



Texas State Board of Pharmacy

Annual Report

Fiscal Year 2014

Jeanne Waggener, R.Ph.
President

Gay Dodson, R.Ph.
Executive Director/Secretary

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Board Members

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

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

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

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

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

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

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

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

Office of the Executive Director**Executive Director**

Gay Dodson, R.Ph.

Director Information Resources

Steve Rapp

Executive Assistant

Becky Damon

Network Specialist

Todd Hayek

Matthew Hays

Receptionist

Debra Dukes

Administrative Services & Licensing**Division Director**

Cathy Stella, P.H.R.

Chief Accountant

Jane Bennett

Staff Services Officer II

Robbi Dana

Accountant II

Chantell Solomon

Accountant III

Sandra Morton

Purchaser

David Hardy

Licensing Administrator

Carol Willess

Licensing Specialists

Rachel Glass

Melinda Uballe

Misty Anderson

Lisa Ake

Marcie Tapia

Barbara Racca

Sarah Smith

Tiffany Reyes

Tammy Baker

Professional Services**Division Director**

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

Educational Coordinator

Shayda Bakhshi

Senior Administrative Assistant

Lauren Ivey

Margarita Zamarippa

Enforcement

Division Director

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

Assistant Director of Enforcement

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

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.

Compliance Officers

Terri Burrow, R.Ph.

Sharon Gaskill, R.Ph.

Kathy Salinas, R.Ph.

Compliance Inspector

David Meryman, Ph.T.R.

Adrienne Bauer, Ph.T.R.

Darrell Montgomery, Ph.T.R.

Chris Schuttler, Ph.T.R.

Michelle Raibon, Ph.T.R.

Javier Ledesma, Ph.T.R.

Ben Sims, Ph.T.R.

Vacant

Investigator (8)

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

Amanda Debs, Ph.T.R.

Enforcement Specialist

Griselda Lopez, Ph.T.R.

Elaine Naivar, Ph.T.R.

Brandy Plummer

Debra Beall

Christina Bishop, Ph.T.R.

Lindsay Cruthers, Ph.T.R.

Lydia Moreno

Mary Newman, Ph.T.R.

Vacant

Enforcement Technician

Yvette Muniz

Noreen Gomez

Administrative Assistant

Demetria Manning

Lacy Ickes

Ciara Hernandez

Legal

General Counsel

Kerstin Arnold, J.D.

Assistant General Counsel

Caroline Hotchkiss, J.D.

Staff Attorney

Tyler Vance, J.D.

Stacy Martyak, J.D.

Lance Brenton, J.D.

Legal Assistant

Tabatha Lowden

Kelly Clark

Kate Hayden, Ph.T.R.

Jessica Hirn

Cheri Brumbelow

Cathy Aleman

Amy Burt

Alfredo Garcia

Legal Assistant Team Manager

Ann Driscoll, Ph.T.R.

Board Mission

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

Board Philosophy

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

Board Strategic Goals (FY2013-2017)

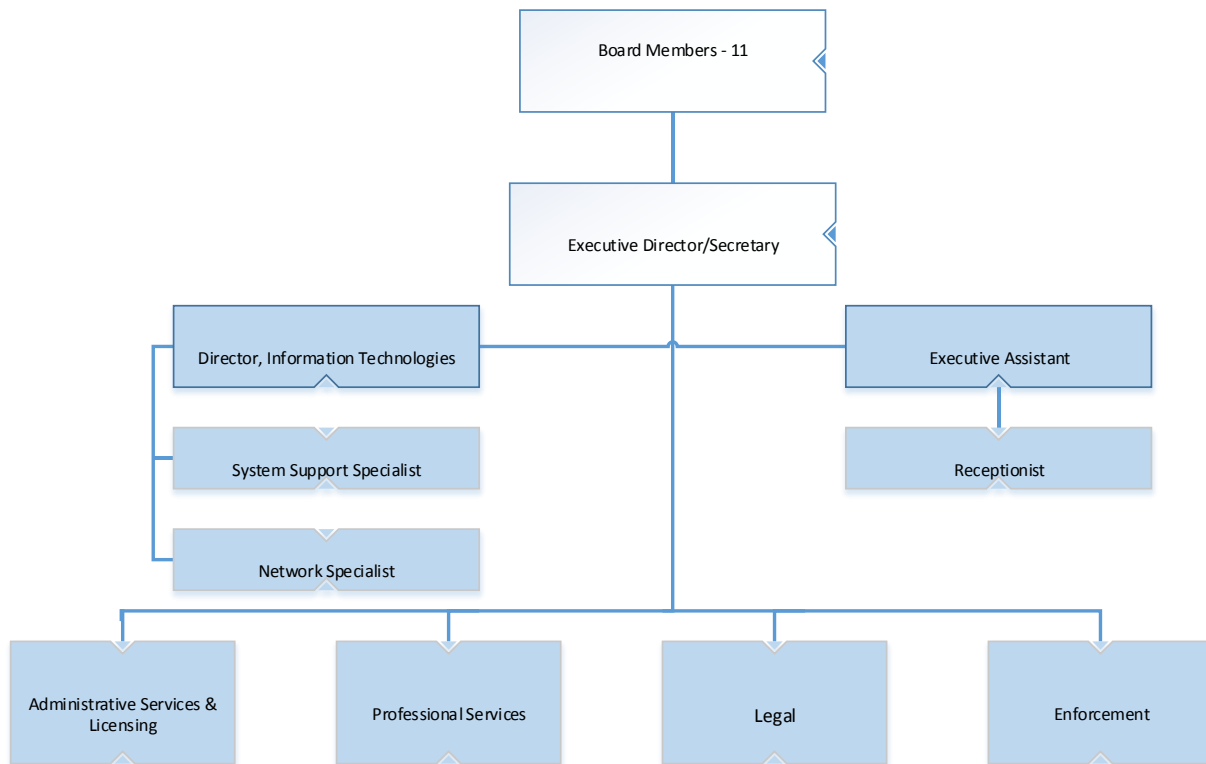
- We will establish and implement reasonable standards for pharmacist and pharmacy technician education and practice, and for the operation of pharmacies to assure that safe and effective pharmaceutical care is delivered to the citizens of Texas [Texas Pharmacy Act (Occupations Code, Sec. 551-566, 568-569)].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

Board Structure

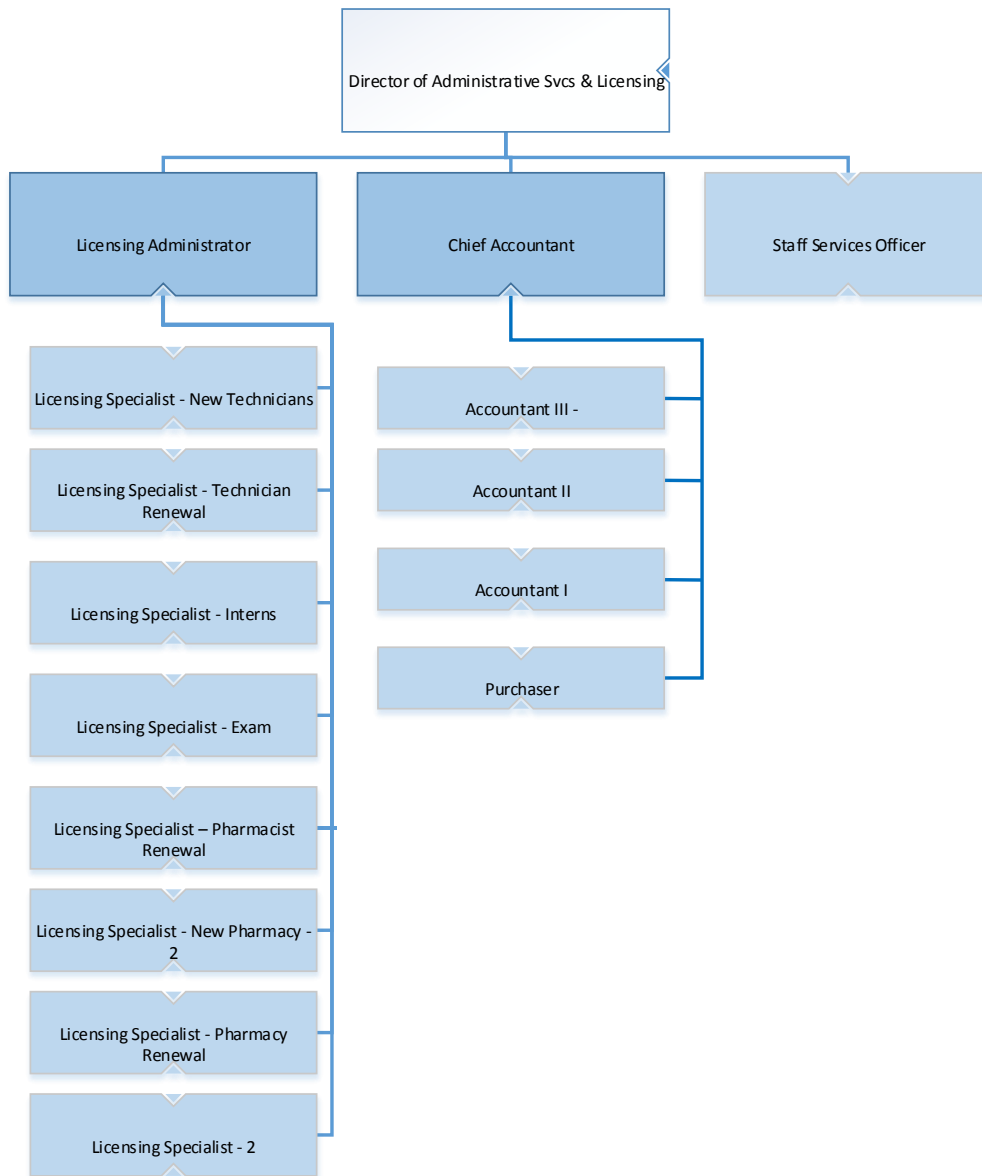
The Board's functional structure at the end of FY2014 was composed of the Office of the Executive Director and four Divisions:

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

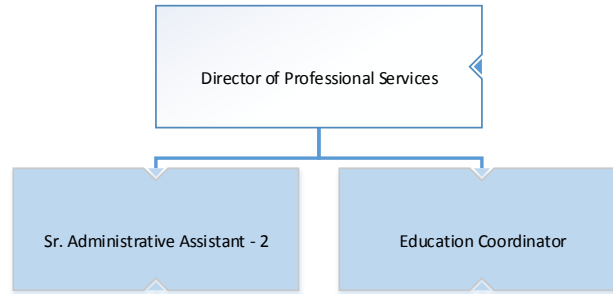
Texas State Board of Pharmacy
Fiscal Year 2014



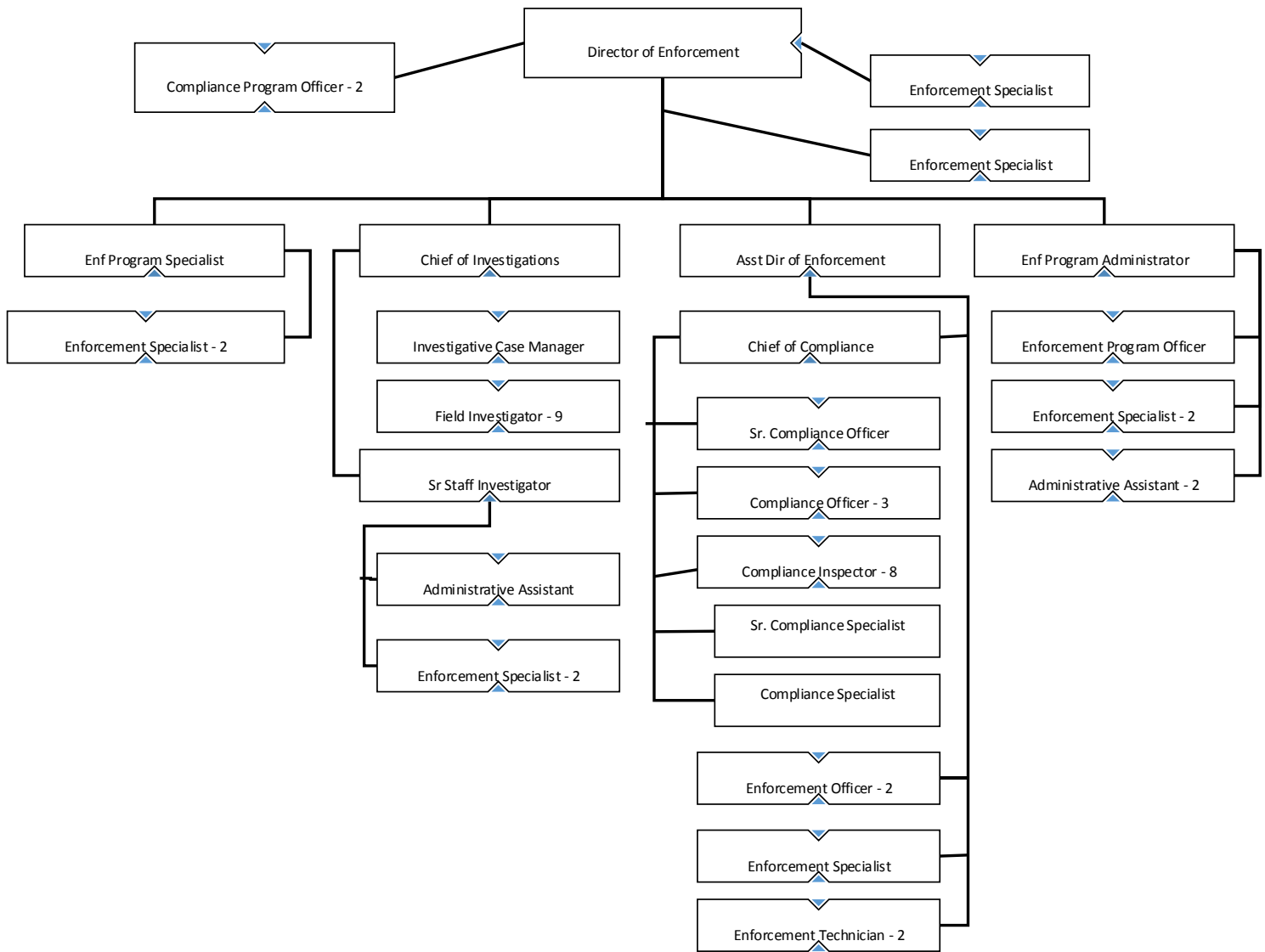
Texas State Board of Pharmacy
Administrative Services & Licensing Division
Fiscal Year 2014



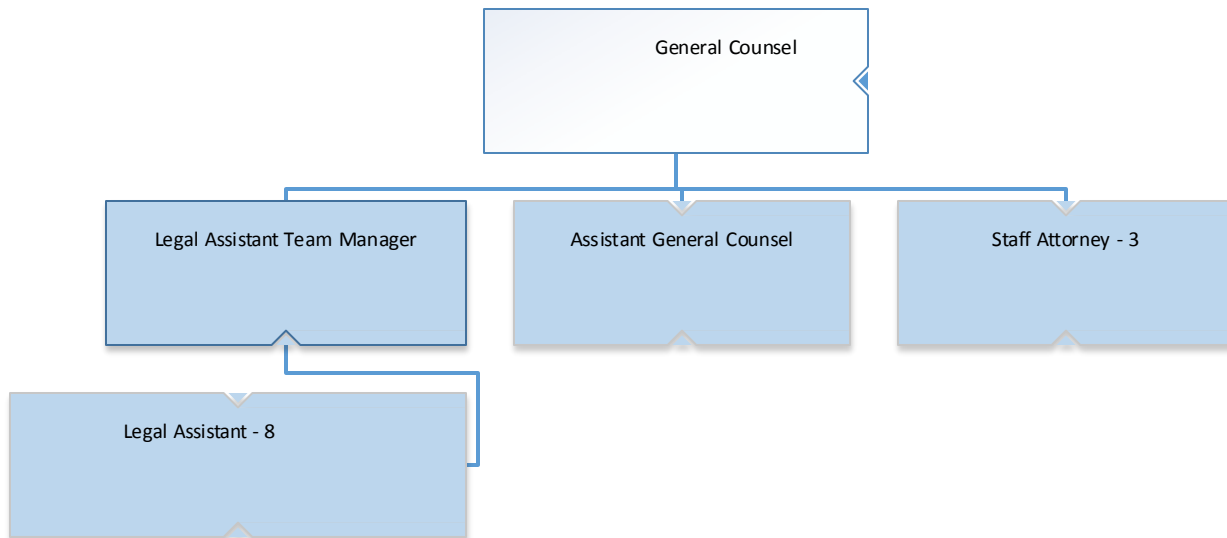
Texas State Board of Pharmacy
Professional Services Division
Fiscal Year 2014



Texas State Board of Pharmacy
Enforcement Division
Fiscal Year 2014



Texas State Board of Pharmacy
Legal Division
Fiscal Year 2014



FY2014 FISCAL REPORT

The attached report represents an unaudited report of the financial activities regarding the internal operating budget for Fiscal Year 2014 (September 1, 2013 - August 31, 2014). 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 *"FY2014 Annual Financial Report."*

As of August 31, 2014, the unexpended balance for FY2014 was approximately \$97,154 or 1.4% under budget. This is due primarily to the lapsing of positions.

Texas State Board of Pharmacy
Expenditures – Fiscal Year 2014 – 4th Quarter
As of August 2014

Code	Description	Budget	Expended	Unexpected Balance/ Lapse	Remaining Budget	Percent Remaining
1008	(a) Professional Fees & Svcs (Other)	153,319.90	142,411.11		10,908.79	7.12%
1010	(b) Professional Fees & Svcs (TPA)	186,260.00	186,260.00		0.00	0.00%
3002	Gas, Other Fuels & Lubricants	39,000.00	38,987.14		12.86	0.03%
3003	Vehicles - Maintenance	14,235.10	14,235.10		0.00	0.00%
3004	Consumable Supplies & Materials	51,323.02	49,895.04		1,427.98	2.78%
3005	Postage	77,730.00	74,780.43		2,949.57	3.79%
3006	Telephone	59,733.54	54,865.85		4,867.69	8.15%
3014	Subscriptions	14,736.60	13,880.72		855.88	5.81%
3018	Travel - Board Members (Service)	36,088.32	24,582.52		11,505.80	31.88%
3019/20	Travel - Board Mbr Conference	15,011.68	15,011.68		0.00	0.00%
3027	Travel - State Vehicle	1,847.47	1,847.47		0.00	0.00%
3028	Travel - Staff (Service)	108,084.13	107,134.94		949.19	0.88%
3037	Travel - Conference - State Vehicle	68.40	68.40		0.00	0.00%
3038	Travel - Staff (Conference)	9,464.72	6,551.20		2,913.52	30.78%
3039	Travel - Staff (Conf Out Of State)	17,326.57	17,326.57		0.00	0.00%
3516	Membership Fees & Dues	3,292.00	2,940.00		352.00	10.69%
3518/3517	Administrative Support Service	197,482.52	174,532.63		22,949.89	11.62%
3518(b)	HPC Shared Regulatory Database Migration	265,150.00	265,150.00		0.00	0.00%
3521	Criminal Investigative Expense	644.78	644.78		0.00	0.00%
3534	Freight & Delivery Service	7,800.00	7,058.02		741.98	9.51%
3535	Maint & Repair - Furn & Equip	9,999.74	9,584.79		414.95	4.15%
3536	Rental of Furn & Equip	7,560.00	6,932.12		627.88	8.31%
3537	Rental of Space	8,464.11	8,102.54		361.57	4.27%
3538	Bonds & Insurance	9,118.00	5,759.00		3,359.00	36.84%
3539	Maintenance and Repair-Building	202,250.00	202,132.70		117.30	0.06%
3540	Reproduction & Printing	70,750.00	39,807.79	29,000.00	1,942.21	2.75%
3550	Hearing Expense	693.12	693.12		0.00	0.00%
3570	Registration Fees	54,150.00	50,774.95		3,375.05	6.23%
3571	Board Member Registration	5,256.00	5,110.00		146.00	2.78%
3581	F & E - Not Capitalized or Inventoried	98,082.58	97,477.52		605.06	0.62%
3582	F & E -Under \$1000-Inventory	50,690.19	47,547.04		3,143.15	6.20%
3588	Books & Recorded Materials	1,200.00	917.64		282.36	23.53%
3590	Miscellaneous (HPC Transfer and Fees)	55,021.82	54,504.82		517.00	0.94%
3595	Awards	2,000.00	1,616.96		383.04	19.15%
5001	Purchase of Vehicles	196,260.00	176,244.22	19,500.00	515.78	0.26%
7001	Exempt Salaries	107,565.00	107,565.00		0.00	0.00%
7002/7047	Classified Salaries - Full Time	4,066,707.69	3,957,619.89	89,541.00	19,546.80	0.48%
7006/7007	Salaries/Wages-Hourly Part-time FTE	7,613.37	7,613.37		0.00	0.00%
7017	One-Time Merit	211,809.00	211,809.00		0.00	0.00%
7020	Hazardous Pay	2,990.00	2,990.00		0.00	0.00%
7021	Overtime Pay	20,000.98	20,000.98		0.00	0.00%
7022	Longevity	81,400.00	81,400.00		0.00	0.00%
7023	Lump Sum Termination Payment	57,529.31	19,256.31	38,273.00	0.00	0.00%
7025	Compensatory Per Diem	350.00	210.00		140.00	40.00%
7033	Employees Retirement - Other	809.62	571.00		238.62	29.47%
7040	Addl Payroll Retirement Contribution	17,542.09	17,542.09		0.00	0.00%
7042	Payroll Health Insurance Contribution	35,812.45	35,812.45		0.00	0.00%
7219	Texas Online Fee	226,986.00	226,986.00		0.00	0.00%
7947	State Office of Risk Management	6,101.48	6,101.48		0.00	0.00%
7984	Unemployment Benefits	4,080.50	4,080.50		0.00	0.00%
	Controlled Substance Forfeiture Funds (UB)	53,757.11	0.00	53,757.11	0.00	0.00%
	Senate Bill 1100 Remaining Balance	18,503.76	0.00	17,500.00	1,003.76	5.42%
Total ADMIN, LIC & ENF		6,949,652.67	6,604,926.88	247,571.11	97,154.68	1.40%

Office of the Executive Director

This FY2014 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 FY2014.

