

# **Sunset Self-Evaluation Report**



***Texas Board of Chiropractic Examiners  
August 31, 2015***

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## Texas Board of Chiropractic Examiners Self-Evaluation Report

### I. Agency Contact Information

A. Please fill in the following chart.

**Texas Board of Chiropractic Examiners  
Exhibit 1: Agency Contacts**

	Name	Address	Telephone & Fax Numbers	Email Address
<b>Agency Head</b>	Interim ED: Bryan Snoddy  Permanent ED to be determined	333 Guadalupe St, Ste 3-825, Austin, TX 78701	T: (512) 305-6715 F: (512) 305-6705  Exec Asst: (512) 305-6906	<a href="mailto:bryan@tbce.state.tx.us">bryan@tbce.state.tx.us</a>  Exec Asst: <a href="mailto:jo@tbce.state.tx.us">jo@tbce.state.tx.us</a>
<b>Agency's Sunset Liaison</b>	Same	Same	Same	Same

Table 1 Exhibit 1 Agency Contacts

### II. Key Functions and Performance

Provide the following information about the overall operations of your agency. More detailed information about individual programs will be requested in a later section.

A. Provide an overview of your agency's mission, objectives, and key functions.

The mission of the Texas Board of Chiropractic Examiners (TBCE) is to execute the statutory authority of the Texas Chiropractic Act (Texas Occupations Code, Chapter 201) and to promote, preserve, and protect the health, safety, and welfare of the people of Texas by licensing skilled professionals and enforcing standards of practice.

The TBCE exists to ensure the highest quality professionals serve Texas chiropractic patients effectively and ethically. To that end, the TBCE examines and licenses chiropractors, maintains continuing education standards for chiropractors, registers chiropractic facilities, licenses chiropractic radiological technicians, and enforces the law that governs the practice of chiropractic (the Chiropractic Act). The TBCE also provides information to the public, including verification of licensure and general information about the profession.

The TBCE's key functions are:

- (1) formulation of public policy regarding the practice of chiropractic in Texas through rulemaking and regulation;
- (2) licensure of qualified individuals to practice chiropractic, and renewal of those licenses on an annual basis;

- (3) registration of chiropractic facilities, and renewal of those registrations on an annual basis;
- (4) enforcement of the laws relating to the practice of chiropractic and ownership of chiropractic facilities by conducting inspections, investigating complaints, prosecuting licensees and registrants found in violation of chiropractic laws/rules, and monitoring licensees and registrants subject to disciplinary action; and
- (5) provision of information to public regarding public records and agency services.

**B. Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?**

Each of the TBCE's key functions continues to serve a clear and ongoing objective and is still needed. The functions of our agency are necessary to protect the health, safety, and welfare of the public by ensuring the safe practice of chiropractic in Texas. Public protection demands competent oversight over the practice of chiropractic through establishment of policy and standards, testing applicants for competency, licensing doctors to ensure adherence to policy/standards, registering facilities to ensure adherence to policy/standards, and investigation of (and if necessary enforcement through disciplinary action for) violations of policy/standards by licensees or facility owners.

TBCE's licensing and registration programs ensure that minimum standards are met before and during licensing/registration. Prior to licensure, applicants must meet specific qualifications in education and examination. After becoming licensed, licensees must stay current on the health, safety, and welfare aspects of chiropractic via continuing education.

Along with minimum qualifications for entry into practice, TBCE also ensures the public's safety by identifying violators of the law and disciplining them appropriately. All enforcement actions serve to protect the public.

Ceasing to perform these key functions would lead to a deterioration of the qualifications and standards the Legislature has deemed necessary for the safe practice of chiropractic. One particular problem that would occur is substandard chiropractic care or treatment going beyond the chiropractic scope of practice. More and more members of the public rely on doctors of chiropractic as their primary care doctor, and doctors of chiropractic are trained during their schooling to perform a broad range of treatments. However, the scope of practice for doctors of chiropractic in Texas currently requires the referral of some patients to other healthcare providers with the appropriate scope of practice. Without effective regulation by the TBCE, the potential for this substandard care or care exceeding scope of practice would be high.

**C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?**

Our performance measures show evidence of our effectiveness and efficiency in licensing/registration and enforcement. The agency's rulemaking over the last 12 years, combined with rule reviews, also show effectiveness and efficiency.

**D. Does your agency’s enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency’s operations? If so, explain. Were the changes adopted?**

TBCE’s enabling law (Texas Occupations Code, Chapter 201) correctly reflects the agency’s mission, objectives, and approach to performing its functions. Small areas could be improved and are discussed in this Self-Evaluation Report.

The agency discussed issues regarding the regulation of animal chiropractic with legislators in past legislative sessions, but no changes were adopted.

**E. Do any of your agency’s functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?**

TBCE’s functions do not overlap or duplicate those of any other state or federal agency.

Each of the key functions for the TBCE is most appropriately placed within our agency. Because chiropractic is a unique healthcare field, the licensing, enforcement, and policy-making associated with regulation of this healthcare field are appropriate in a stand-alone board, as opposed to under another agency or an umbrella agency.

**F. In general, how do other states carry out similar functions?**

All states license doctors of chiropractic through a licensing entity. All states have minimum competency requirements and standards that are enforced by the licensing entity. All states investigate complaints against licensees, but differences may exist in the number of investigations done and who the investigations are done by, as well as enforcement priorities. Additionally, scope of practice varies from state to state.

**G. What key obstacles impair your agency’s ability to achieve its objectives?**

The TBCE has not identified any major obstacles that impair its ability to achieve its objectives. However, efficiency and effectiveness of the agency would likely increase with additional funding and a larger staff. There are also a number of issues that impact the agency’s performance that will be discussed in Section IX.

**H. Discuss any changes that could impact your agency’s key functions in the near future (e.g., changes in federal law or outstanding court cases).**

The key function of formulation of public policy regarding the practice of chiropractic in Texas through rulemaking and regulation may be impacted in the near future depending on the results of ongoing litigation with the Texas Medical Association (*Texas Board of Chiropractic Examiners and Yvette Yarbrough, Executive Director v. Texas Medical Association*, Court of Appeals Number: 03-14-00396-CV; Trial Court Case Number D-1-GN-11-000326; currently on interlocutory appeal, pending petition for review to the Texas Supreme Court – TBCE v. TMA, No. 15-0244). The TMA

has brought suit against the TBCE claiming that the TBCE exceeded its rulemaking authority by allowing doctors of chiropractic to diagnose. In addition, the TMA claims the definitions adopted by the TBCE in its scope of practice rule for “subluxation complex” and “musculoskeletal system” exceed its rulemaking authority.

**I. What are your agency’s biggest opportunities for improvement in the future?**

The TBCE’s biggest opportunities for improvement in the future include the following:

- Utilizing technology for higher levels of customer service, such as online payment of all fees and online licensee profiles including continuing education information
- Continuing to improve the TBCE website
- Continuing to develop a new database for the TBCE licensing and enforcement functions
- Utilizing required technology to be able to hold open meetings where TBCE board members, staff members, and the public can participate via videotelephonic means
- Maintaining and increasing cooperative efforts with TBCE investigators and local, state, and federal law enforcement agencies

**J. In the following chart, provide information regarding your agency’s key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures.**

**Texas Board of Chiropractic Examiners  
Exhibit 2: Key Performance Measures — Fiscal Year 2014**

Key Performance Measures	FY 2014 Target	FY 2014 Actual Performance	FY 2014 % of Annual Target
% Licensees With No Recent Violations	96%	94.6422%	98.586%
% of Licensees Who Renew Online	94%	93.42%	99.383%
% of Complaints Resulting in Disciplinary Action	37%	45.74%	123.622%
Number of Individuals Examined	300	299	99.667%
Number of New Licenses Issued to Individuals	280	319	113.929%
Number of Licenses Renewed (Individuals)	6150	5889	95.756%
Total # of Business Facilities Licensed	4150	3971	95.687%
Number of Complaints Resolved	350	317	90.571%
Average Time per Complaint Resolution (Days)	200	333.2997	166.650%
Number of Jurisdictional Complaints Received	350	251	71.714%

Table 2 Exhibit 2 Key Performance Measures

### **III. History and Major Events**

#### **1943**

H.B. 20, 48th Legislature, began state regulation of chiropractic. However, the statute was declared unconstitutional in 1944.

#### **1949**

H.B. 721, 51st Legislature, created the Texas Board of Chiropractic Examiners.

#### **1993**

S.B. 1071, 63rd Legislature, authorized the TBCE to license and regulate chiropractic facilities.

#### **1999**

H.B. 3155, 76th Legislature, re-codified the TBCE's enabling statute as Texas Occupations Code, Chapter 201.

#### **2003**

S.B. 211, 78th Legislature, which became effective September 1, 2003, required registration of chiropractic facilities instead of licensure of chiropractic facilities.

#### **2005**

The TBCE was reviewed by the Sunset Advisory Commission. H.B. 972, 79th Legislature, was enacted to implement Sunset recommendations for improvements to Texas Occupations Code, Chapter 201. Key provisions of the legislation included the following:

- Requirement for the TBCE to clarify scope of practice questions through rules developed with early stakeholder input and following common definitions from the Medical Practice Act;
- Strengthening of the TBCE's enforcement program to enable it to more effectively resolve complaints;
- Conforming elements of the TBCE's licensing functions to commonly applied licensing practices;
- Increasing the number of undergraduate hours required for licensure as a chiropractor from 60 hours to 90 hours; and
- Limiting the number of attempts to pass the chiropractic jurisprudence exam.

#### **2009**

The TBCE was given authority and funding by the Legislature to hire in-house legal counsel for the first time in the agency's history.

**2013**

The TBCE was given authority and funding by the Legislature to hire two field investigators and an Executive Assistant for the first time in the agency’s history.

