2016	Telephone call from a physician who had prescription pads stolen
8/12/2016	Telephone call from Richard Beck about the Sunset report
8/16/2016	NABP Executive Committee Orientation Conference Call, Austin
8/19/2016	NABP Executive Committee Meeting, Chicago
8/22/2016	Sunset Advisory Committee Decision Meeting, Austin
8/24/2016	Call from Marsha Jones regarding Sunset recommendations about wholesalers reporting sales to TSBP

## Office of the Executive Director

- D. Provided testimony and served as a resource on 21 occasions to Interim Legislative Committees, Legislators, the Governor's Office, and Federal agencies as indicated below:

Date	Activity
9/5/2015	Telephone call from pharmacist concerning SB 460 and the provisions for TSBP inspection of financial records of a pharmacy
10/5/2015	Phone Call from Morgan in the Governor's Appointment Office regarding appointments
10/8/2015	Phone call with Shera Ichler in Representative Dennis Bonnen's office regarding pharmacy technicians.
10/19/2015	Telephone Call from Representative Bill Zedler's Office regarding questions concerning prescriptions
11/5/2015	Meeting with Governor Abbott's staff, Senator Schwertner's staff, DPS and TSBP regarding the timeline and finding of the transfer of the PMP program from DPS to TSBP, Austin
11/17/2015	Meeting with Representative Zerwas' staff, Austin
12/16/2015	Meeting with Senate Health and Human Services Committee regarding implementation of the PMP transfer from DPS to TSBP
1/25/2015	Telephone meeting regarding SB 195 with LBB staff, Austin
3/1/2016	Telephone call from an intern in an Iowa State Representative's office regarding telepharmacy
3/8/2016	Telephone call from Ben Barkley in Senator Kolkhorst's office regarding the transfer of controlled substance prescriptions
3/21/2016	Telephone call from Laura in Senator Kirk Watson's office regarding an application for a pharmacy license
4/5/2016	Meeting with Sydni Mitchell in Senator Robert Nichols' office regarding our Sunset Self-Evaluation Report
4/11/2016	Telephone call from Katelyn in Representative Linda Koop's office regarding the registration of pharmaceutical sales representatives
5/4/2016	Meeting with Senator Schwertner regarding the TSBP Sunset Report
5/19/2016	Telephone call from Burwell Thompson in Senator Don Huffines office regarding legislation
5/25/2016	Telephone call with Krista in Senator Campbell's office regarding S.B. 195
6/9/2016	Meeting with Representative Larry Gonzales regarding the TSBP Sunset Report
6/14/2016	Telephone call from Meredith in Representative John Zerwas' office regarding a pharmacist applicant
8/16/2016	Telephone call from Graham in Senator West's office regarding naloxone
8/17/2016	Telephone meeting with MC Lambeth, Governor's Office of Budget, Policy, and Planning, Austin
8/22/2016	TSBP Budget Hearing before staffs of the Legislative Budget Board and the Governor's Budget, Policy and Planning Office.

## Office of the Executive Director

- E. Attended four meetings of the Health Professions Council or HPC committees as follows:

Date	Activity
9/21/2015	Health Professions Council Meeting
12/14/2015	Health Professions Council Meeting
3/14/2016	Health Professions Council Meeting
6/20/2016	Health Professions Council Meeting

- F. Attended three meetings of the Texas Pharmacy Congress as follows.

Date	Activity
11/11-12/2015	Texas Pharmacy Congress Meeting, Austin
2/9-10/2016	Texas Pharmacy Congress Meeting, Houston
5/11-12/2016	Texas Pharmacy Congress Meeting, Houston
8/17/2016	Texas Pharmacy Congress Meeting, Bryan/College Station (Carol Fisher attended for TSBP)

7. **To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations throughout FY2016.**

**Status:** ACCOMPLISHED

**Comment:** The agenda for each meeting of the Board included a discussion item listing possible suggestions for changes to the Pharmacy Act. In addition, each Division made recommendations for improvements (see Administrative Services Ongoing Objective #13, Professional Services Ongoing Objective #14, Enforcement Ongoing Objective #13, and Legal Ongoing Objective #12).

8. **To maintain a staff development program by encouraging Executive Office staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training and to conduct periodic reviews and annual evaluations of Division Directors and Executive Office staff and to monitor evaluations of employees in all Board Divisions throughout FY2016.**

**Status:** ACCOMPLISHED

**Comment:** In FY2016, Division staff attended four General Staff Meetings and training as listed below:

- December 10, 2015 – which included TSBP Employee Handbook review and Sensitive Personal Information Training;
- February 23, 2016 – which included training presented by Alliance Work Partners (Bringing It: Finding Value in Your Role);

## Office of the Executive Director

- May 24, 2016; and
- August 23, 2016 – which included training presented by Alliance Work Partners (Personal and Professional Resilience);

Evaluations of the Division Directors, and Executive Assistant were completed in August 2016. Evaluations of all eligible agency staff were completed by the Division directors during FY2016 (see Administrative Services and Licensing, Ongoing Objective #11, Enforcement Ongoing Objective #11, Legal Ongoing Objective #10, and Professional Services Ongoing Objective #12).

**9. To provide the Board information necessary to conduct performance evaluation of the Executive Director by August 31, 2016.**

**Status: ACCOMPLISHED**

**Comment:** A self and staff evaluation of the Executive Director were presented to the Board at its August 2, 2016 meeting. The Board conducted the performance evaluation at this meeting.

**10. To prepare a report on the accomplishments of the Office of the Executive Director and direct the preparation and submission of the agency's FY2016 Annual Report to be presented to the Board at the August 2, 2016 meeting.**

**Status: ACCOMPLISHED**

**Comment:** The final draft of the TSBP Annual Report for FY2016 was presented to and approved by the Board at the May 3, 2016 Board meeting.

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# **Administrative Services and Licensing Division**

## **FY2016 SIGNIFICANT ACCOMPLISHMENTS**

1. The Division accomplished 100% of its objectives.
2. The Division actively participated in the successful passage of Senate Bill 195, the Prescription Drug Monitoring Program. The success of the bill's passage was ultimately due to the cooperation and joint efforts of the TSBP staff and the bill's sponsor, as well as staff from the Legislative Budget Board, the Governor's Office, the Comptroller's Office and the member occupational health related agencies.
3. The Division met or exceeded 100% of the Key Performance Measures required to be submitted to the Legislative Budget Board.
4. The agency was successful in its cooperative efforts to obtain much needed space in the Wm P. Hobby Building.
5. The agency was successful in applying for and receiving a one-time federal grant that allowed the agency to move forward with implementation of the Prescription Monitoring Program (PMP) and to contract with a vendor to develop and operate the PMP.
6. The division actively participated in the Sunset Review Process including the agency's Self Evaluation Report, which ultimately led to a favorable Sunset Staff Report to the 85<sup>th</sup> Texas Legislature.



## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

### FY2016 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. All of the Licensing Services Programs continue to grow resulting in the following increases in workload.

<b>Licensing</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>% Increase</b>
Pharmacists	27,329	28,417	29,498	30,707	31,807	33,130	21.23%
Pharmacies	6,964	7,185	7,350	7,656	7,914	8,074	15.94%
Pharmacy Technicians	37,507	39,973	41,497	41,700	41,990	41,678	11.12%
Pharmacy Tech Trainees	11,839	13,195	15,187	15,751	18,777	20,823	75.88%
Interns	2,806	2,805	2,938	2,949	3,725	4,002	42.62%
Total	86,445	91,575	96,470	98,763	104,213	107,707	24.60%

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

### FY2016 ANNUAL REPORT

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#### GOAL

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

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#### Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2016:

1. Reviewing and implementing legislation passed by the 84th Texas Legislature that affects agency operations and/or the practice of pharmacy;
2. Updating and preparing the TSBP Strategic Plan for FY2017-2021 and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date;
3. Preparing a proposed budget for the FY2018-2019 biennium for review and approval by the Board at the 2016 Board Budget meeting;
4. Preparing the TSBP Legislative Appropriation Request for FY2018-2019 and corresponding performance measures by the due date;
5. Conducting the orientation of new Board members within 90 days of appointment by the Governor;
6. Assisting the Executive Director, in cooperation with other Divisions, in the implementation of the transfer of the Texas Prescription Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy; and
7. Participating in the evaluation of agency activities by the Sunset Advisory Commission.

**Status:**        **Accomplished**

**Comment:** These objectives were accomplished through the following activities:

1. The agency was successful in obtaining additional appropriations for a one-time merit increase to eligible agency employees in FY 2016, as well as slight increases for technology and imaging of agency records. In addition to these increases, the agency received a Contingent Revenue rider for the implementation of Senate Bill 195 that would have appropriated \$1,311,007 in FY2016, and \$800,913 in FY2017, and give the agency seven additional FTEs. (Note: The Comptroller's Office determined that the provision that allows agencies to transfer funds to TSBP to fund implementation of Senate Bill 195 did not become effective until September 1, 2016. Therefore, under their interpretation, the agency could not receive the appropriation or collect fees from the other agencies until FY2017).

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

2. The Strategic Plan for FY2017-2021 was prepared and reviewed. The agency researched the trends and resulting issues expected to have the most significant impact on the profession and the agency over the next five years. The Board Members worked with staff to develop issue statements and approved the final *TSBP FY2017-2021 Strategic Plan* at the May 2016 Board Business Meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.
3. The Proposed Budget for FY2018-2019 was prepared and reviewed. The Board met and approved staff's recommendations for the exceptional items contained in the *Legislative Appropriation Request (LAR)* in May 2016. The Board Members were apprised of the exceptional items requested in the LAR, which included executive director salary increase; salary increases for merit awards; reclassification of positions and equity increases; technology and imaging increases; vehicle replacement; annual leave payout for retiring employees; Pharmacist Recovery Network increase; Health Professionals Counsel increase; and funding for 14 additional employees. The agency also requested the reinstatement of a mandatory 4% cut to the baseline budget.
4. The *Legislative Appropriation Request* for FY2018-2019 was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy (GBO) by August 5, 2016. The LAR included the items approved by the Board in May 2016.
5. Division Director, along with the Executive Director and other agency staff, participated in the orientation of new Board Members Chip Thornsburg, Suzette Tijerina, and Jenny Downing Yoakum on October 27-28, 2015
6. Division Director assisted the Executive Director, in cooperation with other Division Directors and agency staff, in implementing the transfer of the Prescription Monitoring Program to the Texas State Board of Pharmacy. Due to the Comptroller of Public Accounts (CPA) determination that the authority to collect and transfer funds to TSBP could not begin until September 1, 2016, TSBP had no state funds to develop the new PMP in FY2016. As a result, TSBP applied for and received a one-time federal grant in FY2016 that allowed it to move forward with implementation of the program and to contract with a vendor to develop and operate the PMP. See comments under Executive Director/Secretary New Objective #6 for additional information.
7. Division Director and staff cooperated with the staff of the Sunset Advisory Commission throughout this process. Division Director assisted the Executive Director and other Division Directors and agency staff in drafting and reviewing the TSBP's Self-Evaluation Report, and in supplying all requested information. See comments under Executive Director/Secretary New Objective #7 for additional information.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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### Objectives (Ongoing) - Administrative Services

1. **To prepare a proposed budget for FY2017 for submission to the Board two weeks prior to the 2016 Annual Policy Meeting.**

**Status:**       **Accomplished**

**Comment:**    A proposed budget for FY2017 was presented and approved at the August 2016 Board Business Meeting. See Comments under Ongoing Objective #3 for additional information.

2. **To prepare and submit all required accounting and fiscal reports/reconciliations in compliance with all applicable state statutes throughout FY2016.**

**Status:**       **Accomplished**

**Comment:**    The agency submitted the Annual Financial Report (AFR) and the Annual Report of Non-Financial Data, to the Office of the Comptroller for the year ending August 31, 2015, by the due dates. The AFR was reviewed by the Comptroller's Office as part of the statewide annual financial report and found to be in compliance.

3. **To review and recommend to the Executive Director additional sources of spendable revenue and to assess fees charged for Board services throughout FY2016.**

**Status:**       **Accomplished**

**Comment:**    A quarterly operating budget was presented to the Board at each of the regularly scheduled business meetings and recorded as such in the official minutes of the Board meeting. Revenue projections were presented to the Board at the May 2016 Board meeting and no new fee adjustments were recommended for the coming fiscal year.

4. **To assess the material needs of the agency and supervise the purchasing and supply activities in accordance with all Texas Procurement and Support Services rules and procedures throughout FY2016.**

**Status:**       **Accomplished**

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

At each board meeting, the Board considered and acknowledged all material changes to the contracts for goods and services in accordance with Section 2155.088 of the Texas Government Code. Board members also received training addressing state contracts and procurement to provide them with an understanding of the ethical and professional responsibilities related to State of Texas Purchasers and Contract Managers entering into contracts and oversight of awarded contracts.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

5. **To increase the efficiency and productivity of Board office operations by managing and coordinating space needs and on-site maintenance of the Board's office facilities throughout FY2016.**

**Status:** Accomplished

**Comment:** The entire year was dedicated to the implementation of a comprehensive plan developed by the Texas Facilities Commission (TFC) and the management staff of the Texas Medical Board (TMB), the Texas Board of Nurses (BON), and the Texas Department of Insurance (TDI) to maximize the use of office space in the Wm. P. Hobby Building (WPH). The project plan began in September 2015, to redesign and renovate existing office space, move agency personnel into temporary locations, and eventually move these agencies into permanent locations throughout the WPH building. At year end, the project was nearing completion, with an estimated completion date for the TSBP to be January 2017.

6. **To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2016.**

**Status:** Accomplished

**Comment:** This objective was accomplished as follows:

- A. All newly hired and current employees received Equal Employment Opportunity/Sexual Harassment Training and Sensitive Personal Information Training as required by state law. Other training included Sensitive Personnel Information and Bringing It: Finding Value in Your Role.
- B. Division directors continued to review and revise employee position descriptions.
- C. Division directors continued implementation of "team leader" quarterly meetings.
- D. The agency updated its Employee Handbook of Personnel Policies and Procedures. No employee complaints were filed and there were no employment discrimination or other charges initiated with the Texas Commission on Human Rights.
- E. The agency received 661 applications for employment during this fiscal year, which resulted in 14 new hires and six promotions. EEO data is not available for the applicant pool because the Texas Workforce Commission's automated system does not provide that data.
- F. Senate Bill 805 (84th Legislature) amended Texas Government Code, Section 657.004, to set a goal for state agencies of employing veterans in full-time positions equal to at least 20% percent of the total number of agency employees effective September 1, 2015. In FY2016, the TSBP's total percent of veterans employed was 6.7%, which is lower than the statewide average of 7.2%. This was however, an increase from FY2015 (6.0%).

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- G. Workforce demographics released by the Texas State Auditor's office indicates that on average, TSBP employees were 45.0 years of age and had 7.2 years of agency length of service. Of the agency's employees, 59.7% were 40 years of age or older, and 46.0% had fewer than five years of agency length of service. The Employees Retirement System estimates that between FY2017 and FY2021, 20.2% of the agency's workforce will be eligible to retire (based on data as of November 2016).
- H. The agency had 12 employees that terminated employment with the agency in FY2016, resulting in a turnover rate of 13.2% (including interagency transfers). This compares to the overall statewide turnover rate of the state of 17.6%. Excluding interagency transfers, the turnover rate within the agency (7.7%) was lower than the statewide turnover rate (17.6%) and lower than the turnover rate of Article VIII agencies (12.1%) during fiscal year 2016.

### TSBP Compared to Travis County Workforce Composition Based on 2010 Census Data

<u>Travis County</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	35,090	22,755	1,648	2,087	4,908	3,933	1,700	1,062	43,346	29,837	73,183
Professional	55,800	44,270	2,894	3,963	7,580	7,922	7,599	4,349	73,873	60,504	134,377
Para-Prof	13,780	14,310	2,750	3,164	9,120	11,213	1,251	1,588	26,901	30,275	57,176
Admin Support	15,635	39,810	2,735	5,705	6,114	14,289	1,222	2,578	25,706	62,382	88,088
TOTALS	120,305	121,145	10,027	14,919	27,722	37,357	11,772	9,577	169,826	182,998	352,824
Percentage	34.1%	34.3%	2.8%	4.2%	7.9%	10.6%	3.3%	2.7%	48.1%	51.9%	200.0%

<u>Agency EEO Data</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	6	0	0	0	0	0	0	0	6	6
Professional	6	15	0	3	2	1	0	1	8	20	28
Para-Prof	9	18	0	2	2	11	0	0	11	31	42
Admin Support	0	5	1	2	0	7	0	0	1	14	15
TOTALS	15	44	1	7	4	19	0	1	20	71	91
Agency	16.5%	48.4%	1.1%	7.7%	4.4%	20.9%	0.0%	1.1%	22.0%	78.0%	200.0%
Travis County	34.1%	34.3%	2.8%	4.2%	7.9%	10.6%	3.3%	2.7%	48.1%	51.9%	199.9%

<u>New Hires</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	1	0	0	0	0	0	0	0	1	1
Professional	1	2	0	0	0	0	0	0	1	2	3
Para-Prof	0	1	0	1	0	1	0	0	0	3	3
Admin Support	0	3	1	0	0	3	0	0	1	6	7
TOTALS	1	7	1	1	0	4	0	0	2	12	14

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

<u>Promotions</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	0	1	0	0	0	0	0	0	0	1	1
Para-Prof	1	1	0	0	0	1	0	0	1	2	3
Admin Support	0	0	0	0	0	2	0	0	0	2	2
TOTALS	1	2	0	0	0	3	0	0	1	5	6

<u>Terminations</u>	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	2	1	0	0	0	0	0	0	2	1	3
Para-Prof	3	3	0	0	0	2	0	0	3	5	8
Admin Support	0	0	0	0	0	1	0	0	0	1	1
TOTALS	5	4	0	0	0	3	0	0	5	7	12

7. **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 FY2016.**

**Status:**        **Accomplished**

**Comment:**    The agency continues to save valuable square footage by imaging files. The pharmacist, pharmacy technician and closed technician complaint imaging project continued with 221,108 images scanned into the imaging system. Agency staff destroyed 1,181.61 cubic feet of records in accordance with the TSBP records retention schedule, and 169 cubic feet of records were sent to the State Library for storage.

8. **To serve as the Agency Risk Manager by annually assessing areas of agency risk exposures and recommending procedures to control these exposures throughout FY2016.**

**Status:**        **Accomplished**

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

The agency was also successful in submitting its state continuity planning requirements to the State Office of Risk Management.

9. **To provide verbal and written information to Board staff and customers throughout FY2016 including, by the assigned due dates, the preparation of the LBB Performance and Funds Management Report and other special reports as requested by LBB, legislative committees, legislators, and others, in conjunction with other Divisions as necessary.**

**Status:**        **Accomplished**

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

**Comment:** This objective was accomplished by providing reports as follows:

Report Title	Recipient(s)	Division Reporting
FTE State Employees	State Auditor	Administration
Employees Quarterly Report	Texas Workforce Commission	Administration
Employer's Quarterly Federal Tax Return	Internal Revenue Service	Administration
Annual Financial Report	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor	Administration
Non-Financial Annual Report	Governor's Office; Legislative Budget Board; State Auditor	Administration
Operating Budget	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor	Administration
ABEST Reconciliation	Legislative Budget Board	Administration
Historically Underutilized Business Progress Reports	Governor's Office; Lt. Governor; Speaker of House; Texas Building & Procurement Commission	Administration
Encumbrance Reports	State Comptroller; State Auditor; Legislative Budget Board	Administration
State Use Report	Texas Comptroller of Public Accounts	Administration
EEO Information Report	Texas Workforce Commission	Administration
Minority Hiring Practices	Texas Workforce Commission	Administration
SORM 200	Office of Risk Management	Administration
Performance and Funds Mgmt. Reports	Legislative Budget Board	All
Contract Workforce Report	State Auditor; Legislative Budget Board; Governor	Administration
Open Records Online Monthly Report	Office of Attorney General	Open Records Division
Fleet Management Report	Texas Comptroller of Public Accounts	Administration
Risk Assessment	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor, Sunset Advisory Commission	Administration
Veterans Workforce Summary Report	Comptroller	Administration
Space Utilization Survey	Texas Facilities Commission	Administration
SORM Report	SORM	Administration
Professional and Consultant Services Report	Legislative Budget Board	Administration
TexFlex Reconciliation Report	Employees Retirement System	Administration



## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Report Title	Recipient(s)	Division Reporting
Annual Debt Report	Office of Attorney General	Administration
Procurement Plan	Comptroller	Administration
Audit Corrective Action Plan	State Auditor	Enforcement and Administration
FY2015-2019 Strategic Plan	Governor's Office; Legislative Budget Board	All
Sunset Self Evaluation	Sunset Commission	All
FY2018-2019 Legislative Appropriations Request	Governor's Office; Legislative Budget Board	All
Customer Services Report	Governor's Office	Administration
HPC Annual Report	HPC	All
CAPPS Scoping Questionnaire	Comptroller's Office	Administration
Business Continuity Planning Documents	SORM	Administration

- 10. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2016.**

**Status:**        **Accomplished**

**Comment:**    Division staff participated in the following activities:

- A.    Active participation in the ongoing implementation of the joint agency/HPC Shared Regulatory Database System project.
- B.    Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
- C.    Continued participation in several HPC centralized services, such as the Courier Service; Shared Employee Training; Shared Information Resource Technology staff; posting of position descriptions, and use of the imaging system.

- 11. To manage employees under the supervision of the Division throughout FY2016, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

**Status:**        **Accomplished**

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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

- A. Division Director updated and/or reviewed any revised position descriptions for compliance with all personnel statutes.
- B. Division Director prepared new positions descriptions and participated in the hiring of two IT positions – the Director of Information Services and a Network Specialist.
- C. Division Director conducted regular staff team meetings for division staff and in-house training sessions.
- D. Division staff participated in personal development seminars and participated in all-staff training, as listed in Objective #6.
- E. Division Director conducted the annual evaluation of Division employees in August 2016.

**12. To update the Agency Personnel Handbook and the Division's *Policies and Procedures Manual* as needed and submit any substantive revisions to the Executive Director for approval throughout FY2016.**

**Status: Accomplished**

**Comment:** The Agency Personnel Employee Handbook was reviewed and specific policies were amended and distributed to all staff at the general staff meeting in December 2015.