FY2014 SIGNIFICANT ACCOMPLISHMENTS

1. The agency accomplished or partially accomplished all of the 84 objectives [83 accomplished (99%) and one partially accomplished (1%)]. In addition, the agency also met or exceeded 100% 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. The agency was successful in its efforts to obtain some additional space for agency licensing staff. The new space is on the fourth Floor of Tower 1 of the William P. Hobby State Office Building; however, this space is not contiguous with the agency's existing space which presents workflow and efficiency issues. Despite this major drawback, a workable building reconstruction plan was completed that satisfies the agency's immediate housing needs.
3. Agency Staff gave 59 presentations to approximately 5,840 individuals during FY2014. (See Professional Services Ongoing Objective #4, Enforcement Ongoing Objectives #7, and Executive Director Ongoing Objective #6 for more details).
4. A post-payment audit by the Texas Comptroller of Public Accounts was conducted of the payroll, purchase, and travel transactions of the agency to determine compliance with applicable state laws. In addition, the agency's internal control structure and fixed assets were reviewed for any inaccuracies or inconsistencies. No issues were identified, resulting in a compliant audit.
5. The agency's average complaint resolution time decreased by 11 days (6%). See Enforcement Ongoing Objective #3 for additional details regarding complaint data. Data regarding the past five fiscal years is reflected in the chart below:

Fiscal Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY2010	5,702	+8%	5,512	-11%	97%	182 Days	-14%
FY2011	5,698	-<1%	5,840	+6%	102%	195 Days	+7%
FY2012	5,830	+2%	5,766	-1%	99%	204 Days	+5%
FY2013	5,927	+2%	6,552	+14%	111%	187 Days	-8%
FY2014	5,561	-6%	5,606	-14%	101%	176 Days	-6%

OFFICE OF THE EXECUTIVE DIRECTOR

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 six respondents in FY2014. All respondents were suspended and no petitions were denied.
7. As seen in the chart below, in FY2014 the agency continued to have a significant increase (15.2%) in the number of licensees as compared to FY2010.

Fiscal Year	# Licensed Pharmacists	# Licensed Pharmacies	# Registered Pharmacy Technicians	# Registered Pharmacy Technician Trainees	# Registered Interns	Total	% Increase from Previous Year
FY2010	26,551	6,762	36,134	13,829	2,451	85,727	--
FY2011	27,329	6,964	37,507	11,839	2,806	86,445	0.8%
FY2012	28,417	7,185	39,973	13,195	2,805	91,575	5.9%
FY2013	29,498	7,350	41,497	15,187	2,938	96,470	5.3%
FY2014	30,707	7,656	41,700	15,751	2,949	98,763	2.4%
% Increase Since FY2010	15.7%	13.2%	15.4%	13.9%	20.3%	15.2%	-

8. The following TSBP Board Members and staff were appointed to offices, received honors, or received recognition during FY2014.
 - A. Board President Jeanne D. Waggener, R.Ph. continued to serve as the District 6 Representative on the National Association of Boards of Pharmacy's Executive Committee.
 - B. Board Treasurer Buford T. Abeldt, Sr., R.Ph. was appointed a member of the National Association of Boards of Pharmacy's *Task Force on the Regulation of Pharmacy Benefit Managers*.
 - C. Board Member Alice G. Mendoza, R.Ph. was appointed as a member of the National Association of Boards of Pharmacy's *Committee on Law Enforcement/Legislation*.
 - D. Board member L. Suzan Kedron was appointed as a member of the National Association of Boards of Pharmacy's *Task Force on the Regulation of Pharmacy Benefit Managers*.
 - E. Board Member Phyllis A. Stine was appointed to serve as an alternate member on the National Association of Boards of Pharmacy's *Committee on Law Enforcement/Legislation*.
 - F. Board member Joyce A. Tipton, R.Ph., MBA was appointed as a member of the National Association of Boards of Pharmacy's *Committee on Constitution and Bylaws*.

OFFICE OF THE EXECUTIVE DIRECTOR

- G. Board Member Charles F. Wetherbee was appointed to the National Association of Boards of Pharmacy's *Committee on Law Enforcement/Legislation*.
- H. Executive Director/Secretary Gay Dodson, R.Ph. was:
 - (1) appointed to serve as a chair of the National Association of Boards of Pharmacy's *Committee on Constitution and Bylaws*; and
 - (2) selected by the Executive Committee of the National Association of Boards of Pharmacy to serve as the 2014 Honorary President of the Association.

OFFICE OF THE EXECUTIVE DIRECTOR

FY2014 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. During FY2014, the agency was able to secure additional space in the Hobby Building, which alleviated some of the overcrowding issues; however, the new space is located in Tower 1. The licensing division moved to this new space, which resulted in licensing, and inspection report files now inconveniently located in another tower of the Hobby Building.
2. During FY2014, the Field Compliance Staff conducted 1,698 pharmacy inspections, which fell short of the goal of conducting 2,000 inspections and represented the second consecutive year that the goal was not met. The goal was not met due to various factors which are described in the Enforcement Division's Ongoing Objective #2.
3. During FY2014, TSBP received 348 reports of employee pilferage by 229 individuals resulting in the diversion of 749,704 dosage units of prescription drugs. In FY2013, TSBP received 378 reports of employee pilferage by 326 suspects resulting in the diversion of 584,344 dosage units. Although the number of reports decreased (by 8%) and the number of suspects decreased (by 30%), the number of dosage units of stolen/lost prescription drugs increased by 28%.

OFFICE OF THE EXECUTIVE DIRECTOR

FY2014 ANNUAL REPORT

GOAL

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

Objectives (New)

1. **To review and implement legislation passed by the 83rd Texas Legislature that affects agency operations and/or the practice of pharmacy throughout FY2014.**

Status: ACCOMPLISHED

Comment: A chart containing the action steps to implement provisions of bills passed during the 2013 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. **To assist and participate with the Board in updating and preparing the *TSBP Strategic Plan* for FY2015-2019 and submitting the plan to the Governor's Office of Budget, Planning, and Policy and Legislative Budget Board by the due date.**

Status: ACCOMPLISHED

Comment: 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 *Strategic Plan* at the May 2014 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. **To direct the preparation of a proposed budget for the FY2016-2017 biennium for review and approval by the Board at the FY2014 Board Budget Meeting.**

Status: ACCOMPLISHED

Comment: The *Legislative Appropriation Request* was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy (GBO) by the July 28, 2014, due date. The LAR included the items approved by the Board at the May 6, 2014, meeting.

4. **To direct the preparation and submission of the agency's *Legislative Appropriation Request* for FY2016-2017 and corresponding performance measures by the due date.**

Status: ACCOMPLISHED

OFFICE OF THE EXECUTIVE DIRECTOR

Comment: The Executive Committee reviewed and approved staff's recommendations for the exceptional items contained in the Legislative Appropriation Request (LAR) at an April 29, 2014 meeting. The full Board met on May 6, 2014 to review and approve the agency's LAR for FY2016-2017. The Board Members were apprised of the exceptional items requested in the LAR, which included funding for the following:

- executive director salary increase;
- merit increases for high performing staff;
- reclassification of staff positions and equity increases;
- technology and imaging increases;
- vehicle replacement; and
- funding for two additional employees.

The exceptional item request was later amended to include:

- additional funding for "unfunded mandates" for retirement and health contributions;
- an annual lump sum payout to the executive director upon retirement; and
- a reduction in other areas, including reducing the request to one additional employee.

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

Status: ACCOMPLISHED

Comment: On September 1, 2014, Governor Rick Perry Appointed Christopher M. Dembny, R.Ph. and Bradley Miller, Ph.T.R. to the new positions to the Board created by S.B. 500 and Re-appointed members Buford T. Abeldt, Sr., R.Ph., L. Suzan Kedron, and Dennis F. Wiesner, R.Ph. These appointments brought the Board to its full complement of 11 members.

On October 24, 2013, the Executive Director, Division Directors, and other agency staff participated in the orientation of new Board Members Dembny and Miller. Re-appointed members Abeldt, Kedron, and Wiesner were not required to attend the orientation.

OFFICE OF THE EXECUTIVE DIRECTOR

Objectives (Ongoing)

- To manage and monitor the agency's performance and operational efficiency throughout FY2014.**

Status: **ACCOMPLISHED**

Comment: The agency accomplished or partially accomplished all of the 84 objectives [83 accomplished (99%) and one partially accomplished (1%)]. In addition, the agency met or exceeded all (100%) 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		FY14 Projected Performance	FY14 Performance Attained	Projected Target Met?*
A. GOAL: MAINTAIN STANDARDS				
Outcome (Results/Impact)				
	Percent of Licensees with No Recent Violations	96.0%	95.5 %	Met
	Percent of Licensees Who Renew Online	93%	97.17%	Exceeded
A.1.1 STRATEGY: LICENSING				
Output (Volume)				
	Number of New Licenses Issued to Individuals	1,450	1,849	Exceeded
	Number of Licenses Renewed (Individuals)	14,514	15,544	Exceeded
Explanatory				
	Total Number of Business Facilities Licensed	7,200	7,656	Exceeded
B. GOAL: ENFORCE REGULATIONS				
Outcome (Results/Impact)				
	Percent of Complaints Resulting in Disciplinary Action	15.0%	11.63%	Met
B.1.1 STRATEGY: ENFORCEMENT				
Output (Volume)				
	Number of Jurisdictional Complaints Resolved	5,420	5,582	Exceeded
Efficiencies				
	Average Time for Jurisdictional Complaint Resolution	180	176	Exceeded
Explanatory				
	Number of Jurisdictional Complaints Received	5,620	5,536	Met
B.1.2. STRATEGY: PEER ASSISTANT				
Output (Volume)				
	Number of Licensed Individuals Participating in a Peer Assistant Program	180	182	Exceeded

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

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 2014 meeting.**

Status: **ACCOMPLISHED**

Comment: A proposed budget, including revenue projections and fee recommendations, was presented to the Executive Committee at an April 29, 2014, meeting and approved by the full Board at the August 5, 2014, Board Business Meeting. See Comments under Administrative Services and Licensing, Ongoing Objective #3 for additional information.

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 FY2014.**

Status: **ACCOMPLISHED**

Comment: The Executive Director as well as the agency's Enforcement, Compliance, Investigation, and Legal staffs worked extensively with federal, state, and local regulatory agencies. (See Enforcement Division's Ongoing Objective #5, Legal Division's Ongoing Objective #8, and Professional Services Division's Ongoing Objective #9 for details of these cooperative efforts.)

4. **To manage the information resource needs (data processing, telecommunication, and Website) of the agency throughout FY2014 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: The following were accomplished for this objective.

A. Major accomplishments include:

- (1) Networked services were extended to Tower 1 in the Hobby building to allow the Licensing Division full access to the TSBP network;
- (2) IT staff worked with the Compliance Division to implement a pilot project for the testing of various computers for use during inspections of pharmacies;
- (3) Web server storage was moved to a new machine to increase capacity and provide better security; and
- (4) IT implemented an emergency notification system to alert staff in the event of a critical physical or electronic threat.

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- 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. Major accomplishments include:
 - (1) IT provided agency staff access to a number of free training opportunities on various software programs;
 - (2) The email storage capacity for the agency was increased;
 - (3) Increased mobility through updated wireless access; and
 - (4) Added additional storage capacity to the agency imaging system and extended access to Board members so they are able to securely review cases prior to informal settlement conferences.
- D. Penetration tests and internal security assessments were performed regularly to identify gaps and vulnerabilities. These gaps and vulnerabilities were then remedied by the agency security team. Security training was also provided regularly to agency staff.

5. **To review all federal statutes, regulations, and policies that may affect the regulation of the practice of pharmacy and make timely recommendations to the Board for implementation of any required Board actions throughout FY2014.**

Status: ACCOMPLISHED

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

6. **As the Executive Director of the Board, throughout FY2014, to:**
- A. **Represent Board policies and programs to local, state, and national pharmacy, health-related, and consumer organizations;**
 - B. **Act as the Board's liaison to the pharmacy professional associations;**
 - C. **Continue to take a proactive role in the operation of the Health Professions Council; and**
 - D. **Continue to support and participate in the Texas Pharmacy Congress.**

Status: ACCOMPLISHED

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Comment: The following were accomplished for this objective.

A. The Executive Director:

(1) Gave 16 presentations to approximately 2,130 persons, as indicated below:

Date	Name of Association/Location of Meeting	Attendance (Approximate)
9/17/2013	University of Texas, Kappa Epsilon Chapter – Austin	40
9/27/2013	Texas Medicaid Vendor Drug Pharmacists -- Austin	15
9/29/2013	University of Texas Pharmacy Practice Seminar – Austin	500
10/16/2013	Texas Federation of Drug Store's Annual Meeting – Bastrop	40
10/19/2013	Austin Area Society of Health-System Pharmacists – Austin	50
10/27/2013	Texas Pain Society's Annual Meeting – Bastrop	60
11/9/2013	El Paso Pharmacy Association – El Paso	100
11/22/2013	University of Texas 1 st Professional Year Students – Austin	100
3/3/2014	University of Texas Pharmacy Law Class – Austin	90
3/6/2014	Dallas Area Pharmacy Association – Richardson	120
3/15/2014	Harris County Sheriff's Office "Pill Mill Summit" – Humble	40
4/4/2014	Texas Pharmacy Association's Spring Symposium – Austin	75
4/12/2014	Board Update and Forum, TSHP Annual Meeting – Houston	200
4/12/2014	Pharmacy Technician Panel Discussion, TSHP Annual Meeting – Houston	100
4/26/2014	West Texas Pharmacy Association's Annual Meeting – Lubbock	100
8/1/2014	Texas Pharmacy Association's Annual Meeting – San Marcos	500
		2,130

(2) Participated in 23 interviews with the press as indicated below:

Date	Interview With
9/4/2013	Telephone interview with Tony Fremantle from the Houston Chronicle regarding a dispensing error
9/4/2013	Telephone interview with Nikki Courtney KTRH in Houston regarding flu shots
9/6/2013	Telephone interview with Student Media Outlet at UT Tyler regarding Pharmacy Programs
10/22/2013	Telephone interview with Rach Cox of KWTX, Waco/Killeen Area regarding Central County MHMR
10/23/2013	Telephone interview with Boer Deng with The Economist regarding Sterile Compounding
11/8/2013	Telephone interview with Mary Ann Roser, Austin American Statesman regarding Sterile Compounding
3/25/2014	On camera interview on Pharmacy Compounding with Jace Larson - NBC

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Date	Interview With
4/7/2014	Interview with Teri Langford, Texas Tribune regarding execution drugs
4/14/2014	Interview with Michael Garofola of News 4 in San Antonio regarding complaints on prescription pricing
4/21/2014	Telephone interview with Adam of KEYE News Austin regarding
4/22/2014	Interview with Adam Winkler from KEYE Austin regarding dispensing errors
5/7/2014	Telephone interview with Mary Ann Roser, Austin American Statesman regarding compounding
5/7/2014	Telephone interview with Christine Coyne, Weatherford Democrat regarding compounding pharmacy
5/8/2014	Telephone interview with Jim McBride, Amarillo Globe News regarding disciplinary action against a pharmacist
5/19/2014	Telephone interview with Andrew Wheat, Texans for Public Justice regarding compounding error
5/29/2014	Telephone interview with Terry Langford, Texas Tribune regarding pharmacist compounding drugs used in executions
6/9/2014	Telephone interview with Terry Langford, Texas Tribune regarding pharmacist compounding drugs used in executions
6/11/2014	Telephone interview with Robert Maxwell of KXAN Austin regarding prescription monitoring program at DPS
6/11/2014	Telephone interview with Michael Grocheck, Associated Press, Houston regarding pharmacists compounding drugs used in executions
6/12/2014	Meeting with Terry Langford of the Texas Tribune
6/19/2014	Telephone interview with Megan Gray, Denton Record Chronicle regarding pharmacy investigation
6/19/2014	Telephone interview with Chuck Schechner, KRLD Radio, Dallas regarding disciplinary action against a pharmacy and pharmacist
8/13/2014	Telephone interview with Devon Singleton, KRMR, Amarillo regarding disciplinary action against a pharmacist

B. Attended 22 meetings, conferences, or participated in telephone calls representing the agency as indicated below:

Date	Name of Association/Location of Meeting
11/12/2013	Telephone call from Larry Wagonel regarding pharmacy technician registration
12/16/2013	Deposition - United States ex rel. Lisitza v. Par Pharmaceutical – Austin
12/19/2013	Telephone call with Virginia Herold, California Board of Pharmacy regarding Cease and Desist order on a Texas pharmacy
12/19/2013	Telephone call with Becky Weisel, Nebraska Board of Pharmacy regarding a Texas Pharmacy
1/2/2014	Telephone Call from John Navarro, New York Board of Pharmacy regarding compounding
2/16/2014	Pharmacy Issues Legislative Summit – Austin
3/19/2014	TSBP Task Force on Pharmacy Technicians
3/26/2014	Telephone call from Dr. Cheryl White, Texas Pain Society concerning theft of prescription pads

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Date	Name of Association/Location of Meeting
4/28/2014	Prescription Drug Monitoring Program Workgroup Meeting – Austin
4/28/2014	Telephone call with Pew Commission regarding Pharmacy Compounding oversight – Austin
5/1/2014	Texas Pharmacy Practice Coalition Meeting – Houston
5/14/2014	Meeting with regarding Physician Investment in Pharmacies
5/17-20/2014	National Association of Boards of Pharmacy Annual Meeting – Phoenix
5/28/2014	Meeting with Omnicare – Austin
6/25/2014	Telephone call with Catherine Hawkins State Auditor's office regarding Pharmacy Compounding – Austin
7/24/2014	Meeting with representatives of the Texas Society of Health-System Pharmacists regarding Class C Pharmacy inspections -- Austin
7/25/2014	Meeting with Elizabeth Hadley and Ann Patterson concerning Physician Dispensing -- Austin
7/25/2014	Telephone call from Yuzon Wu, Maryland Board of Pharmacy regarding Texas compounding pharmacy
7/28/2014	Meeting with representatives of Texas Pharmacy Association – Austin
7/30-8/3/2014	Texas Pharmacy Association's Annual Meeting – San Marcos
8/11/2014	Telephone call from Joey Reed, Sunset Commission regarding the handling of criminal offenses by licensees
8/25/2014	Prescription Drug Monitoring Program Workgroup Meeting – Austin

C. Provided testimony and served as a resource on 20 occasions to Interim Legislative Committees, Legislators, and Federal agencies as indicated below:

Date	Activity
10/7/2013	Conversation with Sharon in Senator Jane Nelson's office about compounding
10/29/2013	Telephone call with Stacy in Senator Kevin Eltife's office regarding nuclear pharmacy
10/30/2013	Telephone call from Sharon in Senate Health and Human Services Committee regarding November Board meeting issue regarding ratio of pharmacists to pharmacy technicians
12/10/2013	50-State Conference Call with FDA regarding Pharmacy Compounding – Austin
12/16/2013	Telephone call from Mat Posey in Representative Zedler's office regarding release of complainant information
12/4/2013	Telephone call from Steven Albright in Senator Robert Nichols office concerning the Task Force on Pharmacy Compounding
2/10/2014	Telephone Call from Robert in Senator Uresti's office regarding a constituent who was denied service by a pharmacist
3/14/2014	50-State Conference Call with FDA regarding Pharmacy Compounding – Austin
3/20-21/2014	FDA's Inter-governmental Working Meeting on Oversight of Compounding Pharmacies – Silver Spring, MD
3/25/2014	Telephone call from Spencer Harris in Senator Brian Birdwell's office regarding constituent concern with pharmacy licensing requirements
4/2/2014	Telephone call from Isabel in Senator Zaffarini's office regarding constituent complaint

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Date	Activity
4/4/2014	Telephone call from Lizzy in Representative Naistat's office regarding constituent concern
4/7/2014	House Public Health Committee Hearing (Prescription Drug Abuse) – Austin
4/14/2014	House Public Health Committee Hearing (Pharmacy Compounding and Biosimilars) – Austin
5/5/2014	Telephone call with Mica Rodriguez in Senator Uresti's office regarding implementation of SB 316
6/20/2014	Telephone call from Melo Gillam from Representative George Lavender regarding complaint
8/11/2014	Budget Presentation to Staff of Legislative Budget Board and the Governor's Budget, Policy, and Planning Office
8/15/2014	Senate Health and Human Services Committee Hearing on prescription drug abuse and strategies for reducing prescription drug abuse in Texas
8/17/2014	Meeting with Senator Charles Schwertner – Georgetown
8/22/2014	Telephone Call from Preston in Representative Lois Kolkhorst's office regarding pharmacy compounding and physician dispensing

D. The Executive Director attended three meetings of the Health Professions Council:

Date	Activity
9/9/2013	Health Professions Council Meeting – Austin (Allison Benz attended)
12/8/2013	Health Professions Council Meeting – Austin
3/16/2014	Health Professions Council Meeting – Austin
6/9/2014	Health Professions Council Meeting – Austin

E. The Executive Director attended four meetings of the Texas Pharmacy Congress as follows.

Date	Activity
11/19-20/2013	Texas Pharmacy Congress Meeting – Corpus Christi
2/18-19/2014	Texas Pharmacy Congress Meeting -- Austin
5/1-2/2014	Texas Pharmacy Congress Meeting – Houston
8/11-12/2014	Texas Pharmacy Congress Meeting – Austin

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 FY2014.**

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 has made recommendations for improvements (see Administrative Services Ongoing Objective #13, Professional Services Ongoing Objective #12, Enforcement Ongoing Objective #13, and Legal Ongoing Objective #13).