**IV. Policymaking Structure**

**A. Complete the following chart providing information on your policymaking body members.**

**Texas Board of Chiropractic Examiners  
Exhibit 3: Policymaking Body**

<b>Member Name</b>	<b>Term / Appointment Dates / Appointed by (e.g., Governor, Lt. Governor, Speaker)</b>	<b>Qualification (e.g., public member, industry representative)</b>	<b>City</b>
Cynthia Tays, DC (President)	6 years/ 04-16-13 – 02-01-19/ Governor	Doctor of Chiropractic	Austin
Kenya Woodruff, JD (Vice-President)	6 years/ 05-23-11 – 02-01-17/ Governor	Public Member	Dallas
Karen Campion, DC (Secretary/Treasurer)	6 years/ 05-23-11 – 02-01-17/ Governor	Doctor of Chiropractic	Bryan
Larry Montgomery, DC (HOLDOVER)	6 years/ 03-25-09 – 02-01-15/ Governor	Doctor of Chiropractic	Belton
John Riggs III, DC	6 years/ 04-16-13 – 02-01-19/ Governor	Doctor of Chiropractic	Midland
Patrick Thomas, DC (HOLDOVER)	6 years/ 03-25-09 – 02-01-15/ Governor	Doctor of Chiropractic	Corpus Christi
Amy Vavra, DC	6 years/ 07-15-14 – 02-01-17/ Governor	Doctor of Chiropractic	Mansfield
Anne Boatright (HOLDOVER)	6 years/ 05-15-12 – 02-01-15/ Governor	Public Member	Smithville
John Steinberg	6 years/ 04-16-13 – 02-01-19/ Governor	Public Member	Marion

Table 3 Exhibit 3 Policymaking Body

**B. Describe the primary role and responsibilities of your policymaking body.**

The primary role and responsibilities of the policy-making body include the following:

- Employs the Executive Director and ensures that the Executive Director carries out the management and administration of agency functions;
- Sets agency policy for the agency;

- Passes rules to implement the Chiropractic Act, establishes standards of chiropractic practice and regulates the practice of chiropractic;
- Exercises decision making authority on disciplinary actions;
- Reviews other key documents such as audits of Board operations;
- Approves various agency reports including the Strategic Plan and Legislative Appropriations Request;
- Monitors representation by the Office of Attorney General in agency litigation;
- Decides matters of eligibility for licensure and discipline of licenses, including temporary suspension of a license, and administrative and civil penalties; and
- Recommends as necessary to the Legislature appropriate changes in the Chiropractic Act to ensure that the act is current and applicable to changing needs and practices.

**C. How is the chair selected?**

The Board President is appointed by the Governor and serves at the pleasure of the Governor.

**D. List any special circumstances or unique features about your policymaking body or its responsibilities.**

No special circumstances or unique features.

**E. In general, how often does your policymaking body meet? How many times did it meet in FY 2014? In FY 2015?**

Generally, the TBCE meets quarterly (four times per year). Occasionally (as needed), an additional special meeting will be called by the President. In both FY 14 and FY 15, the TBCE met four times.

**F. What type of training do members of your agency's policymaking body receive?**

After each appointment of a new Board member, that Board member undergoes an orientation and training session with Board Staff conducted by the Executive Director and General Counsel. These orientation sessions are designed to give the new Board members an overall explanation of the TBCE's jurisdiction, powers, and functions, as well as the duties of the Board member.

An electronic orientation manual is provided to each new Board member before this session. The manual contains a Power Point presentation handout, a staff contact list, a Board member contact list, a schedule of meetings, the most recent Strategic Plan, the current appropriations bill pattern and operating budget, the Chiropractic Act and current Board rules, the TBCE Administrative Procedures, the Office of the Attorney General (OAG) Open Meetings Act Handbook, the OAG Public Information Act Handbook, the OAG Administrative Law Handbook, the OAG publication "A Guide to Ethics Laws for State Officers and Employees," ethics provisions of the Government Code, and a copy of the most recent Sunset Commission reports concerning the TBCE.

The Executive Director provides an overview of the TBCE organization, information regarding issues facing the TBCE, and the statutory responsibility of the TBCE and its members. The Executive Director also reviews agency programs and operations, including state accounting procedures. The agency's CFO provides instruction on preparation of travel vouchers. The agency's General Counsel reviews specific laws affecting the TBCE's activities which include an explanation of the Administrative Procedures Act, Public Information Act, and Open Meetings Act. The General Counsel also provides an explanation of ethics laws, the Texas Ethics Commission, as well as the ethical responsibilities of Board members.

New Board members must also complete online training provided by the OAG on the Open Meetings Act and the Public Information Act.

During some regularly scheduled full Board meetings, the members are provided training on various topics related to the Board's activities. In the past, these Board development sessions presented by the agency's General Counsel have included such topics as the Texas Open Meetings Act, the State Office of Administrative Hearings, Informal Conference procedures, and various laws and rules that affect TBCE functions.

**G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.**

Yes. The TBCE formalized these policies and approved Administrative Procedures describing the roles of the Board and staff in May 2012. (See Attachment 4.)

**H. What information is regularly presented to your policymaking body to keep them informed of your agency's performance?**

The Executive Director presents information during the Executive Director's Report at each regularly scheduled Board meeting to keep the Board informed of the agency's performance. Each Executive Director's Report contains a financial update, an update on the licensing function of the agency, and an update on the enforcement function of the agency. All of these updates contain supporting documentation and spreadsheets showing actual performance.

Additionally, the Board is presented with all audit reports conducted concerning the agency and its activities.

**I. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?**

The TBCE provides a public forum at each quarterly Board meeting. The public is invited to speak or provide written comments on any issue relevant to the Board's jurisdiction except for pending disciplinary actions. (However, the TBCE will not take action on comments received during open forum due to notice requirements in the Open Meetings Act.) All non-confidential materials prepared and distributed for Board members in advance of a meeting are published on the agency's website in advance of the meeting. Any member of the public can thus see

material the TBCE will reference at its meeting. This allows the public to comment on relevant items at each Board meeting.

The TBCE requests written comments on any proposed rule in the *Texas Register*. The public may submit written comments. The public may legally request a public hearing on any proposed rule under the Texas Administrative Procedures Act and verbal comments will be received at that time. The TBCE is obligated to respond to these comments with reasoned justification if it disagrees. The public may also petition the TBCE for adoption of a rule.

Additionally, the TBCE periodically sends out email requests for input and comments prior to formal rulemaking action. These inputs and comments are used to determine if a need for rulemaking even exists.

The TBCE often receives input through letters, telephone calls and e-mails to agency staff. These comments are answered if possible by the Executive Director or staff. If comments present an unusual issue, an issue raised frequently, or an issue of first impression, it may be placed on the next Board meeting agenda for consideration.

**J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.**

**Texas Board of Chiropractic Examiners  
Exhibit 4: Subcommittees and Advisory Committees**

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee
Executive Committee	3 members – Board President, Vice-President, Secretary/Treasurer. Governor appoints President and Board members vote for Vice-President and Secretary/Treasurer.	Provide broad oversight to the TBCE budget administration and stewardship of state financial resources and to conduct the annual Executive Director’s performance evaluation and to make recommendations to the full Board.  The primary function of the Executive Committee is to review all actions requiring board approval (i.e. Strategic Plan and LAR) and to make recommendations to the full Board.	Texas Occupations Code, section 201.158

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee
Enforcement Committee	3 members – two DCs and one public member. Appointed by Board President.	Oversee the investigation of complaints filed with the TBCE. Consider all investigations and staff findings and make recommendations regarding whether a violation of law or rule occurred, and if so, what penalty should be assessed.	Texas Occupations Code, sections 201.158 and 201.506
Rules Committee	4 members – two DCs and two public members (currently). Appointed by Board President.	Receive and consider public input and carry out the development of prospective rules. The committee discusses rule-making at meetings and reports recommendations and proposed rules to the full Board.	Texas Occupations Code, section 201.158
Licensure & Education Committee	4 members – three DCs and one public member (currently). Appointed by Board President.	<p>Make recommendations to Rules Committee and full Board on rules concerning licensure and continuing education standards.</p> <p>Consider applicants who may be denied the opportunity to sit for the Jurisprudence Exam under the Chiropractic Act and make recommendations to the full Board.</p>	Texas Occupations Code, section 201.158
Acupuncture Advisory Subcommittee	Ad hoc; contains members of public and stakeholders	Consider issues concerning the practice of acupuncture by chiropractors as they arise.	Texas Occupations Code, section 201.158

Table 4 Exhibit 4 Subcommittees and Advisory Committees

## V. Funding

### A. Provide a brief description of your agency’s funding.

The TBCE Method of Finance is General Revenue and Appropriated Receipts.

### B. List all riders that significantly impact your agency’s budget.

None.

**C. Show your agency’s expenditures by strategy.**

**Texas Board of Chiropractic Examiners  
Exhibit 5: Expenditures by Strategy — 2014 (Actual)**

Goal / Strategy	Amount Spent	Percent of Total	Contract Expenditures Included in Total Amount
Goal A.1.1	\$154,464.17	86.5%	
Goal A.1.2	\$34,733	116%	
Goal A.2.1	\$323,134.16	88.1%	
<b>Subtotal</b>	<b>\$512,331.33</b>		
Goal B.1.1	\$157,087.90	94.5%	
Goal B.1.2	\$83,915.26	91.2%	
<b>Subtotal</b>	<b>\$241,003.16</b>		
<b>GRAND TOTAL:</b>	<b>\$753,334.49</b>	<b>104%</b>	<b>\$8,795.55</b>

Table 5 Exhibit 5 Expenditures by Strategy

**D. Show your agency’s sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines.**

**Texas Board of Chiropractic Examiners  
Exhibit 6: Sources of Revenue — Fiscal Year 2014 (Actual)**

Source	Amount
General Revenue Fund	\$741,122
Appropriated Receipts	\$47,931
<b>TOTAL</b>	<b>\$789,053</b>

Table 6 Exhibit 6 Sources of Revenue

**E. If you receive funds from multiple federal programs, show the types of federal funding sources.**

**Texas Board of Chiropractic Examiners  
Exhibit 7: Federal Funds — Fiscal Year 2014 (Actual)**

Type of Fund	State / Federal Match Ratio	State Share	Federal Share	Total Funding
None	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Table 7 Exhibit 7 Federal Funds