**13. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2016.**

**Status: Accomplished**

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

**14. To prepare a report on the accomplishment of Division objectives for incorporation into the agency's *FY2015 Annual Report* and submit to the Executive Director by the due date.**

**Status: Accomplished**

**Comment:** The Division's first draft of the FY2015 *TSBP Annual Report* was submitted to the Executive Director by the due date. The final draft of the report was submitted to the Board at the May 2016 Board meeting.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

### Objectives (Ongoing) - Licensing

- 15. To coordinate the collection of licensing data for *Key Performance Targets* required under the 2016-2017 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2016.**

**Status:**        **Accomplished**

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

LICENSING RELATED PERFORMANCE MEASURES	FY16 Projected Performance	FY16 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
Number of New Licenses issued to Individuals (Pharmacists)	1,500	1,954	K	Exceeded
Number of Licenses Renewed (Individuals – Pharmacists)	15,447	16,959	K	Exceeded
Number of New Registrations Issued to Individuals (Technician and Trainee)	12,500	16,332	NK	Exceeded
Number of Registrations Renewed (Technicians)	16,000	17,143	NK	Exceeded
Percent of New Licenses Issued within 10 days	95%	95%	NK	Met
Percent of Individual Licenses Issued within 7 days	99%	100%	NK	Exceeded
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	95%	96.60%	K	Exceeded
Total Number of Pharmacists Licensed	31,297	33,130	NK	Exceeded
Total Number of Facilities Licensed	7,500	8,074	K	Exceeded
Total Number of Individuals (Technicians & Trainees) Registered	57,000	62,501	NK	Exceeded
Percent of Licenses Who Renew Online	94%	95.62%	K	Exceeded
Percent of New Individual Licenses Issued Online	96%	96.68%	NK	Exceeded

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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

**Status: Accomplished**

**Comment:** At year end, a total of 2,200 interns (student interns, intern trainees and extended interns) were certified within one to four days of receipt of required documents. In addition, a total of 5,800 pharmacist preceptors were initially certified or renewed their certification. At fiscal year-end, a total of 10,257 pharmacists were active preceptors.

- 17. To determine the eligibility of all pharmacist applicants applying to take the NAPLEX and Texas Pharmacy Jurisprudence Examination for initial licensing or licensing by reciprocity throughout FY2016.**

**Status: Accomplished**

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

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

<b>JURISPRUDENCE (MPJE)</b>	<b>TOTALS</b>
Candidates Passing	1818 (90.76%)
Candidates Failing	185 (09.24%)
<b>TOTAL ADMINISTERED</b>	<b>2003 (100%)</b>

<b>NAPLEX</b>	<b>TOTALS</b>
Candidates Passing	781 (86.30%)
Candidates Failing	124 (13.70%)
<b>TOTAL ADMINISTERED</b>	<b>905 (100%)</b>

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

<b>NEW PHARMACISTS LICENSED – FY2016</b>	
Graduates of Texas Colleges of Pharmacy	603 (30.86%)
Graduates of Out-of-State Colleges of Pharmacy	1214 (62.13%)
Credentialed by the Foreign Pharmacist Equivalency Committee	137 (07.01%)
<b>TOTAL</b>	<b>1954</b>

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Regarding reciprocity (license transfer) in and out of Texas, 642 candidates were licensed by reciprocity in FY2016. The National Association of Boards of Pharmacy reports that “continuing the trend from the past several years, Texas had the highest number of requests to transfer licensure to the state, with a total of 1,819 requests submitted in 2016. This represents a 54.3% increase compared to the 1,179 requests to transfer a license to Texas made in 2015.”

- 18. To provide staff support to the *Examination Retake Committee* and any other advisory committee related to licensing issues as required in FY2016.**

**Status:** Accomplished

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

- 19. To issue a pharmacist license by examination, score transfer, or reciprocity within an average of ten working days after the date the agency receives the examination results throughout FY2016.**

**Status:** Accomplished

**Comment:** The agency issued 1,954 new pharmacist licenses with an average turnaround time of eight business days from the download of the examination results.

- 20. To issue renewal certificates to all pharmacist candidates within an average of seven working days of receipt of the required fee and all required documents throughout FY2016.**

**Status:** Accomplished

**Comment:** The agency renewed 16,959 biennial pharmacist licenses during FY2016. Approximately 94% of eligible pharmacists renewed their licenses online. The average processing time to issue a renewal license from receipt of a completed application was one business day and 100% percent of licenses were issued within seven business days.

The total population of licensed pharmacists for this fiscal year is as follows:

PHARMACISTS LICENSED FY2016	
Active Status	31,247
Inactive Status*	**1,883
TOTALS	33,130

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

\*\*Of the above number, 784 pharmacists have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as “exempt.”

According to the NABP 2016 Survey of Pharmacy Law Census Data, Texas is one of the states with the highest number of licensed pharmacists.

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

21. To issue initial certificates to all pharmacy technician trainee candidates within an average of five working days of receipt of the required documents throughout FY2016.

**Status:** Accomplished

**Comment:** The agency issued 11,722 new pharmacy technician trainee registrations bringing the total population of active registered technician trainees for this fiscal year to 20,823. Approximately 98% of trainees applied for their registrations online. The average processing time to issue a pharmacy technician trainee registration from receipt of a completed application was one business day and 100% of certificates were mailed within five working days or less.

22. To issue initial and/or renewal certificates to all pharmacy technician candidates on receipt of the required fees and all required documents according to the following guidelines throughout FY2016.

- A. initial certificates to pharmacy technician applicants within an average of 10 working days; and
- B. renewal certificates to pharmacy technician applicants within five working days.

**Status:** Accomplished

**Comment:** The agency issued 4,610 new pharmacy technician registrations, and renewed 17,143 registrations on a biennial basis, bringing the total population of active registered technicians for this fiscal year to 41,678. Approximately 99% of eligible applicants and pharmacy technicians applied for or renewed their registrations online.

The average processing time to issue a renewal registration from receipt of a completed application was one business day and 100% of certificates were mailed within 10 working days or less.

The average processing time to issue an initial registration from receipt of a completed application was two business days and 100% of certificates were mailed within 10 working days or less.

23. To issue an initial and/or renewal certificate to all pharmacy license applicants on receipt of the required fees and all required documents according to the following guidelines throughout FY2016.

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

**Status:** Accomplished

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

**Comment:** The agency issued 545 new pharmacy licenses and 230 changes of ownership, which resulted in 775 new licenses issued. 3,838 licenses were renewed on a biennial basis, bringing the total population of active registered pharmacies for this fiscal year to 8,074. Approximately 14% of eligible pharmacies renewed their licenses online.

The average processing time to issue a renewal license from receipt of a completed application was three business days and 90% of licenses were mailed within five working days or less.

Although a small percentage of pharmacies continue to use the online payment system for the renewal of their licenses, it should be noted that the inefficiencies of the computer system as well as the lack of automated processes, have necessitated that all pharmacy applications be received and processed in paper format only.

The average processing time to issue an initial license from receipt of a completed application, inspection, and enforcement review was four business days, and 100% of applications were licensed within 21 working days or less.

The following chart represents the total number of pharmacy licenses (business or facilities) issued by the agency, and includes 11 classes of pharmacy licenses.

<b>ACTIVE PHARMACIES FY2016</b>	
Class A (Community)	4,972
Class A-S (Community Pharmacy Engaged Compounding Sterile Preparations)	316
Class B (Nuclear)	35
Class C (Institutional)	753
Class C-S (Hospital Pharmacy Engaged In Compounding Sterile Preparations)	448
Class D (Clinic)	437
Class E (Non Resident)	655
Class E-S (Non-Resident Pharmacy Engaged In Compounding Sterile Preparations)	129
Class F (Free Standing Emergency Medical Centers)	302
Class G (Central Processing)	26
Class H	01
<b>TOTALS</b>	<b>8,074</b>
Remote Pharmacies	1,623

A total of 5,316 change documents were processed as follows:

<b>PHARMACY APPLICATIONS PROCESSED</b>	
Pharmacy Renewals	3,838
New Licenses Issued [new opens (545) and changes of ownership (230)]	775
Closings	360
Remote Pharmacies	343
<b>TOTAL</b>	<b>5,316</b>

## ADMINISTRATIVE SERVICES AND LICENSING DIVISION

24. In cooperation with the Enforcement Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants for licensure and registration throughout FY2016, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2016.

**Status:** Accomplished

**Comment:** Fingerprint-based criminal background checks continued on all applicants for pharmacist-intern, pharmacy technician, and pharmacy technician trainee registrations and pharmacist licensure. In addition, quarterly DPS background checks were run on all individuals, once they are licensed or registered.



### FY2016 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 23 (100%) of the Division's Objectives for FY2016.
2. Division Director, in cooperation with Executive Director and other Division Director, worked extensively throughout FY2016 on implementing Senate Bill 195 which transferred the Prescription Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy. The program was successfully transferred by the due date of September 1, 2016 (FY2017).
3. Division Director drafted or assisted others in drafting 47 rules and preparing the rules for review by the Board.
4. Division Director gave 24 presentations/webcasts during FY2016 to over 2,466 pharmacists, pharmacy students, and pharmacy technicians.

## **PROFESSIONAL SERVICES DIVISION**

### **FY2016 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS**

1. Division experienced turnover of Administrative Assistants and had only one administrative assistant responding to open records for over three months.
2. Division Director spent a great deal of time on the implementation of Senate Bill 195 which limited time to devote to other duties.

## PROFESSIONAL SERVICES DIVISION

### FY2016 ANNUAL REPORT

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#### GOAL

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

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#### Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2016.

1. Reviewing and implementing legislation passed by the 84<sup>th</sup> Texas Legislature that affects agency operations and/or the practice of pharmacy.
2. Updating and preparing the *TSBP Strategic Plan for FY2017-2021* and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date.
3. Preparing a proposed budget for the FY2018-2019 biennium for review and approval by the Board at the 2016 Board Budget meeting.
4. Preparing the *TSBP Legislative Appropriation Request for FY2018-2019* and corresponding performance measures by the due date.
5. Conducting the orientation of new Board members within 90 days of appointment by the Governor.
6. Assisting the Executive Director, in cooperation with other Divisions, in the implementation of the transfer of the Texas Prescription Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy throughout FY2016.
7. Participating in the evaluation of agency activities by the Sunset Advisory Commission.

**Status:**        **ACCOMPLISHED**

**Comment:**

1. Division Director, with assistance from other Directors, drafted language to implement legislation passed by the 84<sup>th</sup> Texas Legislature.
2. The *TSBP Strategic Plan for FY2017-2021* was prepared and reviewed. The agency researched the trends and resulting issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years. The Board Members worked with staff to develop Issue Statements and approved the final Strategic Plan at the May 2016 Board meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

## PROFESSIONAL SERVICES DIVISION

3. Division Director worked with the Executive Director and the other Division Directors in preparation of the proposed budget for FY2018-2019.
4. Division Director worked with the Executive Director and the other Division Directors in preparation of the FY2018-2019 Legislative Appropriations Request and reviewed the final draft of the document.
5. On October 27-28, 2015, Division staff, along with the Executive Director and other agency staff, participated in the orientation of new Board Members, Chip Thornsburg, Suzette Tijerina, and Jenny Downing Yoakum.
6. Division Director assisted the Executive Director, in cooperation with other Division Directors and agency staff, in implementing the transfer of the Prescription Monitoring Program to the Texas State Board of Pharmacy. Division Director and division staff worked to draft the Request for Proposal for the administration of the program. Division Director and staff reviewed contract proposals submitted for the administration of the program and in January 2016, selected Appriss to provide the AWARxE platform for the program. Weekly status meetings were conducted with Appriss to develop and implement optimal program specifications. Division Director and agency staff worked with Texas.gov and the printer vendor to set up a system for the ordering of and supplying Official Prescription Forms to prescribers. In setting up the new ordering system, TSBP was able to automate a significant portion of the ordering process. A program manager, and two research analysts were hired.
7. Division staff cooperated with the staff of the Sunset Advisory Commission throughout this process. Division Director assisted the Executive Director and other Division Directors and agency staff in drafting and reviewing the TSBP's Self-Evaluation Report, and in supplying all requested information. Division Director also constructively participated in relevant meetings and legislative hearings.

## PROFESSIONAL SERVICES DIVISION

### Objectives (Ongoing)

1. **To develop rules for consideration by the Board relating to professional issues and to assist other Divisions with the development of rules pertaining to Board operations throughout FY2016.**

**Status:**           **ACCOMPLISHED**

**Comment:**    The Division Director spent a considerable amount of time drafting rules, assisting others in the drafting of rules, and preparing and presenting the rules for review by the Board. Changes required by the Board were made quickly to allow final review by the Board in a timely manner, usually during the same Board meeting. The Division Director drafted 31 rules and assisted others in drafting of 16 additional rules as follows:

RULES
<b>Drafted:</b>
§283.2 concerning Definition of a Healthcare Professional
§283.5 concerning Duties of a Pharmacist-Intern
§§315.1 – 315.15 concerning Controlled Substances
§291.34 concerning Records
§291.133 concerning Compounding Sterile Preparations
§283.12 concerning Licensing Requirements
§291.1 concerning Licensing Requirements
§291.33 concerning Shipping Prescription Medications
§291.76 concerning Floor Stock
§291.104 concerning Operational Standards
§291.133 concerning Compounding Sterile Preparations
§291.151 concerning Floor Stock
§291.34 concerning Records
§291.74 concerning Records
§291.155 concerning Class H Pharmacies
§295.14 concerning Pharmacists Dispensing Opioid Antagonists
§295.16 concerning Definition of Epinephrine Auto-Injector
<b>Assisted the Legal Division in Drafting:</b>
§281.8 concerning Grounds for Discipline for a Pharmacy License
§281.31 concerning Burden of Proof
§281.66 concerning application for reissuance or removal of restrictions of a License or Registration
§281.8 concerning Grounds for Discipline for a Pharmacy License
§281.65 concerning Administrative Penalties
<b>Assisted the Licensing Division in Drafting:</b>
§§283.4, 283.7, 283.8, 283.11 concerning License Requirements for Pharmacists
§291.5 concerning Closing a Pharmacy
§291.14 concerning Pharmacy License Renewal
§§297.3, 297.10 concerning Registration Requirements for Pharmacy technicians and Pharmacy Technician Trainees
<b>Assisted Enforcement Division in Drafting:</b>
§291.104 concerning Inspection Reports for Non-resident (Class E) Pharmacy
§291.133 concerning Compounding Sterile Preparations
§291.17 concerning Perpetual Inventories

## PROFESSIONAL SERVICES DIVISION

2. To act as agency liaison to the Texas Register, coordinate and monitor all submissions to the Texas Register, to review and monitor the Texas Register for activities of other agencies that would impact TSBP or pharmacy practice, and to provide periodic notice of publications to Board Members, staff, and other interested parties throughout FY2016.

**Status:** ACCOMPLISHED

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

### RULE SUBMISSIONS TO THE *TEXAS REGISTER*

During FY2016, 68 submissions to the *Texas Register* were made that proposed, adopted, reviewed, repealed, or withdrew amendments or new Texas Pharmacy rules. Rule reviews were published according to the Board's established review schedule. 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
Chapter 295, Pharmacists	Rule Review	FY2015		09/04/2015	
Chapter 291, Subchapter F	Rule Review	FY2014		09/04/2015	
§283.9	Amendments	FY2014		09/11/2015	
§291.6	Amendments	FY2014		09/11/2015	
§291.51-§291.54	Amendments	FY2014		09/11/2015	
§291.133	Amendments	FY2014		09/11/2015	
§297.8	Amendments	FY2014		09/11/2015	
§295.5	Amendments	FY2014		09/11/2015	
§281.7, §281.9	Amendments	09/25/2015		12/04/2015	
§283.2, §283.12	Amendments	09/25/2015		12/04/2015	
§291.3, §291.17	Amendments	09/25/2015		12/04/2015	
§291.32, §291.33,	Amendments	09/25/2015		12/04/2015	
§291.53	Amendments	09/25/2015		12/04/2015	
§291.73, §291.76	Amendments	09/25/2015		12/04/2015	
§291.103, §291.104	Amendments	9/25/2015		12/4/2015	
§291.151	Amendments	9/25/2015		12/4/2015	
§295.15	Amendments	9/25/2015		12/4/2015	
§295.16	New	9/25/2015		12/4/2015	
§297.10	Amendments	9/25/2015		12/4/2015	
§§309.1 – 309.8	Amendments	9/25/2015		12/4/2015	
§291.34	Amendments/Withdrawn	09/25/2015		12/04/2015	
§283.1-§283.12	Rule Review	11/27/2015		03/04/2016	
§291.31-§291.36	Rule Review	11/27/2015		03/04/2016	
§291.104	Amendments/Withdrawn	12/18/2015		02/26/2016	
§281.8	Amendments	12/18/2015		03/04/2016	
§283.2, §283.5	Amendments	12/18/2015		03/04/2016	

## PROFESSIONAL SERVICES DIVISION

Rules	Type of Action	Published in TxReg as Proposed	Memo to Staff and Others	Published in TxReg as Adopted	Memo to Staff and Others
Chapter 315	New	12/18/2015		03/04/2016	
§283.4, §283.7, §283.8, §283.11	Amendments	03/11/2016		06/10/2016	
§291.5, §291.14	Amendments	03/11/2016		06/10/2016	
§291.34	Amendments	03/11/2016		06/10/2016	
§291.133	Amendments	03/11/2016		06/10/2016	
§297.3, §297.10	Amendments	03/11/2016		06/10/2016	
§281.8	Amendments	06/24/2016		FY2017	
§281.31	Amendments	06/24/2016		FY2017	
§281.66	Amendments	06/24/2016		FY2017	
§283.12	Amendments	06/24/2016		FY2017	
§291.33	Amendments	06/24/2016		FY2017	
§291.76	Amendments	06/24/2016		FY2017	
§291.104	Amendments	06/24/2016		FY2017	
§291.1, §291.17	Amendments	06/24/2016		FY2017	
§291.133	Amendments	06/24/2016		FY2017	
§291.151	Amendments	06/24/2016		FY2017	
Chapter 291	Rule Review	06/24/2016		FY2017	
Chapter 303	Rule Review	06/24/2016		FY2017	

### OPEN MEETING SUBMISSIONS TO THE *TEXAS REGISTER*

Twenty-one notices of open meetings scheduled during FY2016 were submitted by the Division to the *Texas Register* for publication. The submissions were as follows:

Type of Submission	Date Published
Temporary Suspension Hearing – 10/8/15	9/25/15
Temporary Suspension Hearing – 10/8/15	10/7/15
Interagency Prescription Monitoring Work Group Meeting – 10/19/15	10/6/15
Board Business Meeting- 11/3/15	10/21/15
Interagency Prescription Monitoring Work Group Meeting – 1/25/16	1/11/16
Temporary Suspension Hearing – 2/3/16	1/19/16
Board Business Meeting – 2/2/16	1/21/16
Sterile Compounding Stakeholders Meeting – 3/1/16	2/8/16
Temporary Suspension Hearing – 2/18/16	2/10/16
Executive Committee Meeting – 4/4/16	2/19/16
Temporary Suspension Hearing – 4/5/16	3/24/16
Interagency Prescription Monitoring Program Work Group Meeting – 4/25/16	4/5/16
Board Business Meeting – 5/3/16	4/21/16
Temporary Suspension Hearing – 5/19/16	5/10/16
Temporary Suspension Hearing – 5/19/16	5/10/16
Interagency Prescription Monitoring Program Work Group Meeting – 7/11/16	6/29/16
Texas Pharmacy Law Update and Board Forum – 7/17/16	7/7/16
Board Business Meeting – 8/2/16	7/21/16
Sterile Compounding Stakeholders Meeting – 8/3/16	7/25/16
Temporary Suspension Hearing – 8/30/16	8/22/16
Temporary Suspension Hearing – 8/30/16	8/22/16

## PROFESSIONAL SERVICES DIVISION

3. To respond to open records requests throughout FY2016, in accordance with the procedures set forth in the Texas Public Information Act and to notify various state and federal agencies regarding disciplinary orders entered by the Board.

**Status:** ACCOMPLISHED

**Comment:** As indicated in the following chart, TSBP experienced a 5% increase in the number of requests for records in FY2016, as compared to FY2015.

**OPEN RECORDS REQUESTS FY12 through FY16**

Fiscal Year	Verbal Requests		Written Requests		Total # of Requests		Monthly Average		% Change from Prior Fiscal Year	
	# of Requests	# of Licensees	# of Requests	# of Licensees	# of Requests	# of Licensees	# of Requests	# of Licensees	# of Requests	# of Licensees
FY12	238	295	1,140	2,086	1,378	2,381	115	198	-13%	+6%
FY13	199	239	1,173	2,301	1,372	2,540	114	212	-<1%	+7%
FY14	230	243	1,490	1,863	1,720	2,106	143	176	25%	-17%
FY15	514	570	1,998	2,434	2,512	3,004	209	250	46%	43%
FY16	364	386	2,265	2,402	2,629	2,788	219	232	5%	-7%

4. To provide information to Board staff and customers, including responses to surveys and questionnaires, oral and written communication, display of the TSBP exhibit at meetings, and public speaking engagements, as needed and required throughout FY2016.

**Status:** ACCOMPLISHED

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

- A. The Division Director gave eight live presentations to over 867 individuals as indicated in the following chart:

Date	Group	Attendance (Approx.)
9/15 & 17/15	HEB Pharmacists' Conference, San Antonio	700
10/3/15	Central Texas Society of Health System Pharmacists, San Antonio	40
11/17/15	Carrington College Pharmacy Technician Program	20
11/19/15	Texas A&M Health Science Center Irma Lerma Rangel College of Pharmacy, Round Rock	30
1/22/15	Remington College Pharmacy Technician Program	25
3/22/15	Virginia College Pharmacy Technician Program, Austin	12
6/28/15	Gulf Coast Pharmacy Association Meeting, Beaumont	40
TOTAL		867



## PROFESSIONAL SERVICES DIVISION

- B. The Division Director provided training and information to new employees and pharmacist-interns regarding the operation of the Professional Services Division.
  - C. The Division Director developed an education display that was exhibited at the following meetings:
    - HEB Pharmacists' Conference (San Antonio)
    - Texas Society of Health-System Pharmacists Annual Seminar (Frisco)
    - Texas Pharmacy Association Annual Meeting (Austin)
  - D. Other Activities
    - The Division Director routinely answered questions from Enforcement and Licensing staff concerning the laws and rules, including their applicability to specific situations
    - The Division Director routinely monitored the TSBP Website. Changes and/or updated were forward to Network Specialist Todd Hayek
    - The Division sent out 102 fifty-year certificates to eligible pharmacists.
5. **To educate licensees/registrants and promote voluntary compliance with the laws and rules by providing information about responsibilities under current regulations and to provide information consistent with the responsibilities of the Board through the publication of an Internet version of the Newsletter; online webcasts; live presentations; and social media including Facebook, Twitter, and You Tube.**

**Status:**        **ACCOMPLISHED**

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

- A. One issue of the *TSBP Newsletter* was published on the TSBP website in FY2016.