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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 FY2014.

Status: ACCOMPLISHED

Comment: In FY2014, Division staff attended General Staff Meetings held in December 2013, February 2014, May 2014, and August 2014. In conjunction with quarterly General Staff Meetings, Division staff participated in staff training, as listed below:

- EEO Training for Team Leaders;
- Alliance Work Partners Workplace Violence Prevention;
- Alliance Work Partners Employee Assistance Program Training;
- Alliance Work Partners Cube Etiquette; and
- Team Leader Training on FMLA.

Evaluations of the Division Directors, Director of Information Technology, and Executive Assistant were completed in August 2014.

9. To provide the Board information necessary to conduct performance evaluation of the Executive Director by August 31, 2014.

Status: ACCOMPLISHED

Comment: A self and staff evaluation of the Executive Director were presented to the Board at its August 2014 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 *FY2013 Annual Report* to be presented to the Board at the August 2014 meeting.

Status: ACCOMPLISHED

Comment: The final draft of the TSBP Annual Report for FY2013 was presented to and approved by the Board at the August 2014 Board meeting.

Administrative Services and Licensing Division

FY2014 SIGNIFICANT ACCOMPLISHMENTS

1. The Division accomplished 100% of its objectives.
2. The agency was partially successful in its efforts to obtain much needed space for its agency employees. In 1995, in-house employees numbered 35 FTE's and these staff occupied 8,415 square feet in the Wm. P. Hobby building. In FY2012 the agency housed 66 employees and interns, and occupied 9,014 square feet. With the passage of the 83rd legislative appropriations act, the agency houses 74 employees and interns. The Texas Legislature approved funding to remodel unused space within the Wm. P. Hobby building belonging to the Texas Department of Insurance. The new space is not contiguous with the agency's existing space and in fact, is located in another tower of the building, presenting workflow and efficiency issues. Despite this major drawback, a workable building reconstruction plan was completed that satisfies the agency's immediate housing needs.
3. A post-payment audit by the Texas Comptroller of Public Accounts was conducted of the payroll, purchase, and travel transactions of the agency to determine compliance with applicable state laws. In addition, the agency's internal control structure and fixed assets were reviewed for any inaccuracies or inconsistencies. No issues were identified, resulting in a compliant audit.
4. The Division met or exceeded 100% of the Key Performance Measures required to be submitted to the Legislative Budget Board.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

FY2014 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Although the agency was successful in obtaining additional appropriations for the majority of the requested exceptional items during the 83rd Legislative session, the agency has unfunded mandates from the 82nd Legislative Session that were not funded during the 83rd Session. Included in these unfunded mandates are:
 - Funding for merit raises, hazardous and longevity pay increase and increases to mileage and hotel per diem. Specifically, the 81st Texas Legislature funded merit raises to reward high-performing employees; however, the agency was forced to cut the raises because of a mandated budget cut. These funds were not restored to the agency in the 82nd or the 83rd Legislative Sessions.
 - An 82nd Legislative Session contingency provision that required state agencies to contribute 1.0% of the total base wages and salaries for each employee of an agency, to the Employees Retirement System's Group Benefits Program. This provision was continued by the 83rd Legislature with an additional 0.05% payment for additional Payroll Contribution for Retirement Contribution. The agency has had to pay for this provision from the agency's existing appropriations mainly through lapsing the salaries of vacated positions. If the agency is fully staffed and thus has no lapsed salaries, we will not be able to fund this expense.
2. The agency was partially successful in its efforts to obtain much needed space for its agency employees. The Texas Legislature approved funding to remodel unused space within the Wm. P. Hobby building, belonging to the Texas Department of Insurance. The new space is not contiguous with the agency's existing space and in fact, is located in another tower of the building, presenting workflow and efficiency issues.
3. All of the Licensing Services Programs continue to grow resulting in the following increases in workload.

Licensing	FY10	FY11	FY12	FY13	FY14	% Increase
Pharmacists	26,551	27,329	28,417	29,498	30,707	15.7%
Pharmacies	6,762	6,964	7,185	7,350	7,656	13.2%
Pharmacy Technicians	36,134	37,507	39,973	41,497	41,700	15.4%
Pharmacy Tech Trainees	13,829	11,839	13,195	15,187	15,751	13.9%
Interns	2,451	2,806	2,805	2,938	2,949	20.3%
Total	85,727	86,445	91,575	96,470	98,763	15.2%

4. Regulatory Database system – The project to replace the TSBP database system (originally written in the 1970's and converted to a DEC VAX platform in 1989) with a Shared Regulatory Database System (RDB), entitled, the Versa Regulatory System, became operational in May 2011 with the Versa Online System beginning operation on June 3, 2011. The implementation and ongoing use of the System has left the agency struggling with a number of issues. The increasing amount of manual processes required and poor project management/responsiveness from Versa, are major problem issues. Most importantly, the Versa Online System's lack of integration with the back office system creates duplicate data, is not user friendly, and continues to result in major problems in the issuance of licenses and many customer complaints. Although an updated online system is available, it has not yet been tested or implemented.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

FY2014 ANNUAL REPORT

GOAL

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

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions in the following new objectives throughout FY2014.

1. Reviewing and implementing legislation passed by the 83rd Texas Legislature that affects agency operations and/or the practice of pharmacy;
2. Updating and preparing the *TSBP Strategic Plan for FY2015-2019* 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 FY2016-2017 biennium for review and approval by the Board at the 2014 Board Budget meeting;
4. Preparing the *TSBP Legislative Appropriation Request for FY2016-2017* and corresponding performance measures by the due date; and
5. Conducting the orientation of new Board Members within 90 days of appointment by the Governor.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

1. Division Director working with other Divisions assisted with the reviewing and implementation of new legislation passed by the 83rd Texas Legislature.
2. The Strategic Plan for FY2015-2019 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 *Strategic Plan* at the May 2014 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. Division Director worked with the Executive Director and the other Division Directors in preparation of the proposed budget for FY2016-2017. The Executive Committee reviewed staff's recommendations for the exceptional items contained in the *Legislative Appropriation Request* (LAR) in April 2014. The full Board met in May 2014 to review and approve the agency's LAR for FY2016-2017. 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; and funding for two additional employees. The exceptional item request was later amended to include unfunded mandates for retirement and health contributions, a lump sum payout to the executive director upon retirement.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

4. Division Director worked with the Executive Director and the other Division Directors in preparation of the FY2016-2017 Legislative Appropriations Request and reviewed the final draft of the document. The *Legislative Appropriation Request* was submitted to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning, and Policy (GBO) by July 28, 2014. The LAR included the items approved by the Board in May 2014.
5. Division Director, along with the Executive Director and the other agency staff, participated in the orientation of new Board members.

Objectives (Ongoing) – Administrative Services

1. **To prepare a proposed budget for FY2015 for submission to the Board two weeks prior to the 2014 Annual Policy Meeting.**

Status: **Accomplished**

Comment: A proposed budget, including revenue projections and fee recommendations, was presented and approved at the August 2014 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 FY2014.**

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, 2014, 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 FY2014.**

Status: **Accomplished**

Comment: A quarterly operating budget was presented to the Board at each of the regularly scheduled business meetings and recorded as such in the official minutes of the Board meeting.

A fee change was recommended and approved by the Board in August 2013 with an effective date of January 1, 2014. This resulted in an approximate 30% increase in fees for all applicants and licensees. The fee increase was necessary in order to comply with the Contingent Revenue Rider that requires sufficient revenue be generated to cover the additional appropriations that were approved by the 83rd Legislature.

A second fee change was recommended and approved by the Board in August 2014 with an effective date of October 1, 2015. The intent of this fee reduction assumes no new appropriations and covers baseline appropriations in the coming biennium. This fee reduction will result in an approximate 15-19% reduction.

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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 FY2014.**

Status: Accomplished

Comment: A post-payment audit by the Texas Comptroller of Public Accounts was conducted of the payroll, purchase, and travel transactions of the agency to determine compliance with applicable state laws. In addition, the agency's internal control structure and fixed assets were reviewed for any inaccuracies or inconsistencies. No issues were identified, resulting in a compliant audit.

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

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 FY2014.**

Status: Accomplished

Comment: The agency was partially successful in its efforts to obtain much needed space for its agency employees. In 1995, in-house employees numbered 35 FTEs and these staff occupied 8,415 square feet in the Wm. P. Hobby building. In FY2012 the agency housed 66 employees and interns, and occupied 9,014 square feet.

With the passage of the 83rd legislative appropriations act, the agency houses 71 FTEs. The Texas Legislature approved funding to remodel unused space within the Wm. P. Hobby building belonging to the Texas Department of Insurance.

The new space is not contiguous with the agency's existing space and in fact, is located in another tower of the building, presenting workflow and efficiency issues. Despite this major drawback, a workable building reconstruction plan was completed that satisfies the agency's immediate housing needs.

6. **To serve as the agency's Human Resource Coordinator in ensuring agency compliance with all applicable state and federal personnel statutes throughout FY2014.**

Status: Accomplished

Comment: This objective was accomplished as follows:

- A. All newly hired and current employees received Equal Employment Opportunity/Sexual Harassment Training as required by state law. Other training required by all employees included Workplace Violence Prevention, Employee Assistance Program Training and Cube Etiquette.
- B. Division directors continued to review and revise employee position descriptions.
- C. Division directors continued implementation of "team leader" quarterly meetings.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- D. The agency reviewed 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 1,120 applications for employment during this fiscal year, which resulted in 24 new hires and five promotions. (Note: providing EEO information by applicants is strictly voluntary. 66 applicants did not provide the information thus it is not included in the chart below).
- F. The agency had 11 employees that terminated employment with the agency in FY2014, resulting in a turnover rate of 13.5%. This compares to the overall statewide turnover rate of the state of 17.5%.

TSBP Compared to Statewide Civilian Workforce Composition

<u>Agency EEO Data</u>	White		Statewide	Black		Statewide	Hispanic		Statewide	Grand Total
	#	%		#	%		#	%		
Administrators	5	100.00%	65.42%	0	0.00%	7.12%	0	0.00%	20.90%	5
Professional	21	80.77%	60.01%	2	7.69%	10.96%	3	11.54%	18.55%	26
Para-Prof	29	65.91%		1	2.27%		14	31.82%		44
Admin Support	10	62.50%	49.20%	2	12.50%	13.58%	4	25.00%	33.00%	16
TOTALS	65			5			21			91

Agency EEO Data

	Male		Statewide	Female		Statewide	Grand Total
	#	%		#	%		
Administrators							
Professional	0	0.00%	62.52%	5	100.00%	37.48%	5
Para-Prof	10	38.46%	45.12%	16	61.54%	54.88%	26
Admin Support	15	34.09%		29	65.91%		44
TOTALS	0	0.00%	27.20%	16	100.00%	72.80%	16
	25			66			91

Agency EEO Data

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	5	0	0	0	0	0	0	0	5	5
Professional	8	13	0	2	2	1	0	0	10	16	26
Para-Prof	12	17	0	1	3	11	0	0	15	29	44
Admin Support	0	10	0	2	0	4	0	0	0	16	16
TOTALS	20	45	0	5	5	16	0	0	25	66	91
Percentage	22.0%	49.5%	0.0%	5.5%	5.5%	17.6%	0.0%	0.0%	27.5%	72.5%	

New Hires

	WHITE		BLACK		HISPANIC		OTHER		TOTAL		GRAND TOTAL
	M	F	M	F	M	F	M	F	M	F	
Administrators	0	0	0	0	0	0	0	0	0	0	0
Professional	3	4	0	1	0	0	0	0	3	5	8
Para-Prof	1	1	0	1	3	1	0	0	4	3	7
Admin Support	0	6	0	0	0	3	0	0	0	9	9
TOTALS	4	11	0	2	3	4	0	0	7	17	24

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	0	3	0	0	0	0	0	0	0	3	3
Admin Support	0	1	0	0	0	0	0	0	0	1	1
TOTALS	0	5	0	0	0	0	0	0	0	5	5

<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	0	0	0	0	0	0	1	2	1	3
Para-Prof	1	2	0	0	1	0	0	0	2	2	4
Admin Support	0	3	0	0	0	1	0	0	0	4	4
TOTALS	3	5	0	0	1	1	0	1	4	7	11

<u>Applications</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	43	46	12	44	6	8	13	17	74	115	189
Para-Prof	72	166	26	107	48	70	27	31	173	374	547
Admin Support	18	102	13	69	17	83	1	15	49	269	318
TOTALS	133	314	51	220	71	161	41	63	296	758	1054

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 FY2014.**

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 428,315 images scanned into the imaging system. Agency staff destroyed 870.66 cubic feet of records in accordance with the TSBP records retention schedule, and 82 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 FY2014.**

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, agency administration) and submitted the Risk Assessment Report by the due date to the SAO.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

9. To provide verbal and written information to Board staff and customers throughout FY2014 including, by the assigned due dates, the preparation of the LBB Performance and Funds Management Report and other special reports as requested by LBB, legislative committees, legislators, and others, in conjunction with other Divisions as necessary.

Status: Accomplished

Comment: This objective was accomplished 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
Legislative Appropriations Request	Governor's Office; Legislative Budget Board; State Comptroller; State Auditor	Administration
FY2015-2019 Strategic Plan	Governor's Office; Legislative Budget Board	All
Non-Financial Annual Report	Governor's Office; Legislative Budget Board; 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
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
Agency Fee/Revenue Projections	Legislative Budget Board	Administration
Professional and Consultant Services Report	Legislative Budget Board	Administration

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Report Title	Recipient(s)	Division Reporting
TexFlex Reconciliation Report	Employees Retirement System	Administration
Annual Debt Report	Office of Attorney General	Administration
Procurement Plan	Comptroller	Administration
Audit Corrective Action Plan	State Auditor	Enforcement and Administration

10. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2014.

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. Health Professions Council Annual Report - Division Director submitted recommendations and licensing performance data to be incorporated into the HPC Annual Report.
- C. Continued participation in several HPC centralized services, such as the Courier Service; Shared Employee Training; Shared Information Resource Technology staff; posting of position descriptions, and use of the imaging system.

11. To manage employees under the supervision of the Division throughout FY2014, 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. Division Director updated and/or reviewed any revised position descriptions for compliance with all personnel statutes.
- B. Division Director conducted regular staff team meetings for division staff and in-house training sessions.
- C. Division staff participated in personal development seminars and participated in all-staff training, as listed below:
 - EEO Training for Team Leaders
 - Alliance Work Partners Workplace Violence Prevention, Employee Assistance Program Training and Cube Etiquette.
 - Team Leader Training on FMLA
- D. Division Director conducted the annual evaluation of Division employees in August 2014.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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 FY2014.

Status: Accomplished

Comment: The Agency Personnel Employee Handbook was reviewed and specific policies were amended and distributed to all staff.

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 FY2014.

Status: Accomplished

Comment: Rules and procedures regarding licensing and registration of pharmacists, pharmacies, interns and pharmacy technicians, are reviewed on a regular basis and recommendations are made as necessary. In particular, division staff contributed to the development of new rules relating to §§291.6, 295.5, and 297.4 regarding fees.

14. To prepare a report on the accomplishment of Division objectives for incorporation into the agency's *FY2013 Annual Report* and submit to the Executive Director by the due date.

Status: Accomplished

Comment: The Division's first draft of the *FY2013 Annual Report* was submitted to the Executive Director by the due date. The final draft of the *TSBP Annual Report* was presented to and approved by the Board at its meeting held in August 2014.

Objectives (Ongoing) – Licensing

15. To coordinate the collection of licensing data for *Key Performance Targets* required under the 2014-2015 Appropriations Act and to submit to the Executive Director by specified due dates throughout FY2014.

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.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

PERFORMANCE MEASURES	TARGET FY2014	ACCOMPLISHED FY2014	Key or Non Key (K-NK)	Expectations
Percent of Licensees with No Recent Violations	96%	95.50%	K	Met
Percent of Licenses Who Renew Online	93%	97.17%	K	Exceeded
Percent of New Individual Licenses Issued Online	98%	96.52%	NK	Met
Number of New Licenses issued to Individuals (Pharmacists)	1,450	1,849	K	Exceeded
Number of Licenses Renewed (Individuals – Pharmacists)	14,514	15,544	K	Exceeded
Number of New Registrations Issued to Individuals (Technician and Trainee)	10,000	14,385	NK	Exceeded
Number of Registrations Renewed (Technicians)	14,384	16,483	NK	Exceeded
Percent of New Licenses Issued within 10 days	95%	100%	NK	Exceeded
Percent of Individual Licenses Issued within 7 days	99%	100%	NK	Exceeded
Total Number of Pharmacists Licensed	29,645	30,707	NK	Exceeded
Total Number of Facilities Licensed	7,200	7,656	K	Exceeded
Total Number of Individuals (Technicians & Trainees) Registered	50,000	57,451	NK	Exceeded

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

Status: Accomplished

Comment: At year end, a total of 2,949 interns (student interns and intern trainees) were certified within one to four days of receipt of required documents. In addition, a total of 5,262 pharmacist preceptors were initially certified or renewed their certification. At fiscal year-end, a total of 8,850 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 FY2014.**

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.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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

JURISPRUDENCE (MPJE)	TOTALS
Candidates Passing	1601 (94.79%)
Candidates Failing	88 (5.21%)
TOTAL ADMINISTERED	1689

NAPLEX	TOTALS
Candidates Passing	899 (92.40%)
Candidates Failing	74 (7.60%)
TOTAL ADMINISTERED	973

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

NEW PHARMACISTS LICENSED – FY2014	
Graduates of Texas Colleges of Pharmacy	686 (37.10%)
Graduates of Out-of-State Colleges of Pharmacy	998 (53.98%)
Credentialed by the Foreign Pharmacist Equivalency Committee	150 (8.11%)
Relicensures	15 (.81%)
TOTAL	1849

Regarding reciprocity (license transfer) in and out of Texas, 605 candidates were licensed by reciprocity in FY2014. The National Association of Boards of Pharmacy reports that in calendar year 2014, Texas had the largest number of requests to transfer licensure into the state with 1,027 requests. Further, this is an 8.1% increase compared to the 950 requests to transfer a license to Texas made in 2013.

- 18. To provide staff support to the *Examination Retake Committee* and any other advisory committee related to licensing issues as required in FY2014.**

Status: **Accomplished**

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

- 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 FY2014.**

Status: **Accomplished**

Comment: The agency issued 1,849 new pharmacist licenses with an average turnaround time of seven business days from the download of the examination results. Of note in calendar year 2014, Texas reports having 30,167 licensed pharmacists, making it one of the states with the highest number of licensed pharmacists, according to census data in the NABP 2015 Survey of Pharmacy Law.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

- 20. To issue renewal certificates to all pharmacist candidates within an average of five working days of receipt of the required fee and all required documents throughout FY2014.**

Status: Accomplished

Comment: The agency renewed 15,544 biennial pharmacist licenses during FY2014. Approximately 93% of eligible pharmacists renewed their licenses online.

The average processing time to issue a renewal license from receipt of a completed application was two business days and 100% percent of licenses were issued within five business days.

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

PHARMACISTS LICENSED FY2014	
Active Status	29,081
Inactive Status*	1,626**
TOTALS	30,707

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

**Of this number there are 644 pharmacists who have been practicing in Texas for more than 50 years or are greater than 72 years old, and are classified as "exempt."

- 21. To audit the pharmacists' compliance with continuing education and to initiate complaints on pharmacists who are not in compliance with the rules regarding pharmacists' mandatory continuing education for renewal, in cooperation with the Enforcement team, throughout FY2014.**

Status: Accomplished

Comment: Continuing education audits were completed for all pharmacists requesting to return to an active status.

- 22. To issue initial certificates to all pharmacy technician trainee candidates within an average of five working days of receipt of the required documents throughout FY2014.**

Status: Accomplished

Comment: The agency issued 8,872 new pharmacy technician trainee registrations bringing the total population of active registered technician trainees for this fiscal year to 15,751. 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.

- 23. To issue initial and/or renewal certificates to all pharmacy technician candidates within an average of ten working days of receipt of the required fee and all required documents throughout FY2014.**

Status: Accomplished

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

Comment: The agency issued 5,513 new pharmacy technician registrations, and renewed 16,483 registrations on a biennial basis, bringing the total population of active registered technicians for this fiscal year to 41,700. Approximately 98% 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.

24. 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 FY2014.