**F. If applicable, provide detailed information on fees collected by your agency.**

**Texas Board of Chiropractic Examiners  
Exhibit 8: Fee Revenue — Fiscal Year 2014**

<b>Fee Description/ Program/ Statutory Citation</b>	<b>Current Fee/ Statutory Maximum</b>	<b>Number of Persons or Entities Paying Fee</b>	<b>Fee Revenue</b>	<b>Where Fee Revenue is Deposited (e.g., General Revenue Fund)</b>
DC Initial Application – Board Fee	\$208 (increased during FY)	320	\$65,560	GR (3562)
DC Initial Application – Professional Fee	\$200	320	\$64,000	GR (3572)
DC Repeat Jurisprudence Exam – Board Fee	\$148	16	\$2,368	GR (3562)
DC Repeat Jurisprudence Exam – Professional Fee	\$200	16	\$3,200	GR (3572)
DC Initial License – Board Fee	Prorated - \$148	284	\$26,081	GR (3562)
DC Initial License – Patient Protection Fee	\$5	284	\$1,420	GR (3562)
DC License Renewal – Board Fee	\$148	5,113	\$756,724	GR (3562)
DC License Renewal Late Fees (1-89 days late) – Board Fee	\$67.50	285	\$19,237.50	GR (3562)
DC License Renewal Late Fees (90 days – 1 year late) – Board Fee	\$135	75	\$10,125	GR (3562)
DC License Renewal – Professional Fee	\$200	5,113	\$1,022,600	GR (3572)
DC License Renewal – Texas Online Fee	\$5	5,113	\$25,565	GR (3562)
DC License Renewal – Patient Protection Fee	\$1	5,113	\$5,113	GR (3562)
DC License Reinstatement – Board Fee	\$148	1	\$148	GR (3562)
DC License Reinstatement – Professional Fee	\$200	1	\$200	GR (3572)
DC License Reinstatement – Texas Online Fee	\$5	1	\$5	GR (3562)
DC License Reactivation – Board Fee	\$148	137	\$20,276	GR (3562)
DC License Reactivation – Professional Fee	\$200	137	\$27,400	GR (3572)
DC License Reactivation – Texas Online Fee	\$5	137	\$685	GR (3562)

<b>Fee Description/ Program/ Statutory Citation</b>	<b>Current Fee/ Statutory Maximum</b>	<b>Number of Persons or Entities Paying Fee</b>	<b>Fee Revenue</b>	<b>Where Fee Revenue is Deposited (e.g., General Revenue Fund)</b>
DC License Reactivation – Patient Protection Fee	\$1	137	\$137	GR (3562)
DC Inactive License Processing Fee	\$80 (increased during FY)	700	\$49,190	GR (3562)
DC Initial Faculty Temp License - Board Fee	\$150	1	\$150	GR (3562)
Facility Initial Registration – Board Fee	\$75 (increased during FY)/ statutory max \$75	506	\$37,115	GR (3562)
Facility Initial Registration – Patient Protection Fee	\$5	506	\$2,530	GR (3562)
Facility Registration Renewal – Board Fee	\$70	3,909	\$273,630	GR (3562)
Facility Registration On-Time Renewal – Texas Online Fee	\$2	3,857.5	\$7,715	GR (3562)
Facility Registration Renewal Late Fees (1-89 days late) – Board Fee	\$50	206	\$10,300	GR (3562)
Facility Registration Renewal (1-89 days late) – Texas Online Fee	\$4	126	\$504	GR (3562)
Facility Registration Renewal Late Fees (90 day -1 year late) – Board Fee	\$100	78	\$7,800	GR (3562)
Facility Registration Renewal (90 days-1 year late) – Texas Online Fee	\$5	51.8	\$259	GR (3562)
Facility Registration Renewal – Patient Protection Fee	\$1	3,862	\$3,862	GR (3562)
Radiologic Technician Initial Registration – Board Fee	\$35	38	\$1,330	GR (3562)
Radiologic Technician Registration Renewal – Board Fee	\$35	90	\$3,150	GR (3562)
Radiologic Technician Registration Renewal – Patient Protection Fee	\$1	21	\$21	GR (3562)
Radiologic Technician Registration Renewal Late Fees – Board Fee	\$25	10	\$250	GR (3562)
Continuing Education Course Approval Fee – Board Fee	\$200 (increased during FY)	677	\$127,280	GR (3562)
Returned Check Fee	\$25	4	\$100	GR (3562)

Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Misc/Overpayments	n/a	n/a	\$1,091	GR (3562)
Certification letter to another state board	\$25	157	\$3,925	Appropriated Receipts
Open Records copies provided	n/a	n/a	\$1,959.10	Appropriated Receipts
Newsletter Fee	\$8	5,252	\$42,016	Appropriated Receipts
Sales of Publications	n/a	n/a	\$31.25	Appropriated Receipts

Table 8 Exhibit 8 Fee Revenue

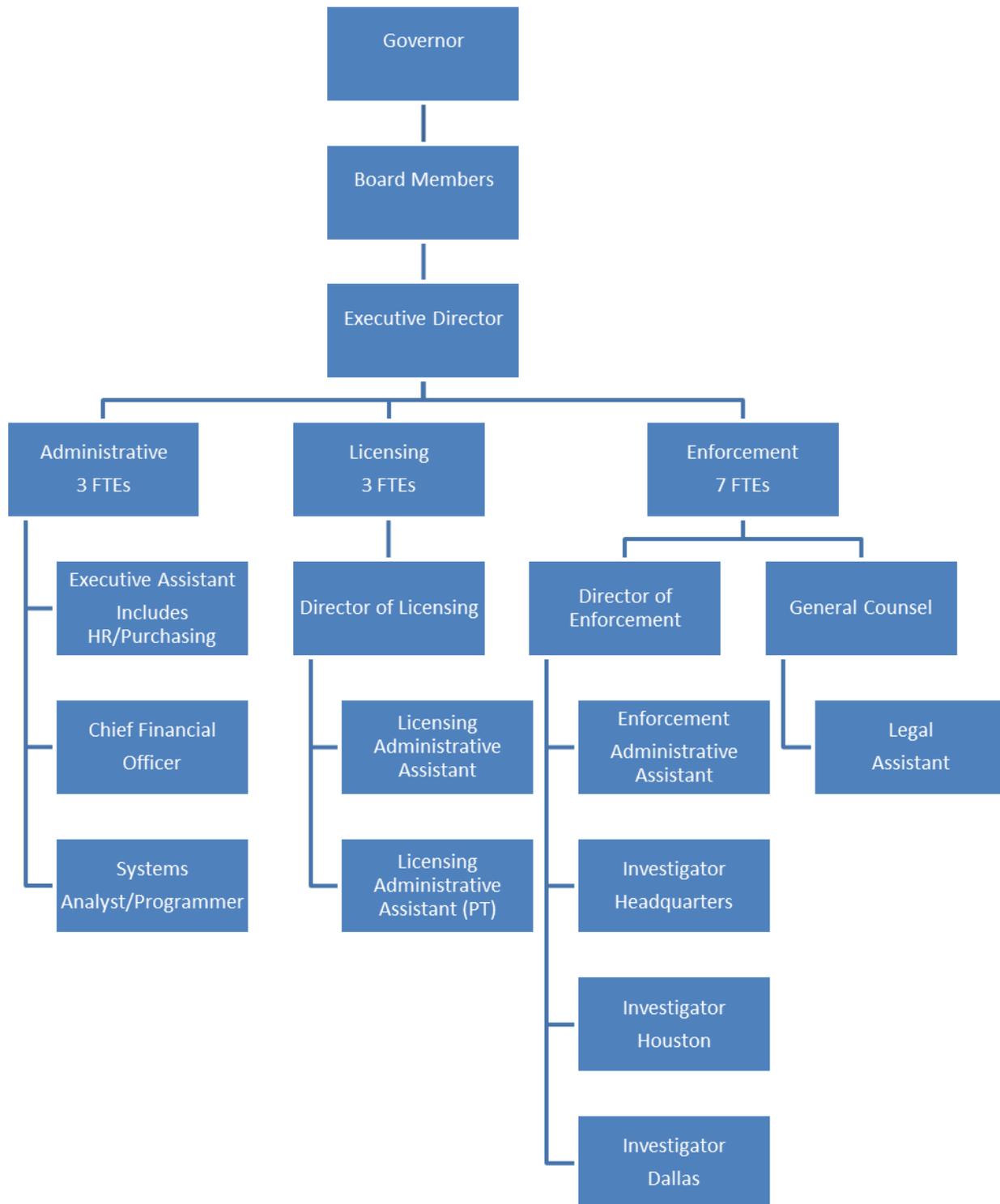
Note: Fees are being proposed for reduction in August 2015, due to the Legislature not imposing a contingent revenue rider on the TBCE for FY 2016-2017.

## VI. Organization

- A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division. Detail should include, if possible, Department Heads with subordinates, and actual FTEs with budgeted FTEs in parenthesis.**

See next page.

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**B. If applicable, fill in the chart below listing field or regional offices.**

**Texas Board of Chiropractic Examiners  
Exhibit 9: FTEs by Location — Fiscal Year 2014**

Headquarters, Region, or Field Office	Location	Co-Location? Yes / No	Number of Budgeted FTEs FY 2014	Number of Actual FTEs as of June 1, 2014
Headquarters	Austin	No	12	11.8
Dallas Field Office	Dallas	No	1	1
Houston Field Office	Houston	No	1	1
			<b>TOTAL: 14</b>	<b>TOTAL: 13.8</b>

Table 9 Exhibit 9 FTEs by Location

**C. What are your agency’s FTE caps for fiscal years 2014–2017?**

For fiscal years 2014-2017, the TBCE’s FTE cap is 14.

**D. How many temporary or contract employees did your agency have as of August 31, 2014?**

The TBCE had zero (0) temporary or contract employees as of August 31, 2014.

**E. List each of your agency’s key programs or functions, along with expenditures and FTEs by program. See Exhibit 10 Example.**

**Texas Board of Chiropractic Examiners  
Exhibit 10: List of Program FTEs and Expenditures — Fiscal Year 2014**

Program	Number of Budgeted FTEs FY 2014	Actual FTEs as of August 31, 2014	Actual Expenditures
Administration	4	4	\$241,003.16
Licensing	3	2.8	\$154,464.17
Enforcement/Legal	7	7	\$323,134.16
<b>TOTAL</b>	<b>14</b>	<b>13.8</b>	<b>\$718,601.49</b>

Table 10 Exhibit 10 List of Program FTEs and Expenditures

## VII. Guide to Agency Programs

### VII.1. ADMINISTRATION

**A. Provide the following information at the beginning of each program description.**

***Name of Program or Function:*** ADMINISTRATION

***Location/Division:*** Austin (Headquarters)

**Contact Name:** Bryan Snoddy, Interim Executive Director

**Actual Expenditures, FY 2014:** \$241,003.16

**Number of Actual FTEs as of June 1, 2015:** 4.0

**Statutory Citation for Program:** Tex. Occ. Code Chapter 201

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The Administration program provides executive, financial, and technical support for the Board (and committees as needed) and agency. Major activities performed include the following:

- Executive management
  - Performing all human resources functions
  - Drafting agency policies and procedures.
  - Preparing reports for oversight agencies
- Support for Board
  - Preparing agendas and minutes for open meetings; posting notice of meetings with the *Texas Register*; preparing and distributing meeting materials; and facilitating meeting arrangements
- Responding to legislative inquiries, tracking legislative issues, and implementing legislation
- Analyzing business processes and designing a database and website to optimize agency performance
- Performing all accounting functions, including accounts payable, cash posting/deposits, budgeting and planning, general accounting, and payroll
- Purchasing for agency operations
- Responding to public information requests and subpoenas for information, after coordination with the agency's General Counsel
- Publishing quarterly newsletter

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

The Survey of Employee Engagement (SEE), along with the Customer Service Surveys, completed for the TBCE show that management and the Administration program are performing well. The overall score on the SEE for the agency was a 401; average scores typically range from 325 to 375.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

The agency received funding for and hired a full-time Programmer/Systems Analyst in 2009. Additionally, the agency received funding for and hired a full-time Executive Assistant in 2014.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

The Administration program serves the following:

- Board – 9 members
- Agency employees – 14
- Newsletter recipients – approximately 5,000

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The Administration program is administered by the Executive Director. Detailed policies and procedures are contained in the agency's consolidated Policies & Procedures Manual.