During FY2016, the Division continued to use Mail Chimp, an online email system to manage email addresses and send email notices. The use of Mail Chimp improved agency efficiency by using less paper and postage. The number of subscriptions to the account steadily increased with over 9,500 subscribers at the end of the FY2016 (approximately 16% increase as compared to FY2015)
- B. The Division provided 16 online presentations to 1,599 individuals as indicated in the following chart:

## PROFESSIONAL SERVICES DIVISION

Date	Program	Attendance (Approx.)
9/17/15	Pharmacist-in-Charge Training, Class A	59
10/22/15	Opioid Abuse Epidemic	86
11/12/15	Texas Pharmacy Laws and Rules Update	318
12/10/15	Pharmacist-in-Charge Training, Class A	113
1/7/16	Texas Pharmacy Laws and Rules Update	58
1/20/16	Pharmacist-in-Charge Training, Class A	18
2/18/16	Texas Pharmacy Laws and Rules Update	145
3/3/16	Texas Pharmacy Laws and Rules Update	112
3/22/16	Pharmacist-in-Charge Training, Class C	31
4/19/16	Sterile Compounding Requirements	41
5/19/16	Texas Pharmacy Laws and Rules Update	143
6/2/16	Texas Pharmacy Laws and Rules Update	74
6/22/16	Top 10 Things to Know About Running a Pharmacy	29
7/7/16	Texas Pharmacy Laws and Rules Update	106
7/19/16	Pharmacist-in-Charge Training, Class A	21
8/18/16	Texas Pharmacy Laws and Rules Update	113
TOTAL		1,599

- C. Seven educational videos were produced and posted on You Tube during FY2016, including three tutorial videos for requesting records, a video on pharmacists providing immunizations, and an introductory video to the Prescription Monitoring Program. The videos posted in FY2016 had over 7,000 views.
  - D. Facebook, Twitter, and YouTube continued to be useful tools to provide information. At the end of FY2016, over 3,700 individuals “liked” TSBP on Facebook and over 1,800 individuals “followed” TSBP on Twitter. There were 142 posts on Facebook/Twitter.
6. **To work with the National Association of Boards of Pharmacy (NABP) in the ongoing development of the Multi-State Pharmacy Jurisprudence Examination (MPJE); coordinate with other staff the review of MPJE item pools on an agreed timetable with NABP to determine appropriate questions for the Texas exam; and to provide new questions for the MPJE as appropriate or requested by NABP throughout FY2016.**

**Status: ACCOMPLISHED**

## PROFESSIONAL SERVICES DIVISION

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

Date	Activity	Personnel
September 2015	MPJE Texas Pool Review	Allison Benz, Kerstin Arnold
March 2016	MPJE Texas Item Writing	Allison Benz, Kerstin Arnold
August 2016	MPJE Texas Pool Review	Michelle McDiffett, Tara McConnell, Caroline Hotchkiss

7. **To audit the pharmacists' and pharmacy technicians' compliance with continuing education and to initiate complaints on pharmacists and pharmacy technicians who are not in compliance with the rules regarding mandatory continuing education for renewal, in cooperation with the Enforcement Division, throughout FY2016.**

**Status:** **ACCOMPLISHED**

**Comment:** During FY2016, continuing education audits were conducted on 217 pharmacists and pharmacy technicians. Complaints were initiated on 28 licensees/registrants for non-compliance.

8. **In cooperation with the Executive Director and other Divisions, to provide internship experience to student pharmacist-interns upon requests from the Texas Colleges of Pharmacy, throughout FY2016.**

**Status:** **ACCOMPLISHED**

**Comment:** Division Director assisted in providing orientation to pharmacist-interns from the Texas Colleges of Pharmacy.

9. **To provide professional staff support to Board-appointed task forces and complete other special projects as assigned throughout FY2016.**

**Status:** **ACCOMPLISHED**

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

- A. The Division's staff provided professional staff support for one stakeholder meeting regarding sterile compounding.
- B. The Division staff provided professional staff support for four meetings of the Interagency Prescription Monitoring Program Work Group.
- C. The Division staff provided 721 continuing education certificates to individuals for programs presented by TSBP staff.

## PROFESSIONAL SERVICES DIVISION

- 10. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2016.**

**Status:** ACCOMPLISHED

**Comment:** Division Director attended HPC meeting as necessary for Executive Director.

- 11. To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2016.**

**Status:** ACCOMPLISHED

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

- A. Division Director assisted the Texas Department of Public Safety (DPS) in the review and approval of plans from twenty-two Texas pharmacies to dispense prescriptions for Schedule II controlled substances issued by out-of-state practitioners.
- B. Division staff maintained close contact with *Texas Register* staff as needed to prepare and publish rules in the *Texas Register*.
- C. Division Director maintained contact with numerous state and federal agencies and other state boards of pharmacy.

- 12. To manage employees under the supervision of the Division throughout FY2016, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

**Status:** ACCOMPLISHED

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

- A. Annual performance reviews for Division Staff were conducted in August 2016.
- B. In FY2016, Division staff attended general staff meetings and in-house training sessions. In conjunction with General Staff Meetings, Division staff participated in all-staff trainings.

## PROFESSIONAL SERVICES DIVISION

- C. The Division Director served as co-chair on the agency's Wellness Committee in conjunction with the General Counsel. Division Director assisted with and participated in numerous wellness planning meetings and program activities including the following programs:

- (1) Maintain No Gain;
- (2) Farm-to-Work;
- (3) Provision of flu shots;
- (4) Weekly yoga classes; and
- (5) Lose and Win and other nutrition presentations.

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

- 13. To destroy records in accordance with the agency's record retention plan throughout FY2016; and to update the Division's Policy and Procedure Manual as needed and submit any substantive revisions to the Executive Director/Secretary for approval throughout FY2016.**

**Status: ACCOMPLISHED**

**Comment:** During FY2016, the Division accomplished this goal as follows:

- A. Records Management

Records in the possession of the Division scheduled for destruction during FY2016 under the approved Record Retention Schedule were identified and destroyed.

- B. Policies and Procedures

The policies and procedures for handling Open Records Requests, submitting information to the *Texas Register*, and destroying records according to the Record Retention Schedule were reviewed in FY2016. In addition, Division Director reviewed numerous sections of the Agency Personnel Employee Handbook.

- 14. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2016.**

**Status: ACCOMPLISHED**

**Comment:** Division Director made numerous recommendations to update the Board rules. Division Director also made recommendations to keep the TSBP website current and easier to use. Division recommended that emergency/unexpected agency closing be posted on the TSBP webpage, Facebook, and Twitter.

## PROFESSIONAL SERVICES DIVISION

15. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's FY2015 Annual Report and submit to the Executive Director by the due date.

**Status:** ACCOMPLISHED

**Comment:** The Division's first draft of the FY2015 *Annual Report* was submitted to the Executive Director by the due date. All Divisions' Annual Reports were compiled and subsequently presented to the Board at its meeting in May 2016.

## FY2016 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 100% of the Division's Objectives for FY2016.
2. During FY2016, Division staff spent significant time and effort assisting the Sunset Advisory Commission staff in evaluating agency activities; the Sunset report was very complimentary regarding the operation of the agency. See New Objective #7.
3. TSBP met or exceeded, within a 5% variance, five of the six key enforcement-related performance measures for FY2016 (83%). See Ongoing Objective #1 for more information regarding key and non-key performance measures.
4. TSBP received and resolved more complaints in FY2016 than the agency received and resolved in FY2015. In addition, the agency's average complaint resolution time decreased by four days (2% decrease). For additional details regarding complaint data, see Ongoing Objective #3 and 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
FY12	5,830	+2%	5,766	-1%	99%	204 Days	+5%
FY13	5,927	+2%	6,552	+14%	111%	187 Days	-8%
FY14	5,561	-6%	5,606	-14%	101%	176 Days	-6%
FY15	5,925	+7%	5,955	+6%	101%	170 Days	-3%
FY16	6,146	+4%	6,265	+5%	102%	166 Days	-2%

5. During FY2016, TSBP Compliance Field Staff conducted 3,640 inspections of pharmacies located in Texas, as compared to 2,991 inspections conducted in FY2015 (an impressive increase of 22%). They continued to do an excellent job inspecting pharmacies that compound sterile preparations prior to the pharmacies' expiration dates, in order to implement TSBP rules which require this type of pharmacy to be inspected during its renewal period. See Ongoing Objective #2 regarding inspection data.
6. Throughout FY2016, Compliance Field Staff collected 134 samples of compounded preparations from 125 Texas pharmacies, which included 120 sterile preparations and 14 non-sterile preparations. No sample failed sterility, fungal, or endotoxin testing. However, 18 of the 134 samples (13%) failed to yield acceptable potency results. See Ongoing Objective #2 for additional information about the sample collection program.
7. Throughout FY2016, Division staff continued to spend significant time and effort to monitor the inspections of Non-Resident pharmacies by vendors who were authorized to conduct these inspections on behalf of TSBP. Amendments were made to vendor contracts and related forms to address conflict-of-interest issues and other requirements. During FY2016, vendor inspectors conducted 61 inspections of Class E-S Pharmacies and collected 63 samples of compounded sterile preparations. One sample failed sterility testing and six samples (10%) failed to yield acceptable potency results.
8. Throughout FY2016, Division staff spent a significant amount of time providing verbal information and assistance to the Board's internal and external customers. Specific examples include: Division staff responded verbally to 23,853 telephone calls received via the Compliance Queue Phone Line; made 21 presentations to an estimated 1,428 individuals; and maintained liaison with law enforcement agencies across the state, totaling over 694 contacts with 97 agencies (see Ongoing Objectives #5 and #7).

## **ENFORCEMENT DIVISION**

### **FY2016 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS**

1. During FY2016, the Division experienced 15 staff changes, which included five resignations, five new hires. As a result, Division staff spent significant time and efforts to replace vacant positions (e.g., reviewing applications, conducting interviews, preparing orientation schedules and conducting orientation/training for all new employees). One of the staff changes was the retirement of a Field Investigator position in December 2015. This position remained vacant the remainder of FY2016 (8 months) due to the difficulty in filling the position with a qualified individual. This Field Investigator position was initially posted in December 2015. Following initial interviews and background checks, the position was re-posted in July 2016, resulting in additional interviews and background checks. See Ongoing Objective #11 for further details regarding personnel changes.
2. Division staff spent significant time monitoring compliance of 524 disciplinary orders entered in FY2016 (or 87% of the 600 disciplinary orders entered in FY2016) that required some type of monitoring by Division staff (see Ongoing Objective #6 for details).
3. During FY2016, TSBP received 194 reports of employee pilferage by 208 individuals resulting in the diversion of 364,972 dosage units of prescription drugs. Although these numbers are large, all numbers dropped as compared to FY2015. The number of reports, the number of suspects and the number of dosage units dropped as compared to FY2015. In FY2015, TSBP received 242 reports of employee pilferage by 244 suspects, resulting in the diversion of 407,612 dosage units – i.e., comparing FY2016 to FY2015, there was a 20% decrease in the number of reports received, a 15% decrease in the number of suspects, and a 11% decrease in the number of dosage units that were reported stolen.
4. The agency's office continued to be located in the Hobby Building which underwent major re-wiring during FY2016. As a result, the agency experienced several electrical shutdowns over the course of several weekends, which inconvenienced agency customers (e.g., no access to the TSBP webpage or ability to renew licenses on-line during the electrical outage) and required additional work on agency employees to prepare for the shutdowns and to restart operation upon conclusion of the shutdowns.
5. During FY2016, the agency experienced an increase in the number of complaints that were filed by insurance companies/pharmacy benefit managers (PBMs). Specifically, the agency received 36 reports from PBMs in FY2016, which represented a 350% increase when compared to the number of complaints filed by insurance companies in FY2015.
6. In April 2016, the FBI audited the agency's procedures for using the Criminal Justice Information System. During the audit, FBI found that the agency's process of maintaining electronic complaint records were not stored correctly at rest, which resulted in changes to Division procedures and may require costly upgrades to the agency's computer systems in the future



## ENFORCEMENT DIVISION

### FY2016 ANNUAL REPORT

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#### 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.

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#### Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2016:

1. Reviewing and implementing legislation passed by the 84<sup>th</sup> Texas Legislature that affects agency operations and/or the practice of pharmacy;
2. Updating and preparing the *TSBP Strategic Plan for FY2017-2021* and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date;
3. Preparing a proposed budget for the FY2018-2019 biennium for review and approval by the Board at the 2016 Board Budget meeting;
4. Preparing the *TSBP Legislative Appropriation Request for FY2018-2019* and corresponding performance measures by the due date;
5. Conducting the orientation of new Board members within 90 days of appointment by the Governor;
6. Implementing the transfer of the Texas Prescription Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy; and.
7. Participating in the evaluation of agency activities by the Sunset Advisory Commission.

**Status:**        **ACCOMPLISHED**

**Comment:**    These objectives were accomplished through the following activities:

1. Division Director, assisted with the implementation of new legislation through the development and review of new agency rules, which required modification due to implementation of legislation passed by the 84th Texas Legislature.
2. Division Director assisted in the preparation of the TSBP Strategic Plan for FY2017-2021, such as providing enforcement data for various charts in the plan and projections for LBB performance measures.

## ENFORCEMENT DIVISION

3. Division Director assisted in the preparation of a proposed budget for the FY2018-2019 biennium, including the request and justification for additional Enforcement Division FTEs, equity increases, and reclassifications. The Division Director, together with the Executive Director and other Division Directors, met with the TSBP Executive Committee regarding the review and approval of the draft Exceptional Item Request which was presented to and approved by the full Board during its meeting in May 2016.
4. Division Director assisted in the preparation of the agency's LAR for FY2018-2019, including assistance with writing and editing the following sections: the Administrator's Statement, explanation of External/Internal issues, and justification of additional FTEs.
5. Division Staff assisted in updating the Board Member Orientation Manual and conducted an orientation of the Enforcement Division with new Board Members Chip Thornsburg, Suzette Tijerina, and Jenny Downing Yoakum on October 27-28, 2015.
6. Division staff assisted the Prescription Monitoring Program (PMP) staff, when needed, and worked with PMP staff to coordinate the types of telephone calls that would be handled by Enforcement staff and the types of calls that would be handled by PMP staff.
7. Division staff spent significant time and effort assisting the Sunset Advisory Commission staff in their review of agency operations, including the following activities:
  - participating in approximately 12 interviews;
  - responding to numerous requests for data (inspections; complaints; disciplinary actions; "pill-mill" pharmacies; impaired pharmacists; and criminal history of applicants); and
  - demonstrating the process of inspecting pharmacies. Specifically, Sunset staff accompanied Compliance Field Staff on inspections of various classes of pharmacies in various parts of the state (San Antonio, Austin, Houston, and Dallas-Fort Worth area).

In addition, the Division Director attended the initial Sunset hearing on June 23, 2016.

## ENFORCEMENT DIVISION

### Objectives (Ongoing)

- To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2016-2017 Appropriations Act to Executive Director by specified due dates throughout FY2016; to assist in the preparation of applicable reports to the Legislative Budget Board and Governor's Budget Office regarding performance measures.**

**Status:**        **ACCOMPLISHED**

**Comment:** Throughout FY2016, Division staff collected data relating to enforcement and peer assistance performance measures. The data was certified and submitted to the Legislative Budget Board (LBB) and Governor's Office of Budget, Planning & Policy (GBO) by the prescribed due dates, in conjunction with licensing-related performance measures. Statistics regarding three enforcement-related performance measures (Number of Jurisdictional Complaints Resolved, Average Complaint Resolution Time, and Number of Individuals Participating in a Peer Assistance Program) were reported to the LBB and GBO on a quarterly basis throughout FY2016. The other eight measures were reported to the LBB and GBO at year-end (annual basis).

TSBP met or exceeded, within a 5% variance, 8 of the 11 enforcement-related performance measures (73%) and five of the six key performance measures (83%), as indicated in the chart below:

<b>Enforcement-Related Performance Measure</b>	<b>FY16 Projected Performance</b>	<b>FY16 Performance Attained</b>	<b>Key or Non-Key (K/NK)</b>	<b>Projected Target Met?*</b>
<b>Outputs:</b>				
Inspections	2,400	3,640	NK	Exceeded
Jurisdictional Complaints Resolved	5,420	6,242	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	180	162	K	Not Met
<b>Efficiency:</b>				
Average Time for Jurisdictional Complaint Resolution	180	166	K	Exceeded
<b>Outcomes:</b>				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	15.0%	10.21%	K	Met
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	96.0%	96.6 %	K	Met
Recidivism Rate of Those Receiving Disciplinary Action	4.0%	4.6%	NK	Met
Percent of Jurisdictional Complaints Resolved within Six Months	65.0%	74.05%	NK	Exceeded
Recidivism Rate for Participants in Peer Assistance Program	20.0%	32.56%	NK	Not Met
One-Year Completion Rate for Participants in Peer Assistance Program	85.0%	79.55%	NK	Not Met
<b>Explanatory:</b>				
Jurisdictional Complaints Received	5,620	6,121	K	Exceeded

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

## ENFORCEMENT DIVISION

2. To monitor throughout FY2016, pharmacy inspections and pharmacists' practice by conducting 2,800 inspections of all classes of pharmacies, including pre-inspections, partial inspections, attempted inspections, inspection-visits, and/or follow-up inspections to "Warning Notices." To conduct inspections of pharmacies located in Texas, according to the following priorities:
- A. Pre-inspections of pharmacies who are applying for a new pharmacy license;
  - B. Pharmacists and pharmacies who are the subject of a complaint received by TSBP or a disciplinary order entered by TSBP;
  - C. Pharmacies that compound sterile preparations, including Class E (Non-Resident) pharmacies and other classes of pharmacies that compound high-risk sterile preparations;
  - D. New pharmacies or pharmacies with a recent change of ownership;
  - E. Pharmacies that have received a "Warning Notice" (follow-up inspections);
  - F. Pharmacies that have experienced a theft or loss of prescription drugs; and
  - G. Routine inspections.

**Status:** ACCOMPLISHED

**Comment:** During FY2016, TSBP Compliance Field Staff conducted 3,640 inspections of pharmacies located in Texas, as compared to 2,991 inspections conducted in FY2015 (an impressive increase of 22%).

The term "inspections" includes inspections, pre-inspections, partial-inspections, and inspection-visits. These terms are described below:

- A. Inspections are full inspections of licensed facilities in which Compliance field staff check the facilities for compliance with each of the items on the inspection report form.
- B. Pre-Inspections are partial inspections that occur prior to TSBP issuing the pharmacy license. The Compliance field staff determines if the pharmacy has the necessary items to open and operate a pharmacy in compliance with the laws and rules governing the practice of pharmacy. A pharmacy license is not issued to the facility unless the facility can pass the pre-inspection process.
- C. Partial-Inspections are inspections of licensed facilities in which Compliance field staff check the facility for compliance with a portion of the items on the inspection report form. In addition, partial inspections include follow-up inspections of pharmacies that received a "Warning Notice" to determine if the pharmacies have corrected the discrepancies listed on the "Warning Notice." Follow-up inspections are conducted within approximately six to eight months after the pharmacy has notified the Board in writing that the discrepancies have been corrected.

## ENFORCEMENT DIVISION

- D. Inspection-Visits are inspections in which Compliance field staff generally do not complete an inspection report form. Inspection-visits include inspections of non-licensed facilities that are operating a pharmacy, visits made to pharmacies that have closed (and did not notify the Board), and visits to “new” pharmacies that have not opened for business. The last two situations are discovered by Compliance field staff after arriving at the addresses listed in TSBP records.

Statistics regarding these inspections are set forth below:

<b>Total Inspections by Type</b>	<b>FY2014*</b>	<b>FY2015**</b>	<b>FY2016**</b>	<b>% of FY16</b>	<b>3-Year Average</b>	<b>% of 3-Yr. Average</b>
Inspections	1,257	2,537	3,159	87%	2,318	84%
Pre-Inspections	155	156	130	4%	147	5%
Partial-Inspections	234	164	195	5%	198	7%
Inspection-Visits	4	25	21	1%	17	1%
Attempted Inspections	27	100	125	3%	84	3%
Other	21	9	10	N/A	13	N/A
<b>Total</b>	<b>1,698</b>	<b>2,991***</b>	<b>3,640</b>	<b>100%</b>	<b>2,776</b>	<b>100%</b>

\* 7 FTE (inspector positions)

\*\* 12 FTE (inspector positions)

\*\*\* This number does not include the Class E-S inspection conducted by TSBP Compliance Officers

N/A – not applicable, value less than 0.01

<b>Number of Inspections/Visits by Class</b>	<b>FY2014</b>	<b>FY2015</b>	<b>FY2016</b>	<b>% of FY16</b>	<b>3-Year Average</b>	<b>% of 3-Yr. Average</b>
Class A Pharmacies	1,176	2,275	2,460	68%	1,970	71%
Class A-S Pharmacies *	4	144	208	6%	119	4%
Class B Pharmacies	3	5	20	1%	9	N/A
Class C Pharmacies	446	268	386	11%	367	13%
Class C-S Pharmacies *	4	128	212	6%	115	4%
Class D Pharmacies	56	95	198	5%	116	4%
Class F Pharmacies	5	61	138	4%	68	2%
Class G Pharmacies	4	15	18	N/A	12	N/A
<b>Total</b>	<b>1,698</b>	<b>2,991**</b>	<b>3,640</b>	<b>100%</b>	<b>2,776</b>	<b>100%</b>

\* New class added during Fiscal Year 2014

\*\* During FY15, two TSBP Compliance Officers inspected one Class E-S Pharmacy (out-of-state compounding pharmacy) over the course of two days. In addition, authorized vendors (on behalf of TSBP) conducted 65 inspections of Class E-S pharmacies.

N/A – not applicable, value less than 0.01

## ENFORCEMENT DIVISION

Number of Warning Notices Issued by Class*	FY2014	FY2015	FY2016	% of FY16**	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	536	992	917	69%	815	70%
Class A-S Pharmacies***	3	84	124	9%	70	6%
Class B Pharmacies	0	2	13	1%	5	N/A
Class C Pharmacies	316	80	83	6%	160	14%
Class C-S Pharmacies ***	4	87	146	11%	79	7%
Class D Pharmacies	18	31	30	2%	26	2%
Class F Pharmacies	2	17	14	1%	11	1%
Class G Pharmacies	0	0	1	N/A	N/A	N/A
<b>Total</b>	<b>879</b>	<b>1,293</b>	<b>1,328</b>	<b>100%</b>	<b>1,167</b>	<b>100%</b>

\* 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.