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

Comment: The agency issued 563 new pharmacy licenses and 137 changes of ownership, which resulted in a record 700 new licenses issued. 3,575 licenses were renewed on a biennial basis, bringing the total population of active registered pharmacies for this fiscal year to 7,656. Approximately 27% of eligible pharmacies renewed their licenses online.

The average processing time to issue a renewal license from receipt of a completed application was two business days and 95% of licenses were mailed within five working days or less.

Although a small percentage of pharmacies continue to renew their licenses online, it should be noted that the inefficiencies of the new computer system as well as the lack of automated processes, have necessitated that all new pharmacy applications be received and processed in paper format only. There is no anticipated date that new pharmacy applications will be processed online.

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.

ADMINISTRATIVE SERVICES AND LICENSING DIVISION

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

ACTIVE PHARMACIES FY2014	
Class A (Community)	4830
Class A-S (Community Pharmacy Engaged Compounding Sterile Preparations)	302
Class B (Nuclear)	35
Class C (Institutional)	736
Class C-S (Hospital Pharmacy Engaged In Compounding Sterile Preparations)	436
Class D (Clinic)	364
Class E (Non Resident)	642
Class E-S (Non-Resident Pharmacy Engaged In Compounding Sterile Preparations)	150
Class F (FreeStanding Emergency Medical Centers)	147
Class G (Central Processing)	13
Class H	01
TOTALS	7,656
Remote Pharmacies	1,772

A total of 3,982 change documents were processed as follows:

PHARMACY APPLICATIONS PROCESSED	
Pharmacy Renewals	3,575
New Licenses Issued [new opens (563) and changes of ownership (137)]	700
Closings	246
Remote Pharmacies	200
TOTAL	4,721

- 25. 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 FY2014, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2014.**

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.

FY2014 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 14 of the Division's Objectives for FY2014.
2. Division Director drafted or assisted others in drafting 22 rules and preparing the rules for review by the Board.
3. Division staff prepared and mailed or emailed 1,770 pieces of information during FY2014.
4. Division Director gave 23 presentations/webcasts during FY2014 to over 2,000 pharmacists, pharmacy students, and pharmacy technicians.

PROFESSIONAL SERVICES DIVISION

FY2014 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. Division Director continued providing monthly online webcast presentations in addition to regular job duties in response to the Board's request to increase education to pharmacists and pharmacy technicians. Demand for presentations increased during FY2014 due to changes to the rules requiring pharmacists and pharmacy technicians to obtain one hour of continuing education related to Texas pharmacy laws and rules.

PROFESSIONAL SERVICES DIVISION

FY2014 ANNUAL REPORT

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*.

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2014:

1. Reviewing and implementing legislation passed by the 83rd Texas Legislature that affects agency operations and/or the practice of pharmacy;
2. Updating and preparing the *TSBP Strategic Plan for FY2015-2019* 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 FY2016-2017 biennium for review and approval by the Board at the 2014 Board Budget meeting;
4. Preparing the *TSBP Legislative Appropriation Request for FY2016-2017* and corresponding performance measures by the due date; and
5. Conducting the orientation of new Board members within 90 days of appointment by the Governor.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

1. Division Director, with assistance from other Directors, drafted language to implement legislation passed by the 83rd Texas Legislature.
2. The Strategic Plan for FY2015-2019 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 2014 Board meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.
3. Division Director worked with the Executive Director and the other Division Directors in preparation of the proposed budget for FY2016-2017.
4. Division Director worked with the Executive Director and the other Division Directors in preparation of the FY2016-2017 Legislative Appropriations Request and reviewed the final draft of the document.
5. Division Director, along with the Executive Director and the other agency staff, participated in the orientation of new Board members.

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 FY2014.**

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 17 rules and assisted others in drafting of five additional rules as follows:

RULES
Drafted:
§291.125 regarding Labeling in Central Prescription Dispensing Pharmacies
§291.133 regarding Compounding Sterile Preparations
§§291.31, 291.34 regarding Advanced Practice Registered Nurses
§291.32 regarding Personnel
§291.33 regarding Substitution of Dosage Form
§§291.76, 291.151 regarding Labeling of Sterile Preparations
§291.72 regarding Hospital Bed Size
§§291.31, 291.33 regarding Patient Counseling
§291.34 regarding Prescription Transfers
§§291.52, 291.53, 291.54 regarding Nuclear Pharmacies Compounding Sterile Preparations
§291.121 regarding Emergency Medication Kits
§291.133 regarding Nuclear Pharmacies Compounding Sterile Preparations
Assisted the Legal Division in Drafting:
§281.64 regarding Sanctions for Criminal Offenses
Assisted the Licensing Division in Drafting:
§§291.6, 295.5, 297.4 regarding Fees
Assisted Enforcement Division in Drafting:
§291.29 regarding Professional Responsibility

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 FY2014.**

Status: **ACCOMPLISHED**

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

RULE SUBMISSIONS TO THE *TEXAS REGISTER*

During FY2014, 35 submissions to the *Texas Register* were made that proposed, adopted, reviewed, repealed, or withdrew amendments or new Texas Pharmacy rules. Division staff met all deadlines for submissions to the *Texas Register*; monitored the submissions for action, and notified Board Members, TSBP staff, and other interested parties of the status of rules as follows:

PROFESSIONAL SERVICES DIVISION

Rules	Type of Action	Published in TxReg as Proposed	Memo to Staff and Others	Published in TxReg as Adopted	Memo to Staff and Others
§281.6	Amendments	FY2013	--	FY2013	10/8/2013
§281.22	Amendments	FY2013	--	FY2013	10/8/2013
§§281.63, 281.66, 281.67	Amendments	FY2013	--	FY2013	10/8/2013
§291.34	Amendments	FY2013	--	FY2013	10/8/2013
§291.6	Amendments	FY2013	10/8/2013	12/6/2013	12/19/2013
§295.5	Amendments	FY2013	10/8/2013	12/6/2013	12/19/2013
§297.4	Amendments	FY2013	10/8/2013	12/6/2013	12/19/2013
§281.22	Amendments	9/27/2013	10/8/2013	12/6/2013	12/19/2013
§281.68	Amendments	9/27/2013	10/8/2013	12/6/2013	12/19/2013
§283.12	Amendments	9/27/2013	10/8/2013	12/6/2013	12/19/2013
§291.17	Amendments	9/27/2013	10/8/2013	12/6/2013	12/19/2013
§291.32	Amendments	9/27/2013	10/8/2013	withdrawn	--
§§291.33, 291.36	Amendments/New	9/27/2013	10/8/2013	12/6/2013	12/19/2013
§291.53	Amendments	9/27/2013	10/8/2013	withdrawn	--
§§291.54, 291.56	Amendments/New	9/27/2013	10/8/2013	12/6/2013	12/19/2013
§§291.74, 291.76, 291.77	Amendments/New	9/27/2013	10/8/2013	12/6/2013	12/19/2013
§§291.104, 291.105, 291.106	Amendments/New	9/27/2013	10/8/2013	12/6/2013	12/19/2013
§291.133	Amendments?	9/27/2013	10/8/2013	12/6/2013	12/19/2013
§291.153	Amendments	9/27/2013	10/8/2013	withdrawn	
§295.12	Amendments	9/27/2013	10/8/2013	12/6/2013	12/19/2013
§297.10	Amendments	9/27/2013	10/8/2013	12/6/2013	12/19/2013
§291.32	Amendments	12/13/2013	12/19/2013	3/21/2014	5/2/2014
§291.53	Amendments	12/13/2013	12/19/2013	3/21/2014	5/2/2014
§291.125	Amendments	12/13/2013	12/19/2013	3/21/2014	5/2/2014
§291.153	Amendments	12/13/2013	12/19/2013	3/21/2014	5/2/2014
§§291.51 – 291.55	Rule Review	12/13/2013	12/19/2013	3/21/2014	5/2/2014
§§305.1 – 305.2	Rule Review	12/13/2013	12/19/2013	3/21/2014	5/2/2014
§§309.1 – 309.8	Rule Review	12/13/2013	12/19/2013	3/21/2014	5/2/2014
§281.64	Amendments	3/21/2014	5/2/2014	6/13/2014	--
§291.133	Amendments	6/13/2014	--	FY2015	--
§§291.31 – 291.34	Amendments	6/13/2014	--	FY2015	--
§291.76	Amendments	6/13/2014	--	FY2015	--
§291.151	Amendments	6/13/2014	--	FY2015	--
§291.6	Amendments	6/13/2014	--	FY2015	--
§295.5	Amendments	6/13/2014	--	FY2015	--
§297.4	Amendments	6/13/2014	--	FY2015	--
§§281.1 – 281.13, 281.15, 281.17 – 281.23, 281.30 – 281.34, 281.60 – 281.67	Rule Review	6/13/2014	--	FY2015	--
§§311.1 – 311.2	Rule Review	6/13/2014	--	FY2015	--

PROFESSIONAL SERVICES DIVISION

OPEN MEETING SUBMISSIONS TO THE *TEXAS REGISTER*

Sixteen notices of open meetings scheduled during FY2014 were submitted by the Division to the *Texas Register* for publication. The submissions were as follows:

Type of Submission	Date Published
Open Meeting 11/4/13 – Board Business Meeting	10/23/13
Open Meeting 11/4/13 – Public Hearing	10/23/13
Open Meeting 1/14/14 – Task Force to Review Pharmacy Technician Practice	12/19/13
Open Meeting 2/11/14 – Board Business Meeting	1/29/14
Open Meeting 3/19/14 – Task Force to Review Pharmacy Technician Practice	3/5/14
Open Meeting 4/12/14 – Board Forum	3/26/14
Open Meeting 4/29/14 – Public Meeting to Review Evaluations of Responses to RFQ 515-14-0005	4/15/14
Open Meeting 4/29/14 – Temporary Suspension Hearing	4/28/14
Open Meeting 5/6/14 – Board Business Meeting	4/28/14
Open Meeting 5/12/14 – Temporary Suspension Hearing	5/6/14
Open Meeting 7/2/14 – Stakeholder Meeting – Physician Ownership of Pharmacies	6/4/14
Open Meeting 7/2/14 – Stakeholder Meeting – Pharmacy in Physician's Office	6/4/14
Open Meeting 7/7/14 – Stakeholder meeting – Definition of Hospital Bed size	6/26/14
Open Meeting 7/11/14 – Temporary Suspension Hearing	7/1/14
Open Meeting 8/1/14 – Board Forum	7/9/14
Open Meeting 8/5/14 – Board Business Meeting	7/22/14

3. To respond to open records requests throughout FY2014, 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 less than a 25% increase in the number of requests for records in FY2014, as compared to FY2013.

OPEN RECORDS REQUESTS FY10 through FY14

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
FY10	96	111	1,441	1,979	1,537	2,090	128	174	-5%	-21%
FY11	124	131	1,445	2,115	1,569	2,246	131	187	+2%	+7%
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%

PROFESSIONAL SERVICES DIVISION

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 FY2014.**

Status: **ACCOMPLISHED**

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

- A. During FY2014, the Division sent out 1,770 pieces of written information including emails, packets of information, and information regarding rules and open meetings. 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 just over 6,800 subscribers at the end of the FY2014.
- B. The Division Director gave 13 presentations to over 1,230 individuals as indicated in the following chart:

Date	Group	Attendance (Approx.)
9/5/13	Westlake High School Pharmacy Technician Program, Austin	20
9/25/13	HEB Pharmacists' Conference, San Antonio	300
9/27/12	HEB Pharmacists' Conference, San Antonio	300
10/19/13	Central Texas Society of Health System Pharmacists, San Antonio	50
11/21/13	Texas A&M Geriatric Care Class, Kingsville	15
2/5/14	Virginia College Technician Program, Austin	20
2/12/14	Gulf Coast Pharmacy Association Meeting, Beaumont	30
5/6/14	Kroger Pharmacy Managers Meeting, Houston	150
5/7/14	Cardinal Pharmacists Meeting, Dallas	10
5/8/14	Kroger Pharmacy Managers Meeting, Dallas	150
5/16/14	San Jacinto College Technician Program, Austin	25
6/25/14	Rio Grande Valley Pharmacists Association, Edinburg	40
8/11/14	University of North Texas P1 Class, Fort Worth	120
TOTAL		1,230

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- C. The Division Director gave 10 online presentations using GoToMeeting to 854 individuals as indicated in the following chart:

Date	Program	Attendance (Approx.)
9/10/13	Regulating Pharmacy Technicians in Texas	30
10/10/13	Pharmacist-in-Charge Training	82
11/14/13	Texas Pharmacy Laws and Rules Update	165
11/14/13	Texas Pharmacy Laws and Rules Update	75
1/16/14	Pharmacist-in-Charge Training	70
2/27/14	Texas Pharmacy Laws and Rules Update	118
4/16/14	Pharmacist-in-Charge Training	32
5/21/14	Texas Pharmacy Laws and Rules Update	126
5/21/14	Texas Pharmacy Laws and Rules Update	69
7/15/14	Pharmacist-in-Charge Training	87
TOTAL		854

- D. The Division Director provided training and information to new employees and pharmacist-interns regarding the operation of the Professional Services Division.
- E. The Division Director developed an education display that was exhibited at the following meetings:
- HEB Pharmacists' Conference
 - Texas Society of Health-System Pharmacists Annual Seminar
 - Texas Pharmacy Association Annual Meeting
- F. Three video tutorials were produced and posted on You Tube during FY2014. The videos have a total of over 10,000 views.
- G. Other Activities
- (1) The Division Director routinely answered questions from Enforcement and Licensing staff concerning the laws and rules, including their applicability to specific situations.
 - (2) The Division Director routinely monitored the TSBP Website. Changes and/or updates were forwarded to Network Specialist Todd Hayek.
 - (3) Facebook, Twitter, and YouTube continued to be useful tools to provide information. At the end of FY2014, over 3,000 individuals "liked" TSBP on Facebook and over 2,000 individuals "followed" TSBP on Twitter.

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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: Two issues of the *TSBP Newsletter* were published on the TSBP website in FY2014.

Throughout FY2014, an email subscription to the Newsletter was available on the TSBP website. Individuals were able to subscribe to the Newsletter by providing an email address. Over 6,855 individuals were subscribed to the email notification as of the end of FY2014.

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 FY2014.

Status: ACCOMPLISHED

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

Date	Activity	Personnel
March 2014	MPJE Texas Item Writing Workshop, Chicago, IL	Paul Holder
August 2014	MPJE Pool Review, Austin, TX	Allison Benz, Kerstin Arnold

7. To coordinate the updating of the Texas State Pharmacy Law reference manual with the publisher of the manual during FY2014.

Status: ACCOMPLISHED

Comment: Law Reference

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

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Law Reference Updates

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

- October 8, 2013
- December 19, 2013
- May 2, 2014

NABP Survey of Pharmacy Law Updates

The NABP publication, Survey of Pharmacy Law, is updated annually. During FY2014, the update was completed by the Division Director and returned to NABP by the due date.

- 8. To provide professional staff support to Board-appointed task forces and complete other special projects as assigned throughout FY2014.**

Status: ACCOMPLISHED

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

- A. The Division's staff provided professional staff support including communicating with task force members regarding meetings and setting up the meetings. The Task Force to Review Pharmacy Technician Practice met twice during FY2014 as follows:

- January 14, 2014
- March 19, 2014

In addition, Division staff assisted with three additional stakeholder meetings regarding physician ownership of pharmacies, pharmacies located in a physician's office, and hospital bed size.

- B. The Division staff prepared and sent out 1,441 continuing education certificates to individuals for programs presented by TSBP staff.

- 9. To provide technical assistance and maintain liaison with federal, state, and local regulatory agencies involved in pharmacy practice regulation throughout FY2014.**

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 17 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*.

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- C. Division Director maintained contact with numerous state and federal agencies and other state boards of pharmacy.
- D. Division Director served as liaison to the federal Healthcare Integrity and Protection Data Bank (HIPDB). Division staff submitted 271 Adverse Action Reports to HIPDB during FY2014, as required by federal law.

- 10. To manage employees under the supervision of the Division throughout FY2014, 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: A performance review for Senior Administrative Assistant Lauren Ivey was conducted on August 14, 2014.

In FY2014, Division staff attended general staff meetings and in-house training sessions. In conjunction with General Staff Meetings, Division staff participated in all-staff trainings.

Division Director attended the Office of the Attorney General Open Government Conference on December 9-10, 2013.

The Division Director served as co-chair on the agency's Wellness Committee in conjunction with the General Counsel. The General Counsel and Division Director participated in the Center for Disease Control (CDC) Work@Health Program and received a \$4,000 grant from the CDC.

Division Director assisted with and participated in numerous Wellness planning meetings and program activities including a flu immunization clinic in September 2013.

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

- 11. To destroy records in accordance with the agency's record retention plan throughout FY2014; 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 FY2014.**

Status: ACCOMPLISHED

Comment: During FY2014, the Division accomplished this goal as follows:

- A. Records Management

Records in the possession of the Division scheduled for destruction during FY2014 under the approved Record Retention Schedule were identified and destroyed.

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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 FY2014. In addition, Division Director reviewed numerous sections of the Agency Personnel Employee Handbook.

- 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 FY2014.**

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.

- 13. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's FY2013 Annual Report and submit to the Executive Director by the due date.**

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2013 *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 August 2014.

FY2014 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished or partially accomplished all of its Objectives for FY2014.
2. TSBP met or exceeded all six key enforcement-related performance measures for FY2014 (within a 5% variance). See Ongoing Objective #1 for further information regarding performance measures.
3. Although TSBP received and resolved fewer complaints in FY2014 when compared to FY2013, the agency's average complaint resolution time decreased by 11 days (6% decrease). See Ongoing Objective #3 for additional details regarding complaint data. Data regarding the past five fiscal years is reflected in the chart below:

Year	Complaints Received	% Change Complaints Received Previous Year	Complaints Closed	% Change Complaints Closed Previous Year	% Complaints Closed	Resolution Time (Agency Average)	% Change Time
FY10	5,702	+8%	5,512	-11%	97%	182 Days	-14%
FY11	5,698	-<1%	5,840	+6%	102%	195 Days	+7%
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%

4. The 83rd Texas Legislature appropriated funding for additional staff, which included five new Inspectors to conduct inspections of Texas pharmacies. Significant time and efforts were devoted to activities relating to the hiring and training of the new staff (see Ongoing Objective #11 for further details).
5. Division staff spent a significant amount of time in developing a Request for Information and Request for Qualifications relating to contracting of vendors to perform Class E-S inspections. Three vendors qualified and were selected. Assistant Division Director Paul Holder, R.Ph., Pharm.D., developed the Class E-S inspection procedures and with assistance from other Division staff, conducted on-line training of vendor inspectors.
6. Division staff continued to implement the program to convert paper complaint files to imaged records. Approximately 6,601 complaint files were scanned during FY2014, which represented a 128% increase over FY2013, when approximately 2,897 complaint files were imaged. The agency was able to image a large number of files in FY2014 due to increased funding for this project that was appropriated by the 83rd Texas Legislature.
7. During FY2014, Division staff spent a significant amount of time providing verbal information and assistance to Board internal and external customers. Specific examples include: Division staff responded verbally to 22,333 telephone calls received via the Compliance Queue Phone Line; made 20 presentations to an estimated 1,620 individuals (which represented a 67% increase in the number of presentations and a 143% increase in the number of individuals, when compared to FY13 (see Ongoing Objective #7 for further details). In addition, Division Director testified as an expert witness in two "pill mill" cases (one trial in state District court and one federal trial in Dallas) and Field investigators made approximately 750 contacts with 252 law enforcement agencies (see Ongoing Objective #5).

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FY2014 SIGNIFICANT DISAPPOINTMENTS/CONSTRAINTS

1. During FY2014, TSBP was able to secure additional space in the Hobby Building, which alleviated some of the overcrowding issues, but needed files (pharmacy license files and inspection reports) are now inconveniently located in another tower of the Hobby Building.
2. During FY2014, the Division experienced 21 staffing changes which took significant time and efforts to review applications, conduct interviews, prepare orientation schedules and conduct orientation/training for all new employees (see Ongoing Objective #11 for further details regarding personnel changes).
3. During FY2014, the Field Compliance Staff conducted 1,698 pharmacy inspections, which fell short of the goal of conducting 2,000 inspections and represented the second consecutive year that the inspection goal has not been met. The goal was not met due to various factors which are described in Ongoing Objective #2.
4. The 83rd Texas Legislature passed S.B. 1100 which placed various requirements on TSBP regarding pharmacies that compound sterile pharmaceuticals. To implement S.B. 1100, TSBP adopted rules that required all pharmacies that compounded sterile preparations to become licensed as a "S" pharmacy – e.g., Class A-S, Class C-S, and Class E-S by September 1, 2014, and these pharmacies had to have been inspected within the past two years before the "S" license would be issued. It was an enormous challenge to get all of the Class A-S and Class C-S pharmacies inspected by TSBP Compliance Field staff, while simultaneously training five new inspectors.
5. Compliance Field Staff continued to collect samples of compounded preparations (both sterile and non-sterile samples). Of the 124 samples collected, test results indicated that 11 of the preparations (8.9%) failed to yield acceptable potency results. However, 100% of the sterile preparations collected in FY14 were sterile and free of endotoxins and fungus. In addition, the number of samples represented a 114% increase when compared to FY2013 when 58 samples were collected. See Ongoing Objective #2 for additional information about the sample collection program.
6. In October 2014, TSBP did not renew the MOU with the DEA Task Force in Houston. Although this decision resulted in reduced access to certain types of information, the Houston Field Investigator is now able to devote 100% of his time on TSBP cases.
7. Division staff spent significant time monitoring compliance of 535 disciplinary orders entered in FY2014 (or 88% of the 608 disciplinary orders entered in FY2014) that required some type of monitoring by Division staff (see Ongoing Objective #6 for details).
8. During FY2014, TSBP received 348 reports of employee pilferage by 229 individuals resulting in the diversion of 749,704 dosage units of prescription drugs. In FY2013, TSBP received 378 reports of employee pilferage by 326 suspects resulting in the diversion of 584,344 dosage units. Although the number of reports decreased (by 8%) and the number of suspects decreased (by 30%), the number of dosage units of stolen/lost prescription drugs increased by 28%.