**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

The Administration program is funded through General Revenue and Appropriated Receipts.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

No other programs provide identical or similar services or functions to the target population.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

The agency's Administration function coordinates with other agencies where possible. We are a member of the Health Professions Council (HPC) and are a member of the Information Technology Shared Services (ITSS), which provides IT support to our agency. Also, we coordinate with the Texas Medical Board (TMB) to use their courier service for deposits. For this service, we pay a small amount each quarter. Additionally, we have partnered with the Texas Board of Dental Examiners for emergency/disaster support services through a third-party vendor.

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

None.

**K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

The only contract entered into by the agency was with the Office of the Attorney General to reimburse OAG for expenses incurred in ongoing litigation involving our agency. Otherwise, agency purchases were made and services obtained under purchase orders through previously-approved DIR or cooperative-government contracts.

**L. Provide information on any grants awarded by the program.**

No grants are awarded by the program.

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

None.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

Because the agency is so small, Administration is a catch-all for anything other than Licensing and Enforcement/Legal. The agency's Executive Director and Executive Assistant wear many hats, from dealing with risk management to records retention/management to human resources to purchasing.

**VII.2. LICENSING**

**A. Provide the following information at the beginning of each program description.**

***Name of Program or Function:*** LICENSING

***Location/Division:*** Austin (Headquarters)

***Contact Name:*** Jennifer Hertsenberg, Director of Licensure

***Actual Expenditures, FY 2014:*** \$154,464.17

***Number of Actual FTEs as of June 1, 2015:*** 2.8

**Statutory Citation for Program:** Tex. Occ. Code Chapter 201

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The objective of the Licensing program is to issue licenses and facility registrations, renew those licenses and registrations, and to approve continuing education courses. Major activities performed include the following:

- License issuance
  - Accept applications
  - Review application and supporting documentation to ensure applicant meets requirements for licensure
  - After application is complete and applicant is eligible to take the Texas Jurisprudence examination, update database and alert Prometric to applicant's eligibility
  - If applicant passes Jurisprudence examination, issue license after prorated initial licensure form and fee are received
- License renewal
  - Send out license renewal reminders
  - Review renewals received to ensure renewal application is complete, fee is paid, and proof of continuing education completion is on file
  - Issue license renewal
- Facility registration issuance
  - Accept applications
  - Review application and supporting documentation to ensure facility owner applicant is not disqualified from owning facility
  - Issue registration
- Facility registration renewal
  - Send out registration renewal reminders
  - Review renewals received to ensure renewal application is complete and fee is paid
  - Issue registration renewal
- Continuing education course approval
  - Accept application
  - Review application and supporting documentation to ensure course meets all requirements for course approval
  - Issue course approval number
  - After course is completed, receive roster from course sponsor and enter licensee credit into database

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

The Licensing program is the epitome of effectiveness and efficiency. 100% of renewals are issued within seven (7) days of receipt of a completed renewal application. Also, 100% of licenses are issued within ten (10) days of receipt of a completed prorated licensure form and fee (when the application is considered to be “complete”). Generally, renewals are processed the next business day from when received, and licenses are issued within one business week.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

Important history regarding licensing is contained in general agency history section.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

The Licensing program serves the following: (Statistics are as of 8/31/14)

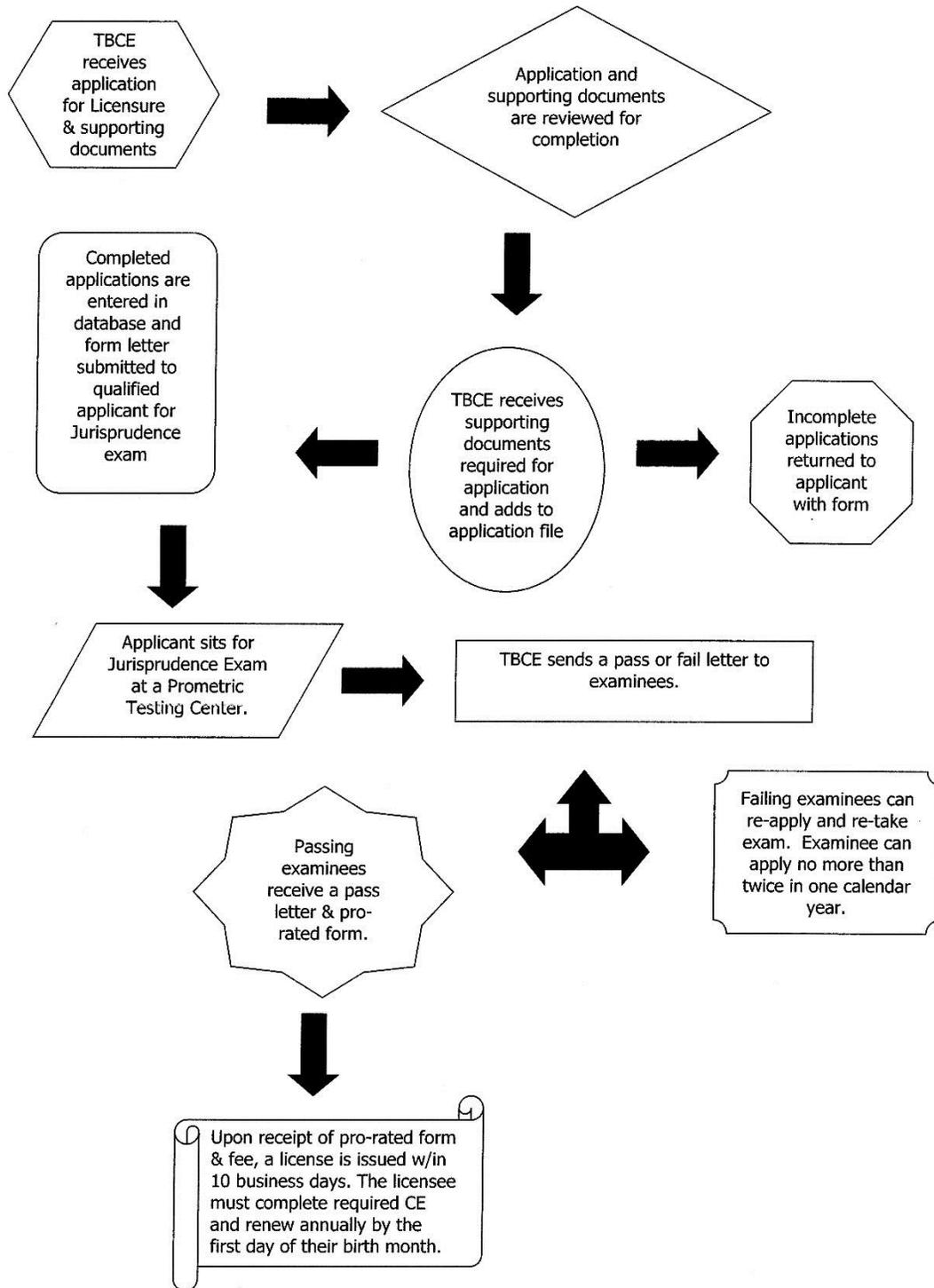
- Licensees
  - Active: 4,938
  - CE-Conditional: 384
  - Inactive: 607
  - Probated/Suspended: 16
  - Expired: 329
- Licensee Applicants: 322
- Facilities
  - Active: 3,971
  - Expired: 315
- Radiologic Technician
  - Active: 128
  - Expired: 38
- Continuing Education Course Sponsors – approximately 15-20

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

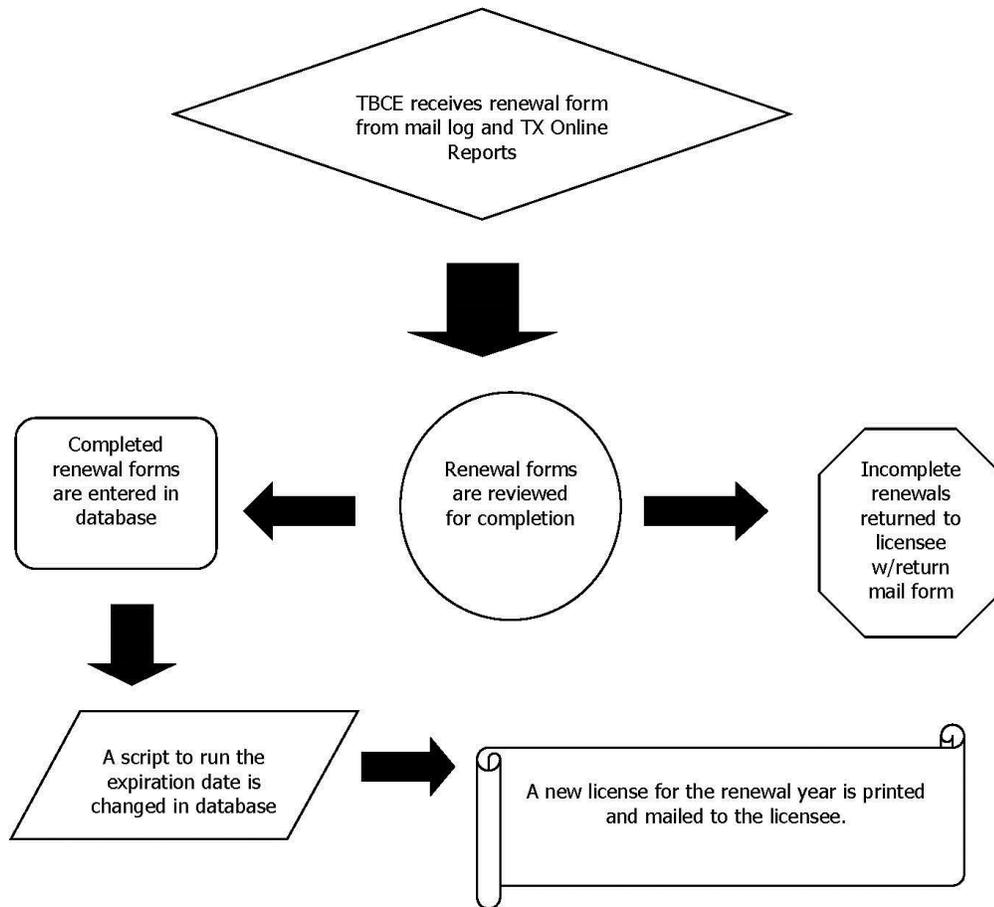
The Licensing program is administered by the Director of Licensure and Continuing Education Standards, who reports directly to the Executive Director. Reporting to the Director of Licensure are two administrative assistants, one of whom is part-time and the other of whom also acts as the agency’s receptionist.