\*\*\* New class added during Fiscal Year 2014

N/A – not applicable, value less than 0.01

Conditions Receiving "Warning Notices" FY2016						
Percentages are based on the total number of "Warning Notices" issued to Pharmacies in FY2016. Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.						
Type of Violation	FY2014	FY2015	FY2016	3-Year Average	% FY2016	% 3-Year Average
<b>Equipment</b>	<b>59</b>	<b>117</b>	<b>164</b>	<b>113</b>	<b>4%</b>	<b>3%</b>
Balance Failed Inspection	41	80	97	73		
Equipment Inspection Due (Not Balance)	17	35	65	39		
Insufficient Equipment	1	2	2	2		
<b>Pharmacy Technicians</b>	<b>398</b>	<b>564</b>	<b>465</b>	<b>476</b>	<b>11%</b>	<b>12%</b>
No/Incomplete Training	367	510	394	424		
No/Improper Supervision	10	19	23	17		
Improper Registration	16	29	41	29		
No Name Tags	5	6	7	6		
<b>Inadequate Library</b>	<b>122</b>	<b>200</b>	<b>119</b>	<b>147</b>	<b>3%</b>	<b>4%</b>
<b>Counseling Area</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>N/A</b>	<b>N/A</b>
<b>Licenses</b>	<b>72</b>	<b>68</b>	<b>58</b>	<b>66</b>	<b>1%</b>	<b>2%</b>
Licenses Not Posted	63	63	58	61		
Delinquent Licenses	9	5	0	5		
<b>Prescriptions</b>	<b>160</b>	<b>335</b>	<b>377</b>	<b>291</b>	<b>9%</b>	<b>8%</b>
Lack Proper Information	77	159	170	135		
Prescription Label Incorrect	68	136	174	126		
Triplicate Non-Compliance	15	40	33	29		

## ENFORCEMENT DIVISION

Conditions Receiving "Warning Notices" FY2016 Continued						
Type of Violation	FY2014	FY2015	FY2016	3 Year Average	% FY2016	% 3-Year Average
<b>Drug Stock/Environment</b>	<b>271</b>	<b>421</b>	<b>355</b>	<b>349</b>	<b>8%</b>	<b>9%</b>
Improper Environment	100	137	110	116		
Out-of-Date Drug Stock	83	158	105	115		
Security	36	65	84	62		
Unsanitary	30	32	23	28		
Improper Drug Storage	16	20	23	20		
Area for Non-Sterile Compounding	2	7	6	5		
Violation of Limited Formulary	4	2	3	3		
Prohibited Drugs (Class D)	0	0	1	N/A		
<b>Inventory</b>	<b>157</b>	<b>319</b>	<b>218</b>	<b>231</b>	<b>5%</b>	<b>6%</b>
No Annual Inventory	48	84	83	72		
No Change of Ownership Inventory	6	5	11	7		
No Change of PIC Inventory	32	35	40	36		
Incomplete Inventory	68	194	80	114		
No Perpetual inventory (Class C)	2	0	3	2		
Improper Drug Destruction	1	1	1	1		
<b>Improper Prepackaging Procedures</b>	<b>19</b>	<b>69</b>	<b>54</b>	<b>47</b>	<b>1%</b>	<b>1%</b>
<b>Computer Systems</b>	<b>85</b>	<b>193</b>	<b>144</b>	<b>141</b>	<b>3%</b>	<b>4%</b>
Computer Records Incomplete	84	193	143	140		
Computer Records Non-Compliance	1	0	1	1		
<b>Records</b>	<b>273</b>	<b>731</b>	<b>569</b>	<b>524</b>	<b>13%</b>	<b>14%</b>
Records Not Available	90	314	219	208		
DEA Order Forms Incomplete	0	0	0	N/A		
Absence of R.Ph. Record	15	66	53	45		
Rx Not Separated	7	17	4	9		
Rx Records not Numerical Order	5	25	27	19		
Improper Transfer of RX copies	5	3	9	6		
Invoices Not Separated/Retrievable	52	122	92	89		
Records for Non-Sterile Compounds	77	169	132	126		
No Written Information on Prescription	22	10	23	18		
Improper Refill Documentation	0	5	10	5		
<b>OBRA Violations</b>	<b>152</b>	<b>118</b>	<b>65</b>	<b>112</b>	<b>1%</b>	<b>3%</b>
Written Information Not Provided	22	61	17	33		
No Patient Counseling	117	49	42	69		
PMR Absent or Incomplete	13	8	6	9		

## ENFORCEMENT DIVISION

Conditions Receiving "Warning Notices" FY2016 <i>Continued</i>						
Type of Violation	FY2014	FY2015	FY2016	3 Year Average	% FY2016	% 3-Year Average
<b>Sterile Pharmaceutical Violations</b>	<b>844</b>	<b>647</b>	<b>1280</b>	<b>924</b>	<b>29%</b>	<b>24%</b>
No/Incomplete QA/QC	141	99	73	104		
No/Incomplete P&P Manual	128	237	152	172		
No/Inadequate Preparation Area	358	165	19	181		
IV Preparation	196	131	12	113		
No DUR	15	13	11	13		
Absence of R.Ph. Pick-Up-Records	0	0	0	N/A		
Cytotoxic/Bio Procedures	6	2	0	3		
Anteroom air is NOT ISO 8	*	*	8	3		
Buffer area is NOT ISO 7	*	*	9	3		
No Separate buffer room for high-risk CSPs	*	*	2	1		
Improper design for hands free access	*	*	13	4		
Clean room not clean/well-lit/particle free	*	*	34	11		
Clean room not solely used for CSP	*	*	5	2		
Improper floor covering in clean room	*	*	2	1		
Surfaces not smooth/impervious/crevice-free	*	*	92	31		
Anteroom sink not hands free/hot&cold/closed system of soap	*	*	21	7		
Improper room temperature in clean room	*	*	31	10		
Drugs/supplies stored on floor of clean room	*	*	6	2		
Clean room contains inappropriate supplies	*	*	15	5		
PEC does not maintain ISO 5	*	*	2	1		
Untimely certification of PEC	*	*	7	2		
Improper pressure differential for PEC	*	*	6	2		
No pressure gauge in clean room	*	*	29	10		
Improper documentation of pressure monitoring	*	*	45	15		
Insufficient training for RPH	*	*	41	14		
Insufficient training for TECH	*	*	33	11		
Improper testing prior to compounding	*	*	110	37		
Untimely evaluation/testing	*	*	39	13		
Inadequate Library: Injectables	*	*	4	1		
Inadequate Library : USP	*	*	21	7		
Dispensing commercially available	*	*	2	1		
No written agreement with DR	*	*	5	2		



## ENFORCEMENT DIVISION

Conditions Receiving "Warning Notices" FY2016 <i>Continued</i>						
Type of Violation	FY2014	FY2015	FY2016	3 Year Average	% FY2016	% 3-Year Average
RPH not available at all times	*	*	1	N/A		
No thermometer in refrigerator	*	*	5	2		
Inadequate supplies for aseptic mixing	*	*	47	16		
Inadequate cleaning solutions	*	*	10	3		
Inadequate handwashing agents	*	*	1	N/A		
No lint-free wipes	*	*	12	4		
Inadequate gowns/garb	*	*	6	2		
Improper calibration of automated cpd device	*	*	2	1		
Improper SOP: Prep Recall	*	*	3	1		
Personnel: Cosmetics	*	*	9	3		
Personnel: Jewelry	*	*	13	4		
Personnel: Artificial nails	*	*	8	3		
Personnel: Shoe covers	*	*	19	6		
Hygiene of nails	*	*	28	9		
Improper hand washing	*	*	9	3		
Improper gowning	*	*	4	1		
Improper drying	*	*	17	6		
Failure to use alcohol-based scrub	*	*	71	24		
Failure to use sterile alcohol	*	*	13	4		
Failure to conduct accuracy checks	*	*	20	7		
Improper label: CSP statement	*	*	1	N/A		
Improper Labeling: Lot #	*	*	1	N/A		
Improper BUD	*	*	3	1		
Improper cleaning: Start of day	*	*	5	2		
Improper mopping	*	*	11	4		
Improper Cleaning: walls/ceiling	*	*	15	5		
Improper Cleaning: Supplies	*	*	5	2		
Improper doc of cleaning	*	*	34	11		
Cleaning by untrained personnel	*	*	9	3		
High Risk: Improper testing of batches	*	*	2	1		
High Risk: Improper cleaning	*	*	3	1		
High Risk: Improper pre-sterilization	*	*	2	1		
Hazardous Prep: Improper disposal	*	*	1	N/A		
Hazardous Prep: Improper hood	*	*	1	N/A		
Hazardous Prep: Improper pressure	*	*	1	N/A		
Failed to keep records	*	*	8	3		
Improper Record: Date	*	*	3	1		
Improper Record: Compounder initials	*	*	3	1		

## ENFORCEMENT DIVISION

Conditions Receiving "Warning Notices" FY2016 <i>Continued</i>						
Type of Violation	FY2014	FY2015	FY2016	3 Year Average	% FY2016	% 3-Year Average
Improper Record: Initials of final checker	*	*	3	1		
Improper Record: Qty	*	*	1	N/A		
Improper Record: BUD	*	*	2	1		
Improper Recorder: QC	*	*	2	1		
Incomplete master worksheets	*	*	2	1		
Worksheet not approved by RPh	*	*	3	1		
Air environment evaluation by untrained staff	*	*	2	1		
Untimely air sampling	*	*	10	3		
<b>No/Incomplete Non-Sterile Cpd Records</b>	<b>77</b>	<b>0</b>	<b>132</b>	<b>70</b>	<b>3%</b>	<b>2%</b>
<b>Improper Distribution</b>	<b>23</b>	<b>35</b>	<b>30</b>	<b>29</b>	<b>1%</b>	<b>1%</b>
<b>No PIC</b>	<b>18</b>	<b>27</b>	<b>42</b>	<b>29</b>	<b>1%</b>	<b>1%</b>
<b>Dispensing</b>	<b>75</b>	<b>114</b>	<b>138</b>	<b>109</b>	<b>3%</b>	<b>3%</b>
Improper Dispensing	38	66	91	65		
Aiding and Abetting	4	13	5	7		
Illegal Dispensing	3	4	4	4		
Substitution Non-Compliance	7	0	5	4		
Out-of-State Rx's for Controlled Substances	0	0	0	0		
Improper Emergency Room Dispensing	1	0	0	N/A		
Improper Automated Dispensing Procedures	21	31	28	27		
Improper Provision	1	0	5	2		
<b>Improper Advertising</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
<b>Notification Violation</b>	<b>74</b>	<b>120</b>	<b>133</b>	<b>109</b>	<b>3%</b>	<b>3%</b>
<b>Theft &amp; Loss of C/S Not Reported</b>	<b>34</b>	<b>34</b>	<b>23</b>	<b>30</b>	<b>1%</b>	<b>1%</b>
<b>Gray Market diversion</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>N/A</b>	<b>N/A</b>
<b>Improper Closing/Change of Ownership</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>4</b>	<b>N/A</b>	<b>N/A</b>
<b>Improper Inpatient Procedures (Class C)</b>	<b>0</b>	<b>20</b>	<b>14</b>	<b>11</b>	<b>N/A</b>	<b>N/A</b>

\* Conditions added in FY 2016

N/A – not applicable, value less than 0.01

## ENFORCEMENT DIVISION

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

Purpose of Inspection (In Order of Priority)	FY2014	FY2015	FY2016	% of FY16	3-Yr. Avg.	% of 3-Yr. Avg.
Pre-Inspection	152	157	127	3%	145	5%
Complaint	69	35	64	2%	56	2%
Follow-up to Disciplinary Order	4	8	16	<1%	9	N/A
Sterile Compounding (High Risk)	***	***	16	N/A	5	NA
Rank Change *	N/A	6	19	N/A	8	N/A
New Pharmacies	68	164	233	6%	155	6%
Change of Ownership	9	10	77	2%	32	1%
Follow-up to "Warning Notice"	99	105	132	4%	112	4%
Follow-up to Theft/Loss	9	12	50	1%	24	1%
Licensee Request *	N/A	5	26	N/A	10	N/A
Other **	424	214	226	6%	288	10%
Routine Inspections	864	2,275	2,654	73%	1,931	70%
<b>Total</b>	<b>1,698</b>	<b>2,991</b>	<b>3,640</b>	<b>100%</b>	<b>2,776</b>	<b>100%</b>

\* New Purpose added in late FY 2015

\*\* Most of these inspections were for the purpose of Rank Change

\*\*\* New purpose added in FY 2016

N/A – not applicable, value less than 0.01

### SUMMARY OF PROGRAM TO SAMPLE AND TEST STERILE COMPOUNDED PREPARATIONS IN NON-RESIDENT PHARMACIES

Throughout FY2016, Division staff continued to monitor the inspections of Class E-S Pharmacies by authorized vendors who conducted these inspections on behalf of TSBP, which included the following activities:

- Reviewing inspection reports submitted by vendor inspectors;
- following up on unsatisfactory conditions that were noted during these inspections;
- monitoring the analysis of samples of compounded sterile preparations that were collected by vendor inspectors;
- reviewing monthly activity reports submitted by each vendor; and
- serving as a liaison with the vendors and vendor inspectors.

In August 2016, Division staff conducted webinars with vendor inspectors to help ensure that they were properly trained to inspect Class E-S Pharmacies in accordance with TSBP Rules.

During FY2016, vendor inspectors conducted 61 inspections of Class E-S Pharmacies. In addition, these inspectors collected and submitted for testing 63 samples of sterile compounded preparations from 61 different Class E-S Pharmacies. Test results revealed that six of the 61 samples (10%) were not within acceptable limits for potency. One sample failed sterility testing, as indicated in the chart below:

## ENFORCEMENT DIVISION

### SUMMARY OF RANDOM COMPOUNDED SAMPLE TESTING PROGRAM IN NON-RESIDENT PHARMACIES

	FY2012	FY2013	FY2014	FY2015	FY2016	5-YR AVG
Number of Sterile Samples Tested	*	*	*	69	63	26.4
Number of Potency Failures	*	*	*	7	6	2.6
Number of Sterility Failures	*	*	*	0	1	N/A
Number of Fungal Failures	*	*	*	0	0	N/A
Number of Endotoxin Failures	*	*	*	0	0	N/A

\* Vendor inspections on Class E-S pharmacies began in FY15

N/A – not applicable, value less than 0.01

### SUMMARY OF PROGRAM TO SAMPLE AND TEST COMPOUNDED PREPARATIONS IN TEXAS PHARMACIES

During Fiscal Year 2016, TSBP submitted for testing 134 compounded preparations from 125 pharmacies located in Texas (Class A-S and Class C-S Pharmacies). Test results revealed that 18 of the 134 samples (13%) were not within acceptable limits for potency.

#### (1) Non-sterile Preparations

Of the 134 tested preparations, 14 (10%) were non-sterile preparations. Potency problems were determined in four (29%) of the non-sterile preparations.

#### (2) Sterile Preparations

Of the 134 tested samples, 120 (90%) were sterile preparations. Potency problems were determined in 14 (12%) of the sterile preparations tested. However, no samples failed sterility, fungal or endotoxin tests.

### SUMMARY OF RANDOM COMPOUNDED SAMPLE TESTING PROGRAM IN TEXAS PHARMACIES

	FY2012	FY2013	FY2014	FY2015	FY2016	5-YR AVG
Number of Samples Tested	28	58	124	121	134	93
Number of Non-Sterile Samples	20	9	7	24	14	18
Number of Potency Failures	2	1	2	5	4	3
Number of Sterile Samples	8	49	117	97	120	99
Number of Potency Failures	1	2	9	19	14	11
Number of Sterility Failures	1*	0	0	0	0	N/A
Number of Fungal Failures	**	0	0	0	0	0
Number of Endotoxin Failures	0	0	0	0	0	0

\* Nasal preparation.

\*\* Fungal Testing began in FY 2013

N/A – not applicable, value less than 0.01

## **ENFORCEMENT DIVISION**

- 3. To coordinate and monitor throughout FY2016, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants. To investigate complaints throughout FY2016, according to the following priorities:**
- A. Continuing threats to the public welfare requiring a temporary suspension;**
  - B. Complaints filed against licensees/registrants who have a chemical, mental, or physical impairment;**
  - C. Complaints involving the diversion of prescription drugs, through various illegal means, such as:**
    - theft of drugs;**
    - delivering prescription drugs without a prescription;**
    - dispensing prescription drugs pursuant to an invalid prescription, such as forged or fraudulent prescriptions, prescriptions dispensed following an Internet consultation, prescriptions dispensed originating from a pill mill operation, and unauthorized refills; and**
    - failing to keep and maintain accurate records of purchases and disposals of prescription drugs (i.e., audit shortages);**
  - D. Complaints against licensees/registrants who have been convicted of or received deferred adjudication for a felony that involved drug laws or occurred while engaged in pharmacy practice;**
  - E. Complaints against licensees/registrants who are registered sex offenders;**
  - F. Complaints against licensees/registrants who have been convicted of or received deferred adjudication for a felony relating to offenses not involving drug laws or not occurring while engaged in pharmacy practice;**
  - G. Complaints involving applicants for licensure or registration (not including applications for reinstatement);**
  - H. Complaints involving dispensing errors and malpractice reports;**
  - I. Complaints involving violations of rules relating to patient counseling or drug regimen review;**
  - J. 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;**
  - K. Complaints against licensees/registrants who have been convicted of or received deferred adjudication for a misdemeanor that involved drug laws or occurred while engaged in pharmacy practice;**
  - L. Applications involving reinstatement of revoked licenses and registrations;**

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- M. Complaints involving other violations of the laws and rules relating to the practice of pharmacy (e.g., CE audit shortages; falsification of renewal applications; possession of samples or misbranded/adulterated drugs; working with an expired license or registration; and falsification of response to warning notices);**
- N. Complaints against licensees/registrants who have been convicted of or received deferred adjudication for a misdemeanor relating to offenses not involving drug laws or not occurring while engaged in pharmacy practice; and**
- O. Complaints against licensees/registrants who have been subject to a disciplinary action by another state board of pharmacy.**

**Status:**        **ACCOMPLISHED**

**Comment:**    As reflected in the chart below, TSBP received 221 more complaints (4% increase), and closed 310 more complaints (5% increase) in FY2016 than in the prior fiscal year. In addition, the average complaint resolution time decreased by four days (2% decrease), which is a significant accomplishment.

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY12	5,830	+2%	5,766	-1%	99%	204 Days	+5%
FY13	5,927	+2%	6,552	+14%	111%	187 Days	-8%
FY14	5,561	-6%	5,606	-14%	101%	176 Days	-6%
FY15	5,925	+7%	5,955	+6%	101%	170 Days	-3%
FY16	6,146	+4%	6,265	+5%	102%	166 Days	-2%

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

### DATA ON DISPENSING ERROR COMPLAINTS CLOSED FY2012– FY2016

Type of Dispensing Error	FY12	FY13	FY14	FY15	FY16	5-Year Avg.
Wrong Drug/Strength or Wrong Directions for Use	196	104	174	189	194	171
Mislabeling	19	18	5	11	17	14
Dispensed Wrong Quantity	67	78	35	40	57	55
Dispensed Outdated Drug	6	7	1	11	4	6
Packaging/Delivery Error	21	23	16	18	24	20
Error + No Counseling	11	6	0	5	0	4
Total # Dispensing Error Complaints	320	236	231	274	296	271
Total # Complaints Closed	5,766	6,552	5,606	5,955	6,265	6,029
% Dispensing Error Complaints	6%	4%	4%	5%	5%	5%

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

### DATA ON COMPLAINTS CLOSED FY2014 – FY2016

Form of Complaints	FY14	FY15	FY16	% of FY16	3-Yr. Avg.	% of 3-Yr. Avg.
Telephone	16	25	23	N/A	21	N/A
Letter	129	120	125	2%	125	2%
TSBP Complaint Form	117	113	148	3%	126	2%
HPC 800 #	25	29	18	N/A	24	N/A
Fax	40	37	46	1%	41	1%
Visit	1	0	0	N/A	N/A	N/A
Agency Report	1	1	2	N/A	1	N/A
Inspection	89	134	140	2%	121	2%
Interoffice Referral	2	4	38	1%	15	N/A
Licensure Application	2,329	2,337	2,414	39%	2,360	40%
Data Bank	3	7	29	N/A	13	N/A
Theft/Loss Report	904	979	1,255	20%	1,046	18%
Investigation	449	596	538	9%	528	9%
Intra-Agency Referral	10	15	33	1%	19	N/A
Malpractice Report	9	4	9	N/A	7	N/A
Press Clip	3	0	5	N/A	3	N/A
Email *	127	135	145	2%	136	2%
Internet *	420	485	488	8%	464	8%
Background Checks **	931	932	809	13%	891	15%
Other	1	2	0	N/A	1	N/A
<b>TOTAL</b>	<b>5,606</b>	<b>5,955</b>	<b>6,265</b>	<b>100%</b>	<b>5,942</b>	<b>100%</b>

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

\*\* Category includes daily and quarterly reports.