ENFORCEMENT DIVISION

FY2014 ANNUAL REPORT

GOAL

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

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2014:

- 1. Reviewing and implementing legislation passed by the 83rd Texas Legislature that affects agency operations and/or the practice of pharmacy;**
- 2. Updating and preparing the *TSBP Strategic Plan for FY2015-2019* 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 FY2016-2017 biennium for review and approval by the Board at the 2014 Board Budget meeting;**
- 4. Preparing the *TSBP Legislative Appropriation Request for FY2016-2017* and corresponding performance measures by the due date; and**
- 5. Conducting the orientation of new Board members within 90 days of appointment by the Governor.**

Status: ACCOMPLISHED

Comment:

1. Division Director working with other Divisions assisted with the reviewing and implementation of new legislation passed by the 83rd Texas Legislature. The major legislation affecting the Division was S.B. 1100 which required TSBP to inspect Non-Resident Pharmacies that compounded sterile preparations prior to a new license being issued or prior to the renewal of the license.
2. The Strategic Plan for FY2015-2019 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 2014 Board Meeting. The TSBP Strategic Plan was published and delivered to the Governor's Office and other applicable agencies by the due date.

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3. Division Director worked with the Executive Director and other Division Directors to prepare a budget request to present to the 84th Texas Legislature, including assessing the impact of budget reductions and exceptional items on performance measure. The budget request was approved by the Board at its quarterly meeting in May 2014. In an effort to reduce the budget request, the Division did not request any additional FTEs and continued to strive to meet challenging productivity requirements with current staffing. Division Director and Chief of Investigations attended a budget hearing as resource witnesses on August 11, 2014.
4. Division Director worked with the Executive Director and the other Division Directors in preparation of the FY2016-2017 Legislative Appropriations Request and reviewed the final draft of the document.
5. Division Director, along with the Executive Director and the other agency staff, participated in the orientation of new Board members.

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Objectives (Ongoing)

1. To submit data regarding enforcement and peer assistance data for Key Performance Targets required under the FY2014-2015 Appropriations Act to Executive Director by specified due dates throughout FY2014; 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 FY2014, 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 FY2014. The other eight measures were reported to the LBB and GBO at year-end (annual basis).

TSBP met or exceeded, within a 5% variance, eight of the 11 enforcement-related performance measures (73%). However, all six key performance measures were met or exceeded (within a 5% variance), as indicated in the chart below:

Enforcement-Related Performance Measure	FY14 Projected Performance	FY14 Performance Attained	Key or Non-Key (K/NK)	Projected Target Met?*
Outputs:				
Inspections	2,400	1,698	NK	Not Met
Jurisdictional Complaints Resolved	5,420	5,582	K	Exceeded
Number of Licensed Individuals Participating in a Peer Assistance Program	180	182	K	Exceeded
Efficiency:				
Average Time for Jurisdictional Complaint Resolution	180	176	K	Exceeded
Outcomes:				
Percent of Jurisdictional Complaints Resolved Resulting in Disciplinary Action	15.0%	11.63%	K	Met
Percent of Licensees (Pharmacists and Pharmacies) with No Recent Violations (Disciplinary Orders)	96.0%	95.5 %	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%	70.32%	NK	Exceeded
Recidivism Rate for Participants in Peer Assistance Program	20.0%	34.09%	NK	Not Met
One-Year Completion Rate for Participants in Peer Assistance Program	85.0%	74.0%	NK	Not Met
Explanatory:				
Jurisdictional Complaints Received	5,620	5,536	K	Met

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

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2. To monitor throughout FY2014, pharmacy inspections and pharmacists' practice by conducting 2,000 inspections of all classes of pharmacies, including pre-inspections, partial inspections, and follow-up inspections to "Warning Notices." To inspect pharmacies and monitor pharmacists' practice throughout FY2014, according to the following priorities:
- A. Pre-inspections of pharmacies that are applying for a new pharmacy license;
 - B. Pharmacists and pharmacies that 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 Pharmacies (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 of loss of prescription drugs; and
 - G. Routine inspections.

Status: PARTIALLY ACCOMPLISHED

Comment: TSBP Compliance Field Staff conducted 1,698 inspections during FY2014, which meant the Division achieved 85% of the targeted goal (fell short by 302 inspections). The goal was not met due to vacancies/absences, as described below:

- The Inspector for the West Texas Region resigned in September 2013. This position was vacant for four months. After the position was filled, the West Texas Region remained vacant for an additional three months while the new inspector underwent an intensive training period. This position again became vacant in August 2014, which left this region vacant for eight months of FY2014.
- Inspectors were on extended leave (e.g., medical leave) for a total of seven months.
- The Compliance Field Staff Team expanded from seven to 12 positions in FY2014. Each of the five new inspectors underwent a minimum of 10 weeks of field training with an experienced inspector. The training process required additional time to conduct inspections, which had a significant negative impact on the number of inspections that could be conducted each day/week/month.
- During the 83rd Texas Legislative Session, the Texas Pharmacy Act was amended by S.B. 1100 to require all pharmacies that compound sterile preparations to be inspected before a license was issued or renewed. This change resulted in increased emphasis on inspecting compounding pharmacies. For example, in FY2013, the Compliance Field Staff Team inspected 199 Class C Pharmacies (pharmacies that typically compound sterile preparations), whereas in FY2014, the team inspected 446 Class C Pharmacies (124% increase). These types of inspections are more complex and time-consuming, which had a significant negative impact on the number of inspections that could be conducted each day/week/month.

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

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

Statistics regarding these inspections are set forth below:

Total Inspections by Type	FY2012	FY2013	FY2014	% of FY14	3-Year Average	% of 3-Yr. Average
Inspections	1,633	1,300	1,257	74%	1,397	76%
Pre-Inspections	166	170	155	9%	164	9%
Partial-Inspections	237	157	234	14%	209	11%
Inspection-Visits	20	6	4	<1%	10	1%
Attempted Inspections	64	49	27	2%	47	3%
Other	15	16	21	1%	17	1%
Total	2,135	1,698	1,698	100%	1,844	100%

Number of Inspections/Visits by Class	FY2012	FY2013	FY2014	% of FY14	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	1,776	1,425	1,176	69%	1,461	79%
Class A-S Pharmacies *			4	<1%	1	<1%
Class B Pharmacies	5	0	3	<1%	3	<1%
Class C Pharmacies	255	199	446	26%	300	16%
Class C-S Pharmacies *			4	<1%	1	<1%
Class D Pharmacies	91	67	56	3%	72	4%
Class F Pharmacies	8	4	5	<1%	6	<1%
Class G Pharmacies	0	3	4	<1%	3	<1%
Total	2,135	1,698	1,698	100%	1,846	100%

* New class added during Fiscal Year 2014

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Number of Warning Notices Issued by Class*	FY2012	FY2013	FY2014	% of FY14**	3-Year Average	% of 3-Yr. Average
Class A Pharmacies	449	519	536	61%	501	76%
Class A-S Pharmacies***			3	<1%	1	<1%
Class B Pharmacies	1	0	0	N/A	0	N/A
Class C Pharmacies	46	62	316	36%	141	21%
Class C-S Pharmacies ***			4	<1%	1	<1%
Class D Pharmacies	14	13	18	2%	15	2%
Class F Pharmacies	1	3	2	<1%	2	<1%
Class G Pharmacies	0	0	0	N/A	0	N/A
Total	511	597	879	100%	662	100%

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

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

*** New class added during Fiscal Year 2014

Conditions Receiving "Warning Notices" FY2014						
Percentages are based on the total number of "Warning Notices" issued to Pharmacies in FY2014. Note - Pharmacies may be issued a "Warning Notice" for non-compliance with more than one condition.						
Type of Violation	FY2012	FY2013	FY2014	3-Year Average	% FY2014	% 3-Year Average
Equipment	35	34	59	43	2%	2%
Balance Failed Inspection	21	23	41	28		
Equipment Inspection Due (Not Balance)	13	11	17	14		
Insufficient Equipment	1	0	1	1		
Pharmacy Technicians	176	225	398	266	14%	13%
No/Incomplete Training	138	185	367	230		
No/Improper Supervision	26	27	10	21		
Improper Registration	9	8	16	11		
No Name Tags	3	5	5	4		
Inadequate Library	77	71	122	90	4%	5%
Counseling Area	1	1	2	1	N/A	N/A
Licenses	145	184	72	134	2%	7%
Licenses Not Posted	139	173	63	125		
Delinquent Licenses	6	11	9	9		
Prescriptions	122	109	160	130	5%	7%
Lack Proper Information	39	30	77	49		
Prescription Label Incorrect	79	71	68	73		
Triplicate Non-Compliance	4	8	15	9		

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Conditions Receiving "Warning Notices" FY2014 <i>Continued</i>						
Type of Violation	FY2012	FY2013	FY2014	3 Year Average	% FY2014	% 3-Year Average
Drug Stock/Environment	144	184	271	200	9%	10%
Improper Environment	29	55	100	61		
Out-of-Date Drug Stock	59	70	83	71		
Security	37	36	36	36		
Unsanitary	17	17	30	21		
Improper Drug Storage	1	5	16	7		
Area for Non-Sterile Compounding	1	0	2	1		
Violation of Limited Formulary	0	1	4	2		
Prohibited Drugs (Class D)	0	0	0	0		
Inventory	96	104	157	119	5%	6%
No Annual Inventory	54	33	48	45		
No Change of Ownership Inventory	1	1	6	3		
No Change of PIC Inventory	18	31	32	27		
Incomplete Inventory	23	35	68	42		
No Perpetual inventory (Class C)	0	1	2	1		
Improper Drug Destruction	0	3	1	1		
Improper Prepackaging Procedures	27	16	19	21	1%	1%
Computer Systems	97	78	85	87	3%	4%
Computer Records Incomplete	82	75	84	80		
Computer Records Non-Compliance	15	3	1	6		
Records	62	143	273	159	9%	8%
Records Not Available	32	67	90	63		
DEA Order Forms Incomplete	0	0	0	0		
Absence of R.Ph. Record	6	10	15	10		
Rx Not Separated	2	6	7	5		
Rx Records not Numerical Order	2	2	5	3		
Improper Transfer of RX copies	0	3	5	3		
Invoices Not Separated/Retrievable	11	23	52	29		
Records for Non-Sterile Compounds	6	19	77	34		
No Written Information on Prescription	3	13	22	13		
Improper Refill Documentation	0	0	0	0		
OBRA Violations	128	175	152	152	5%	8%
Written Information Not Provided	3	13	22	13		
No Patient Counseling	125	159	117	134		
PMR Absent or Incomplete	0	3	13	5		

ENFORCEMENT DIVISION

Conditions Receiving "Warning Notices" FY2014 <i>Continued</i>						
Type of Violation	FY2012	FY2013	FY2014	3 Year Average	% FY2014	% 3-Year Average
Sterile Pharmaceutical Violations	93	154	844	364	29%	18%
No/Incomplete QA/QC	10	14	141	55		
No/Incomplete P&P Manual	42	58	128	76		
No/Inadequate Preparation Area	29	51	358	146		
IV Preparation	11	26	196	78		
No DUR	1	3	15	6		
Absence of R.Ph. Pick-Up-Records	0	1	0	0		
Cytotoxic/Bio Procedures	0	1	6	2		
No/Incomplete Non-Sterile Cpd Records	6	19	77	34	3%	2%
Improper Distribution	8	18	23	16	1%	1%
No PIC	23	18	18	20	1%	1%
Dispensing	80	106	75	87	3%	4%
Improper Dispensing	54	70	38	54		
Aiding and Abetting	1	4	4	3		
Illegal Dispensing	2	5	3	3		
Substitution Non-Compliance	2	4	7	4		
Out-of-State Rx's for Controlled Substances	0	0	0	0		
Improper Emergency Room Dispensing	1	1	1	1		
Improper Automated Dispensing Procedures	18	22	21	20		
Improper Provision	2	0	1	1		
Improper Advertising	0	0	0	0	N/A	N/A
Notification Violation	22	42	74	46	3%	2%
Theft & Loss of C/S Not Reported	14	18	34	22	1%	1%
Gray Market diversion	1	0	1	1	N/A	N/A
Improper Closing/Change of Ownership	0	0	5	2	N/A	N/A
Improper Inpatient Procedures (Class C)	0	0	0	0	N/A	N/A

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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)	FY2012	FY2013	FY2014	% of FY14	3-Yr. Avg.	% of 3-Yr. Avg.
Complaint	156	204	78	5%	146	8%
Follow-up to Disciplinary Order	12	24	4	<1%	13	1%
Pre-Inspection New	184	169	152	9%	168	9%
New Pharmacies	107	72	68	4%	82	4%
Change of Ownership	13	7	9	1%	10	1%
Preceptor	116	10	0	N/A	42	2%
Follow-up to "Warning Notice"	151	113	99	6%	121	7%
Routine Inspections	1,303	1,023	864	51%	1,063	58%
Attempted Inspection	0	0	0	N/A	0	N/A
Other	93	76	424	25%	198	11%
Total	2,135	1,698	1,698	100%	1,844	100%

SUMMARY OF PROGRAM TO SAMPLE AND TEST COMPOUNDED PREPARATIONS

During Fiscal Year 2014, TSBP submitted for testing 124 compounded preparations from 122 different pharmacies. Test results revealed that eleven of the 124 samples (9%) were not within acceptable limits for potency.

(1) Non-sterile Preparations

Of the 124 tested preparations, seven (6%) were non-sterile preparations. Potency problems were determined in two (29%) of the non-sterile preparations.

(2) Sterile Preparations

Of the 124 tested samples, 117 (94%) were sterile preparations. No sample failed sterility, fungal, or endotoxin tests. Potency problems were obtained in nine (8%) of the sterile preparations tested.

SUMMARY OF RANDOM COMPOUNDED SAMPLE TESTING PROGRAM

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	5-YR AVG
Number of Samples Tested	86	37	28	58	124	67
Number of Non-Sterile Samples	58	27	20	9	7	24
Number of Potency Failures	13	4	2	1	2	4
Number of Sterile Samples	28	10	8	49	117	42
Number of Potency Failures	8	4	1	2	9	5
Number of Sterility Failures	0	0	1*	0	0	<1
Number of Fungal Failures**	N/A	N/A	N/A	0	0	0
Number of Endotoxin Failures	0	0	0	0	0	0

*Nasal preparation

**Fungal Testing began in FY 2013

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- 3. To coordinate and monitor throughout FY2014, the receipt, assignment, and resolution of all complaints filed with the agency and the notification of complainants. To investigate complaints throughout FY2014, according to the following priorities:**
- A. Continuing threats to the public welfare requiring a temporary suspension;**
 - B. Complaints filed against licensees/registrants who have a chemical, mental, or physical impairment;**
 - C. Complaints involving the diversion of prescription drugs, through the following illegal means:**
 - theft of drugs;**
 - delivering prescription drugs without a prescription;**
 - dispensing prescription drugs pursuant to an invalid prescription, such as forged or fraudulent prescriptions, prescriptions dispensed following an Internet consultation, 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 a felony involving offenses that involved drug laws or occurred while engaged in pharmacy practice;**
 - E. Complaints against licensees/registrants who are registered sex offenders;**
 - F. Complaints against licensees/registrants who have been convicted of a felony involving offenses not occurring while engaged in pharmacy practice;**
 - G. Complaints involving applicants for licensure or registration (not including applications for reinstatement);**
 - H. Complaints involving dispensing errors and malpractice reports;**
 - 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 a misdemeanor that involved drug laws or occurred while engaged in pharmacy practice;**
 - L. Applications involving reinstatement of revoked licenses and registrations;**
 - M. Complaints involving other violations of the laws and rules relating to the practice of pharmacy (e.g., Non-Compliance with terms of Disciplinary Orders; 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);**

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- N. Complaints against licensees/registrants who have been convicted of a misdemeanor involving offenses not occurring while engaged in pharmacy practice; and
- O. Complaints against licensees/registrants who have been subject to a disciplinary action by another state board of pharmacy.

Status: **ACCOMPLISHED**

Comment: As reflected in the chart below, TSBP received 366 fewer complaints (6% decrease), and closed 946 fewer complaints (14% decrease) in FY2014 than in the prior fiscal year. However, the average complaint resolution time decreased by 11 days (6% 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
FY10	5,702	-8%	5,512	-11%	97%	182 Days	-14%
FY11	5,698	-<1%	5,840	+6%	102%	195 Days	+7%
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%

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

DATA ON DISPENSING ERROR COMPLAINTS CLOSED FY10– FY14

Type of Dispensing Error	FY10	FY11	FY12	FY13	FY14	5-Year Avg.
Wrong Drug/Strength or Wrong Directions for Use	100	288	196	104	174	172
Mislabeling	8	14	19	18	5	13
Dispensed Wrong Quantity	60	70	67	78	35	62
Dispensed Outdated Drug	3	3	6	7	1	4
Packaging/Delivery Error	17	23	21	23	16	20
Error + No Counseling	5	5	11	6	0	5
Total # Dispensing Error Complaints	193	403	320	236	231	277
Total # Complaints Closed	5,512	5,840	5,766	6,552	5,606	5,855
% Dispensing Error Complaints	4%	7%	6%	4%	4%	5%

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

DATA ON COMPLAINTS CLOSED FY2012 – FY2014

Form of Complaints	FY12	FY13	FY14	% of FY14	3-Yr. Avg.	% of 3-Yr. Avg.
Telephone	29	31	16	<1%	25	<1%
Letter	133	144	129	2%	135	2%
TSBP Complaint Form	177	201	117	2%	165	3%
HPC 800 #	14	22	25	<1%	20	<1%
Fax	51	76	40	1%	56	1%
Visit	5	0	1	N/A	2	N/A
Agency Report	13	6	1	N/A	7	<1%
Inspection	210	191	89	2%	163	3%
Interoffice Referral	10	1	2	N/A	4	N/A
Licensure Application	2,564	2,374	2,329	42%	2,422	41%
Data Bank	13	10	3	NA%	9	<1%
Theft/Loss Report	683	1,044	904	16%	877	15%
Investigation	415	670	449	8%	511	9%
Intra-Agency Referral	14	12	10	<1%	12	<1%
Malpractice Report	7	4	9	<1%	7	<1%
Press Clip	1	3	3	N/A	2	N/A
Email *	230	212	127	2%	190	3%
Internet *	524	537	420	7%	494	8%
DPS/quarterly **	671	1,009	931	17%	870	15%
Other	2	5	1	N/A	3	<1%
TOTAL	5,766	6,552	5,606	100%	5,974	100%

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

** Category includes Quarterly Reports and daily RAP arrest reports.

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DATA ON COMPLAINTS CLOSED FY2012 – FY2014

Source of Complaints	FY12	FY13	FY14	% of FY14	3-Yr. Avg.	% of 3-Yr. Avg.
Consumer	582	663	476	8%	574	10%
Government Agency	730	1,077	966	17%	924	15%
Pharmacist	49	48	32	1%	43	1%
Pharmacist (Self)	62	85	74	1%	74	1%
Pharmacist Applicant	143	108	109	2%	120	2%
Technician	18	10	11	<1%	13	<1%
Technician (Self)	83	148	71	1%	101	2%
Tech Applicant	271	258	189	3%	239	4%
Technician Trainee	0	1	2	N/A	1	N/A
Tech Trainee (Self)	2	4	2	N/A	3	N/A
Tech Trainee Applicant	952	754	751	13%	819	14%
Intern	3	2	2	N/A	2	N/A
Intern Applicant	74	85	79	1%	79	1%
TSBP	1,529	1,662	1,469	26%	1553	26%
Doctor	54	61	45	1%	53	1%
Other Health Professional	21	29	17	<1%	22	<1%
NABP	14	10	3	N/A	9	<1%
PIC, Pharmacy Manager, or Supervisor	827	1,197	1,040	19%	1021	17%
Loss Prevention Officer (Corporate)	3	3	1	N/A	2	N/A
Manufacturing Rep.	12	7	9	<1%	9	<1%
Professional Recovery Network (PRN)	11	21	13	<1%	15	<1%
Insurance Company	7	8	8	<1%	8	<1%
Attorney	9	11	10	<1%	10	<1%
Employee/Ex-Employee	41	44	20	<1%	35	1%
Media	0	1	3	N/A	1	N/A
Drug Screening Co.	224	189	178	3%	197	3%
Other	45	66	26	<1%	46	1%
TOTAL	5,766	6,552	5,606	100%	5,974	100%

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DATA ON CLOSED FY2012 – FY2014 COMPLAINTS