- License Issuance: Detailed policies and procedures are contained in the TBCE Policies & Procedures Manual. See next page for flowchart describing process.

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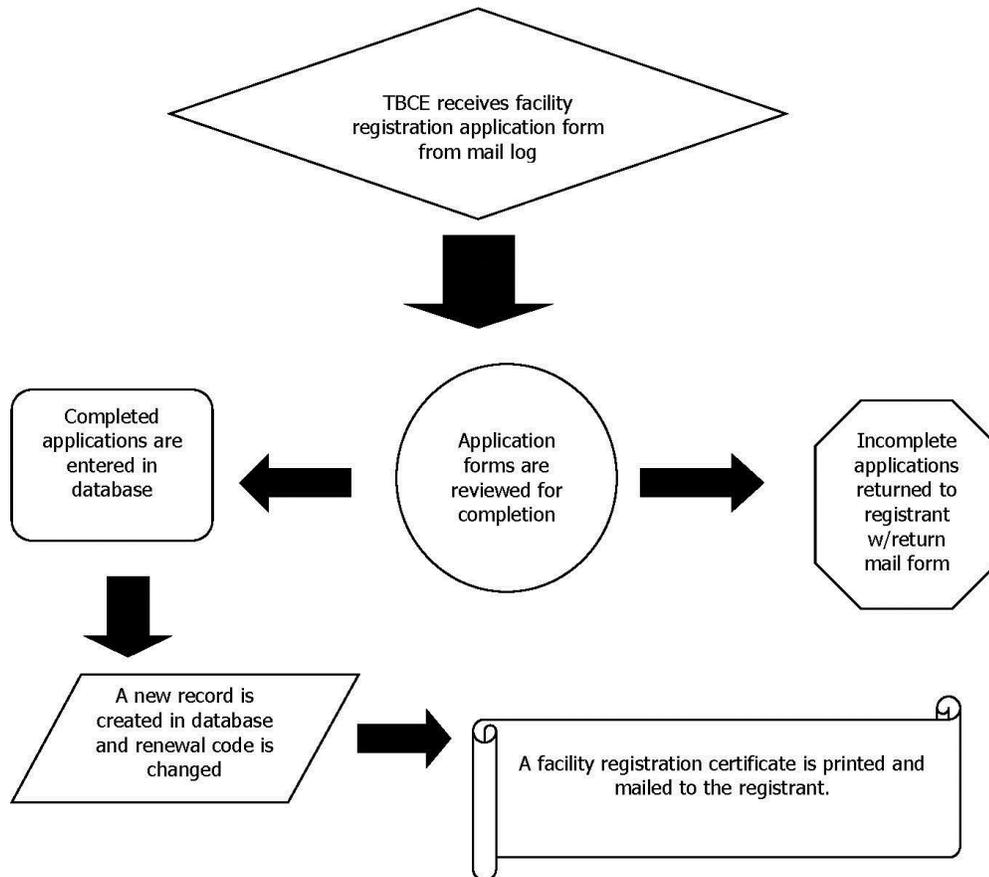


- License Renewal: Detailed policies and procedures are contained in the TBCE Policies & Procedures Manual. See below flowchart for description of process.



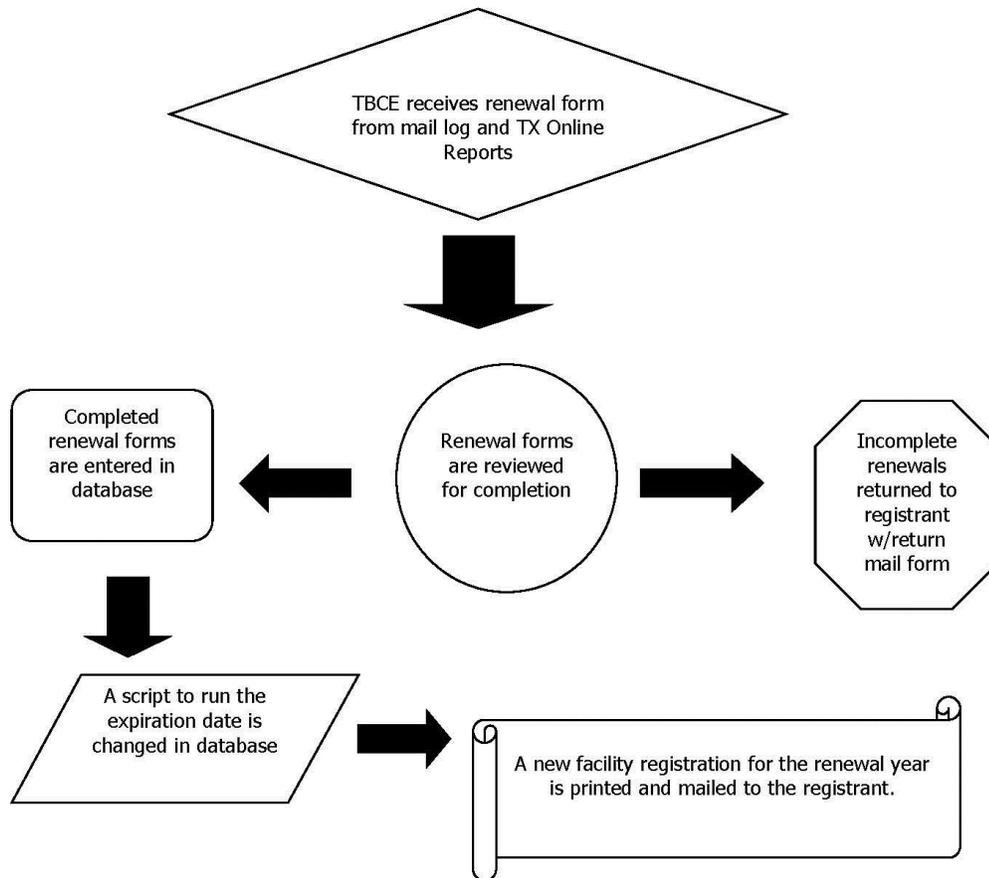
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- Facility Registration Issuance: Detailed policies and procedures are contained in the TBCE Policies & Procedures Manual.



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- **Facility Registration Renewal:** Detailed policies and procedures are contained in the TBCE Policies & Procedures Manual.



- G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

Revenue is generated through fees, which are passed through to General Revenue. The agency's "Newsletter Fee" is posted to Appropriated Receipts, however.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

No other programs provide identical or similar services or functions to the target population.

- I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

Licensing works with the Texas Department of Safety for licensee applicant background checks. Licensing also sends files containing licensure information to the Office of the Attorney General (to determine licensee compliance with child support payments) and the Texas Guaranteed Student Loan Corporation (to determine licensee compliance with student loan payments).

**K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

All expenditures related to Licensing are made through purchase orders under previously-approved DIR, CPA, or other cooperative government contracts. Major expenditures in licensing for FY 14 included postage, replacement of computers for licensing staff, scanning licensure files into digital files (a one-time expenditure), and printing costs (for license renewal/registration renewal reminders).

**L. Provide information on any grants awarded by the program.**

No grants are awarded by the program.

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

- *Eliminate facility registration fee cap.* Currently § 201.312(d)(2) of the [Chiropractic Act](#) states that a registration application fee may not exceed \$75. While the current fees are being proposed to be lowered to below \$75, future contingent revenue riders may necessitate adjusting fee rates. The statutory facility registration cap has forced the Board to raise revenue through raising licensure fees, which are much higher than facility registration fees.
- *Eliminate fee floor.* Currently § 201.153(a) of the [Chiropractic Act](#) states that the board by rule shall set fees in amounts reasonable and necessary to cover the costs of administering the Chiropractic Act. The statute also states that the board “may not set a fee in an amount that is less than the amount of that fee on September 1, 1993.” This minimum fee level does not allow the Board the necessary flexibility in setting fees, as the agency, its fee structure, and required revenue is drastically different than it was in 1993. Moreover, Section 2 of the Special Provisions Relating to All (Article VIII) Regulatory Agencies,

contained in HB1 (84<sup>th</sup> Leg.) states “[i]t is the intent of the Legislature that fees, fines, and other miscellaneous revenues as authorized and generated by each of the following agencies cover, at a minimum, the cost of appropriations made above and elsewhere in this Act to those agencies as well as an amount equal to the amount identified in the informational item “Other Direct and Indirect Costs Appropriated Elsewhere in this Act.” Having an arbitrary floor on fees at a 1993 level does not allow the Board to conduct a meaningful analysis of revenue to avoid unnecessarily high licensure fees.