N/A – not applicable, value less than 0.01

## ENFORCEMENT DIVISION

### DATA ON COMPLAINTS CLOSED FY2014 – FY2016

Source of Complaints	FY14	FY15	FY16	% of FY16	3-Yr. Avg.	% of 3-Yr. Avg.
Consumer	476	526	589	9%	530	9%
Government Agency	966	967	868	14%	934	16%
Pharmacist	32	50	51	1%	44	1%
Pharmacist (Self)	74	66	77	1%	72	1%
Pharmacist Applicant	109	108	208	3%	142	2%
Technician	11	5	7	N/A	8	N/A
Technician (Self)	71	57	65	1%	64	1%
Tech Applicant	189	139	121	2%	150	3%
Technician Trainee	2	1	0	N/A	1	N/A
Tech Trainee (Self)	2	3	1	N/A	2	N/A
Tech Trainee Applicant	751	817	730	12%	766	13%
Intern	2	2	5	N/A	3	N/A
Intern Applicant	79	83	122	2%	95	2%
TSBP	1,469	1,649	1,575	25%	1,564	26%
Doctor	45	65	42	1%	51	1%
Other Health Professional	17	12	19	N/A	16	N/A
NABP	3	7	37	N/A	16	N/A
PIC, Pharmacy Manager, or Supervisor	1,040	1,199	1,534	24%	1,258	21%
Loss Prevention Officer (Corporate)	1	0	2	N/A	1	N/A
Manufacturing Rep.	9	14	6	N/A	10	N/A
Professional Recovery Network (PRN)	13	19	14	N/A	15	N/A
Insurance Company	8	8	36	N/A	17	N/A
Attorney	10	4	10	N/A	8	N/A
Employee/Ex-Employee	20	12	42	N/A	25	N/A
Media	3	0	3	N/A	2	N/A
Drug Screening Co.	178	136	98	2%	137	2%
Other	26	6	3	N/A	12	N/A
<b>TOTAL</b>	<b>5,606</b>	<b>5,955</b>	<b>6,265</b>	<b>100%</b>	<b>5,943</b>	<b>100%</b>

N/A – not applicable, value less than 0.01



## ENFORCEMENT DIVISION

### DATA ON CLOSED FY2014 – FY2016 COMPLAINTS

Subjects of Complaints	FY2014	FY2015	FY2016	3-Yr. Average
<b>Licensees (RPh/Pharmacy)</b>	<b>2,057 (37%)</b>	<b>2,313 (39%)</b>	<b>2,750 (44%)</b>	<b>2,373 (40%)</b>
Pharmacist	574	569	552	565
In-State Pharmacy	1,414	1,665	2,043	1,707
Out-of-State Pharmacy	69	79	155	101
<b>Registrants (Intern/Tech)</b>	<b>1,254 (22%)</b>	<b>1,338 (22%)</b>	<b>1,211 (19%)</b>	<b>1,268 (21%)</b>
Intern	25	24	18	22
Technician	915	903	808	875
Technician Trainee	314	411	385	370
<b>Applicants (Lic &amp; Reg)</b>	<b>2,257 (40%)</b>	<b>2,264 (38%)</b>	<b>2,265 (36%)</b>	<b>2,262 (38%)</b>
Pharmacist	122	124	222	156
Pharmacy	126	171	186	161
Intern	91	85	122	99
Technician	419	305	249	324
Technician Trainee	1,499	1,579	1,486	1,521
<b>Non-Licensees</b>	<b>38 (1%)</b>	<b>40 (1%)</b>	<b>39 (1%)</b>	<b>39 (1%)</b>
Doctor	4	9	2	5
Manufacturer	1	0	0	N/A
Wholesaler	1	0	0	N/A
Non-Licensed Facility or Person	23	26	30	26
Insurance Company/ PBM	7	2	4	4
Out-of-State Facility	2	1	3	2
Other	0	2	0	1
<b>TOTAL</b>	<b>5,606</b>	<b>5,955</b>	<b>6,265</b>	<b>5,942</b>

## ENFORCEMENT DIVISION

### NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2014 – FY2016

Alleged Violation	FY14	FY15	FY16	3-Yr. Avg.	% of 3-Yr. Avg.
<b>Diversion</b>	<b>6</b>	<b>4</b>	<b>5</b>	<b>5</b>	<b>N/A</b>
Controlled Substances (C/S)	2	2	4	3	N/A
Dangerous Drugs (D/D)	1	1	0	1	N/A
Both (C/S & D/D)	0	1	0	N/A	N/A
Internet Rxs	3	0	1	1	N/A
<b>Unauthorized Dispensing</b>	<b>19</b>	<b>24</b>	<b>7</b>	<b>17</b>	<b>N/A</b>
Controlled Substances	3	9	1	4	N/A
Dangerous Drugs	12	14	5	10	N/A
Both (C/S & D/D)	4	1	1	2	N/A
<b>Illegal Delivery</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>
Controlled Substances	0	0	0	0	N/A
Dangerous Drugs	0	0	0	0	N/A
Both (C/S & D/D)	0	0	0	0	N/A
<b>Illegal Possession</b>	<b>5</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>N/A</b>
Controlled Substances	5	0	0	0	N/A
Dangerous Drugs	0	1	0	0	N/A
Both (C/S & D/D)	0	1	0	0	N/A
<b>Convictions/Criminal Offenses</b>	<b>1,609</b>	<b>1,619</b>	<b>1,532</b>	<b>1,587</b>	<b>27%</b>
Felony	40	27	24	30	1%
Misdemeanor	157	149	109	139	2%
DWI/PI	433	431	436	433	7%
Deferred Adjudication	300	298	249	282	5%
Offense on Application	679	714	714	702	12%
<b>Dispensing Error</b>	<b>231</b>	<b>274</b>	<b>296</b>	<b>267</b>	<b>5%</b>
Wrong Drug/Strength	174	189	194	186	3%
Mislabeled	5	11	17	11	N/A
Wrong Quantity	35	40	57	44	1%
Outdated Drug	1	11	4	5	N/A
Packaging/Delivery	16	18	24	19	N/A
Dispensing Error and No or Improper Patient Counseling	0	5	0	2	N/A
No or Improper Patient Counseling	26	63	73	54	1%
No or Improper Drug Regimen Review	25	28	16	23	N/A
Theft/Loss of C/S and/or D/D	883	954	1,226	1,021	17%
Non-Therapeutic Dispensing	61	67	61	63	1%
Action by Other Board	88	141	296	175	3%
Non-Compliance with Substitution Rules	6	10	15	10	N/A
Non-Compliance with Disciplinary Order	378	425	295	366	6%
Non-Compliance with PRN Contract	8	15	6	10	N/A
Interference with Doctor/Patient Relationship	73	101	92	89	1%
Confidentiality	7	8	16	10	N/A
Failed to Keep Records	3	5	1	6	N/A
Negligence	0	0	0	0	N/A
Unsafe Practice	0	2	0	1	N/A
Compounding	2	35	36	24	N/A
Unprofessional Conduct	1	0	0	0	N/A
Gross Immorality	3	2	2	2	N/A
<b>Fraud</b>	<b>1,072</b>	<b>1,036</b>	<b>1,016</b>	<b>1,041</b>	<b>18%</b>
Fraud, Deceit & Misrepresentation	2	1	2	2	N/A
Falsified Response to Warning Notice	0	0	0	0	N/A
Falsified Application	1,054	1,013	1,002	1,023	17%
Filled/Passed Forged Prescription	12	14	6	11	N/A
Insurance Fraud	2	7	2	4	N/A
Medicare Fraud	2	1	4	2	N/A

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Alleged Violation	FY14	FY15	FY16	3-Yr. Avg.	% of 3-Yr. Avg.
<b>Impairment</b>	<b>33</b>	<b>28</b>	<b>27</b>	<b>29</b>	<b>N/A</b>
Probable Cause	15	16	10	14	N/A
Drug & Alcohol	4	2	6	4	N/A
Drug	2	2	5	3	N/A
Alcohol	11	8	6	8	N/A
Physical	0	0	0	0	N/A
Mental	1	0	0	0	N/A
Changed Prescription	14	25	14	18	N/A
Aiding and Abetting	25	9	18	17	N/A
Technician working with No/Del Registration	53	42	44	46	1%
Non-Therapeutic Prescribing (Doctor)	1	13	1	5	N/A
Excessive Purchases of Controlled Substances	1	1	0	1	N/A
Anabolic Steroids	0	0	0	0	N/A
Grey Market Diversion	0	0	0	0	N/A
Samples	0	0	0	0	N/A
Technician Violation	2	7	4	4	N/A
Improper Security	0	1	0	0	N/A
Problem with OTC Drug	0	3	3	2	N/A
Closed Pharmacy Improperly	1	0	2	1	N/A
Operating Pharmacy without License	1	2	1	1	N/A
Working Conditions	3	2	0	2	N/A
Delinquent License	3	0	2	2	N/A
Kickbacks	1	3	6	3	N/A
No PIC	0	1	2	1	N/A
Recordkeeping Error	38	54	53	48	1%
Notification Violation	0	0	0	0	N/A
No Annual/PIC/DEA Inventory	3	4	4	4	N/A
C-II Rx	1	0	3	1	N/A
Improper Rx's Issued by Doctors	0	0	1	0	N/A
Advertising	2	0	2	1	N/A
Overcharging	0	0	0	0	N/A
Billing Dispute	38	17	24	26	N/A
Customer Service	20	19	20	20	N/A
Hot Check	0	0	0	0	N/A
Accountability Audit Discrepancies (shortages/overages)	13	7	13	11	N/A
CE Audit	0	4	37	14	N/A
Default on Student Loans	0	1	0	0	N/A
Shipping to Other States without a License	5	12	18	12	N/A
<b>Other Allegations</b>	<b>772</b>	<b>811</b>	<b>871</b>	<b>818</b>	<b>14%</b>
Texas Pharmacy Act	8	8	14	10	N/A
Texas Dangerous Drug Act	1	0	2	1	N/A
Texas Controlled Substances Act	13	8	7	9	N/A
Food Drug & Cosmetic Act	5	1	4	3	N/A
TSBP Rule	147	176	228	184	3%
Other Laws/Rules	593	618	616	609	10%
Request Disciplinary Action	45	47	65	52	1%
Reinstatement	15	6	11	11	N/A
Modification	15	21	28	21	N/A
<b>TOTAL</b>	<b>5,606</b>	<b>5,955</b>	<b>6,265</b>	<b>5,942</b>	<b>100%</b>

\* New code in FY 2014

N/A – not applicable, value less than 0.01

## ENFORCEMENT DIVISION

### ACTION TAKEN BY TSBP TO CLOSE COMPLAINTS FY2014 – FY2016

	FY2014	FY2015	FY2016	3-Yr. Avg.	% of 3- Yr. Avg.
<b>Investigations Not Resulting in Disciplinary Action:</b>	<b>4,369</b>	<b>4,866</b>	<b>5,199</b>	<b>4,811</b>	<b>81%</b>
Investigate + Dismissal (Warning) Letter	1,237	1,129	1,166	1,177	20%
Investigate + Complaint Closed with Verbal Warning	97	87	121	102	2%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	1,794	2,128	2,368	2,097	35%
Investigate + Lost Jurisdiction (registration expired)	185	184	170	180	3%
Inspections	43	44	68	52	1%
Inspection + Warning Notice or Dismissal Letter	36	57	63	52	1%
Application Withdrawn	234	219	242	232	4%
Pharmacy Closed	15	42	48	35	1%
Other *	728	976	953	886	15%
<b>Investigations Resulting in Disciplinary Action:</b>	<b>751</b>	<b>811</b>	<b>787</b>	<b>783</b>	<b>13%</b>
Agreed Board Order	544	559	563	555	9%
Board Order	105	115	74	98	2%
Preliminary Notice Letter + Dismissal (Warning) Ltr.	0	0	2	1	N/A
PNL + Application Withdrawn (with or without Informal Conference)	82	80	94	85	1%
PNL + Informal Conference + Dismissal Letter	6	3	5	5	N/A
PNL + Informal Conference + Case Dismissed	9	11	20	13	N/A
PNL + Case Dismissed or Other	4	17	7	9	N/A
PNL + Remedial Plan	1	26	19	15	N/A
Temporary Suspension Hearing + Case Dismissed	***	***	3	N/A	N/A
<b>Referrals To:</b>	<b>23</b>	<b>33</b>	<b>47</b>	<b>34</b>	<b>1%</b>
Medical Board	3	14	2	6	N/A
PRN Program	1	0	0	N/A	N/A
Supervisor	0	2	8	3	N/A
Other Agency	19	17	37	24	N/A
<b>No Action Because:</b>	<b>462</b>	<b>245</b>	<b>232</b>	<b>313</b>	<b>5%</b>
No Violation	164	111	34	103	2%
No Jurisdiction	16	12	22	17	1%
Insufficient Information	6	5	8	6	N/A
Other **	276	117	168	187	3%
<b>TOTAL</b>	<b>5,606</b>	<b>5,955</b>	<b>6,265</b>	<b>5,941</b>	<b>100%</b>

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

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

\*\*\* New Code in FY2016

N/A = Not Applicable, value is below 0.01

## ENFORCEMENT DIVISION

During FY2016, TSBP received 194 reports indicating that pharmacies experienced theft of 364,972 dosage units of controlled substances by 208 individuals. See chart below for additional details employee pilferage reports. The chart below is followed by two additional charts which provide a statistical comparison over the past three fiscal years, with regard to the number of number of suspects identified and the number of dosage units pilfered.

### Reports Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2016 (9/1/2015 – 8/31/2016)

CLASSIFICATION OF EMPLOYEE	Class "A"	Class "C"	Hospital Floor Stock	Total	%	DU	%
Registered Pharmacist	13	1	0	14	7%	34,674	10%
Pharmacist Intern	0	0	0	0	N/A	0	N/A
Registered Pharmacy Technician	40	2	5	47	23%	291,539	80%
Pharmacy Technician Trainee	14	0	0	14	7%	27,341	7%
Physician	0	0	2	2	1%	30	N/A
Registered Nurse	0	0	115	115	55%	8,337	2%
Certified Registered Nurse Anesthetist	0	0	3	3	1%	73	N/A
Licensed Vocational Nurse	0	0	6	6	3%	131	N/A
Pharmacy Cashier – Pharmacy Clerk	3	0	1	4	2%	2,358	1%
Pharmacy Staff – Unidentified	0	0	0	0	N/A	0	N/A
Hospital Staff – Unidentified	0	0	3	3	1%	489	N/A
Hospital Staff – Pharmacy Staff	0	0	0	0	N/A	0	N/A
Miscellaneous*	0	0	0	0	N/A	0	N/A
<b>TOTALS</b>	<b>70</b>	<b>3</b>	<b>135</b>	<b>208 **</b>	<b>100%</b>	<b>364,972</b>	<b>100%</b>

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

\*\* A total of 194 DEA Reports involving 208 individuals.

N/A = Not Applicable, value is below 0.01

## ENFORCEMENT DIVISION

### Report Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2014 - FY2016 (by Individuals)

CLASSIFICATION OF EMPLOYEE	FY2014		FY2015		FY 2016		% Change FY15-FY16
	Total # of Individuals	%	Total # of Individuals	%	Total # of Individuals	%	
Registered Pharmacist	18	8%	14	6%	14	7%	N/A
Pharmacist Intern	0	N/A	1	N/A	0	N/A	N/A
Registered Pharmacy Technician	66	29%	56	23%	47	23%	-16%
Pharmacy Technician-in-Training	18	8%	13	5%	14	7%	8%
Physician	2	1%	1	N/A	2	1%	1%
Registered Nurse	37	16%	114	47%	115	55%	1%
Certified Registered Nurse Anesthetist	3	1%	3	1%	3	1%	N/A
Licensed Vocational Nurse	2	1%	1	N/A	6	3%	5%
Pharmacy Cashier – Pharmacy Clerk	6	3%	7	3%	4	2%	-43%
Pharmacy Staff – Unidentified	0	N/A	5	2%	0	N/A	-1%
Hospital Staff – Unidentified	2	1%	13	5%	3	1%	-77%
Hospital Staff – Pharmacy Staff	0	N/A	4	2%	0	N/A	-1%
Miscellaneous *	75	33%	10	4%	0	N/A	-1%
<b>TOTALS</b>	<b>229</b>	<b>100%</b>	<b>242</b>	<b>100%</b>	<b>208</b>	<b>100%</b>	<b>-14%</b>

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

N/A = Not Applicable, value is below 0.01

## ENFORCEMENT DIVISION

### Reports Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2014 - FY2016 (by Dosage Units)

CLASSIFICATION OF EMPLOYEE	FY2014		FY2015		FY2016		% Change FY15-FY16
	Total # of Dosage Units	%	Total # of Dosage Units	%	Total # of Dosage Units	%	
Registered Pharmacist	54,597	7%	60,147	15%	34,674	10%	-42%
Pharmacist Intern	0	N/A	130	N/A	0	N/A	N/A
Registered Pharmacy Technician	522,087	70%	236,386	58%	291,539	80%	+23%
Pharmacy Technician-in-Training	86,004	11%	57,949	14%	27,341	7%	-53%
Physician	196	N/A	3	N/A	30	N/A	+9%
Registered Nurse	3,512	N/A	6,805	2%	8,337	2%	+23%
Certified Registered Nurse Anesthetist	727	N/A	170	N/A	73	N/A	-57%
Licensed Vocational Nurse	668	N/A	7	N/A	131	N/A	+177%
Pharmacy Cashier – Pharmacy Clerk	15,398	2%	5,572	1%	2,358	1%	-58%
Pharmacy Staff – Unidentified	0	N/A	37,669	9%	0	N/A	N/A
Hospital Staff – Unidentified	7	N/A	582	N/A	489	N/A	-16%
Hospital Staff – Pharmacy Staff	0	N/A	253	N/A	0	N/A	N/A
Miscellaneous *	66,508	9%	1,939	N/A	0	N/A	N/A
<b>TOTALS</b>	<b>749,704</b>	<b>100%</b>	<b>407,612</b>	<b>100%</b>	<b>364,972</b>	<b>100%</b>	<b>-10%</b>

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

N/A = Not Applicable, value is below 0.01.

## ENFORCEMENT DIVISION

4. In cooperation with the Licensing Division and in compliance with the agency's policies and procedures, to process criminal background checks on applicants for licensure and registration throughout FY2016, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2016.

**Status:** ACCOMPLISHED

**Comments:** Throughout FY2016, Division staff performed background checks, as follows:

- A. Reviewed fingerprint-based criminal background information on all individuals referred by the Licensing Division staff; these individuals included all applicants for a pharmacist license (including applicants for re-licensure and reinstatement) and all applicants for registration (i.e., technician, technician trainee and intern).
- B. Opened new complaints when TSBP received a report regarding arrest(s) on individuals who had been previously fingerprinted; during FY2016, TSBP received 605 such reports, as compared to FY2015 when TSBP received 592 such reports (2% increase).
- C. Conducted background checks on pharmacists, interns, and technicians/tech trainees who had not been previously fingerprinted; during FY2016, the agency opened 143 complaints due to the criminal history information provided on the quarterly reports, as compared to FY2015 when TSBP received 211 such reports (32% decrease).

Considering (B) and (C) together, the agency received 748 reports in FY2016, as compared to FY2015 when the agency received 803 reports (7% decrease).

The trend has been decreasing over the past three fiscal years, as indicated in the chart below:

	FY2012	FY2013	FY2014	FY2015	FY2016
Daily Reports	531	607	556	592	605
Quarterly Reports	266	402	375	211	143
Total	797	1,009	931	803	748

5. To provide technical assistance, maintain liaison, and coordinate joint investigations of pharmacists, interns, pharmacy technicians, and pharmacies, in line with the "lead agency approach," with federal, state, and local law enforcement agencies, including health regulatory or administrative agencies, throughout FY2015.

**Status:** ACCOMPLISHED

**Comment:** TSBP continued to provide assistance to other agencies, when requested, throughout FY2016. TSBP Field Investigators maintained liaison with law enforcement agencies across the State, totaling over 694 contacts with 97 agencies. In-house investigative staff made hundreds of contacts with courts and law enforcement agencies both in Texas and out of state while conducting criminal background checks.



## ENFORCEMENT DIVISION

6. To monitor compliance with all Board Orders and Agreed Board Orders, including rehabilitation Orders relating to impaired or recovering pharmacists and pharmacy technicians/trainees, throughout FY2016.

**Status:** ACCOMPLISHED

**Comment:** Almost all of the disciplinary orders entered in FY2016 required some type of monitoring by Division staff (i.e., 524 orders or 87% of the 600 disciplinary orders that TSBP entered during FY2016 required some type of monitoring). Monitoring included the following types of actions/activities:

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

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

The following charts indicate the types of Orders entered in FY2016, which required the Division to monitor the licensee's compliance with the Order, in some manner:

## ENFORCEMENT DIVISION

Total Number of Orders Entered by TSBP That Required Monitoring on Licensees (Pharmacists and Pharmacies), Interns, and Technicians (FY16)		
	FY16	% of FY16
Total Number of Orders on Licensees Requiring Monitoring	290	48%
Total Number of Orders on Technicians Requiring Monitoring	234	39%
Total Number of Orders Requiring Monitoring	524	87%
Total Number of Orders Not Requiring Monitoring	76	13%
<b>Total Number of Orders Entered by TSBP in FY16</b>	600	100%

Types of TSBP Disciplinary Orders Entered on Licensees (Pharmacists and Pharmacies) and Interns That Required Monitoring (FY14-FY16)						
Sanction	FY14 Orders	FY15 Orders	FY16 Orders	% of FY16	3-Yr. Avg.	% of 3-Yr. Avg.
Revoke / Retire	28	18	17	5%	21	7%
Suspension	28	29	17	5%	25	9%
Restricted	5	10	6	2%	7	2%
Rehabilitation Orders*	15	12	7	2%	11	4%
Reinstatement	3	3	8	2%	5	2%
Fines or Probation Fees Only	80	105	126	38%	104	34%
Continuing Education, Texas Jurisprudence Exam, and/or Pharmacy Law Course (could also include fines and/or probation fees)	42	23	26	8%	30	10%
Continuous Quality Improvement Program, Self Assessments, Policies/ Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	68	74	83	25%	75	24%
Public Orders Requiring Drug Screens	0	1	0	N/A	N/A	N/A
<b>Total number of orders on licensees requiring monitoring</b>	269	275	290	88%	278	90%
<b>Total number of orders not requiring monitoring</b>	20	30	39	12%	30	10%
<b>Total orders</b>	289	305	329	100%	308	100%

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

N/A = Not Applicable, value is below 0.01.

## ENFORCEMENT DIVISION

Types of TSBP Disciplinary Orders Entered on Technicians That Required Monitoring (FY14 – FY16)						
Sanction	FY14 Orders	FY15 Orders	FY16 Orders	% of FY16	3-Year Average	% of 3-Year Average
Revoke *	74	77	73	27%	75	25%
Suspension	39	18	35	13%	31	10%
Restriction	0	0	0	N/A	0	N/A
Fines Only	110	120	89	33%	106	35%
Other **	43	53	37	14%	44	15%
<b>Total number of orders on technicians requiring monitoring</b>	<b>266</b>	<b>268</b>	<b>234</b>	<b>86%</b>	<b>256</b>	<b>84%</b>
<b>Total number of orders on technicians not requiring monitoring</b>	<b>53</b>	<b>54</b>	<b>37</b>	<b>14%</b>	<b>48</b>	<b>16%</b>
<b>Total number of orders on technicians</b>	<b>319</b>	<b>322</b>	<b>271</b>	<b>100%</b>	<b>304</b>	<b>100%</b>

\* Disciplinary Orders that TSBP enters on Technicians and Technician Trainees contain language that will suspend a registration for non-compliance of conditions, and ultimately revoke a registration for continued non-compliance. During FY2016, TSBP revoked the registrations of 55 Technicians due to non-compliance.

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

N/A = Not Applicable, value is below 0.01.