Subjects of Complaints	FY2012	FY2013	FY2014	3-Yr. Average
Licensees (RPh/Pharmacy)	2,024 (35%)	2,696 (41%)	2,057 (37%)	2,259 (38%)
Pharmacist	597	770	574	647
In-State Pharmacy	1,380	1,870	1,414	1,555
Out-of-State Pharmacy	47	56	69	57
Registrants (Intern/Tech)	1,160 (20%)	1,561 (24%)	1,254 (22%)	1,325 (22%)
Intern	49	41	25	38
Technician	673	1,070	915	886
Technician Trainee	438	450	314	401
Applicants (Lic & Reg)	2,528 (44%)	2,243 (34%)	2,257 (40%)	2,343 (39%)
Pharmacist	169	149	122	147
Pharmacy	147	127	126	133
Intern	82	87	91	87
Technician	526	526	419	490
Technician Trainee	1,604	1,354	1,499	1,486
Non-Licensees	54 (<1%)	52 (1%)	38 (1%)	48 (1%)
Doctor	14	20	4	13
Manufacturer	1	1	1	1
Wholesaler	0	1	1	1
Non-Licensed Facility or Person	30	17	23	23
Insurance Company/ PBM	3	8	7	6
Out-of-State Facility	4	4	2	3
Other	2	1	0	1
TOTAL	5,766	6,552	5,606	5,975

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NATURE OF ALLEGATIONS OF COMPLAINTS CLOSED FY2012 – FY2014

Alleged Violation	FY12	FY13	FY14	3-Yr. Avg.	% of 3-Yr. Avg.
Diversion	20	11	6	12	N/A
Controlled Substances (C/S)	14	7	2	8	N/A
Dangerous Drugs (D/D)	0	1	1	1	N/A
Both (C/S & D/D)	4	1	0	2	N/A
Internet Rxs	2	2	3	2	N/A
Unauthorized Dispensing	29	20	19	23	N/A
Controlled Substances	11	4	3	6	N/A
Dangerous Drugs	11	10	12	11	N/A
Both (C/S & D/D)	7	6	4	6	N/A
Illegal Delivery	14	3	0	6	N/A
Controlled Substances	13	3	0	5	N/A
Dangerous Drugs	0	0	0	0	N/A
Both (C/S & D/D)	1	0	0	<1	N/A
Illegal Possession	23	16	5	15	N/A
Controlled Substances	20	12	5	12	N/A
Dangerous Drugs	3	3	0	2	N/A
Both (C/S & D/D)	0	1	0	<1	N/A
Convictions/Criminal Offenses	1,886	1,868	1,609	1,788	30%
Felony	59	34	40	44	1%
Misdemeanor	192	175	157	175	3%
DWI/PI	399	489	433	440	7%
Deferred Adjudication	370	369	300	346	6%
Offense on Application	866	801	679	782	13%
Dispensing Error	322	336	231	296	5%
Wrong Drug/Strength	198	204	174	192	3%
Mislabeling	19	18	5	14	N/A
Wrong Quantity	67	78	35	60	1%
Outdated Drug	6	7	1	5	N/A
Packaging/Delivery	21	23	16	20	N/A
Dispensing Error and No or Improper Patient Counseling	11	6	0	6	N/A
No or Improper Patient Counseling	41	27	26	31	1%
No or Improper Drug Regimen Review	16	35	25	25	N/A
Theft/Loss of C/S and/or D/D	643	1,018	883	848	14%
Non-Therapeutic Dispensing	90	82	61	78	1%
Action by Other Board	123	116	88	109	2%
Non-Compliance with Substitution Rules	33	27	6	22	N/A
Non-Compliance with Disciplinary Order	381	518	378	426	7%
Non-Compliance with PRN Contract	6	12	8	9	N/A
Interference with Doctor/Patient Relationship	41	46	73	53	1%
Confidentiality	22	29	7	19	N/A
Failed to Keep Records	7	6	3	5	N/A
Negligence	0	0	0	0	N/A
Unsafe Practice	0	0	0	0	N/A
Compounding	5	13	2	7	N/A
Unprofessional Conduct	3	3	1	2	N/A
Gross Immorality	5	1	3	3	N/A
Fraud	939	919	1,072	977	16%
Fraud, Deceit & Misrepresentation	4	2	2	3	N/A
Falsified Response to Warning Notice	0	0	0	0	N/A
Falsified Application	915	886	1,054	952	16%
Filled/Passed Forged Prescription	16	23	12	17	N/A
Insurance Fraud	0	5	2	2	N/A
Medicare Fraud	4	3	2	3	N/A

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Alleged Violation	FY12	FY13	FY14	3-Yr. Avg.	% of 3-Yr. Avg.
Impairment	39	38	33	37	1%
Probable Cause	19	22	15	19	N/A
Drug & Alcohol	1	1	4	2	N/A
Drug	5	3	2	3	N/A
Alcohol	9	8	11	9	N/A
Physical	0	0	0	0	N/A
Mental	5	4	1	3	N/A
Changed Prescription	25	20	14	20	N/A
Aiding and Abetting	85	34	25	48	1%
Technician working with No/Del Registration	119	124	53	99	2%
Non-Therapeutic Prescribing (Doctor)	7	13	1	7	N/A
Excessive Purchases of Controlled Substances	2	1	1	1	N/A
Anabolic Steroids	0	1	0	<1	N/A
Grey Market Diversion	1	2	0	1	N/A
Samples	2	2	0	3	N/A
Technician Violation	5	15	2	7	N/A
Improper Security	4	4	0	3	N/A
Problem with OTC Drug	3	8	0	4	N/A
Closed Pharmacy Improperly	0	1	1	1	N/A
Operating Pharmacy without License	0	1	1	1	N/A
Working Conditions	10	3	3	5	N/A
Delinquent License	8	2	3	4	N/A
Kickbacks	2	2	1	2	N/A
No PIC	0	0	0	0	N/A
Recordkeeping Error	44	64	38	49	1%
Notification Violation	1	0	0	<1	N/A
No Annual/PIC/DEA Inventory	0	1	3	1	N/A
C-II Rx	2	2	1	2	N/A
Improper Rx's Issued by Doctors	1	0	0	<1	N/A
Advertising	2	1	2	2	N/A
Overcharging	0	0	0	0	N/A
Billing Dispute	32	35	38	35	1%
Customer Service	32	30	20	27	N/A
Hot Check	0	0	0	0	N/A
Accountability Audit Discrepancies (shortages/overages)	11	56	13	27	N/A
CE Audit	4	4	0	3	N/A
Default on Student Loans	0	0	0	0	N/A
Shipping to Other States without a License	*	*	5	2	N/A
Other Allegations	576	876	772	741	12%
Texas Pharmacy Act	10	9	8	9	N/A
Texas Dangerous Drug Act	0	4	1	2	N/A
Texas Controlled Substances Act	53	24	13	30	1%
Food Drug & Cosmetic Act	3	6	5	5	N/A
TSBP Rule	186	258	147	197	3%
Other Laws/Rules	324	575	593	497	8%
Request Disciplinary Action	57	65	45	56	1%
Reinstatement	12	8	15	12	N/A
Modification	31	33	15	26	N/A
TOTAL	5,766	6,552	5,606	5,975	100%

N/A – not applicable, value less than 0.01

* New code in FY 2014

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ACTION TAKEN BY TSBP TO CLOSE COMPLAINTS FY2012 – FY2014

	FY2012	FY2013	FY2014	3-Yr. Avg.	% of 3-Yr. Avg.
Investigations Not Resulting in Disciplinary Action:	4,564	5,260	4,369	4,731	79%
Investigate + Dismissal (Warning) Letter	1,391	1,463	1,237	1,364	23%
Investigate + Complaint Closed with Verbal Warning	404	167	97	223	4%
Investigate + Complaint Closed with No Action Due to Insufficient Evidence to Prove Violation Occurred	1,367	1,993	1,794	1,718	29%
Investigate + Lost Jurisdiction (registration expired)	151	230	185	189	3%
Inspections	105	140	43	96	2%
Inspection + Warning Notice or Dismissal Letter	48	61	36	48	1%
Application Withdrawn	362	205	234	267	4%
Pharmacy Closed	***	***	15	***	***
Other *	736	1,001	728	822	14%
Investigations Resulting in Disciplinary Action:	906	840	751	832	14%
Agreed Board Order	752	646	544	647	11%
Board Order	98	90	105	98	2%
Preliminary Notice Letter + Dismissal (Warning) Ltr.	0	0	0	N/A	N/A
PNL + Application Withdrawn (with or without Informal Conference)	22	66	82	57	1%
PNL + Informal Conference + Dismissal Letter	20	23	6	16	<1%
PNL + Informal Conference + Case Dismissed	13	14	9	12	<1%
PNL + Case Dismissed or Other	1	1	4	2	N/A
PNL + Remedial Plan	***	***	1	***	***
Referrals To:	74	60	23	52	1%
Medical Board	9	4	3	5	N/A
PRN Program	1	1	1	1	N/A
Supervisor	6	4	0	3	N/A
Other Agency	58	51	19	43	1%
No Action Because:	223	392	462	359	6%
No Violation	31	191	164	129	2%
No Jurisdiction	88	46	16	50	1%
Insufficient Information	10	8	6	8	N/A
Other **	94	147	276	172	3%
TOTAL	5,767	6,552	5,605	5,975	100%

N/A = Not Applicable, value is below 0.01

* 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 FY2014

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During FY2014, TSBP received 348 reports indicating that pharmacies experienced theft of 749,704 dosage units of controlled substances by 229 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 FY2014 (9/1/2013 – 8/31/2014)

CLASSIFICATION OF EMPLOYEE	Class "A"	Class "C"	Hospital Floor Stock	Total	%	DU	%
Registered Pharmacist	17	1	0	18	8%	54,597	7%
Pharmacist Intern	0	0	0	0	N/A	0	N/A
Registered Pharmacy Technician	63	3	0	66	29%	522,087	70%
Pharmacy Technician Trainee	18	0	0	18	8%	86,004	11%
Physician	0	0	2	2	1%	196	N/A
Registered Nurse	0	3	34	37	16%	3,512	N/A
Certified Registered Nurse Anesthetist	0	0	3	3	1%	727	N/A
Licensed Vocational Nurse	0	0	2	2	1%	668	N/A
Pharmacy Cashier – Pharmacy Clerk	6	0	0	6	3%	15,398	2%
Pharmacy Staff – Unidentified	0	0	0	0	N/A	0	N/A
Hospital Staff – Unidentified	0	0	2	2	1%	7	N/A
Hospital Staff – Pharmacy Staff	0	0	0	0	N/A	0	N/A
Miscellaneous*	71	4	0	75	33%	66,508	9%
TOTALS	175	11	43	229 **	100%	749,704	100%

N/A = Not Applicable, value is below 0.01

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

** A total of 348 DEA Reports involving 229 individuals.

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Report Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2012 - FY2014 (by Individuals)

CLASSIFICATION OF EMPLOYEE	FY2012		FY2013		FY2014		% Change FY13-FY14
	Total # of Individuals	%	Total # of Individuals	%	Total # of Individuals	%	
Registered Pharmacist	19	7%	25	8%	18	8%	-28%
Pharmacist Intern	0	N/A	0	N/A	0	N/A	N/A
Registered Pharmacy Technician	100	38%	68	21%	66	29%	-3%
Pharmacy Technician-in-Training	16	6%	13	4%	18	8%	38%
Physician	0	N/A	0	N/A	2	1%	N/A
Registered Nurse	25	9%	51	16%	37	16%	-27%
Certified Registered Nurse Anesthetist	0	N/A	0	N/A	3	1%	N/A
Licensed Vocational Nurse	6	2%	17	5%	2	1%	-88%
Pharmacy Cashier – Pharmacy Clerk	7	3%	2	<1%	6	3%	2%
Pharmacy Staff – Unidentified	45	17%	72	22%	0	N/A	-1%
Hospital Staff – Unidentified	10	4%	9	3%	2	1%	-77%
Hospital Staff – Pharmacy Staff	5	2%	8	2%	0	N/A	-1%
Miscellaneous *	31	12%	61	19%	75	33%	23%
TOTALS	264	100%	326	100%	229	100%	-30%

N/A = Not Applicable, value is below 0.01

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

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Reports Submitted to the Texas State Board of Pharmacy Regarding Thefts/Losses of Controlled Substances in Texas Pharmacies Due to Employee Pilferage FY2012 - FY2014 (by Dosage Units)

CLASSIFICATION OF EMPLOYEE	FY2012		FY2013		FY2014		% Change FY13-FY14
	Total # of Dosage Units	%	Total # of Dosage Units	%	Total # of Dosage Units	%	
Registered Pharmacist	60,728	7%	64,162	11%	54,597	7%	-15%
Pharmacist Intern	0	N/A	0	N/A	0	N/A	N/A
Registered Pharmacy Technician	627,488	74%	352,383	60%	522,087	70%	48%
Pharmacy Technician-in-Training	63,748	7%	38,931	7%	86,004	11%	121%
Physician	0	N/A	0	N/A	196	N/A	N/A
Registered Nurse	2,579	0%	2,878	<1%	3,512	N/A	22%
Certified Registered Nurse Anesthetist	0	N/A	0	N/A	727	N/A	N/A
Licensed Vocational Nurse	130	0%	1,309	<1%	668	N/A	-49%
Pharmacy Cashier – Pharmacy Clerk	48,478	6%	640	<1%	15,398	2%	23%
Pharmacy Staff – Unidentified	28,778	3%	92,416	16%	0	N/A	-1%
Hospital Staff – Unidentified	1,490	0%	624	<1%	7	N/A	-99%
Hospital Staff – Pharmacy Staff	370	0%	72	<1%	0	N/A	-1%
Miscellaneous *	15,630	2%	30,929	5%	66,508	9%	115%
TOTALS	849,419	100%	584,344	100%	749,704	100%	28%

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

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

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 FY2014, including fingerprint-based criminal background checks; and to conduct criminal background checks on licensees and registrants on a quarterly basis throughout FY2014.**

Status: **ACCOMPLISHED**

Comments: Throughout FY2014, 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 FY2014, TSBP received 556 such reports (as compared to FY2013 when TSBP received 607 such reports – an 8% decrease).
- C. Conducted background checks on pharmacists, interns, and technicians/tech trainees; during FY2014, the agency opened 375 complaints due to the criminal history information provided on the quarterly reports (as compared to FY2013 when TSBP received 402 such reports – a 7% decrease).

Considering (B) and (C) together, the agency received 931 reports in FY2014, as compared to FY2013 when the agency received 1009 reports (8% decrease).

During FY2014 (on September 24, 2013), the Department of Public Safety (DPS) conducted an on-site audit of the agency's compliance with the policies and procedures regarding the use of the DPS On-Line Criminal Justice System, including credentialing and training requirements. TSBP successfully passed this audit.

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 FY2014.**

Status: **ACCOMPLISHED**

Comment: TSBP continued to provide assistance to other agencies, when requested, throughout FY2014. TSBP Field Investigators maintained liaison with law enforcement agencies across the State, totaling over 749 contacts with 252 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 FY2014.**

Status: **ACCOMPLISHED**

Comment: Almost all of the disciplinary orders entered in FY2014 required some type of monitoring by Division staff (i.e., 535 orders or 88% of the 608 disciplinary orders that TSBP entered during FY2014 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 FY2014, which required the Division to monitor the licensee's compliance with the Order, in some manner:

Total Number of Orders Entered by TSBP That Required Monitoring on Licensees (Pharmacists and Pharmacies), Interns, and Technicians (FY14)		
	FY14	% of FY14
Total Number of Orders on Licensees Requiring Monitoring	269	44%
Total Number of Orders on Technicians Requiring Monitoring	266	44%
Total Number of Orders Requiring Monitoring	535	88%
Total Number of Orders Not Requiring Monitoring	73	12%
Total Number of Orders Entered by TSBP in FY14	608	100%

ENFORCEMENT DIVISION

Types of TSBP Disciplinary Orders Entered on Licensees (Pharmacists and Pharmacies) and Interns That Required Monitoring (FY12-FY14)						
Sanction	FY12 Orders	FY13 Orders	FY14 Orders	% of FY14	3-Yr. Avg.	% of 3-Yr. Avg.
Revoke / Retire	18	27	28	10%	24	7%
Suspension	34	25	28	10%	29	8%
Restricted	6	5	5	2%	5	1%
Rehabilitation Orders*	19	28	15	5%	21	6%
Reinstatement	3	0	3	1%	2	1%
Fines or Probation Fees Only	110	102	80	28%	97	28%
Continuing Education, Texas Jurisprudence Exam, and/or Pharmacy Law Course (could also include fines and/or probation fees)	53	39	42	15%	45	13%
Continuous Quality Improvement Program, Self Assessments, Policies/ Procedures, and/or Quarterly Reports (could also include fines and/or probation fees)	107	96	68	24%	90	26%
Public Orders Requiring Drug Screens	3	2	0	N/A	2	1%
TOTAL NUMBER OF ORDERS ON LICENSEES REQUIRING MONITORING	353	324	269	93%	315	91%
TOTAL NUMBER OF ORDERS NOT REQUIRING MONITORING	33	39	20	7%	31	9%
TOTAL ORDERS	386	363	289	100%	346	100%

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

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

ENFORCEMENT DIVISION

Types of TSBP Disciplinary Orders Entered on Technicians That Required Monitoring (FY12 – FY14)						
Sanction	FY12 Orders	FY13 Orders	FY14 Orders	% of FY14	3-Year Average	% of 3-Year Average
Revoke	90	78	74	23%	81	23%
Suspension	40	30	39	12%	36	10%
Restriction	0	0	0	N/A	0	N/A
Fines Only	163	113	110	35%	129	37%
Other *	50	43	43	13%	45	13%
TOTAL NUMBER OF ORDERS ON TECHNICIANS REQUIRING MONITORING	343	264	266	83%	291	84%
TOTAL NUMBER OF ORDERS ON TECHNICIANS NOT REQUIRING MONITORING	63	56	53	17%	57	16%
TOTAL NUMBER OF ORDERS ON TECHNICIANS	406	320	319	100%	348	100%

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

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

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 FY2014, TSBP imposed six suspensions due to non-compliance for condition(s), and no revocations due to non-compliance.

ENFORCEMENT DIVISION

During FY2014, TSBP entered 52 confidential disciplinary Orders (49 orders were entered on pharmacists, one order on a student intern, and two orders were entered on Intern applicants. 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 (FY12 – FY14)						
Nature of Violation	FY12	FY13	FY14	% of FY14	3-Yr. Avg.	% of 3-Yr. Avg.
Non-Compliance with ABO	14	23	22	42%	20	32%
Non-Compliance with PRN	0	1	0	N/A	0	N/A
Action by Other Boards	2	2	0	N/A	1	2%
Audit Shortages	0	0	0	N/A	0	N/A
Alcohol-Related Conviction	4	3	1	2%	3	5%
Theft of Prescription Drugs	5	7	6	12%	6	10%
Created Fraudulent Rx or Obtained C/S by Fraud	0	0	0	N/A	0	N/A
Convictions	1	2	2	4%	2	3%
Deferred Adjudication	2	2	3	6%	2	3%
Illegal Possession of Controlled Substances	0	0	0	N/A	0	N/A
Unauthorized Refills of Controlled Substances	3	1	1	2%	2	3%
Probable Cause/Dependency	10	8	4	8%	7	11%
Mental Impairment	0	2	0	N/A	1	2%
Request for Modification of Previously Entered ABO	12	12	6	12%	10	16%
Request for Retirement or Revocation	5	11	6	12%	7	11%
Request for Reinstatement	1	0	1	2%	1	2%
TOTAL	59	74	52	100%	62	100%

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

Of the 52 confidential *pharmacist/intern* Orders entered in FY2014, 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 FY2014, as reflected in the chart below. However, 32 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, 2014, a total of 115 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:

ENFORCEMENT DIVISION

Impaired/Recovering Pharmacists Monitored by Enforcement Division (FY10 – FY14)			
Fiscal Year	Total Orders*	Total New Orders**	Total Being Monitored***
FY10	59	32	118
FY11	52	32	132
FY12	59	29	135
FY13	74	31	129
FY14	52	18	115

* 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 by the agency.

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

In addition to monitoring confidential Orders for recovering pharmacists and interns, TSBP monitored 16 pharmacist/interns who are subject to *public* Orders that require random drug screening, as of August 31, 2014.

During FY2014, TSBP entered 57 Orders on Technicians or Techs-in-Training (TNT) who are subject to probation periods with random drug screening. Of the 57 Orders, there were 53 Orders resulting in a Tech or TNT being added to the number who were being monitored at the end of FY2014, as reflected in the chart below. However, 40 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, 2014, a total of 60 technicians/tech-trainees were being monitored by TSBP, as depicted in the chart below:

Technicians / Technicians-in-Training Monitored (with probation under conditions, including random drug screens) by Enforcement Division (FY2013 – FY2014)			
Fiscal Year	Total Orders	Total New Orders	Total Being Monitored
FY2013	57	51	47
FY2014	57	53	60

7. To provide verbal and written information to Board staff and customers as needed or required throughout FY2014, 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 1,698 inspections in FY2014 (see Ongoing Objective #2).

ENFORCEMENT DIVISION

B. TELEPHONE CALLS

Division staff provided technical assistance and answered questions regarding laws and rules governing the practice of pharmacy from approximately 22,333 callers who were routed through the Compliance Queue telephone line.