- *Eliminate licensure requirement of “good moral character.”* Currently § 201.302(a)(2) of the [Chiropractic Act](#) requires an applicant for licensure to be “of good moral character.” This requirement is open to interpretation. The Sunset Occupational Licensing/Regulation Model (January 18, 2014) speaks of eliminating these types of requirements on page 11. It would be preferable to have some kind of concrete measure of fitness to practice – i.e. a prohibition on certain types of criminal convictions, etc.
- *Discipline in another state or by another board as grounds for denial of request to sit for jurisprudence examination.* Currently § 201.502 of the [Chiropractic Act](#) lists grounds for the Board to refuse to admit a person to examinations. There is nothing listed in §201.502 that contemplates discipline in another state or by another Texas licensing board as grounds for the TBCE to deny a request to sit for the jurisprudence examination. In the past, applicants licensed in another state who have had that license revoked, suspended, or sanctioned through disciplinary action have applied for licensure in Texas. Some of these out-of-state violations were serious enough to cause the TBCE to consider not granting the applicant’s request to sit for the jurisprudence examination (thus denying licensure). An example of such a violation seen in the past is an individual sanctioned for fraudulent billing in another state.
- *Clarify registration vs licensure.* Currently Subchapter H of the [Chiropractic Act](#) speaks of annual registration (§ 201.351 and § 201.352) as well as license renewal (§ 201.354). This should be clarified to make clear that once a license is issued, it must be renewed before expiration. There is no need for an additional annual registration for licensure.
- *Clarify fraudulent statements in initial license applications or renewal applications as grounds for refusal to admit an applicant to take the Jurisprudence Examination.* Currently § 201.502(a)(4) lists “presenting to the board an untrue statement or a document or testimony that was illegally used to pass the examination” as a grounds to refuse to admit a person to examinations. It would be helpful if subsection (a)(4) were more clear to allow the TBCE to refuse to admit a person to the Jurisprudence examination if he/she presented to the Board untrue statements, documents, or testimony in his/her application. The current limitation of “illegally used to pass the examination” hamstrings the Board from using this subsection in situations of fraudulent representations by applicants which it was intended to address.
- *Allow a retired status for licensees who do not want to actively practice, but do not want to place their license into an inactive status.* Many other professional licenses have a “retired”

status offered to licensees who are a certain age and at a point in their career where they would like to retire. These individuals should be allowed to still call themselves “Doctor” and “D.C.” but should not be considered to be practicing chiropractic.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

It should be noted that Texas does not have reciprocity with any states or countries for chiropractic licensure. Special provisions are available for applicants who hold licenses in other states, as well as applicants who are military service members, military veterans, and military spouses, but these provisions are not a form a reciprocity.

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Licensure/registration is needed for chiropractic to protect the public of Texas. Standards of practice are critical to ensure the safe practice of chiropractic, and these standards of practice are enforced by licensure/registration and mandatory continuing education.

All licensees are audited for continuing education compliance when they renew their licenses. Facilities may be inspected as part of the enforcement process (see Section VII.3. below).

When non-compliance with continuing education requirements is identified, a license is renewed into a CE-Conditional status, as per [Board Rule 75.6](#). This CE-Conditional status continues until the licensee rectifies the continuing education deficiency or until the next renewal date, whichever is shorter. If the licensee does not rectify the continuing education deficiency by his/her next renewal date, the license becomes expired, back-dated to the beginning date of the CE-Conditional status year. The licensee in that case would have to obtain a new license by applying as a new applicant.

### **VII.3. ENFORCEMENT**

**A. Provide the following information at the beginning of each program description.**

***Name of Program or Function:*** ENFORCEMENT

***Location/Division:*** Austin (Headquarters) with two field investigators located in Houston and Dallas/Fort Worth, respectively

***Contact Name:*** Scott Parker, Director of Enforcement; Bryan Snoddy, General Counsel

**Actual Expenditures, FY 2014:** \$323,134.16

**Number of Actual FTEs as of June 1, 2015:** 7.0

**Statutory Citation for Program:** Tex. Occ. Code Chapter 201

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The objective of this program is enforcement of the Chiropractic Act, Board rules, and other laws. Major activities performed under the enforcement program include:

- Receipt of complaints from the public (or initiation of complaints when potential violations are observed)
- Investigation of complaints
- Presentation of complaint and investigation to Enforcement Committee; recommendation to Enforcement Committee regarding violation and proposed penalty
- Settlement of case with Respondent or if no settlement can be reached, litigation of case at State Office of Administrative Hearings (SOAH)
- Presentation of settlement or SOAH Proposal for Decision (PFD) to Board for approval of final decision
- Monitoring previously imposed disciplinary actions for compliance
- Rulemaking (legal function)

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

The enforcement program has made improvements in effectiveness and efficiency and is still in the process of increasing efficiency.

- The recidivism rate for licensees with disciplinary action has been reduced from 5% in FY 2008 to 4.88% in FY 2014.
- The percent of complaints resolved within six (6) months has increase from 25% in FY 2007 to 36.39% in FY 2014.
- The average time for complaint resolution has decreased from 428 days in FY 2008 to 333.3 days in FY 2014. (This performance measure was at 317.696 at the end of the third quarter in FY 2015, showing further improvement.)
- The number of jurisdictional complaints resolved per year has increased from 233 in FY 2007 to 317 in FY 2014.

Additionally, the Enforcement program has diligently pursued its goal of working cases from the current fiscal year and the preceding two years. When the Board hired its own legal counsel in FY 2009, there were cases remaining as old as FY 2001. Currently, all cases pending are from FY 2013-2015 and one remaining case in litigation at SOAH from FY 2011. (There are only six (6) FY 2013 cases remaining, and all are in SOAH litigation, which should be resolved soon.)

- D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

Important history regarding enforcement is contained in general agency history section.

- E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

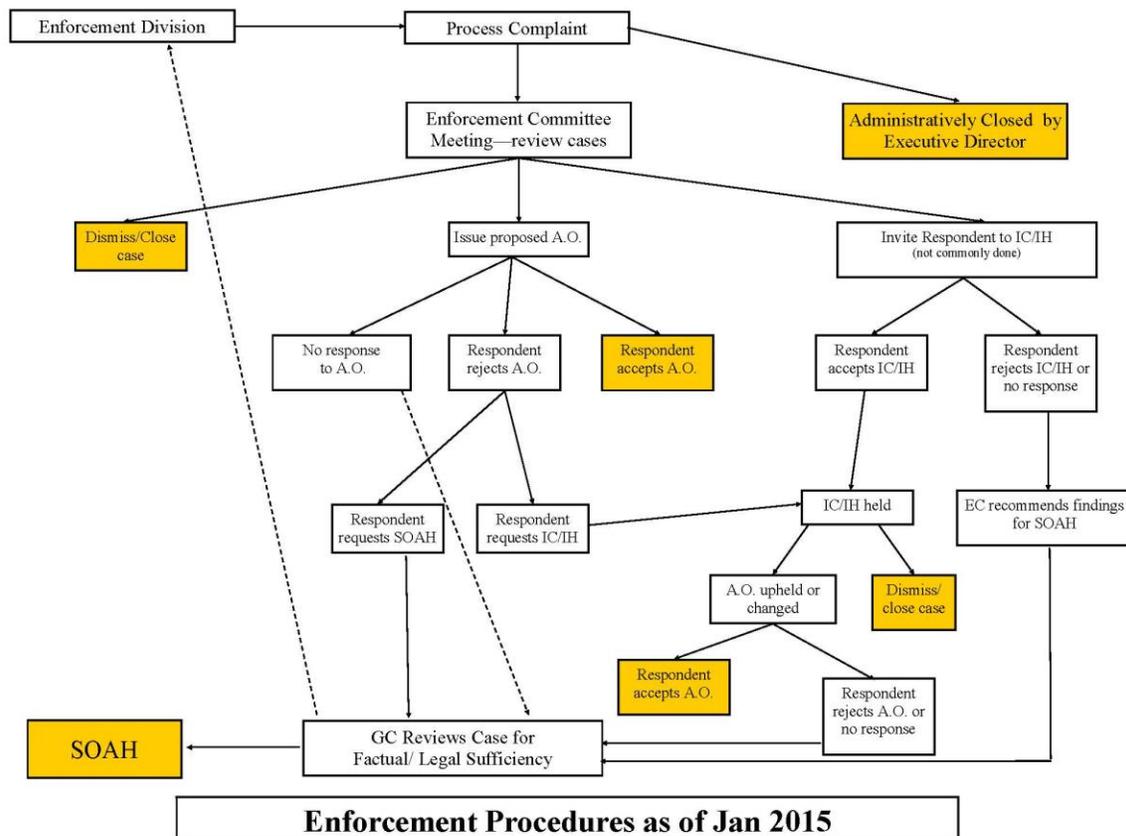
The Enforcement program serves the following: (Statistics are as of 8/31/14)

- Licensees
  - Active: 4,938
  - CE-Conditional: 384
  - Inactive: 607
  - Probated/Suspended: 16
- Facilities
  - Active: 3,971
- Radiologic Technician
  - Active: 128
- Members of the public

- F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

Detailed policies and procedures are contained in the TBCE Policies & Procedures Manual. See flowchart on next page for description of process.

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**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

Revenue is generated through administrative fines, which are passed through to General Revenue.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

No other programs provide identical or similar services or functions to the target population.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency’s customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

Enforcement works with local and federal law enforcement, where appropriate, for the investigation of complaints. Occasionally, investigators will testify in local and federal criminal trials against licensees or facility owners.

**K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

All expenditures related to Enforcement are made through purchase orders under previously-approved DIR, CPA, or other cooperative government contracts. Major expenditures in Enforcement for FY 14 included postage, travel, replacement of computers for enforcement staff, and scanning enforcement files into digital files (a one-time expenditure).

**L. Provide information on any grants awarded by the program.**

No grants are awarded by the program.

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

- *Inspection authority independent of complaints.* Currently, § 201.207 of the [Chiropractic Act](#) details the authority for the TBCE to conduct inspections. On-site inspections of a chiropractic facility are allowed “to investigate a complaint filed with the board.” Many complaints are generated following an inspection, where a complaint has not yet been officially filed with the board but TBCE investigators accompany investigators with the National Insurance Crime Bureau (NICB) in visits to the facility. Also, many times a facility is allegedly operating without a certificate of registration – grounds for a complaint to be filed. However, evidence to determine whether the facility is actually operating can only be gathered through an inspection. Statutory clarification of when an inspection is permissible will greatly help investigators’ interactions with facility owners. Clarification of this language in § 201.207 to allow investigators to inspect independent of a complaint will allow the TBCE to more effectively perform its Enforcement function.
- *Change the standard for disciplinary action against a licensee practicing in an unregistered facility from “knowing” to “should have known.”* Currently § 201.312(g) of the [Chiropractic Act](#) states that “[a] person licensed to practice chiropractic in this state is subject to disciplinary action under this chapter [the Chiropractic Act] if the person practices chiropractic in a chiropractic facility that the person knows is not registered under this

section.” [Board Rule §78.7\(a\)](#) places equally upon facility owners and licensees practicing in the facility the responsibility for ensuring public information placards and current annual registration certificates are posted in a prominent place in the facility. Therefore, in practice a licensee should have known whether a facility is not currently registered, even if he/she is not the owner and not directly responsible for renewing the registration.