During FY2016, TSBP entered 36 confidential disciplinary Orders on individuals (31 orders were entered on pharmacists, one order on a pharmacist applicant, two orders on pharmacist reinstatement applicants, and two orders on interns). These Orders were based upon various violations that the licensees allegedly committed, as reflected in the chart below:

Confidential Disciplinary Orders On Pharmacists and Interns Entered by TSBP (FY14 – FY16)						
Nature of Violation	FY14	FY15	FY16	% of FY16	3-Yr. Avg.	% of 3-Yr. Avg.
Non-Compliance with ABO	22	21	5	14%	16	34%
Non-Compliance with PRN	0	6	1	3%	2	4%
Action by Other Boards	0	1	3	8%	1	2%
Audit Shortages	0	0	1	3%	0	N/A
Alcohol-Related Conviction	1	1	0	N/A	0	N/A
Theft of Prescription Drugs	6	3	3	8%	4	9%
Created Fraudulent Rx or Obtained C/S by Fraud	0	0	0	N/A	0	N/A
Convictions	2	3	3	8%	3	6%
Deferred Adjudication	3	4	2	6%	3	6%
Illegal Possession of Controlled Substances	0	0	0	N/A	0	N/A
Unauthorized Refills of Controlled Substances	1	0	0	N/A	0	N/A
Probable Cause/Dependency	4	3	3	8%	3	6%
Mental Impairment	0	0	0	N/A	0	N/A
Request for Modification of Previously Entered ABO	6	6	9	25%	7	15%
Request for Retirement or Revocation	6	5	3	8%	5	11%
Request for Reinstatement	1	1	3	8%	2	4%
<b>TOTAL</b>	<b>52</b>	<b>54</b>	<b>36</b>	<b>100%</b>	<b>47</b>	<b>100%</b>

N/A = Not Applicable, value is below 0.01.

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Of the 36 confidential *pharmacist/intern* Orders entered in FY2016, there were 18 Orders resulting in an impaired/recovering pharmacist or intern being added to the number who were being monitored at the end of FY2016, as reflected in the chart below. However, 20 pharmacists were deleted from the list as a result of early termination of probation, successful completion of probation, death, revocation or retirement of license, license expired, or application withdrawn subsequent to entry of order. Accordingly, as of August 31, 2016, a total of 106 impaired/recovering pharmacists or interns 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:

<b>Impaired/Recovering Pharmacists Monitored by Enforcement Division (FY12 – FY16)</b>			
<b>Fiscal Year</b>	<b>Total Orders*</b>	<b>Total New Orders**</b>	<b>Total Being Monitored***</b>
FY12	59	29	135
FY13	74	31	129
FY14	52	18	115
FY15	54	19	108
FY16	36	18	106

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

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

\*\*\* Total number of pharmacists being monitored 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).

In addition to monitoring confidential Orders for recovering pharmacists and interns, TSBP monitored three pharmacist/interns who are subject to *public* Orders that require random drug screening, as of August 31, 2016.

During FY2016, TSBP entered 54 Orders on Technicians or Techs-in-Training (TNT) who were subject to probation periods with random drug screening. Of the 54 Orders, there were 50 Orders resulting in a Tech or TNT being added to the number who were being monitored at the end of FY2016, as reflected in the chart below. However, 36 technicians/tech-trainees were deleted from the list as a result of early termination of probation, successful completion of probation, death, revocation or retirement of the registration, registration expired, or application denied subsequent to entry of the Order. Accordingly, as of August 31, 2016, a total of 66 technicians/tech-trainees were being monitored by TSBP, as depicted in the chart below:

<b>Technicians / Technicians-in-Training Monitored (with probation under conditions, including random drug screens) by Enforcement Division (FY2015 – FY2016)</b>			
<b>Fiscal Year</b>	<b>Total Orders</b>	<b>Total New Orders</b>	<b>Total Being Monitored</b>
FY2015	53	49	52
FY2016	54	50	66

## ENFORCEMENT DIVISION

7. To provide verbal and written information to Board staff and customers as needed or required throughout FY2016, to include providing technical assistance to other Divisions and responding to surveys and questionnaires.

**Status:** ACCOMPLISHED

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

**A. COMPLIANCE INSPECTIONS**

Compliance Field Staff provided information during compliance inspections. The Division conducted 3,640 inspections of pharmacies located in Texas (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 23,853 callers who were routed through the Compliance Queue telephone line.

Number of Telephone Calls Handled via Compliance Queue (FY12 – FY16)		% Change
FY12	25,822	+ 12%
FY13	21,323	- 17%
FY14	22,333	+ 5%
FY15	22,985	+ 3%
FY16	23,853	+4%
<b>Total:</b>	<b>116,316</b>	(5-year average = 23,263 call)

**C. COMPLAINT FORMS**

During FY2016, TSBP mailed 463 complaint forms to individuals who requested a complaint form. As indicated in the chart below, 150 complaint forms (32% of total) were mailed to individuals who had requested a form by calling the HPC toll-free complaint hotline and 313 complaint forms (68% of total) were mailed to individuals who called the TSBP voice mail complaint line. The number of requests for complaint forms during the past five fiscal years is depicted in the following chart:

Complaint Forms Mailed to Potential Complainants (FY121 – FY16)						
Fiscal Year	Requests for Complaint Forms via HPC 800#	% Change	Requests for Complaint Forms via TSBP Voice Mail	% Change	Total Requests	% Change
FY12	213	-18%	289	2%	502	-8%
FY13	284	33%	207	-28%	491	-2%
FY14	200	-30%	324	57%	524	+7%
FY15	226	13%	275	-15%	501	-4%
FY16	150	-34%	313	14%	463	-8%

## ENFORCEMENT DIVISION

### D. CUSTOMER SERVICE SURVEYS

During FY2016, Division staff mailed 374 customer service surveys to TSBP customers.

Number of Customer Surveys Mailed (FY12 – FY16)		% Change
FY12	654	-22%
FY13	456	-30%
FY14	236	-48%
FY15	200	-15%
FY16	374	+87%

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

DATE	PRESENTATIONS Name of Association/Presentation and Location of Meeting	STAFF PERSON	ATTENDANCE (Approx.)
10/03/15	Texas Southern University College of Pharmacy Fall Preceptor's Conference - Houston	Iona Grant	100
10/16/15	North Houston Area Pharmacy Association – Houston	Iona Grant	75
11/05/15	Houston Area Pharmacy Association – Houston	Iona Grant	45
11/07/15	Texas Pharmacy Law Update–Kappa Psi Regional Meeting-Dallas	Terri Burrows	40
11/07/15	Regulation of Texas Pharmacies that Compound Sterile Preparations FDA Invitational Symposium – Washington D.C.	Tera McConnell	161
11/10/15	Regulation of Sterile Compounding in Texas-Guest Speaker for P3 Students enrolled in Basic Intravenous Admixtures Lecture Course (PHM 183)-University of Texas Austin College of Pharmacy	Ben Santana	40
12/01/15	National Association of Boards for Pharmacy (NABP) Interactive Compliance Officer and Legal Counsel Forum	Kathy Salinas	100
01/05/16	Lake Houston Pharmacy Association - Houston	Iona Grant	80
02/25/16	Presentation to Texas Association of Independent Pharmacies Organization (TAIPO) - Houston	Iona Grant	100
03/04/16	University of Houston - Drugs, Alcohol, and You Joint presentation with PRN - Houston	Janelle Dooley	125
03/29/16	Texas Pharmacy Law Update – Texas Pharmacy Association Chain Pharmacy Symposium - Grapevine	Terri Burrows	60
03/30/16	Texas Pharmacy Law Update – Texas Pharmacy Association Chain Pharmacy Symposium – Grapevine	Terri Burrows	60
03/31/16	Texas Pharmacy Law Update – Texas Pharmacy Association Chain Pharmacy Symposium – Grapevine	Terri Burrows	60
04/16/16	Texas Southern University College of Pharmacy Spring Preceptor's Conference – Houston	Iona Grant	100
05/11/16	Austin Area Healthcare Pharmacist (AAHP) – Austin	James Clark	45
06/28/16	Texas Pharmacy Law Update – West Texas Society of Health-System Pharmacist - Lowake	Terri Burrows	24
06/29/16	Texas Pharmacy Law Update – Hendrick Medical Center - Abilene	Terri Burrows	38
07/22/16	Walgreens Interns & District Managers – Houston	Iona Grant	25
08/08/16	University of North Texas College of Pharmacy – New Pharmacy Student Orientation – Fort Worth	Terri Burrows	100
08/17/16	Update on Inspecting Non-Resident Pharmacies Compounding Sterile Preparations (Class E-S) - Austin	Terri Burrows	25
08/18/16	Inspecting Non-Resident Pharmacist Compounding Sterile Preparations (Class E-S) - Austin	Terri Burrows	25
		<b>Total</b>	<b>1,428</b>

## **ENFORCEMENT DIVISION**

### **F. WRITTEN INFORMATION**

During FY2016, Division staff responded 761 inquiries through Rx Law (a mechanism to provide written responses by e-mail to on-line inquiries received via the TSBP website).

### **G. ASSISTANCE TO BOARD MEMBERS AND EXECUTIVE DIRECTOR**

- (1) On January 11, 2016, Division Director participated in the orientation of agency's new LBB representative;
- (2) On August 17-18, 2016, Division Director attended the quarterly meeting of the Texas Pharmacy Congress, on behalf of the Executive Director who was unable to attend the meeting; assisted in the preparation of handout regarding agency activities; and made a verbal presentation regarding the agency update to Congress members;
- (3) Division Director assisted the Executive Director in preparing the meeting agenda for the Maltagon Conference to be held in Austin, Texas, on October 9-12, 2016; the agenda included presentations by the Division Director and three Enforcement Division staff;
- (4) Division Director assisted Executive Director in completing a questionnaire for the PEW Commission regarding disciplinary actions taken against pharmacies compounding sterile preparations and the number of joint inspections with FDA;
- (5) Division Director assisted in the development of the proposed Goals and Objectives for FY2017, which were presented to/approved by the Board at its meeting held in August 2016;
- (6) At all Board meetings held in FY2016, Division staff made presentations regarding complaint data (e.g., number of open complaints and number of dismissed complaints) and data regarding peer assistance performance measures;
- (7) Division Director assisted in the review/edit of the drafts of minutes of four Board meetings;
- (8) Division Director assisted in the review of drafted rules prior to presentation of the proposals to the Board Members; and
- (9) In the absence of or at the request of the Executive Director, Division Director responded to inquiries from the media and legislators' offices.

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### H. TECHNICAL ASSISTANCE TO BOARD STAFF

#### (1) Legal Division

- a. Disciplinary Proceedings – Division staff assisted Legal staff with pharmacy practice-related questions relating to disciplinary cases; in addition, Division Director served as an expert witness in one formal disciplinary hearing (held on September 28-29, 2015) and in another case which was closed following a mediated settlement; Division staff also prepared case summary notes for all cases referred to the Legal Division;
- b. Informal Conferences involving pharmacists, pharmacies, and pharmacy technicians – Division staff attended numerous conferences and when applicable, conducted interviews with licensees and registrants to explain the terms and conditions of proposed disciplinary orders; and
- c. Orientation of New Employees – Division staff conducted orientation sessions with two new Legal Division employees (one attorney and one legal assistant).

#### (2) Professional Services Division

- a. Open Records Requests – Division Director provided assistance, when needed;
- b. Orientation of New Employees – Division staff conducted orientation sessions with three new employees (Prescription Monitoring Program); and
- c. Proposed Rules – Division Director reviewed drafts of proposed rules, when needed.

#### (3) Administrative Services and Licensing Division

- a. Division Director assisted with the preparation of the agency's Internal Risk Assessment Report;
- b. Division Director assisted with updating the agency's Disaster Recovery Plan;
- c. Orientation of New Employees – Division staff conducted orientation sessions with Audric Fowler and Sarah Moody, Licensing Specialists;
- d. Division staff continued to answer thousands of telephone received via the Compliance Queue line regarding the license application process, particularly from technician applicants; and



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- e. Division staff assisted in the review of applications for a Class B or D Pharmacy license, as indicated in the chart below:

Activity	FY2014	FY2015	FY2016	3-Year Average
New Class D (Clinic) Pharmacy Applications	27	20	47	31
New Class B (Nuclear) Pharmacy Applications	1	2	2	2
Petitions for Expanded Formularies for Class D (Clinic) Pharmacies	64	72	63	66
Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies	41	15	122	59
Notifications of Temporary Locations for Class D (Clinic) Pharmacies	10	12	8	10
Standard Class D Formularies Reviewed	25	13	89	42

### I. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS

- (1) Division staff worked with the Consumer Product Safety Commission to check for non-compliance issues during TSBP inspections;
- (2) Division staff submitted required annual report to Office of Attorney General regarding disciplinary actions taken by TSBP with respect to confidentiality violations (required by HB 300); and
- (3) Division staff provided assistance to numerous Boards of Pharmacy located in other states; regulatory agencies in this state; federal prosecutors (e.g., AUSAs in Dallas and Houston); and federal agencies (e.g., DEA, FDA, and OIG). Compliance Officer Terri Burrows testified as an expert witness in a federal trial in Dallas, Texas. In addition, see Ongoing Objective #4.

### 8. In cooperation with the Executive Director and other Divisions, to provide internship experience to student pharmacist-interns upon requests from the Texas Colleges of Pharmacy, throughout FY2016.

**Status:** **ACCOMPLISHED**

**Comment:** During FY2016, TSBP offered internship experience to six students from five different Colleges/Schools of Pharmacy, as listed below:

- November 9, 2015 – December 16, 2015
  - Vincente Nguyen – University of Houston
- January 4, 2016 – February 12, 2016
  - Julian Henderson – Texas Southern University

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- February 16, 2016 – March 25, 2016
  - Alexandria Soulard – Texas A&M University
- May 23, 2016 – July 1, 2016
  - Justin Spence – Texas Tech University
- July 5, 2016 – August 12, 2016
  - Anh-Thu Tran – The University of Texas at Austin
- August 15, 2016 (FY 2016) – September 23, 2016 (FY 2017)
  - Salma Maknojia – Texas Southern University

**9. To serve as liaison for the Board to the Professional Recovery Network (PRN) of the Texas Pharmacy Association and to assist in monitoring non-financial contractual obligations of PRN throughout FY2016.**

**Status:** ACCOMPLISHED

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

- A. Board Member Christopher Dembny, R.Ph., served as an ex-officio member of the TX-PRN State Committee throughout FY2016;
- B. Throughout FY2016, Division staff reviewed quarterly activity reports submitted to TSBP by TX-PRN Director; the TX-PRN Program submitted year-to-date financial reports to TSBP at each one of its Board meetings in FY2016;
- C. TSBP requested an independent audit be conducted on the data provided to TSBP (financial data and performance measure data). This audit was completed on October 8, 2015, and the results of the audit were reported to the Board at its meeting held on November 3, 2015;
- D. Division staff attended two TX-PRN State Advisory Committee meetings held on October 31, 2015, and May 18, 2016; and
- E. Throughout FY2016, Enforcement Program Specialist Janelle Dooley worked closely with TX-PRN Program Director to ensure the accuracy of data for peer assistance performance measures.

**10. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council pertinent to Division activities throughout FY2016.**

**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 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,

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address, and telephone number, or they may “zero out” and speak to an HPC staff member for clarification of procedures. During FY2016, TSBP mailed 150 complaint forms to individuals requesting forms on the HPC complaint hotline.

11. **To manage employees under the supervision of the Division throughout FY2015, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.**

**Status:** **ACCOMPLISHED**

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

A. Staff Development – The following activities are applicable:

- Division staff attended quarterly General All-Staff Meetings which were held on the following dates:
  - December 10, 2015 – which included TSBP Employee Handbook review and Sensitive Personal Information Training;
  - February 23, 2016 – which included training presented by Alliance Work Partners (*Bringing It: Finding Value in Your Role*);
  - May 24, 2016; and
  - August 23, 2016 – which included training presented by Alliance Work Partners (*Personal and Professional Resilience*);
- In conjunction with quarterly staff meetings, Division Director or designee conducted reviews of newly adopted rules with Division staff;
- Division Team Leaders attended and participated in six team leader meetings;
- Division Director conducted six Division meetings to update Division staff regarding agency activities; and
- Various Division staff attended professional development seminars (such as Webinars and the annual meetings of the Texas Pharmacy Association and the Texas Society of Health System Pharmacists).

B. Performance Evaluations – Formal performance reviews were conducted for all Division employees in FY2016, with the exception of new hires.

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- C. Other Activities – The Division began FY2016 with one vacancy (Enforcement Technician position), excluding the vacant (lapsed) Field Investigator position and ended FY2016 with four vacancies (one Field Investigator, two Compliance inspectors and one Enforcement Specialist). In the interim, the Division experienced 15 staffing changes, as a result of the following:

- 1 loss due to retirement (Allen Corporon);
- 5 losses due to resignations (Hernandez, Lopez, Montgomery, Schuttler, Riley);
- 2 losses due to internal promotions (Debs, Newman);
- 2 internal promotions within the Division (Moreno, Castillo); and
- 5 new hires (Angela Castillo; Irene Zapata; Gracie Lara; Marisa Sanchez; and Carissa Garcia).

The activities relating to new hires took significant time and effort, including posting/advertising the positions, evaluating applications, conducting interviews, preparing orientation schedules and conducting intensive orientation/training sessions.

- |                |   |
|----------------|---|
| September 2015 | (1) Ciara Hernandez, Enforcement Technician, resigned.  |
|                | (2) Angela Castillo was hired to fill the Enforcement Technician position that was vacated (July 2015) following the resignation of Lacy Ickes. |
| November 2015  | (3) Irene Zapata was hired to fill the Enforcement Technician position that was vacated (September 2015) by Ciara Hernandez.                    |
| December 2015  | (4) Griselda Lopez, Enforcement Specialist, resigned.   |
|                | (5) Allen Corporon, Field Investigator, retired.  |
| January 2016   | (6) Lily Moreno was promoted to fill the Enforcement Specialist position that was vacated (December 2015) by Griselda Lopez.                    |
| February 2016  | (7) Darrell Montgomery, Enforcement Specialist, resigned.   |
| March 2016     | (8) Angela Castillo was promoted to fill the Enforcement Specialist position that was vacated by Darrell Montgomery.                            |
| April 2016     | (9) Amanda Debs, Compliance Specialist, transferred to the Legal Division (promoted to Legal Assistant).  |
| May 2016       | (10) Gracie Lara was hired to fill the Compliance Specialist position that was vacated (April 2016) by Amanda Debs.                             |

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- June 2016 (11) Marisa Sanchez was hired to fill the Enforcement Officer position that was vacated (January 2016) as a result of Lily Moreno's promotion.
- (12) Carissa Garcia was hired to fill the Enforcement Specialist position that was vacated in (March 2016) as a result of Angela Castillo's promotion.
- July 2016 (13) Chris Schuttler, Compliance Inspector for the Dallas Region, resigned. Adrienne Bauer was transferred from the Fort Worth Region to the Dallas Region.
- (14) Joann Riley, Compliance Inspector for the Central Texas Region, resigned.
- August 2016 (15) Mary Newman, Enforcement Specialist, transferred to the Professional Services Division (promoted to PMP Specialist).

Division Director developed new two job descriptions (Enforcement Program Manager and Senior Compliance Inspector). In addition, Division Director revised/updated six job descriptions for the following positions: Enforcement Technician (file manager); Compliance Specialist, Enforcement Officer, and three Enforcement Specialist positions.

12. To maintain Division records throughout FY2016, including the following: to image records and destroy records in accordance with the agency's record retention plan; to review the Division's *Policies and Procedures Manual* on an on-going basis and update as needed, and to submit any substantive revisions to the Executive Director for approval.

**Status: ACCOMPLISHED**

**Comment:** The following activities relate to this objective:

A. Records Management (Record Retention)

During FY2016, Division staff destroyed 45.5 cubic feet of records, in accordance with the TSBP record retention schedule, which represented a 33% increase when compared to FY15. The quantity of Division records destroyed in the past five years is depicted in the chart below:

Fiscal Year (FY12 – FY16)	# of Cubic Feet of Records Destroyed	% Change
FY2012	137.82	-25%
FY2013	61.69	-55%
FY2014	54	-17%
FY2015	34.33	-36%
FY2016	45.5	+33%

## ENFORCEMENT DIVISION

### B. Records Management (Imaging)

Division staff continued to implement the program to convert paper complaint files to imaged records. Approximately 5,072 complaint files were scanned during FY2016, which represented a 19% decrease from FY2015, when approximately 6,267 complaint files were imaged.

### C. Enforcement Division Policies/Procedures

- Chief of Compliance Ben Santana, R.Ph., with the assistance of the Division Director and other Division staff, updated policies and procedures relating to inspections of Class E-S Pharmacies.
- Chief of Investigations John Hargis, with the assistance of TSBP General Counsel and Division Director, developed policies and procedures relating to former employees who were commissioned peace officers and retired from TSBP employment.
- Chief of Investigations John Hargis, with the assistance of TSBP General Counsel, developed policies and procedures relating to Body Worn Cameras (BWC). In August 2016, applicable staff were trained on BWC procedures.

### 13. **To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2016.**

**Status:** **ACCOMPLISHED**

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

#### A. Recommendations regarding Texas Pharmacy Act and TSBP Rules

- (1) Division Director recommended that TSBP Rule 291.1 relating to inventories be revised to require Class A Pharmacies to maintain a perpetual inventory of Schedule II controlled substances, as a tool to help detect/prevent diversion of highly abused drugs. The Board proposed the rule amendment but subsequently withdrew the rule amendment (this recommendation was not implemented).
- (2) Division Director recommended that TSBP Rule 291.5 relating to procedures for closing a pharmacy be revised to eliminate the portion of the rule that required a closing pharmacy to transfer prescription records to a pharmacy "within a reasonable distance" of the closing pharmacy. This Board concurred with this recommendation and revisions were proposed and subsequently adopted.

## ENFORCEMENT DIVISION

- (3) Division Director recommended that TSBP prohibit the renewal of a pharmacy's license if the pharmacy was not open and operating. TSBP General Counsel drafted revisions to TSBP Rule 291.14 which stipulated that a license would not be renewed if, on or within 90 days of the licensee's expiration date, TSBP determined the pharmacy is not located or no longer exists at the pharmacy's address of record. This Board concurred with this rule amendment; revisions were proposed and subsequently adopted.
- (4) Division Director recommended that TSBP Rules relating to the dispensing of compounded preparations pursuant to new prescription orders, require the compounding pharmacist to review the original prescription order prior to the final check by the pharmacist. This recommendation was not implemented.
- (5) Division staff recommended changes to revise TSBP Rule 291.33 regarding the compounding of sterile preparations, including language that would clarify temperature and humidity requirements. The Board concurred with these recommendations and revisions were proposed and subsequently adopted.