Number of Telephone Calls Handled via Compliance Queue (FY10 – FY14)		% Change
FY10	18,794	+ 22%
FY11	23,095	+ 23%
FY12	25,822	+ 12%
FY13	21,323	- 17%
FY14	22,333	+ 5%

C. COMPLAINT FORMS

During FY2014, TSBP mailed 524 complaint forms to individuals who requested a complaint form. As indicated in the chart below, 200 complaint forms (38% of total) were mailed to individuals who had requested a form by calling the HPC toll-free complaint hotline and 324 complaint forms (62% 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 (FY10 – FY14)						
Fiscal Year	Requests for Complaint Forms via HPC 800#	% Change	Requests for Complaint Forms via TSBP Voice Mail	% Change	Total Requests	% Change
FY10	265	-13%	328	-19%	593	
FY11	260	-2%	283	-14%	543	-8%
FY12	213	-18%	289	2%	502	-8%
FY13	284	33%	207	-28%	491	-2%
FY14	200	-30%	324	57%	524	+7%

D. CUSTOMER SERVICE SURVEYS

During FY2014, Division staff mailed 236 customer service surveys to TSBP customers.

Number of Customer Surveys Mailed (FY10 – FY14)		% Change
FY10	330	
FY11	835	+153%
FY12	654	-22%
FY13	456	-30%
FY14	236	-48%

ENFORCEMENT DIVISION

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.)
09/19/13	El Paso Health Care Fraud Group – Assistance with Fraud Investigations – El Paso, TX	Field Investigator SC	32
09/21/13	Texas Pharmacy Law Review for Pharmacy Technicians Fall Pharmacy Technician Summit – Corpus Christi, TX	Paul Holder	30
10/17/13	Texas A&M College of Pharmacy – Pharmacy Diversion – Kingsville, TX	Field Investigator SC	300
10/12/13	Texas Southern University College of Pharmacy Fall Preceptor's Conference – Houston, TX	Iona Grant	100
10/18/13	Texas Association of Independent Pharmacies Organization (TAIPO) -	Iona Grant/Paul Holder	25
11/12/13	Update on TSBP Sterile Compounding Rules IV Admixture Class, UT Pharmacy School – Austin, TX	Paul Holder	30
11/14/13	Houston Area Pharmacy Association Houston, TX	Iona Grant	50
11/18/13	Patient Safety and TSBP Patient Safety Class, UT Pharmacy School – Austin, TX	Paul Holder	30
12/04/13	Inspecting Compounding Pharmacies 2013 NABP Interactive Compliance Officer and General Counsel Forum – Chicago, IL	Paul Holder	50
01/17/14	TSBP, Drugs, & You University of Houston Student PRN Alcohol, Drugs, & You Seminar – Houston, TX	Paul Holder	120
01/24/14	Compounding Sterile Preparations – Are We Ready for Changes? Dallas-Ft. Worth Hospital Pharmacy Directors, Parkland Hospital – Dallas, TX	Paul Holder	75
01/28/14	Lake Houston Pharmacy Association Humble, TX	Iona Grant	38
02/18/14	Federal Law Enforcement Agents – Pharmacy Diversion Investigations – DEA Dallas Field Office	Field Investigator RW	60
02/21/14	New Sterile Compounding Rules Texas A&M – Kingsville, TX	Paul Holder	90
03/08/14	TSBP Law Update/Sterile Compounding Rules El Paso Area Society of Health System Pharmacy El Paso, TX	Paul Holder	150
03/10/14	New Federal and State Sterile Compounding Rules School of Pharmacy Texas Tech University, Abilene, TX	Paul Holder	100
04/05/14	Texas Southern University College of Pharmacy Spring Preceptor's Conference – Houston, TX	Iona Grant	70
04/11/14 – 04/12/14	Compounding Sterile Preparations – Are We Ready for Changes? Texas Society of Health-Systems Pharmacists Annual Seminar – Houston, TX	Paul Holder	200
04/15/14	TSBP rules vs USP <797> Regulatory Issues to Consider Controlled Environment Testing Association (CETA) Annual Meeting – Austin, TX	Paul Holder	50
07/11/14	Walgreens Interns & District Managers Houston, TX	Iona Grant	20
		Total	1620

ENFORCEMENT DIVISION

F. WRITTEN INFORMATION

During FY2014, Division staff responded 222 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) Division Director assisted in the development of the proposed Goals and Objectives for FY2015, which were presented to/approved by the Board at its meeting held in August 2014;
- (2) At all Board meetings held in FY2014, Division Director made presentations regarding the number of acting/pending complaints and the number of dismissed complaints, and Assistant Division Director made a report regarding the Peer Assistance Performance Measures;
- (3) Division Director assisted in the review/edit of the drafts of minutes of four Board meetings;
- (4) Division Director assisted in the review of drafted rules prior to presentation of the proposals to the Board Members;
- (5) Division Director assisted Executive Director with presentations to NABP (relating to training of Inspectors); a Law Class (examples of disciplinary cases); and Legislative hearing (on 4/14/14); and
- (6) In the absence or at the request of the Executive Director, Division Director responded to inquiries from the media, including the Dallas Morning News.

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 assisted with response to one discovery request and requirements of orders relating to Remedial Plans;
 - (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;
 - (c) Formal Hearings – Division Director testified in four formal hearings conducted by the State Office of Administrative Hearings (September 16, 2013; October 4, 2013; October 22, 2013; and August 20, 2014); and
 - (d) Orientation of New Employees – Division staff conducted orientation sessions with four new Legal Division employees (two attorneys and two legal assistants).

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- (2) Division of Professional Services
 - (a) TSBP *Newsletter* – Division staff assisted with each issue of the Newsletter (e.g., wrote articles such as Compliance Reminders and Complaint Corner and provided applicable information regarding disciplinary orders entered by the Board);
 - (b) Open Records Requests – Division Director provided assistance when needed; and
 - (c) Exhibit – In the absence of the Director of Professional Services, Enforcement Division staff developed and presented educational materials at the agency booth and display at the Texas Society of Health System Pharmacists Annual Meeting in April 2014.
- (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 Employee Handbook with regard to specific sections (e.g., Violence in the Workplace);
 - (c) Orientation of New Employee – Division staff conducted orientation sessions with Sarah Smith, Licensing Specialist;
 - (c) Division staff continued to answer thousands of telephone calls received via the Compliance Queue line regarding the license application process, particularly calls technician applicants; and
 - (d) Division staff assisted in the review of applications for a Class B or D Pharmacy license, as indicated in the chart below:

Activity	FY2012	FY2013	FY2014	3-Year Average
New Class D (Clinic) Pharmacy Applications	17	32	27	25
New Class B (Nuclear) Pharmacy Applications	2	0	1	1
Petitions for Expanded Formularies for Class D (Clinic) Pharmacies	67	62	64	64
Petitions for Alternative Visitation Schedules for Class D (Clinic) Pharmacies	31	11	41	28
Notifications of Temporary Locations for Class D (Clinic) Pharmacies	14	4	10	9
Standard Class D Formularies Reviewed	10	28	25	21

ENFORCEMENT DIVISION

I. TECHNICAL ASSISTANCE TO OTHER AGENCIES AND ORGANIZATIONS

- (1) Division Director testified as an expert witness in two trials (worked with an Assistant District Attorney in Liberty County; and U.S. Attorney in Dallas for a federal trial); both of these cases involved non-therapeutic dispensing of controlled substances;
- (2) Division staff worked with Consumer Product Safety Commission to check for non-compliance issues during TSBP inspections;
- (3) 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);
- (4) Division staff accompanied Federal Food and Drug Administration investigators as they conducted inspections of several compounding pharmacies in Texas; and
- (5) Division Director provided assistance to seven pharmacy boards located in other states; two regulatory agencies in Texas (Board of Nurse Examiners and Board of Veterinary Examiners); two prosecutors (DA Houston and DEA Senior Attorney); and three federal agencies (DEA, FDA, and OIG).

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 FY2014.

Status: ACCOMPLISHED

Comment: During FY2014, Assistant Division Director served as a preceptor to six students from five different Colleges/Schools of Pharmacy, as listed below:

- September 23, 2013
 - David King – The University of Texas at Austin
- November 4, 2013
 - Melvin Roberts – Texas Southern University
- February 17, 2014 – March 28, 2014
 - Hoang Ho – Texas A&M University
- May 26, 2014 – July 4, 2014
 - Jacob Sellers – Texas Tech University
- July 7, 2014 – August 15, 2014
 - Thuy Bui – University of the Incarnate Word
- August 18, 2014 (FY2014) – September 26, 2014 (FY2015)
 - Damian Chavarria – The University of Texas at Austin

ENFORCEMENT DIVISION

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 FY2014.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Board Member Ben Fry, R.Ph., served as an ex-officio member of the TX-PRN State Committee throughout FY2014;
- B. Throughout FY2014, 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 FY2014;
- 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 10, 2013, and the results of the audit were reported to the Board at its meeting held on February 11, 2014;
- D. Division staff attended two TX-PRN State Advisory Committee meetings held on October 19, 2013, and June 11, 2014; and
- E. Throughout FY2014, 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 FY2014.**

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, address, and telephone number, or they may "zero out" and speak to an HPC staff member for clarification of procedures. During FY2014, TSBP mailed 200 complaint forms to individuals requesting forms on the HPC complaint hotline.

11. **To manage employees under the supervision of the Division throughout FY2014, 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

ENFORCEMENT DIVISION

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 12, 2013 – which included training presented by Alliance Work Partners (“Cube Etiquette”)
 - February 26, 2014
 - May 28, 2014 – which included training presented by Alliance Work Partners (“Workplace Violence Prevention”)
 - August 26, 2014
- In conjunction with quarterly staff meetings, Assistant Director of Enforcement conducted reviews of newly adopted rules with Division staff who answer questions regarding the laws/rules governing the practice of pharmacy (e.g., Compliance Field Staff and Division employees who are tasked with answering calls on the Compliance Queue Line). These Rule Reviews were also open to all technicians who work for TSBP as a means to obtain their required Continuing Education hours in pharmacy law.
- Division Team Leaders attended and participated in meetings for Division team leaders, as well as meetings with team leaders from other Divisions, including an EEO training on October 23, 2013.
- Beginning March 20, 2014, Division staff completed weekly modules regarding Security Awareness Training (“Securing the Human”). Certificates of completion were issued in September 2014.
- Several training sessions with members of the Division staff who answer calls on the Compliance Queue Line. Two of these sessions were held in conjunction with the Division Director of Administrative Services and Licensing and other members of the Licensing Division, so that Enforcement Division staff would be better able to answer questions regarding the licensure application process, particularly for pharmacy technicians and pharmacy technician trainees.
- 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). Division Director attended the annual meeting of the National Association Boards of Pharmacy in Phoenix, Arizona (May 17-20, 2014).

B. Performance Evaluations – Formal performance reviews were conducted for all Division employees in FY2014, with the exception of new hires with less than six months of employment with the agency.

ENFORCEMENT DIVISION

- C. Other Activities – The Division began FY2014 with two vacancies and ended FY2014 with two vacancies. In the interim, the Division experienced 21 staffing changes, as a result of the following:

- 1 loss due to retirement (Robert Ebrom);
- 3 losses due to resignations (Wilson; Stapp; Barrientez);
- 2 losses due to promotion to the Legal Division (Jessica Hirn and Amy Burt);
- 1 internal promotion within the Division (Amanda Debs); and
- 8 new positions due to additional funding appropriated by the 83rd Texas Legislature.

These staffing changes are described below and resulted in 14 new hires: Hargis; Newman; Barrientez; Ickes; Debs; Burrows; Salinas; Moreno; McConnell; McDiffett; Raibon; Ledesma; Sims; and Hernandez.

- | | | |
|----------------|-----------|---|
| September 2013 | (1) | Robert Ebrom, Chief of Investigations, retired after 13 years of service to TSBP. |
| | (2) | Kara Stapp resigned as the Compliance Inspector for the West Texas Region. |
| | (3) | Amber Wilson resigned her position as an Enforcement Technician (Administrative Assistant). |
| October 2013 | (4) | Jessica Hirn, Enforcement Officer, was promoted to Legal Assistant (and transferred to Legal Division). |
| November 2013 | (5) | Mary Newman was hired as an Enforcement Specialist to fill the position vacated (in September 2013) by Amber Wilson. |
| January 2014 | (6) | John Hargis was hired as Chief of Investigations to fill the position that was vacated by Robert Ebrom, following his retirement. |
| | (7) | James Barrientez was hired as the Compliance Inspector for the West Texas Region to fill the position that was vacated (in September 2013) by Kara Stapp. |
| February 2014 | (8) & (9) | Lacy Ickes and Amanda Debs were hired as Administrative Assistants to fill positions vacated in FY2013. During the time period that these two positions were vacant, the Division used temp employees to perform the duties of these positions (e.g., data entry; filing; and imaging). |

ENFORCEMENT DIVISION

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|-------------|------|---|
| April 2014 | (10) | Amanda Debs was promoted to fill the Compliance Specialist position, a new position authorized by the 83 rd Texas Legislature. |
| | (11) | Terri Burrows, R.Ph., Pharm.D., was hired as a Compliance Officer for the Dallas Region, a new position authorized by the 83 rd Texas Legislature. |
| | (12) | Kathy Anderson-Salinas, R.Ph., was hired as a Compliance Officer for the Houston Region, a new position authorized by the 83 rd Texas Legislature. |
| | (13) | Amy Burt, Enforcement Specialist, was promoted to Legal Assistant (and transferred to the Legal Division) |
| May 2014 | (14) | Michelle McDiffett, R.Ph., was hired as a Compliance Program Officer, a new position authorized by the 83 rd Texas Legislature. |
| | (15) | Tera McConnell, R.Ph., Pharm.D., was hired as a Compliance Program Officer, a new position authorized by the 83 rd Texas Legislature, as a result of Senate Bill 1100. |
| | (16) | Lily Moreno was hired as an Enforcement Officer to fill the position vacated by Jessica Hirn (in October 2013). |
| | (17) | Michelle Raibon was hired as a Compliance Inspector for the Houston Region, a new position authorized by the 83 rd Texas Legislature. |
| June 2014 | (18) | Javier Ledesma was hired as a Compliance Inspector for the South Texas/Valley Region, a new position authorized by the 83 rd Texas Legislature. |
| July 2014 | (19) | Ben Sims was hired as a Compliance Inspector for the East Texas Region, a new position authorized by the 83 rd Texas Legislature. |
| August 2014 | (20) | James Barrientez resigned as the Compliance Inspector for the West Texas Region. |
| | (21) | Ciara Hernandez was hired as an Administrative Assistant to fill the position vacated by Amanda Debs, following Ms. Debs' promotion (in April 2014) to Compliance Specialist. |

ENFORCEMENT DIVISION

Division Director also developed five new job descriptions (Compliance Program Officer; Compliance Inspector (three positions: Houston; South Texas/Valley; and East Texas); and Compliance Specialist. In addition, Division Director revised/updated ten job descriptions for the following positions: Assistant Director of Enforcement; Chief of Compliance; Chief of Investigations; Compliance Inspector (two positions: West and Central Texas); Enforcement Officer; Senior Compliance Specialist; and Administrative Assistant (three positions).

12. **To maintain Division records throughout FY2014, 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 FY2014, Division staff destroyed 54.002 cubic feet of records, in accordance with the TSBP record retention schedule. The quantity of Division records destroyed in the past five years is depicted in the chart below:

Fiscal Year (FY10 – FY14)	# of Cubic Feet of Records Destroyed	% Change
FY2010	252.84	
FY2011	183.38	-27%
FY2012	137.82	-25%
FY2013	61.69	-55%
FY2014	54	-17%

B. Records Management (Imaging)

Division staff continued to implement the program to convert paper complaint files to imaged records. Approximately 6,601 complaint files were scanned during FY2014, which represented a 128% increase over FY2013, when approximately 2,897 complaint files were imaged.

C. Enforcement Division Policies/Procedures

Division staff developed and implemented policies and procedures relating to Class E-S inspections. Various internal forms were updated as needed. In addition, Chief of Investigations developed new policy on the destruction of drugs that are abandoned by a pharmacy, collected as evidence in a disciplinary case, or seized following a court order.

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 FY2014.**

Status: ACCOMPLISHED

ENFORCEMENT DIVISION

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

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

- (1) Division staff made several recommendations regarding amendments to TSBP Rule 291.133, regarding the compounding of sterile preparations, such as: requiring a pharmacy to have hood and environmental testing conducted within 72 hours following any inspection in which the clean room was found to be non-compliant with the rule; and clarification regarding the placement of primary engineering devices.
- (2) Chief of Compliance recommended an amendment to TSBP Rule 291.125 regarding centralized prescription dispensing to clarify the transfer of prescriptions between pharmacies.

B Recommendations regarding Agency Operations:

- (1) Assistant Division Director recommended that Compliance Field Staff use mobile devices to record inspection data; he created an electronic format of current inspection forms and worked with the Director of I.T. to implement a pilot project with three inspectors using tablet computers to field test the system.
- (2) Division Director, Assistant Director, and Chief of Compliance developed a new inspection worksheet for inspecting pharmacies compounding sterile preparations for in-state inspections (to be used by TSBP Compliance Field Staff) and Class E Inspections (to be used by qualified vendors who conduct inspections of non-resident pharmacies on behalf of TSBP).
- (3) Division staff made numerous recommendations to internal forms and procedures to improve day-to-day operations.
- (4) Division staff made numerous recommendations to improve, correct, and/or enhance the information provided on the TSBP webpage.
- (5) Division Director recommended that the TSBP Complaint Form and description of the complaint process be amended to inform the public that the agency could not accept anonymous complaints. This change was necessitated as a result of an amendment made to the Texas Pharmacy Act by the 83rd Texas Legislature.

14. To prepare a report on the accomplishment of Division objectives, for incorporation into the agency's *FY2013 Annual Report* and submit to the Executive Director by the due date.

Status: **ACCOMPLISHED**

Comment: Although the Division's first draft of the *FY2013 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 August 2014.

FY2014 SIGNIFICANT ACCOMPLISHMENTS

1. Division staff accomplished 15 of the Division's 15 objectives for FY2014.
2. During FY2014, the Division continued to handle a large number of ongoing disciplinary issues for pharmacy technicians. The Division initiated 364 disciplinary actions by mailing a Preliminary Notice Letter and entered 319 orders against pharmacy technicians and pharmacy technician trainees during the fiscal year. During the fiscal year, 113 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 99% of the disciplinary cases against pharmacists and pharmacies and 100% of the cases against pharmacy technicians were settled through the entry of Agreed Board Orders or default Board Orders, which resulted in significant efficiencies, both in terms of complaint resolution time and agency expenditures.
4. The Division resolved 12 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. Five respondent cases were resolved through mediation. These resolutions saved the agency considerable resources both in time and expenditures.
5. Administrative hearings were conducted against 13 respondents at SOAH. These hearings involved preparing motions for summary judgment and numerous discovery documents (including interrogatories and requests for admission), preparing for trial and for witness examination, 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 six respondents in FY2014. All respondents were temporarily suspended, and no petitions were denied.
7. Division staff took over the analysis of nontherapeutic dispensing cases from Enforcement and developed 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 FY2014 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
FY10	8	2	334	344	3%	98%
FY11	15	2	325	342	-<1%	96%
FY12	5	3	378	386	13%	99%
FY13	2	3	358	363	-6%	99%
FY14	4	9	276	285	-21%	99%
TOTAL	34	19	1,671	1,720	-12%	99%

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
FY10	1	108	355	464	15%	100%
FY11	2	78	284	364	-22%	99%
FY12	1	70	335	406	11%	100%
FY13	0	70	250	320	-7%	100%
FY14	1	73	243	319	-<1%	100%
TOTAL	5	400	1,468	1,872	-3%	100%

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

FY2014 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 (including the key positions of Legal Assistant Team Manager and Staff Attorney) and seven new employees starting with the Division. This situation resulted in significant expenditure of time and effort in hiring and training of new employees. In addition, three of the 12 Division employees utilized the maximum yearly FMLA allowance, further reducing the workforce capability.

LEGAL DIVISION
FY2014 ANNUAL REPORT

GOAL

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

Objectives (New)

To assist the Executive Director, in cooperation with other Divisions, in the following new objectives throughout FY2014:

- 1. Reviewing and implementing legislation passed by the 83rd Texas Legislature that affects agency operations and/or the practice of pharmacy;**
- 2. Updating and preparing the *TSBP Strategic Plan for FY2015-2019* 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 FY2016-2017 biennium for review and approval by the Board at the 2014 Board Budget meeting;**
- 4. Preparing the *TSBP Legislative Appropriation Request for FY2016-2017* by the due date; and**
- 5. Conducting the orientation of new Board members within 90 days of appointment by the Governor.**

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

1. 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 83rd Texas Legislature.
2. The Strategic Plan for FY2015-2019 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 2014 Board meeting. General Counsel assisted with 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.
3. General Counsel worked with the Executive Director and the other Division Directors in preparation of the proposed budget for FY2016-2017. General Counsel, along with the Executive Director and Division Directors, conducted orientation of new LBB analyst.
4. General Counsel worked with the Executive Director and the other Division Directors in preparation of the FY2016-2017 Legislative Appropriations Request and reviewed the final draft of the document.
5. General Counsel, along with the Executive Director and the other agency staff, participated in the orientation of new Board members.