- *Permit “No-Contest type plea” to certain violations.* Many actions taken by the TBCE are for minor administrative violations, such as failure to release patient records, recordkeeping deficiencies, failure to change an address, etc. It would be helpful if the [Chiropractic Act](#) authorized the Board staff to accept a “no-contest type plea” for non-sexual, non-fraud, and non-violent violations and to impose small fines or stipulations on licensure (including mandatory continuing education or training). These “no-contest” actions, if not considered disciplinary action and thus not reportable, would greatly reduce processing times for Enforcement staff thereby increasing efficiency. More time could then be spent by Enforcement staff on more serious allegations, thereby increasing effectiveness of the Enforcement process.
- *Discipline in another state or by another board as grounds for disciplinary action in Texas.* Currently § 201.502 of the [Chiropractic Act](#) lists grounds for the Board to take disciplinary action against a licensee. There is nothing listed in §201.502 that contemplates discipline in another state or by another Texas licensing board as grounds for the TBCE to impose discipline (including monitoring, suspension, or probation).
- *Clarify fraudulent statements in initial license applications or renewal applications as grounds to impose disciplinary action.* Currently § 201.502(a)(4) of the [Chiropractic Act](#) lists “presenting to the board an untrue statement or a document or testimony that was illegally used to pass the examination” as a grounds to revoke, suspend, or place a license holder on probation. It would be helpful if subsection (a)(4) were more clear to allow the TBCE to take disciplinary action against a licensee who provides fraudulent or false information to the Board in an application for renewal or licensure. The current limitation of “illegally used to pass the examination” hampers the Board from using this subsection in situations of fraudulent representations by applicants or licensees which it was intended to address.
- *Clarify when the TBCE may take action against a licensee for conduct involving intemperance or drug addiction.* Currently, § 201.502(a)(8) of the [Chiropractic Act](#) states the Board may take action against a licensee for “having a habit of intemperance or drug addiction or another habit that, in the opinion of the board, endangers the life of a patient.” This standard may be too high, as the TBCE has seen cases where the safety of a patient was at risk, but maybe not necessarily rising to the level of endangering the patient’s life.
- *Clarify when the TBCE may take action against an incompetent licensee.* Currently, § 201.502(a)(17) of the [Chiropractic Act](#) states the Board may take action against a licensee for “being proved insane by a person having authority to make that determination.” It would be helpful if incompetency were added to this provision, and it would be further helpful if the terms “insane” and “incompetent” were defined. The term “insane” is usually

defined in terms of a criminal defense, which is not useful in the field of chiropractic regulation and enforcement. There have been times where the Board has identified a licensee who has a mental illness or who has had a stroke or who has some other issue that make him/her unfit to continue practicing. This statutory provision should address these sorts of situations and allow the TBCE to take action to protect the public.

- *Clarify when a graduate of a Doctor of Chiropractic program can use the initials “D.C.”* Currently § 201.002 of the [Chiropractic Act](#) states that a person practices chiropractic if the person “uses the term ‘chiropractor,’ ‘chiropractic,’ ‘doctor of chiropractic,’ ‘D.C.,’ or any derivative of those terms or initials in connection with the person’s name.” Also § 201.301 states “[a] person may not practice chiropractic unless the person holds a license issued by the board.” When a person graduates from chiropractic school, he/she is awarded a “Doctor of Chiropractic” degree or “D.C.” for short. Similar to how a law school graduate identifies himself as a “J.D.” or a doctorate level professional identifies himself as a “Ph.D.,” chiropractic school graduates often identify themselves as a “D.C.” This runs afoul of § 201.002 of the Chiropractic Act, leading to investigations and perhaps disciplinary action against individuals not actually performing chiropractic on patients, but instead merely using their name and credentials earned in a public forum. Clarification of this issue in the statute would provide guidance to the Board on enforcement of this issue. Similarly, if an out-of-state chiropractor (duly licensed in another state) speaks at an event or teaches a course in Texas and identifies himself as a “D.C.,” should he be determined to be guilty of violating § 201.002 of the Chiropractic Act and practicing chiropractic without a valid Texas license?
- *Clarify animal chiropractic.* Currently § 201.002 of the [Chiropractic Act](#) defines chiropractic in terms of the human body. This same section of the Chiropractic Act states that a person practices chiropractic if the person “represents to the public that the person is a chiropractor” or “uses the term ‘chiropractor,’ ‘chiropractic,’ ‘doctor of chiropractic,’ ‘D.C.,’ or any derivative of those terms or initials in connection with the person’s name.” Despite the restriction of chiropractic in Texas to the human body, many Texas chiropractors are also trained in the field of “animal chiropractic,” a specialized subset of chiropractic. These “animal chiropractors” often advertise their services in conjunction with their practice of traditional human chiropractic. A strict reading of the Chiropractic Act means that these advertisements are advertising services outside the chiropractic scope of practice, and the practice of animal chiropractic is practicing outside the chiropractic scope of practice if done in affiliation with a Texas chiropractic license.

The [Veterinary Licensing Act](#), § 801.151(c)(2) of the Texas Occupations Code, allows animal chiropractic performed by a veterinarian or by an independent contractor under the supervision of a veterinarian. The Texas Board of Veterinary Medical Examiners (TBVME) has expanded on this statutory provision by rule ([Texas Administrative Code, Title 22, Part 24, Rule 573.14](#)).

The question arises whether Texas chiropractors who have extensive qualifications in animal chiropractic should be allowed to practice animal chiropractic in compliance with

the TBVME's rule and advertise using their chiropractic credentials. The TBCE does not want to take unfair action against licensees, but of course must enforce the Chiropractic Act as currently written.

- *Allow the TBCE to share confidential information with the Federation of Chiropractic Licensing Boards (FCLB) to input disciplinary actions into the database CIN-BAD and also report to the federal National Practitioner Databank (NPDB).* The TBCE is a member of the FCLB, an organization composed of chiropractic licensing boards from across the country and world. One service offered by the FCLB is the [Chiropractic Information Network – Board Action Database \(CIN-BAD\)](#), a comprehensive database containing public actions taken by chiropractic regulatory licensing boards and/or chiropractic exclusions from Medicare/Medicaid reimbursement reported by the United States Department of Health and Human Services. When information is reported to CIN-BAD, the FCLB will report the same information to the NPDB for the reporting board. A crucial part of the NPDB report is the disciplined licensee's social security number, information that is considered confidential under the Public Information Act. Without authority to disclose this information to FCLB for purposes of reporting to the NPDB, the TBCE cannot utilize this function of the FCLB.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

Enforcement procedures have changed significantly since the last Sunset review of the agency.

First, Enforcement Committee meetings have changed. Prior to 2010, Respondents and Complainants were invited to the meeting to discuss the case with the Committee. The Board had concerns about confidentiality of the investigations being waived by having the Respondent and Complainant appear in an open meeting, so the meeting format was changed. Now, the Enforcement Committee discusses cases by case number only so as to maintain confidentiality. If the Committee wishes to discuss the case with a Respondent or Complainant, an Informal Conference is held with one Enforcement Committee member. Likewise, if a Respondent or Complainant wishes to discuss the case, an Informal Conference is held.

Next, the use of Cease and Desist Orders has become more formalized to come into compliance with the Chiropractic Act. Informal hearings are held before an order is issued. If an order is not signed by the Respondent, the matter proceeds to SOAH before the order is issued.

Finally, a more formalized process is in place to ensure thorough investigations and quality cases progressing through SOAH litigation. Investigations are tracked and monitored for quality and efficiency. A monthly Enforcement Department meeting is held to discuss cases at all stages, further ensuring an efficient and effective investigative program.

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**

- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Enforcement of the Chiropractic Act is needed to protect the public of Texas. Ensuring adherence to minimum standards of practice is critical to public safety.

Chiropractic facilities may be inspected as part of the enforcement process. § 201.207 of the Chiropractic Act details the authority for the TBCE to conduct inspections. On-site inspections of a chiropractic facility are allowed “to investigate a complaint filed with the board.” In such cases, a Board investigator visits a facility (unannounced) during reasonable business hours, identifies himself, and inspects the facility. The investigator looks to make sure required information is posted in the facility (facility registration information, licensee information, public interest information, etc.). The investigator also looks at whether the facility and its equipment are clean and sanitary. Depending on the content of the complaint, the investigator will also inspect patient records or other materials needed to investigate the matter fully. All inspections are documented in the investigative report, and currently the TBCE is beginning to implement the use of body cameras in inspections.

When non-compliance with the Chiropractic Act and Board rules is identified, the investigative staff presents these matters to the Enforcement Committee at an open meeting. (Cases are referred to by number only, so as to ensure confidentiality in compliance with the Chiropractic Act.) If the Enforcement Committee determines a violation did occur, they recommend a finding and a sanction. Sanctions include administrative penalties, reprimands, suspension, probation, revocation, stipulations (continuing education, examinations, etc), and monitoring. The finding and sanction are proposed to the Respondent in the form of a proposed Agreed Order. If the Respondent signs the Agreed Order, the matter is considered settled and disciplinary action will be effective the date the Agreed Order is signed by the Board. If the Respondent refuses to sign the Agreed Order, the matter can be negotiated at an Informal Conference or litigated at the State Office of Administrative Hearings (SOAH).

**P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency’s practices.**

**Texas Board of Chiropractic Examiners  
ENFORCEMENT  
Exhibit 11: Information on Complaints against Regulated Persons or Entities  
Fiscal Years 2013 and 2014**

	Fiscal Year 2013	Fiscal Year 2014
Total number of regulated persons	5,979	6,073
Total number of regulated entities	3,830	3,971
Total number of entities inspected	23	66
Total number of complaints received from the public	166	158
Total number of complaints initiated by agency	249	112

Self-Evaluation Report

	Fiscal Year 2013	Fiscal Year 2014
Number of complaints pending from prior years	49	59
Number of complaints found to be non-jurisdictional	11	19
Number of jurisdictional complaints found to be without merit	193	172
Number of complaints resolved	349	336
Average number of days for complaint resolution	285.91	332.02
Complaints resulting in disciplinary action:	145	145
administrative penalty only	118	117
administrative penalty with additional stipulations	1	5
reprimand	4	10
reprimand with fine/stipulations	5	2
Probation	0	1
probation with fine/stipulations	8	6
Suspension	1	0
Revocation	5	2
surrender in lieu of discipline	1	0
continuing education	1	0
stipulations only	0	1
cease and desist	1	1

Table 11 Exhibit 11 Information on Complaints against Persons or Entities

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## VIII. Statutory Authority and Recent Legislation

- A. Fill in the following charts, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2011–2015, or earlier significant Attorney General opinions, that affect your agency’s operations.