### B. Recommendations regarding Agency Operations

- (1) Division staff made numerous recommendations to internal forms and procedures to improve day-to-day operations;
- (2) Tera McConnell, Pharm.D., R.Ph., Compliance Program Officer, recognized conflict-of-interest issues with inspectors employed by authorized vendors to conduct Class E-S Pharmacies; she initiated policies and procedures to address the problem, including the revision of contract terms and implementation of acknowledgment forms for vendors and inspectors to sign with respect to this issue and other requirements;
- (3) Michelle McDiffett, R.Ph., Compliance Program Officer, implemented significant improvements relating to the Drug Therapy Management (DTM) Program, including a better system for the public to know which pharmacists were approved to write prescriptions under protocols; she worked with in-house I.T. staff and the staff of the Health Professions Council to implement a hyperlink from the pharmacist verification page to the DTM protocol spreadsheet posted on the TSBP website: and
- (4) Division staff recommended updating the agency's Record Retention Schedule to include a new record series with retention specifications for records relating to the sampling of compounded preparations, the Drug Therapy Management Program, the Rural Hospital Technician program, and the Tech-check-Tech program.

## ENFORCEMENT DIVISION

14. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2015 Annual Report* and submit to the Executive Director by the due date.

**Status:** ACCOMPLISHED

**Comment:** Although the Division's first draft of the *FY2015 Annual Report* was not submitted to the Executive Director by the due date that was initially scheduled, the report was submitted by the approved extension to the due date. Drafts of all Divisions were compiled into one Annual Report and subsequently presented to and approved by the Board at its meeting in May 2016.



**FY2016 SIGNIFICANT ACCOMPLISHMENTS**

1. Division staff accomplished 13 of the Division's 13 objectives for FY2016.
2. During FY2016, the Division continued to handle a large number of ongoing disciplinary issues for pharmacy technicians. The Division initiated 292 disciplinary actions by mailing a Preliminary Notice Letter and entered 271 orders against pharmacy technicians and pharmacy technician trainees during the fiscal year. During the fiscal year, 93 applicants for registration as a pharmacy technician or pharmacy technician trainee were subject to mandatory withdrawal, indicating that although the Division initiated disciplinary action, the applicant did not complete the process.
3. Approximately 98% of the disciplinary cases against pharmacists and pharmacies and 99% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders or Default Board Orders, and 2% were settled with the entry of Remedial Plans, which resulted in significant efficiencies both in terms of complaint resolution time and agency expenditures.
4. The Division resolved 10 respondent cases that were filed for administrative hearings at the State Office of Administrative Hearings (SOAH) prior to proceeding to hearing. The cases were resolved through alternative means, such as Agreed Board Orders (ABO) through negotiations with the licensees or their attorneys and through the SOAH Mediation process. Two respondent cases were resolved through mediation. These resolutions saved the agency considerable resources both in time and expenditures.
5. Administrative hearings were conducted against 10 respondents at SOAH. These hearings involved preparing motions for summary judgment and numerous discovery documents (including interrogatories and requests for admissions), preparing for trial and for witness examination, depositions, and conducting the hearings. Following the hearings, exceptions were filed and drafts of proposed orders were prepared. The extensive preparation for the hearings and the presentations to the Board required a considerable amount of time, and the Division was able to maintain a fairly consistent number of cases resolved.
6. In order to effectively deal with continuing threat to the public health and safety, the Legal Division continued to evaluate cases, and if such a threat could be established, a panel was convened to hear the cases for potential temporary suspension. Petitions for Temporary Suspension were filed, and Temporary Suspension Hearings were conducted before a Board panel against 12 respondents in FY2016. In addition, three Petitions for Temporary Suspension were filed and subsequently resolved prior to the Temporary Suspension Hearing with Voluntary Revocation Orders.  
  
Requests for Show Cause Orders were filed and two Show Cause hearings were conducted before a Board panel against two respondents in FY2016. One respondent request was granted and one request was denied.
7. Division staff continued to enhance the legal analysis of nontherapeutic dispensing cases from Enforcement and continued to develop an in-depth and extensive method of preparing and analyzing the cases via Excel and detailed reports for submission for expert pharmacist opinion regarding pill mill activities.

## LEGAL DIVISION

8. Statistics for disciplinary actions entered in FY2016 are as follows:

### PHARMACISTS/PHARMACIES

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF DEFAULT ORDERS ENTERED BY BOARD	NUMBER OF AGREED Board of Pharmacy ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% CHANGE IN DISCIPLINARY ORDERS	% ABOs OR DEFAULT OF TOTAL ORDERS
FY12	5	3	378	386	13%	99%
FY13	2	3	358	363	-6%	99%
FY14	4	9	276	289	-21%	99%
FY15	27	3	275	305	6%	97%
FY16	10	3	316	329	7%	97%
<b>TOTAL</b>	<b>48</b>	<b>21</b>	<b>1603</b>	<b>1672</b>	<b>-0.2%</b>	<b>98%</b>

### PHARMACY TECHNICIANS/PHARMACY TECHNICIAN TRAINEES

FISCAL YEAR	NUMBER OF BOARD ORDERS (BOs)	NUMBER OF DEFAULT BOARD ORDERS (BOs)	NUMBER OF AGREED BOARD ORDERS (ABOs)	NUMBER OF DISCIPLINARY ORDERS (BOs & ABOs)	% INCREASE IN DISCIPLINARY ORDERS	% ABOs OR DEFAULT OF TOTAL ORDERS
FY12	1	70	335	406	11%	100%
FY13	0	70	250	320	-20%	100%
FY14	1	73	245	319	-<1%	100%
FY15	1	70	252	323	1%	100%
FY16	6	52	213	271	-16%	98%
<b>TOTAL</b>	<b>9</b>	<b>335</b>	<b>1295</b>	<b>1639</b>	<b>-6%</b>	<b>100%</b>

9. Division staff significantly increased transparency of public information by making accessible the information about disciplinary actions taken against licensees and registrants and posting the scanned version of prior actions on the agency's website.

## **LEGAL DIVISION**

### **FY2016 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS**

1. The cases against pharmacy technicians and pharmacy technician trainees are more complicated and time-consuming as the cases do not merely involve adjudicated criminal offenses, but also involve investigations by TSBP of thefts at pharmacies, which leads to a longer resolution time in the Legal Division due to the longer amount of time to draft and prepare the cases.
2. The Division experienced significant turnover during the fiscal year with four employees terminating employment with the Division (including the key positions of two staff attorneys) and three new employees starting with the Division. This situation resulted in significant expenditure of time and effort in hiring and training of new employees.

**LEGAL DIVISION**  
**FY2016 ANNUAL REPORT**

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**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.

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**Objectives (New)**

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2016:

1. Reviewing and implementing legislation passed by the 84th Texas Legislature that affects agency operations and/or the practice of pharmacy;
2. Updating and preparing the TSBP Strategic Plan for FY2017-2021 and submitting the plan to the Governor's Office of Budget, Planning, and Policy and the Legislative Budget Board by the due date;
3. Preparing a proposed budget for the FY2018-2019 biennium for review and approval by the Board at the 2016 Board Budget meeting;
4. Preparing the TSBP Legislative Appropriation Request for FY2018-2019 by the due date;
5. Conducting the orientation of new Board members within 90 days of appointment by the Governor;
6. Assisting the Executive Director, in cooperation with other Divisions, in the implementation of the transfer of the Texas Prescription Monitoring Program from the Texas Department of Public Safety to the Texas State Board of Pharmacy; and
7. Participating in the evaluation of agency activities by the Sunset Advisory Commission.

**Status:        ACCOMPLISHED**

**Comment:**    These objectives were accomplished through the following activities:

1. General Counsel assisted with the implementation of new legislation through the development and review of new agency rules, which required modification due to implementation of legislation passed by the 84th Texas Legislature.
2. The Strategic Plan for FY2017-2021 was prepared and reviewed. The agency researched the trends and resulting issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years. The Board Members worked with staff to develop Issue Statements and approved the final Strategic Plan at the May 2016 Board Business Meeting. General Counsel assisted with the development and review of the Strategic Plan. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

## LEGAL DIVISION

3. General Counsel worked with the Executive Director and the other Division Directors in preparation of the proposed budget for FY2018-2019.
4. General Counsel worked with the Executive Director and the other Division Directors in preparation of the FY2018-2019 Legislative Appropriations Request (LAR) and reviewed the final draft of the document. The LAR was submitted to the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy by August 5, 2016.
5. General Counsel, along with the Executive Director and other agency staff, participated in the orientation of new Board Members Chip Thornsburg, Suzette Tijerina, and Jenny Downing Yoakum on October 27 and 28, 2015.
6. General Counsel assisted the Executive Director, in cooperation with other Division Directors and agency staff, in implementing the transfer of the Prescription Monitoring Program to the Texas State Board of Pharmacy. General Counsel reviewed the final draft of the Request for Proposal and resulting contract proposals for the administration of the program, and ensured that appropriate procurement procedures were followed by agency staff. Progress was facilitated via weekly status meetings, and General Counsel worked closely with other Division Directors, agency staff, and the program administrator to develop and implement optimal program specifications.
7. General Counsel and Division staff cooperated with the staff of the Sunset Advisory Commission throughout this process. General Counsel assisted the Executive Director and other Division Directors and agency staff in drafting and reviewing the TSBP's Self-Evaluation Report, and in supplying all requested information. General Counsel also constructively participated in relevant meetings and legislative hearings.

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### Objectives (Ongoing)

1. **To coordinate and monitor throughout FY2016 the receipt, assignment, and resolution of all cases accepted by the Division.**

**Status:**        **ACCOMPLISHED**

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

- A. Division staff met approximately once a month to discuss the status of pending cases, assess workload allocation, and determine the most effective strategies to complete cases in a timely and efficient manner. The Legal Assistant Team Manager also met with the Legal Assistants on a monthly basis to address common issues and monitor progress.
- B. General Counsel and other senior Division staff conducted regular monthly meetings to review the status of cases and the statistical data on the completion of cases to ensure efficient processing of disciplinary cases. As a result, the Division often reallocated resources to most effectively process the cases in a timely manner.
- C. Division staff maintained a database system to track the current status of all cases, thereby increasing efficiency in monitoring cases. In addition, Division staff continued to maintain electronic logs to track dates for mailing of Preliminary Notice Letters, scheduling of Informal Conferences, mailing and receiving of

## LEGAL DIVISION

Agreed Board Orders, and other due dates previously recorded on paper to enhance accessibility by all Division staff and improve more efficient and immediate information sharing.

- D. TSBP entered a total of 19 Remedial Plans in FY2016, as reflected in the chart below.

Remedial Plans	Pharmacists	Pharmacies	Total
<b>FY14</b>	1	0	1
<b>FY15</b>	28	1	29
<b>FY16</b>	19	0	19
<b>TOTAL</b>	48	1	49

- E. TSBP entered a total of 600 disciplinary orders and one non-disciplinary Show Cause Order in FY2016, as reflected in the charts below.

Type of Order	Summary Suspensions	SOAH Board Orders	Default Board Orders	ABOs Entered by ED	ABOs Public	ABOs Confidential	Total Number of Orders
<b>Pharmacists and Pharmacies</b>	5	5	3	60	218	38	329
<b>Pharmacy Technicians</b>	4*	3	52	138	75	0	273
<b>Total</b>	8	8	55	198	293	38	601

\* One Show Cause Order entered

The Division staff prepared for the presentation of Agreed Board Orders, Board Orders, and Remedial Plans for approval at the four regularly-scheduled Board meetings throughout the year. The presentation of proposed disciplinary actions to the Board at Board meetings involves creating an electronic summary chart along with the orders linked to the chart.

Information regarding the disciplinary cases entered in FY2016 is set forth in the following charts:

## LEGAL DIVISION

### **SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON PHARMACISTS, PHARMACIES, INTERNS, AND APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2016)**

			Pharmacist	Pharmacy	Total
<b>Licenses Removed</b>	<b>17</b>	<b>(5%)</b>			
Revoke			7	7	14
Retire			3	0	3
<b>Suspensions</b>	<b>65</b>	<b>(20%)</b>			
Suspension			10	3	13
Suspension w/Conditions			4	0	4
Suspension w/ Fine			0	0	0
Suspension/Fine/Conditions			0	0	0
Probation			2	6	8
Probation w/Conditions			11	5	16
Probation/Fine			3	3	6
Probation/Fine/Conditions			4	14	18
<b>Restricted</b>	<b>6</b>	<b>(2%)</b>	6	0	6
<b>Other</b>	<b>183</b>	<b>(56%)</b>			
Fine			49	29	78
Fine with Conditions			1	27	28
Fine and Reprimand			4	3	7
Fine, Reprimand with Conditions			10	25	35
Reprimand with Conditions			6	12	18
Reprimand			4	13	17
Require MHP Evaluation			0	0	0
<b>Issuance License/Regist.</b>	<b>38</b>	<b>(12%)</b>			
Grant with Suspension			0	0	0
Grant with Restrictions			0	0	0
Grant with Probation			3	1	4
Grant with Probation and Fine			0	0	0
Grant with Probation/Fine/Conditions			0	0	0
Grant with Probation and Conditions			2	0	2
Grant with Reprimand and Fine			1	1	2
Grant with Fine			7	13	20
Grant with Fine/Conditions			0	0	0
Grant with Reprimand			5	5	10
<b>Reinstatements</b>	<b>8</b>	<b>(2%)</b>			
Grant			0	0	0
Grant with Probation/Conditions			8	0	8
Deny			0	0	0
<b>Modifications</b>	<b>12</b>	<b>(4%)</b>			
Grant			10	2	12
Deny			0	0	0
<b>TOTAL FY16:</b>	<b>329</b>	<b>(100%)</b>	<b>160</b>	<b>169</b>	<b>329</b>

FY16 Orders Entered Against Pharmacist Licenses	160	49%
FY16 Orders Entered Against Pharmacy Licenses	169	51%
FY16 Total Disciplinary Orders on Pharmacist/Pharmacy	329	100%

## LEGAL DIVISION

### DISCIPLINARY ORDERS ON PHARMACISTS, INTERNS, AND APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2016) NATURE OF VIOLATIONS\*

	RPh	Phcy	Total	Total %
<b>Diversions</b>	<b>9</b>	<b>3</b>	<b>12</b>	<b>4%</b>
Illegal Delivery	0	0	0	
Illegal Possession of Rx Drugs	0	0	0	
Unauthorized Dispensing	2	0	2	
Theft	4	0	4	
Obtained C/S by Fraud	0	0	0	
No Valid Dr-Pt Relationship	3	3	6	
<b>Convictions/Defer Adj</b>	<b>7</b>	<b>3</b>	<b>10</b>	<b>3%</b>
Felony	2	1	3	
Misdemeanor	2	1	3	
Deferred Adjudication, Felony	3	1	4	
Deferred Adjudication, Misdemeanor	0	0	0	
Alcohol-Related	0	0	0	
<b>Audit Discrepancies</b>	<b>5</b>	<b>8</b>	<b>13</b>	<b>4%</b>
Drug	4	8	12	
Continuing Education	1	0	1	
<b>Practice Deficiencies</b>	<b>58</b>	<b>87</b>	<b>145</b>	<b>44%</b>
Dispensing Errors	15	28	43	
Dispensing Errors & No Counsel and/or No Drug Regimen Review	13	26	39	
No Counsel and/or DRR	15	17	32	
Compounding Sterile without Class S	14	12	26	
Shipping Rx to Other States w/o License	1	4	5	
<b>Unprofessional Conduct</b>	<b>51</b>	<b>60</b>	<b>111</b>	<b>34%</b>
Aiding and Abetting	2	2	4	
Allow Tech to Work without an Active Registration	11	12	23	
Falsified Application for Licensure	9	14	23	
Sterile Compounding w/o Proper Training	0	0	0	
Impairment	3	0	3	
Action by TSBP or Other Boards	16	28	44	
Non-Compliance with Previously Entered Order	6	0	6	
Non-Compliance with PRN Program	1	0	1	
Violation of Board Rules	3	4	7	
<b>Other</b>				
Modification	<b>11</b>	<b>2</b>	<b>13</b>	<b>4%</b>
Reinstatement	<b>8</b>	<b>0</b>	<b>8</b>	<b>2%</b>
Request for Revocation/Retirement/Restrict	<b>9</b>	<b>3</b>	<b>12</b>	<b>4%</b>
Temporary Suspension Orders	<b>2</b>	<b>3</b>	<b>5</b>	<b>2%</b>
Other	<b>0</b>	<b>0</b>	<b>0</b>	<b>N/A</b>
<b>TOTAL FY16:</b>	<b>160</b>	<b>169</b>	<b>329</b>	<b>100%</b>

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



## LEGAL DIVISION

### **SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS, TECHNICIAN TRAINEES, AND APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2016)**

		Total	Percent
<b>Registration Removed</b>		<b>73</b>	<b>(27%)</b>
Revoke	71		
Retire	2		
<b>Suspensions</b>		<b>62</b>	<b>(23%)</b>
Suspension	5		
Suspension, followed by Probation	4		
Suspension w/Conditions	5		
Suspension w/Conditions, followed by Probation	19		
Suspension/Fine	2		
Suspension/Fine w/Conditions, followed by Probation	0		
Probation	1		
Probation with Conditions	24		
Probation/Fine	2		
Probation/Fine with Conditions	0		
<b>Restricted</b>	0	<b>0</b>	<b>(N/A)</b>
<b>Other</b>		<b>48</b>	<b>(18%)</b>
Fine	32		
Fine with Conditions	1		
Fine/Reprimand	3		
Fine/Reprimand with Conditions	0		
Reprimand	12		
Reprimand with Conditions	0		
<b>Issuance Registration</b>		<b>88</b>	<b>(32%)</b>
Grant with Suspension	2		
Grant with Suspension/Fine	0		
Grant with Probation	13		
Grant with Probation/Conditions	11		
Grant with Probation/Conditions and Fine	0		
Grant with Probation and Fine	5		
Grant with Fine	22		
Grant with Fine and Reprimand	10		
Grant with Reprimand	25		
Deny	0		
<b>Reinstatements</b>		<b>0</b>	<b>(N/A)</b>
Grant with Suspension, followed by Prob/Cond	0		
Grant with Probation/Conditions	0		
Grant with w/Conditions and Reprimand	0		
Grant with Fine	0		
<b>Modifications</b>	0	<b>0</b>	<b>(N/A)</b>
<b>TOTAL FY16:</b>		<b>271 (100%)</b>	

## LEGAL DIVISION

### DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS, TECHNICIAN TRAINEES, AND APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2016) NATURE OF VIOLATIONS

		Total	Percent
<b>Diversion</b>		<b>13</b>	<b>(5%)</b>
Theft	11		
Forged Rx	2		
Illegal Delivery	0		
<b>Convictions/Deferred Adjudications</b>		<b>150</b>	<b>(55%)</b>
Felony	12		
with Falsified Application	4		
Misdemeanor	25		
with Falsified Application	7		
Deferred Adjudication/Felony	32		
with Falsified Application	4		
Deferred Adjudication/Misdemeanor	50		
with Falsified Application	7		
Alcohol-Related (e.g., DWI)	9		
with Falsified Application	0		
<b>Impairment</b>		<b>7</b>	<b>(3%)</b>
Drug or Alcohol Dependency	0		
with Falsified Application	0		
Probable Cause	7		
<b>Falsified Applications *</b>		<b>17</b>	<b>(6%)</b>
<b>Other Violations</b>		<b>34</b>	<b>(13%)</b>
Gross Immorality	0		
Non-Compliance w/Previously Entered Order	14		
Performed Tech Duties w/Delinquent Registration	2		
Performed Pharmacist Duties	6		
Performed Tech Duties without Registration	10		
Action by TSBP or Other Board	1		
Negligence	0		
CE Shortage	1		
<b>Request for Revocation/Retirement</b>		<b>47</b>	<b>(17%)</b>
<b>Reinstatement</b>		<b>0</b>	<b>(N/A)</b>
<b>Modify</b>		<b>0</b>	<b>(N/A)</b>
<b>Temporary Suspension Orders</b>		<b>3</b>	<b>(1%)</b>
<b>TOTAL FY16:</b>		<b>271</b>	<b>(100%)</b>

\* Does not include the 22 falsified applications described above.

## LEGAL DIVISION

2. To review all cases referred to the Division for potential disciplinary action; and if sufficient evidence exists to warrant action, to institute disciplinary proceedings against licensees within an average of 150 days of the date of the receipt of the case, in accordance with priorities established for the Enforcement Division, throughout FY2016.

**Status:** ACCOMPLISHED

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

- A. During FY2016, Division staff reviewed numerous cases prior to referral for disciplinary action to determine whether sufficient evidence existed to warrant prosecution.
- B. During FY2016, Division staff received 680 cases, which was an increase from the 640 cases received in FY2015, and resolved 642 cases, which was a slight decrease from the 674 cases resolved during FY2015.
- C. Division staff mailed 728 Preliminary Notice Letters (PNLs) in FY2016, in accordance with the priorities established for the Division, which was significantly more than in FY2015, when the Division mailed 660 PNLs. Of these PNLs, 436 PNLs were mailed to pharmacists and pharmacies, and 292 PNLs were mailed to pharmacy technicians and pharmacy technician trainees.
- D. The number of days to mail PNLs after the case review date in FY2016 was 55 days which is a slight decrease from the FY2015 number of 56 days due to increased efficiencies achieved by scheduling the maximum number of cases per informal conference day. The number of days for PNLs to be sent to pharmacists and pharmacies averaged 78 days which is a slight increase from 76 days in FY2015. PNLs to pharmacy technicians were sent in an average of 34 days from receipt of the case, which is a slight decrease from 35 days in FY2015.
- E. Total resolution time for cases in FY2016 was 135 days from receipt of the case in the Legal Division to the disposition of the case in the Legal Division, which is a decrease from 149 days in FY2015. Case resolution for pharmacists and pharmacies averaged 172 days which is a decrease from 182 days in FY2015. Case resolution for pharmacy technicians averaged 98 days which is a decrease from 115 days in FY2015.
- F. The Division filed petitions to conduct a Temporary Suspension hearing for nine cases involving a total of 14 respondents comprised of seven pharmacists and pharmacies and seven technician and technician trainees. (One pharmacy was involved in two hearings.) Eight temporary suspension petitions were granted, and four were denied. Following the temporary suspensions, the cases were referred for hearing at the State Office of Administrative Hearing for disciplinary actions against the licenses. Three respondents Petitions for Temporary Suspension were filed and subsequently resolved prior to the Temporary Suspension Hearing with Voluntary Revocation Orders. In addition, Division staff filed two Requests for Show Cause Orders involving one pharmacist and one technician. After a hearing, one order was entered that granted the request and one request was denied.

## LEGAL DIVISION

3. To plan and conduct a minimum of 24 days of informal conference sessions in FY2016 to adjudicate violators of pharmacy laws/rules.

**Status:** ACCOMPLISHED

**Comment:** During FY2016, the Division prepared for and conducted 30.5 days of Informal Conferences for 413 licensees/registrants and applicants, as indicated in the following charts. The number of licensees/registrants and applicants increased in FY2016, from 399 licensees/registrants and applicants in FY2015.