LEGAL DIVISION

Objectives (Ongoing)

1. To coordinate and monitor throughout FY2014 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 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 an electronic log, tracking dates for mailing of Preliminary Notice Letters, scheduling of Informal Conferences, mailing and receiving of Agreed Board Orders, and other due dates previously recorded on paper to enhance accessibility by all Division staff and improve more efficient and immediate information sharing.
- D. TSBP entered a total of 608 disciplinary orders in FY2014, 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 # of Orders
Pharmacists and Pharmacies	7	5	10	52	175	40	289
Pharmacy Technicians	0	1	73	168	77	0	319
Total	7	6	83	220	252	40	608

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

Information regarding the disciplinary cases entered in FY2014 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 (FY2014)

			Pharmacist	Pharmacy	Total
Licenses Removed	28	(10%)			
Revoke			13	4	17
Retire			11	0	11
Suspensions	76	(26%)			
Suspension			5	3	8
Suspension w/Conditions			14	1	15
Suspension w/ Fine			0	0	0
Suspension/Fine/Conditions			5	0	5
Suspension/Probation			7	3	10
Suspension/Probation w/Conditions			16	5	21
Suspension/Probation/Fine			3	5	8
Suspension/Probation/Fine w/Conditions			3	6	9
Restricted	3	(1%)	3	0	3
Other	148	(51%)			
Fine			37	9	46
Fine with Conditions			0	20	20
Fine and Reprimand			3	0	3
Fine, Reprimand with Conditions			12	23	35
Reprimand with Conditions			24	16	40
Reprimand			4	0	4
Require MHP Evaluation			0	0	0
Issuance License/Regist.	24	(8%)			
Grant with Suspension			0	0	0
Grant with Restrictions			0	0	0
Grant with Probation			2	3	5
Grant with Probation and Fine			1	0	1
Grant with Probation/Fine/Conditions			0	0	0
Grant with Probation and Conditions			2	0	2
Grant with Reprimand and Fine			0	0	0
Grant with Fine			1	5	6
Grant with Reprimand			10	0	10
Reinstatements	5	(2%)			
Grant			0	0	0
Grant with Probation/Conditions			3	0	3
Deny			2	0	2
Modifications	5	(2%)			
Grant			5	0	5
Deny			0	0	0
TOTAL FY14:	289	(100%)	186	103	289

FY14 Orders Entered Against Pharmacist Licenses	186	64%
FY14 Orders Entered Against Pharmacy Licenses	103	36%
FY14 Total Disciplinary Orders on Pharmacist/Pharmacy	289	100%

LEGAL DIVISION

DISCIPLINARY ORDERS ON PHARMACISTS, INTERNS, AND APPLICANTS FOR LICENSURE AND INTERN REGISTRATIONS (FY2014) NATURE OF VIOLATIONS*

	RPh	Phcy	Total	Total %
Diversion	17	3	20	7%
Illegal Delivery	0	0	0	
Illegal Possession of Rx Drugs	0	0	0	
Unauthorized Dispensing	4	1	5	
Theft	9	0	9	
Obtained C/S by Fraud	0	0	0	
No Valid Dr-Pt Relationship (InternetRXs)	4	2	6	
Non-Therapeutic Dispensing	0	0	0	
Convictions/Defer Adj	17	0	17	6%
Felony	8	0	8	
Misdemeanor	0	0	0	
Deferred Adjudication, Felony	2	0	2	
Deferred Adjudication, Misdemeanor	6	0	6	
Alcohol-Related	1	0	1	
Audit Discrepancies	6	10	16	6%
Drug	6	10	16	
Continuing Education	0	0	0	
Practice Deficiencies	49	50	99	34%
Dispensing Errors	30	27	57	
Dispensing Errors & No Counsel and/or No Drug Regimen Review	13	20	33	
No Counsel and/or DRR	6	3	9	
Unprofessional Conduct	70	35	105	36%
Aiding and Abetting	4	6	10	
Allow Tech to Work without an Active Registration	15	12	27	
Falsified Application for Licensure	5	9	14	
Sterile Compounding w/o Proper Training	0	0	0	
Impairment	4	0	4	
Action by Other Boards	15	3	18	
Non-Compliance with Previously Entered Order	22	0	22	
Non-Compliance with PRN Program	0	0	0	
Violation of Board Rules	5	5	10	
Other				
Modification	7	0	7	2%
Reinstatement	4	0	4	1%
Request for Revocation/Retirement/Restrict	13	1	14	5%
Temporary Suspension Orders	3	4	7	2%
Other	0	0	0	N/A
TOTAL FY14:	186	103	289	100%

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

LEGAL DIVISION

SANCTIONS IMPOSED BY THE ENTRY OF DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS, TECHNICIAN TRAINEES, AND APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2014)

		Total	Percent
Registration Removed		74	(23%)
Revoke	73		
Retire	1		
Suspensions		67	(21%)
Suspension	4		
Suspension, followed by Probation	0		
Suspension w/Conditions	7		
Suspension w/Conditions, followed by Probation	26		
Suspension/Fine	0		
Suspension/Fine w/Conditions, followed by Probation	3		
Suspension/Probation	2		
Suspension/Probation with Conditions	22		
Suspension/Probation/Fine	3		
Suspension/Probation/Fine with Conditions	0		
Restricted	0	0	(N/A)
Other		75	(24%)
Fine	47		
Fine with Conditions	0		
Fine/Reprimand	3		
Fine/Reprimand with Conditions	0		
Reprimand	25		
Reprimand with Conditions	0		
Issuance Registration		98	(31%)
Grant with Suspension	4		
Grant with Suspension/Fine	0		
Grant with Probation	10		
Grant with Probation/Conditions	10		
Grant with Probation/Conditions and Fine	0		
Grant with Probation and Fine	2		
Grant with Fine	39		
Grant with Fine and Reprimand	5		
Grant with Reprimand	28		
Deny	0		
Reinstatements		5	(2%)
Grant with Suspension, followed by Prob/Cond	0		
Grant with Probation/Conditions	5		
Grant with w/Conditions and Reprimand	0		
Modifications	0	0	(N/A)
TOTAL FY14:		319	(100%)

LEGAL DIVISION

DISCIPLINARY ORDERS ON PHARMACY TECHNICIANS, TECHNICIAN TRAINEES, AND APPLICANTS FOR TECHNICIAN/TRAINEE REGISTRATIONS (FY2014) NATURE OF VIOLATIONS

		Total	Percent
Diversion		20	(6%)
Theft	18		
Forged Rx	2		
Illegal Delivery	0		
Convictions/Deferred Adjudications		171	(54%)
Felony	7		
with Falsified Application	1		
Misdemeanor	21		
with Falsified Application	4		
Deferred Adjudication/Felony	37		
with Falsified Application	6		
Deferred Adjudication/Misdemeanor	75		
with Falsified Application	5		
Alcohol-Related (e.g., DWI)	13		
with Falsified Application	2		
Chemical Impairment		8	(3%)
Drug or Alcohol Dependency	8		
with Falsified Application	0		
Falsified Applications *		46	(14%)
Other Violations		33	(10%)
Gross Immorality	0		
Non-Compliance w/Previously Entered Order	15		
Performed Tech Duties w/Delinquent Registration	0		
Performed Pharmacist Duties	5		
Performed Tech Duties without Registration	12		
Action by Other Board	1		
Negligence	0		
Request for Revocation/Retirement		37	(12%)
Reinstatement		4	(1%)
Modify		0	(N/A)
TOTAL FY14:		319	(100%)

* Does not include the 18 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 FY2014.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. During FY2014, Division staff participated in approximately 20 case and/or complaint review meetings. These meetings were held with participation by the Executive Director and Legal and Enforcement Division staff.
- B. During FY2014, Division staff received 664 cases and resolved 665 cases, which was 41 more than received during FY2013.
- C. The Division mailed 50 letters to pharmacy technician and technician trainee applicants recommending denial of the application, due to the severity of criminal history. In 20 cases, the applicant requested an informal conference and a Preliminary Notice Letter was initiated. In 30 cases, the applicants were subject to mandatory withdrawal due to the applicant not completing the process.
- D. Division staff mailed 600 Preliminary Notice Letters in FY2014, in accordance with the priorities established for the Division, which was less than in FY2013, when the Division mailed 640 PNLs. Of these PNLs, 236 PNLs were mailed to pharmacists and pharmacies, and 364 PNLs were mailed to pharmacy technicians and pharmacy technician trainees.
- E. The number of days to mail PNLs after the case review date in FY2014 was 66 days which is a slight increase from the FY2013 number of 63 days. The number of days for PNLs to be sent to pharmacists and pharmacies averaged 86 days which is a small increase from 76 days in FY2013. PNLs to pharmacy technicians were sent in an average of 45 days from receipt of the case, which is a slight decrease from 49 days in FY2013.
- F. Total resolution time for cases in FY2014 was 145 days from receipt of the case in the Legal Division to the disposition of the case in the Legal Division, which is a significant increase from last year's number of 77 days. This increase is primarily attributed to the new statutory requirement under the Pharmacy Act §565.056 to provide 45 days notice prior to an informal conference. Case resolution for pharmacists and pharmacies averaged 203 days and for pharmacy technicians averaged 90 days.
- G. The Division filed petitions to conduct a Temporary Suspension hearing for three cases involving six pharmacists and pharmacies in FY2014. (One pharmacy was involved in two hearings.) Seven temporary suspension petitions were granted, and none 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.

LEGAL DIVISION

3. To plan and conduct a minimum of 24 days of informal conference sessions in FY2014 to adjudicate violators of pharmacy laws/rules.

Status: ACCOMPLISHED

Comment: During FY2014, the Division prepared for and conducted 32.5 days of Informal Conferences for 376 licensees/registrants and applicants, as indicated in the following charts. The number of licensees/registrants and applicants slightly increased in FY2014, from 370 licensees/registrants and applicants in FY2013.

Informal Conferences for Pharmacies and Pharmacists

Dates of Informal Conferences	# of Days	# of Phy/RPh Licensees	# of Techs	# of Cases	# of Licensees Dismissed
September 10, 2013	1	9	2	8	0
October 1-3, 2013	3	23	0	18	1
October 17, 2013	.5	3	1	2	0
December 2-4, 2013	2.5	26	0	19	1
December 19, 2013	.5	2	0	2	0
January 7-9, 2014	3	35	1	24	2
January 23, 2014	.5	6	0	4	1
March 4-5, 2014	1.5	10	0	9	1
April 1-2, 2014	2	16	0	13	0
April 17, 2014	.5	4	0	3	1
June 3-5, 2014	2.5	24	1	18	0
June 19, 2014	.5	1	0	1	0
July 8-10, 2014	3	31	0	24	2
July 15, 2014	.5	6	0	3	0
July 17, 2014	1	8	0	7	1
TOTAL FY2014	22.5	204	5	155	10

Informal Conferences for Technicians/Technician Trainees

Dates of Informal Conferences	# of Days	# of Cases	Applicants	Registrants	No-shows	Defaults
September 10, 2013	1	5	0	5	4	4
October 17, 2013	1	22	9	13	11	10
November 19, 2013	1	19	7	12	13	10
December 19, 2013	1	12	3	9	8	8
January 23, 2014	1	13	4	9	7	6
March 20, 2014	1	18	5	13	12	9
April 17, 2014	1	20	3	17	10	9
May 22, 2014	1	28	7	21	13	11
June 19, 2014	1	21	8	13	10	5
July 17, 2014	1	14	3	11	3	2
TOTAL FY2014	10	172	49	123	91	74

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 FY2014, 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 FY2014, 12 respondent cases were ongoing following the filing of a complaint at the State Office of Administrative Hearings in FY2013 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 16 additional respondent cases in FY2014.
- B. Twelve respondent cases were resolved prior to a full contested administrative hearing being conducted at SOAH. Of these cases, five respondent cases were 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 13 respondents in FY2014. Proposals for Decision (PFD) were issued by the Administrative Law Judges against 11 respondents during FY2014. Two respondent cases were pending a hearing at the end of FY2014.
- D. SOAH performed 222 hours of work on 22 cases for the TSBP in FY2014, totaling approximately \$11,160 in direct hearings expenses and \$29,997 in total case expenses. These SOAH hours are consistent with the 237.4 hours of work on 23 cases in FY2013.

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

Status: ACCOMPLISHED

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.
 - (3) General Counsel participated in meetings regarding Risk Assessment and provided recommendations in the development of the agency's Risk Management plan.

LEGAL DIVISION

- (4) General Counsel and Division staff provided legal advice and consultation on numerous personnel issues during FY2014, including:
 - (a) assisted with issues in various hiring/disciplinary processes and complaints against agency employees;
 - (b) advised regarding sick leave pool requests;
 - (c) provided legal advice regarding outside employment for agency staff;
 - (d) developed and reviewed performance plans and/or probation;
 - (e) interviewed applicants for new positions;
 - (f) assisted with resolution of complaints against agency employees;
 - (g) researched implications of Board member liability insurance;
 - (h) advised regarding use of texting capabilities with regard to open records implications; and
 - (i) reviewed policies in TSBP Employee Handbook.
- (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 inspection of out-of-state sterile compounding pharmacies and new system for conducting on-line presentations and webinars.

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.
- (2) General Counsel attended meetings, as requested, to provide legal guidance on inspection and investigative issues.
- (3) Division staff drafted 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.

LEGAL DIVISION

- (5) General Counsel 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 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 FY2014. 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.
- (8) Division staff informed the Enforcement staff of disciplinary actions to be taken by the Board prior to entry of orders, to ensure correct information is immediately available on the computer system.
- (9) Division staff assisted the Enforcement Division with issues involving the monitoring of impaired pharmacists, including legal consultation on handling of positive drug screens and interfacing with the PRN program.
- (10) Division staff drafted ineligibility letters 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 participated in development of agency pilot project for use of tablet computers to conduct inspections.
- (14) General Counsel, in conjunction with the Director of the Professional Recovery Network, developed and implemented new procedures to incorporate the publication of DSM-V guidelines for impaired individuals into the procedures for handling disciplinary cases against pharmacists.
- (15) Division staff assisted with removal of drugs from closed pharmacies and drafted associated legal documents, including affidavits and warrants.
- (16) General Counsel and Division staff researched and assisted with the development of a controlled substance destruction policy.

C. Legal Services for Professional Services

- (1) General Counsel assisted the Division of Professional Services in the review/drafting of proposed rules and preambles for rules, and the review of rule submissions to the *Texas Register* for all rules either proposed or adopted during FY2014.
- (2) General Counsel assisted the Division of Professional Services with requests for public information in clarifying requests and requesting assistance from the OAG.

LEGAL DIVISION

- (3) General Counsel assisted with the continued implementation of the agency's social media presence (e.g., Facebook, Twitter, Mail Chimp).
- (4) General Counsel assisted the Director of Professional Services with the development of on-line and video training.

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.

E. Other Legal Services regarding Pharmacy Issues

- (1) General Counsel participated in meetings and teleconferences regarding any pending pharmacy issues as required, such as bed-size requirements for hospital pharmacies, physician dispensing of limited prescription drug types, and physician investment in and referral to compounding pharmacies.
- (2) General Counsel participated in the review of the question pool for the Multistate Jurisprudence Examination to ensure the validity of the questions in the pool.
- (3) General Counsel participated in teleconference meetings of committees to review requests for pilot projects and assisted with development of rules on related issues.
- (4) General Counsel participated in and provided legal analysis for all task force meetings, including the Pharmacy Technician and Sterile Compounding Task Forces.
- (5) General Counsel participated in the agency's response to addressing issues with sterile compounding pharmacies in and out of Texas, including issuance of a Request for Proposal and Statement of Work for inspection of out-of-state sterile compounding pharmacies and developing legislative and rule changes.

- 6. **To review and monitor the Texas Register for Attorney General opinions; to draft requests for Attorney General Opinions throughout FY2014; 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

LEGAL DIVISION

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 FY2014. Ted Ross served as the Assistant Attorney 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 Third Court of Appeals and another out-of-state pharmacist challenging an order to submit to a mental health evaluation at the District Court.
 - (b) Division staff coordinated representation with OAG attorney regarding expunction and non-disclosure of criminal matters also relevant to agency disciplinary action.
 - (c) General Counsel assisted with preparation and representation of Executive Director for a deposition in a qui tam case regarding Medicaid Fraud.
 - (d) General Counsel and Division staff coordinated representation regarding temporary injunctions against licensees subject to temporary suspension orders not complying with such orders.
 - (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 assist with open records requests throughout FY2014, in accordance with the procedures set forth in the Texas Public Information Act.

Status: **ACCOMPLISHED**

Comment: This objective was accomplished through the following activities:

- A. General Counsel reviewed written responses to open records requests, prepared by the Professional Services Division, for legal compliance with the Public Information Act in FY2014. In addition, the General Counsel assisted with clarifying certain open records requests requiring telephonic clarification, when legal issues were involved.

LEGAL DIVISION

- B. General Counsel attended monthly 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.

8. To provide verbal and written information to Board staff and customers, including responses to surveys and questionnaires, as needed and required throughout FY2014; 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 FY2014.

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;
- (2) Client survey from the OAG;
- (3) Wellness Liaison survey for the Texas Department of State Health Services; and
- (4) Sunset Advisory Commission survey of the State Office of Administrative Hearings.

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.
- (4) General Counsel coordinated with the National Association of Boards of Pharmacy for submission of an amicus brief in the licensing case appealed to the Third Court of Appeals and for a review of application questions for compliance with the Americans with Disabilities Act.
- (5) General Counsel reviewed proposed rules of Texas Medical Board prior to stakeholder meetings. Division staff coordinated with the Texas Medical Board regarding the prosecution of pill mill cases.

LEGAL DIVISION

- (6) General Counsel attended monthly 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 area.
- (8) General Counsel participated in the Texas Government Social Media Alliance meetings.
- (9) Division staff assisted state and federal prosecutors, DEA investigators, and Board staff in other 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 2013.

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.

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 UT Law School recruitment programs.
- (4) General Counsel developed a red flags checklist for use by pharmacists to determine pill mill active (i.e. "You might be a pill mill if...") and, along with the Director of Professional Services, began production of a training video on pill mill pharmacies.

LEGAL DIVISION

- (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 and on compliance with the Americans with Disabilities Act.

9. To assist the Executive Director in developing and implementing the objectives of the Health Professions Council (HPC) pertinent to Division activities throughout FY2014.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

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

10. To maintain a staff development program by encouraging Division staff to participate in professional and interpersonal development seminars, cross training, and on-the-job training throughout FY2014.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

In FY2014, 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 conduct periodic reviews and annual evaluations of all employees under the supervision of this Division during FY2014.

Status: ACCOMPLISHED

Comment: This objective was accomplished through the following activities:

- A. Division staff was evaluated on an annual basis, as required by agency policy.
- B. General Counsel conducted team meetings approximately once a month with Division staff. Legal Assistants met with the Legal Program Specialist on a bimonthly basis.
- C. Division staff conducted the hiring process to fill two attorney positions, one manager position, and four legal assistant positions during FY2014.
- D. Division staff interviewed for and had an extended intern in the Fall of 2013 and two legal interns during the Summer of 2014 to provide assistance with the preparation of legal cases.
- E. General Counsel and/or Division staff prepared and conducted over 15 orientations for all new TSBP employees and interns during FY2014 regarding the Legal Division, the disciplinary process, ethics, and Public Information and Open Meetings Acts.

LEGAL DIVISION

- 12. To destroy records in accordance with the agency's record retention plan throughout FY2014; to update the Division's Policies and Procedures Manual as needed and submit any substantive revisions to the Executive Director for approval throughout FY2014.**

Status: ACCOMPLISHED

Comment: This objective was accomplished as follows:

A. Records Management

During FY2014, 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 extensively reviewed and drafted/updated written policies and procedures for handling of cases to provide reference and training material for the Division positions.
- (4) General Counsel and Division staff developed and implemented rules and procedures for Remedial Plans for licensees in lieu of disciplinary actions.
- (5) Division staff created a new 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.

- 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 FY2014.**

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.

LEGAL DIVISION

- 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) Get Fit Texas;
 - (4) Provision of flu shots;
 - (5) Weekly yoga classes; and
 - (6) Self-defense presentation.

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.

General Counsel and the Director of Professional Services participated in the CDC's Work @ Health certification and training program to obtain grants for implementation of the various wellness activities

- E. Division staff developed Calendar of Events for FY2014 for informal conferences and reserved conference rooms accordingly.
- F. General Counsel reviewed expenditures of seizure money for compliance with laws and policies.
- G. Division staff updated automatically generated letterhead which resulted in significantly reduced printing costs.
- H. General Counsel and Division staff developed procedures for analysis and presentation of pill mill cases to pharmacist experts for expert opinions on whether to proceed with disciplinary action. General Counsel also developed an updated checklist for use by the investigators in collecting evidence for these types of cases.
- I. Division staff developed a new procedure for drafting Agreed Board Orders using a menu of paragraphs, which has resulted in considerable time savings by the Legal Assistants and more accuracy in the process.
- J. Division staff implemented a new procedure to continue the effort to maintain a paperless environment for documents in Legal Division, which includes scanning of all documents involved in a SOAH cases. Both documents filed with SOAH by Division staff or by the Respondent and those received from SOAH are maintained in an on-line folder immediately accessible to all staff.

LEGAL DIVISION

K. Division staff developed procedure to email a courtesy copy of Preliminary Notice Letters to representatives of chain pharmacies rather than mailing the copies, which has resulted in significant savings of manpower and resources.

L. Texas Pharmacy Act

General Counsel submitted numerous changes to the Pharmacy Act for approval by the TSBP regarding disciplinary and legal proceedings for the legislative session.

M. 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.

14. To prepare and submit a report on the accomplishment of Division objectives, for incorporation into the agency's FY2013 *Annual Report* to be presented to the Board by its May 2014 Board meeting.

Status: ACCOMPLISHED

Comment: The Division's first draft of the FY2013 *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 August 2014 Board meeting.