### Informal Conferences for Pharmacies and Pharmacists

Dates of Informal Conferences	# of Days	# of Phy/RPh Licensees	# of Techs	# of Cases	# of Licensees Dismissed
September 1-2, 2015	2	24	3	15	
October 6-7, 2015	2	22		18	
October 22, 2015	0.5	6		3	
December 1-2, 2015	2	21	3	14	3
January 5-6, 2016	2	19		16	2
January 21, 2016	0.5	2		2	
March 8-10, 2016	3	33	1	22	1
April 12-14, 2016	3	24		20	
April 21, 2016	0.5	1		1	
May 31-June 2, 2016	3	26		18	2
June 12-14, 2016 *	3	33		28	4
July 21, 2016	0.5	8		5	1
<b>TOTAL</b>	<b>22</b>	<b>219</b>	<b>7</b>	<b>162</b>	<b>13</b>

\* 1 Respondent did not appear, application withdrawn

### Informal Conferences for Technicians/Technician Trainees

Dates of Informal Conferences	# of Days	# of Cases	Applicants	Registrants	No-shows	Defaults
September 24, 2015	1	23	8	15	15	10
October 22, 2015	1	20	9	11	4	3
November 12, 2015	0.5	14	7	7	7	4
January 21, 2016	1	21	10	11	12	6
February 18, 2016	1	19	6	13	12	9
March 24, 2016	1	22	9	13	11	8
April 21, 2016	0.5	14	8	6	10	3
May 19, 2016	0.5	16	7	9	5	3
July 21, 2016	1	22	9	13	15	9
August 30, 2016	1	23	14	9	13	8
<b>TOTAL</b>	<b>8.5</b>	<b>194</b>	<b>87</b>	<b>107</b>	<b>104</b>	<b>63</b>

Division staff used electronic notebooks for all informal conferences, thus allowing the informal conference panel to access the allegations and evidence on computer laptops and reducing copying cost and staff time to prepare informal conference notebooks. Division staff also prepared this information in advance to allow the Board members additional time to review the cases prior to informal conference.

## LEGAL DIVISION

4. **To refer disciplinary cases to the State Office of Administrative Hearings (SOAH) throughout FY2016, and file a complaint with SOAH within an average of 180 days of the date that the agency determines the case cannot be settled with an Agreed Board Order.**

**Status:** ACCOMPLISHED

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

- A. At the onset of FY2016, seven respondent cases were ongoing following the filing of a complaint at the State Office of Administrative Hearings in FY2015 and pending a resolution. The Division filed formal complaints at SOAH, within an average of 180 days from the date the case failed to settle with an Agreed Board Order, for 10 additional respondent cases in FY2016.
- B. Nine respondent cases were resolved prior to a full contested administrative hearing being conducted at SOAH. Of these cases, one respondent case was resolved through the SOAH mediation process. The remaining cases were resolved otherwise, including through negotiations. This resolution was beneficial in saving the agency both considerable time and effort in the alternative of preparing for and presenting a full contested case hearing. However, considerable preparation was required for several of the cases because they were not resolved until shortly before the scheduled hearing date.
- C. Administrative hearings were conducted against 10 respondents in FY2016. Proposals for Decision (PFD) were issued by the Administrative Law Judges against eight respondents during FY2016. Five respondent cases were pending a hearing at the end of FY2016.
- D. SOAH performed 270 hours of work on 18 cases for the TSBP in FY2016, totaling approximately \$13,330.23, in direct hearings expenses and \$36,699.11, in total case expenses. These SOAH hours are an increase from FY2015 which had 169.25 hours of work on 12 cases.

5. **To research legal issues and provide legal services and advice to the Board and agency staff; to provide legal services to the Enforcement and Administrative Services and Licensing Divisions regarding interpretation of the laws and rules and to the Division of Professional Services in the development of agency rules and public dissemination of information.**

**Status:** ACCOMPLISHED

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

- A. Legal Research and Advice on Agency Administration
  - (1) General Counsel continued to work to develop efficient procedures for Board member access to case information prior to informal conferences.
  - (2) General Counsel served as Fraud Coordinator for the agency.

## LEGAL DIVISION

- (3) General Counsel participated in meetings regarding Risk Assessment and provided recommendations in the development of the agency's Risk Management plan.
- (4) General Counsel and Division staff provided legal advice and consultation on numerous personnel issues during FY2016, including:
  - (a) assisted with issues in various hiring/disciplinary processes and complaints against agency employees;
  - (b) advised regarding FMLA leave issues and sick leave pool requests;
  - (c) provided legal advice regarding outside employment for agency staff;
  - (d) developed and/or reviewed performance plans and/or probation;
  - (e) interviewed applicants for new positions;
  - (f) assisted with resolution of complaints against agency employees;
  - (g) developed and/or reviewed policy changes for TSBP Employee Handbook for distribution at the December 2015 general staff meeting; and
  - (h) attended presentations and webinars to keep apprised of current trends in labor and employment law, including multiple Austin Labor and Employment Law Update events and an OSHA Forecast webinar.
- (5) General Counsel served as the agency's Ethics Advisor and continued to assist Board Members and staff with legal and ethical issues.
- (6) General Counsel consulted with other Division Directors regarding the evaluation of results of the Survey of Employee Engagement completed by agency staff.
- (7) General Counsel assisted in the review and preparation of minutes of four regularly-scheduled Board meetings.
- (8) General Counsel reviewed the contract proposals and participated in the bid proposal process for the transfer of the Prescription Monitoring Program by the TSBP.
- (9) General Counsel consulted with the Executive Director and the other Division Directors regarding the development and implementation of a policy for the presence of guns at Board Meetings, Informal Conferences, and other TSBP events in light of the open-carry legislation passed during the 84th Texas Legislature.

## LEGAL DIVISION

- (10) General Counsel and Division staff cooperated with the staff of the Sunset Advisory Commission throughout the Sunset review process. General Counsel assisted the Executive Director and other Division Directors and agency staff in drafting and reviewing the TSBP's Self-Evaluation Report, and supplying requested information and documents. General Counsel also constructively participated in meetings and legislative hearings.
- (11) General Counsel consulted with the Executive Director and other Division Directors and agency staff to facilitate planning for the move of the TSBP offices to the 5th floor of the William Hobby Building.
- (12) General Counsel consulted with the Executive Director and other Division Directors and agency staff regarding upgrades to Versa.
- (13) General Counsel consulted with the Executive Director and other Division Directors and agency staff regarding an audit by the FBI conducted in April 2016, to ensure compliance with CJIS Security Policy.

### B. Technical Assistance to Enforcement Activities

- (1) Division staff researched numerous issues, including the determination of crimes of moral turpitude, various forms of disposition for criminal cases and applicability of actions taken in other jurisdictions, whether prescription hardcopies are medical records, and revocation based on incarceration versus imprisonment.
- (2) General Counsel attended meetings, as requested, to provide legal guidance on inspection and investigative issues.
- (3) Division staff drafted numerous subpoenas and voluntary revocation orders to assist with the investigative work of the TSBP investigators.
- (4) Division staff handled legal questions from all staff regarding a myriad of issues.
- (5) General Counsel and Division staff reviewed complaint files for pharmacists and pharmacies and provided guidance regarding the identification of violations and the resolution of the cases. In addition, General Counsel and Division staff reviewed complaint files on pharmacy technicians to determine type of violation and appropriate action, as previously determined by the Board.
- (6) General Counsel and Division staff made presentations at all Board meetings held in FY2016. Presentations included information about proposed Agreed Board Orders and proposed Board Orders following SOAH proceedings.
- (7) General Counsel participated in meetings to discuss appropriate action regarding questions/issues raised by licensees.

## LEGAL DIVISION

- (8) Division staff informed the Enforcement staff of disciplinary actions to be taken by the Board prior to entry of the orders, to ensure the correct information is immediately available on the computer system.
- (9) Division staff assisted the Enforcement Division with issues involving the monitoring of impaired pharmacists, including legal consultation on handling of positive drug screens and interfacing with the Professional Recovery Network program.
- (10) Division staff drafted ineligibility issues for pharmacist applicants who did not qualify for licensure under the Texas Pharmacy Act.
- (11) Division staff redacted files to comply with orders of expunction and of non-disclosure regarding criminal offenses.
- (12) Division staff assisted Compliance staff with questions during inspections and regarding follow-up issues.
- (13) General Counsel consulted with the Director of the Professional Recovery Network regarding diagnoses for misdemeanor offenses, and on the development of a chart outlining the disciplinary implications for certain findings by Mental Health Professionals.
- (14) General Counsel reviewed the contract proposals and participated in the bid proposal process for providers of drug screening services.
- (15) General Counsel consulted with the Enforcement Division on policies and procedures for the use of body-worn cameras by investigators in the field.
- (16) Division staff aided in revising standard requirements for information letters used to obtain criminal history record information from police departments.
- (17) General Counsel consulted with the Enforcement Division regarding procedures for identifying pharmacy personnel during field investigations.

### C. Legal Services for Professional Services

- (1) Division staff researched numerous issues, including whether an automated prescription drug pickup kiosk requires a separate DEA registration.
- (2) 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 FY2016. See Ongoing Objectives numbers 1 and 2 in the annual report of the Professional Services Division for a summary of specific rule proposals and submissions.



## LEGAL DIVISION

- (3) General Counsel assisted the Division of Professional Services with requests for public information in clarifying requests and requesting assistance from the OAG.
- (4) General Counsel assisted with the continued implementation of the agency's social media presence (e.g., Facebook, Twitter, Mail Chimp).
- (5) General Counsel participated in the implementation of the transition of the Prescription Monitoring Program from the Texas Department of Public Safety to the TSBP. General Counsel reviewed the contract proposals and participated in the bid proposal process, participated in weekly status meetings, accompanied the Director of Professional Services to local pharmacies to discuss the Program, attended demos and trainings by the program administrator, and aided in facilitating the ordering of new prescription pads. General Counsel also attended regular meetings regarding Interconnect.

### D. Legal Services for Licensing

- (1) Division staff assisted with recommendations on eligibility for licensure and registration, verified accuracy of warning letters, and handled cases through the legal process.
- (2) General Counsel reviewed requests for accommodation under the Americans with Disabilities Act for legal compliance.
- (3) General Counsel was consulted on issues concerning licensing of pharmacists and pharmacies and regarding application forms.
- (4) Division staff consulted with the Division Director regarding state bar licensing and fees as compared to the TSBP.
- (5) General Counsel advised the Division Director and Licensing staff on numerous questions regarding pharmacy classifications.
- (6) General Counsel advised the Division Director and Licensing staff on questions regarding fingerprint-based criminal background checks.

### E. Other Legal Services regarding Pharmacy Issues

- (1) General Counsel participated in meetings and teleconferences regarding any pending pharmacy issues as required, such as compounding stakeholder questions and concerns, the new requirement that Class E pharmacies have a Texas licensed Pharmacist-in-Charge, pharmacy classifications, utilization of the Prescription Monitoring Program, and issues regarding telemedicine in light of recent court decisions.
- (2) General Counsel participated in the writing of questions and the review of the question pool for the Multistate Jurisprudence Examination to ensure the validity of the questions in the pool.

## LEGAL DIVISION

- (3) General Counsel participated in teleconference meetings of committees to review requests for pilot projects and assisted with development of rules on related issues.
- (4) General Counsel participated in and provided legal analysis for all task force meetings, including the ASC/Class F task force.

**6. To review and monitor the Texas Register for Attorney General opinions; to draft requests for Attorney General Opinions throughout FY2016; to serve as liaison for the Board to the Office of the Attorney General (OAG); to monitor and assist with appeals, injunctions, or civil litigation handled by the OAG against pharmacists or non-pharmacists**

**Status: ACCOMPLISHED**

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

- A. Division staff reviewed new opinions of the Office of the Attorney General for applicability to TSBP and disseminated any relevant material to appropriate agency personnel.
- B. Liaison with the Office of Attorney General
  - (1) Division staff continued to serve as liaison with the OAG throughout FY2016. Ted Ross and John Langley served as the Assistant Attorneys General assigned to TSBP from the OAG Administrative Law Division.
  - (2) Appeals; Injunctions; Civil Litigation
    - (a) General Counsel coordinated representation regarding appeal of Board Order on an impaired pharmacist suspended in conjunction with an order in another state at the Texas Supreme Court.
    - (b) General Counsel coordinated representation with OAG attorney regarding an ongoing action filed by a pharmacist in Federal District Court seeking injunctive relief.
  - (3) Requests for AG Opinions

Division staff drafted requests for open records decisions for filing with the OAG.
  - (4) General Assistance

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

**7. To provide guidance and advise with open records requests throughout FY2016, in accordance with the procedures set forth in the Texas Public Information Act.**

**Status: ACCOMPLISHED**

## LEGAL DIVISION

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

- A. General Counsel reviewed written responses to open records requests, prepared by the Professional Services Division, for legal compliance with the Public Information Act in FY2016. In addition, the General Counsel assisted with clarifying certain open records requests requiring telephonic clarification, when legal issues were involved.
  - B. General Counsel attended presentations regarding current public information topics.
  - C. Division staff handled requests for open records decisions for those open records requests that related to confidential information requiring a ruling from the OAG.
  - D. Division staff consulted with the Director of the Professional Services Division regarding whether dates of birth should be verified for staffing agencies in light of the OAG's new interpretation under common law privacy.
  - E. Division staff provided training to other Division Directors and agency staff regarding the implications of the Public Information Act on personnel files kept by the TSBP.
- 8. To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2016; to provide legal assistance and maintain liaison with appropriate local, state, and federal prosecutors, legal divisions, and enforcement agencies involved in the investigation or prosecution of Board licensees, in conjunction with the Enforcement Division, throughout FY2016.**

**Status:** **ACCOMPLISHED**

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

- A. Surveys/Questionnaires and Other Correspondence  
  
General Counsel and/or Division staff responded to following surveys:
  - (1) Annual survey from the State Office of Administrative Hearings; and
  - (2) Client survey from the OAG.
- B. Technical Assistance to Other Agencies and Organizations
  - (1) General Counsel and Division staff consulted with the Director of the Professional Recovery Network to discuss the handling of cases involving impaired pharmacists.
  - (2) Division staff attended Public Service Career Day at the University of Texas School of Law.
  - (3) General Counsel participated in meetings and other communications with the FDA regarding compounding of sterile products.

## LEGAL DIVISION

- (4) General Counsel participated in DEA-State Regulators meeting regarding development of federal regulations for telemedicine.
- (5) General Counsel reviewed proposed rules of Texas Medical Board prior to stakeholder meetings and attended meetings to provide input. Division staff coordinated with the Texas Medical Board regarding the prosecution of pill mill cases.
- (6) General Counsel attended meetings of the Statewide Information Privacy Advisory Committee.
- (7) General Counsel and Division staff engaged with DEA, DPS, the Texas Medical Board and other law enforcement and prosecutorial agencies regarding enforcement of laws against pill mills in the Houston and Dallas area.
- (8) General Counsel participated in the Texas Government Social Media Alliance meetings.
- (9) Division staff coordinated with and/or assisted state and federal prosecutors, DEA investigators, and Board staff in other pharmacy and pharmacist licensing jurisdictions with questions and requests as needed throughout the fiscal year.
- (10) General Counsel assisted the Executive Director in meetings with DSHS and to prepare for legislative issues regarding sterile compounding and implementation of the federal Drug Quality and Security Act of 2015 and the 84<sup>th</sup> Legislative Session.
- (11) Division staff assisted other licensing agencies with issues involving validity and authorization of prescriptions and with standardization of agreed settlement orders.
- (12) Division staff communicated with the Texas State Board of Dental Examiners regarding policy and sanctions for criminal offenses.
- (13) General Counsel consulted with outside agencies licensing healthcare professionals, as well as the Department of Public Safety and the Drug Enforcement Administration regarding the transition of the Prescription Monitoring Program from the Department of Public Safety to the TSBP.
- (14) General Counsel participated in meetings of the Interagency Council.

### D. Technical Assistance to the Legislature

General Counsel and/or Division staff responded to questions from and attended meetings with Legislators/legislative staff and Governor's staff regarding pharmacy and/or agency issues and related to proposed legislation.

## LEGAL DIVISION

### E. Technical Assistance to the Press and the Public

- (1) Division staff answered numerous telephone calls from pharmacist and pharmacy technician applicants and licensees/registrants regarding the application process and the associated disciplinary process, including providing information about denial of registration and options for Informal Conference.
- (2) Division staff answered questions from licensees, attorneys, and other members of the public regarding legal issues, including:
  - (a) licensing eligibility and requirements;
  - (b) effect of convictions and deferred adjudications and/or probation for various crimes on registration and licensure;
  - (c) applicability of pharmacy laws and rules; and
  - (d) schedules for resolution of pending cases.
- (3) Division staff participated in University of Texas Law School educational and recruitment programs.
- (4) General Counsel provided information to various reporters researching pharmacy-related stories
- (5) Division staff participated in meetings of the State Agency Council.
- (6) General Counsel consulted with pharmacy business entities on issues regarding legalities of implementing proposed business models.

### 9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) throughout FY2016.

**Status: ACCOMPLISHED**

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

General Counsel and Division staff participated in the Health Professions Council (HPC) Legal Committee, which includes attorneys from other agencies, as requested to discuss problems identified with the State Office of Administrative Hearings regarding the handling of legal cases for HPC agencies.

### 10. To manage employees under the supervision of the Division throughout FY2016, in compliance with all applicable state and federal personnel statutes, including the following: to hire qualified applicants for new or vacant positions; to update or develop job descriptions in compliance with the State Classification System; to participate in State Classification audits of positions; to conduct periodic reviews and annual evaluations of Division employees; and to promote self-development through such activities as on-the-job training, cross-training, and attendance at professional seminars.

**Status: ACCOMPLISHED**

## LEGAL DIVISION

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

- A. Division staff was evaluated on an annual basis, as required by agency policy.
- B. General Counsel conducted team meetings approximately once a month with Division staff. Legal Assistants met with the Legal Assistant Team Manager on a bimonthly basis.
- C. Division staff conducted the hiring process to fill one attorney position and two legal assistant positions during FY2016.
- D. Division staff interviewed for and had one legal intern in 2016 to provide assistance with the preparation of legal cases.
- E. General Counsel and/or Division staff prepared and conducted orientations for all new TSBP employees and interns during FY2016 regarding the Legal Division, the disciplinary process, ethics, and Public Information and Open Meetings Acts.
- F. Division staff attended general staff meetings and in-house training sessions. In addition, Division attorneys attended required continuing legal education, and Division staff attended various programs, seminars, and events.

**11. To destroy records in accordance with the agency's record retention plan throughout FY2016; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2016.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished as follows:

- A. Records Management

During FY2016, Division staff destroyed records, in accordance with the TSBP record retention schedule, including general correspondence. Division staff also prepared and indexed material for electronic storage. In addition, Division staff revised the shared directory structure for improved use by the Legal Division to simplify access to files.
- B. Policies and Procedures
  - (1) Division staff updated and maintained Disciplinary Notebooks containing all Board Orders and Agreed Board Orders.
  - (2) Division staff updated notebook of samples of preliminary notice letters for pharmacist and pharmacy disciplinary actions and forms for various pharmacy technician and technician trainee PNLs.
  - (3) Division staff continued to review and draft/update written policies and procedures for handling of cases to provide reference and training material for the Division positions.

## LEGAL DIVISION

- (4) Division staff reviewed and updated procedures to handle expunction and nondisclosure orders for varying types of complaints and cases.
- (5) Division staff updated procedures for drafting ABOs to streamline the process and ensure that all paragraphs are up-to-date with the latest changes. This procedure includes a menu of ABO choices and standard paragraphs from which to merge the paragraphs to create the ABO documents.

**12. To recommend changes to the Texas Pharmacy Act and rules and to recommend policies and procedures that will enhance the agency's ability to protect the public health, safety, and welfare, or will improve the efficiency and effectiveness of the agency's operations, and forward the recommendations to the Executive Director throughout FY2016.**

**Status: ACCOMPLISHED**

**Comment:** This objective was accomplished as follows:

- A. Division staff continues the process of posting the scanned version of prior actions on the agency's website. The ongoing process includes scanning and archiving prior disciplinary actions in PDF files on shared drive, which has also assisted Board staff by allowing for easy access to the prior orders.
- B. Division staff continues to work on improving the presentation of proposed disciplinary actions to the Board at Board meetings through the use of a detailed summary of those actions entered by the Executive Director and those to be entered by the Board on the electronic notebooks.
- C. Division staff worked to improve the use of a secure mechanism for Board member access to confidential information regarding informal conferences and Board meeting presentation material (i.e., proposed disciplinary orders) prior the date of the meeting.
- D. General Counsel served as co-chair on the agency's Wellness Committee and coordinated the following programs:
  - (1) Maintain No Gain;
  - (2) Farm-to-Work;
  - (3) Provision of flu shots;
  - (4) Weekly yoga classes; and
  - (5) Lose and Win and other nutrition presentations.

In addition, General Counsel conducted agency survey regarding utilization of the program. Agency staff responded positively to the survey, and the results were used in the development of new programs.

- E. Division staff developed a Calendar of Events for FY2016 for informal conferences and reserved conference rooms accordingly.
- F. General Counsel reviewed expenditures of seizure money for compliance with laws and policies.

## LEGAL DIVISION

- G. Division staff updated automatically generated letterhead which resulted in significantly reduced printing costs.
- H. General Counsel and Division staff provided ongoing analysis and preparation of pill mill cases for presentation to pharmacist experts for expert opinions on whether to proceed with disciplinary action.
- I. Division staff developed standard Agreed Board Order guidance paragraphs. Division staff also updated the Preliminary Notice Letter standard paragraphs to reflect updates to language routinely used and to accommodate changes in laws and rules.
- J. Division staff researched numerous topics, including whether a case for substantial evidence review may be remanded to the TSBP for reconsideration of the sanction only, and applicable procedure at SOAH, and State and Federal courts.
- K. Texas Pharmacy Act  
  
General Counsel submitted changes to the Pharmacy Act for approval by the TSBP regarding disciplinary and legal proceedings for the legislative session.
- L. Board Rules
  - (1) General Counsel drafted rule changes to disciplinary guidelines and disciplinary sanctions for all licensees and for professional responsibility, and reviewed and recommended modifications for rules changes presented to the Board.
  - (2) General Counsel and Division staff reviewed rule changes throughout the fiscal year.

**13. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2015 *Annual Report* and submit to the Executive Director by the due date.**

**Status:** **ACCOMPLISHED**

**Comment:** The Division's first draft of the FY2015 *Annual Report* was submitted to the Executive Director by the due date. The final draft of the report was submitted to the Board at the May 2016 Board meeting.