### Texas Board of Chiropractic Examiners Exhibit 12: Statutes / Attorney General Opinions

#### Statutes

Citation / Title	Authority / Impact on Agency (e.g., “provides authority to license and regulate nursing home administrators”)
Occupations Code, Title 3, Chapter 201	Provides authority to license and regulate chiropractors, register and regulate chiropractic facilities, and license and regulate chiropractic radiologic technologists.
Occupations Code, Title 2, Chapter 53	Provides guidance for licensing individuals who have a criminal history.
Occupations Code, Title 2, Chapter 55	Provides guidance for licensing military service members, military veterans, or military spouses.
Occupations Code, Title 2, Chapter 55	Provides authority to take action against a license holder or applicant for that individual’s default on a student loan or breach of a student loan repayment contract or scholarship contract.
Occupations Code, Title 3, Chapter 101	Provides authority for the TBCE to be a member of the Health Professions Council. Provides restrictions on false, misleading, or deceptive advertising, as well as overcharging or overtreatment. Provides direction that health care professionals must provide a written explanation of charges upon request of a patient.
Occupations Code, Title 3, Chapter 102	Provides authority to take action against a license holder for solicitation
Occupations Code, Title 3, Chapter 104	Provides authority to take action against a license holder who does not properly identify himself
Occupations Code, Title 3, Chapter 105	Provides authority to take action against a license holder who commits certain unprofessional conduct
Occupations Code, Title 3, Chapter 205	Defines acupuncture as “nonsurgical, nonincisive” thus allowing chiropractors to practice acupuncture (limited by chiropractic scope of practice)

Table 12 Exhibit 12 Statutes

**Attorney General Opinions**

Attorney General Opinion No.	Impact on Agency
Opinion No. DM-471 (March 1998)	The practice of acupuncture, as defined by V.T.C.S. article 4495b, is not an "incisive or surgical procedure" excluded from the scope of the practice of chiropractic. The conclusion reached in Attorney General Opinion DM-415 with respect to the practice of acupuncture by chiropractors is superseded by statute.
Opinion No. DM-472 (March 1998)	The use of a needle to inject substances or for any purpose other than the drawing of blood for diagnostic testing or for the practice of acupuncture is not within the scope of practice of a licensed Texas chiropractor. A chiropractor may be found to be in violation of V.T.C.S. article 4512b, prohibiting the prescription by a chiropractor of dangerous drugs, if the chiropractor prescribes a drug that does not bear, but is required to bear, a legend stating that federal law prohibits dispensing the drug without a prescription. A drug that bears a prescription legend falls within the definition of "dangerous drug" found in Health and Safety Code section 483.001(2).
Opinion No. JC-0379 (May 2001)	Tui Na is a form of energy flow exercise that involves spinal manipulation used by acupuncturists. The definition of acupuncture in the Occupations Code defines the practice to include only the "recommendation," rather than the "administration" of such exercises. Tex. Occ. Code Ann. §205.001(2)(B)(Vernon 2001). Accordingly, the administration of such exercise is not within the statutory definition of acupuncture.
Opinion No. GA-0020 (February 2003)	Occupations Code section 201.354(e) provides, with certain exceptions, that a person may not renew a license to practice chiropractic that has been expired for one year or more but may obtain a new license by submitting to reexamination and complying with the requirements for obtaining an original license. The Board of Chiropractic Examiners does not have authority to adopt a rule providing that such persons may be licensed by taking an examination different from that required of first-time applicants.
Opinion No. GA-0487 (December 2006)	Section 201.302(a)(3) of the Occupations Code requires a chiropractic license applicant to obtain 90 semester hours of college credit from a "school other than a chiropractic school." The statute does not, however, unambiguously preclude such an applicant from obtaining the required college credit from an institution of higher education that offers a chiropractic degree program along with non-chiropractic programs. The Board of Chiropractic Examiners possesses rule-making authority to determine what constitutes a "school other than a chiropractic school."

Table 13 Exhibit 12 Attorney General Opinions

**B. Provide a summary of recent legislation regarding your agency by filling in the charts below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key**

provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). Place an asterisk next to bills that could have a major impact on the agency.

**Texas Board of Chiropractic Examiners  
Exhibit 13: 84th Legislative Session**

**Legislation Enacted**

Bill Number	Author	Summary of Key Provisions
HB 7	Darby/Nelson	Removes \$200 professional fee from Chapter 201 of Texas Occupations Code; reduces fees paid by applicants and DCs by \$200.
HB 762	King/Perry	State agency must require a petition for rulemaking to be signed by at least 51% Texas residents.
SB 807	Campbell/Sheets	Requires TBCE (and other licensing agencies) to waive license application and examination fees for military service members, military veterans, and military spouses.
SB 1307	Menendez/King	Requires alternative and expedited licensing processes for military service members, military veterans, and military spouses.

Table 14 Exhibit 13 Legislation Enacted 84th Leg

**Legislation Not Passed**

Bill Number	Author	Summary of Key Provisions / Reason Bill Did Not Pass
HB 126	Fletcher	Bill would have expanded health care professionals who could prescribe handicap placards to include DCs. Bill left pending in House subcommittee.
HB 551*	Johnson	Bill would have made enforcement action due to a criminal conviction more difficult. Bill did not receive a hearing.
HB 672	Israel	Bill would have prohibited consideration of immigration status of an applicant for a license in determining whether to issue or renew a license.
HB 1174	Fletcher	Bill would have expanded health care professionals who could perform school bus driver physicals to include DCs. Bill left pending in House subcommittee.
HB 1231	Fletcher	Bill would have expanded membership on concussion oversight teams to include DCs. Bill left pending in Calendars Committee.
HB 2197*	Springer	Bill would have eliminated fingerprinting requirement for occupational licenses. Bill left pending in House subcommittee.
HB 2484*	Schaefer	Bill would have eliminated requirement that applicant holding a license in another state still has to take Texas jurisprudence exam before licensure in Texas. Bill did not receive a hearing.
HB 2624	Turner	Bill would have allowed licensure non-renewal and an opportunity for a hearing for licensees who default on a THECB student loan. Bill left pending on House Calendar.
HB 3158*	Smithee	Bill would have required legislative approval of state agency rules that take effect during the two years preceding a legislative session. Bill left pending in House subcommittee.
HB 3662	Hughes	Bill would have allowed the award of attorney fees for state agency regulatory actions determined to be "frivolous." Bill passed the House, but did not receive a hearing in the Senate.

Self-Evaluation Report

Bill Number	Author	Summary of Key Provisions / Reason Bill Did Not Pass
HB 3925*	Klick	Bill would have expanded chiropractic scope of practice. Bill did not receive a hearing.
HB 3926* (SB 1544)	Klick (Perry)	Bill would have explicitly authorized chiropractors to diagnose. Bill did not receive a hearing.
HB 3974*	Darby	Bill would have mandated the expunction of certain disciplinary actions by licensing entities like the TBCE. Bill left pending on House Calendar.
HB 3981*	Darby	Bill would have allowed Respondent license holder to elect whether to have SOAH ALJ make final determination in a contested case hearing. Bill would have removed authority for final determination from the Board. Bill did not receive a hearing.

Table 15 Exhibit 13 Legislation Not Passed 84th Leg

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## IX. Major Issues

### IX.1. SCOPE OF PRACTICE ISSUES

#### A. Brief Description of Issue

Does the Chiropractic Act clearly define scope of practice for chiropractors in Texas?

#### B. Discussion

The Chiropractic Act states the following in § 201.002:

(b) A person practices chiropractic under this chapter if the person:

(1) uses objective or subjective means to analyze, examine, or evaluate the biomechanical condition of the spine and musculoskeletal system of the human body;

(2) performs nonsurgical, nonincisive procedures, including adjustment and manipulation, to improve the subluxation complex or the biomechanics of the musculoskeletal system;

(3) represents to the public that the person is a chiropractor; or

(4) uses the term "chiropractor," "chiropractic," "doctor of chiropractic," "D.C.," or any derivative of those terms or initials in connection with the person's name.

(c) The practice of chiropractic does not include:

(1) incisive or surgical procedures;

(2) the prescription of controlled substances, dangerous drugs, or any other drug that requires a prescription; or

(3) the use of x-ray therapy or therapy that exposes the body to radioactive materials.

Numerous terms in the Chiropractic Act have meanings that differ between the chiropractic and allopathic communities or that are unique to the chiropractic community. In the last ten years, there has been litigation waged against the TBCE by the Texas Medical Association claiming that rules adopted by the TBCE exceeded the statutory scope of practice cited above. Current litigation claims that the definitions established in rule for the terms "biomechanics" and "subluxation complex" exceed the statutory scope of practice.

Also, many specialized fields within chiropractic focus on the neurological component of the subluxation complex, which is highly misunderstood within the allopathic community. The

constant emphasis on only the allopathic view of the biomechanics of the musculoskeletal system without any recognition of the neurological component of the musculoskeletal system or recognition of the subluxation complex leads to disagreement about the limits of statutory scope of practice.

In addition to confusion over statutory scope of practice, there exists controversy over animal chiropractic. This issue was discussed earlier in Section VII.3, subsection M, but it deserves discussion in the context of scope of practice. The Chiropractic Act discusses chiropractic as limited to the human body. However, the Chiropractic Act also states that the “practice of chiropractic” includes referring to oneself as a chiropractor or using chiropractic licensing credentials (including “D.C.” or “doctor of chiropractic”). When a licensee practices animal chiropractic (in accordance with the Board of Veterinary Medical Examiners’ rules), they cannot call themselves a chiropractor or use chiropractic licensing credentials without running afoul of the Chiropractic Act. Clarification is needed to make clear whether licensed chiropractors can practice animal chiropractic under their chiropractic licenses or whether they can advertise using their credentials and education.

### **C. Possible Solutions and Impact**

Although the Sunset Commission does not delve into scope of practice issues, the impact of these arguments over statutory scope of practice is one of the most major issues the TBCE faces and thus must be addressed in this report. Statutory clarification of scope of practice, including possible definitions of key terms or legislative recognition of the difference between chiropractic and allopathic meanings of the same terms could save time and money in reducing litigation against the TBCE challenging rulemaking actions.

## **IX. 2. MULTI-DISCIPLINARY PRACTICE**

### **A. Brief Description of Issue**

Should the Chiropractic Act contemplate the practice of chiropractic by DCs in multi-disciplinary practices and the ownership of multi-disciplinary practices by DCs?

### **B. Discussion**

Multi-disciplinary practice is an ever-growing area of medical practice. In such a multi-disciplinary practice, a chiropractor can own a practice, employ other professionals such as nurses or physical therapists, and have a medical director who directs the other professionals employed at the facility. In other practices, a chiropractor practices on staff at a multi-disciplinary practice that offers allopathic, osteopathic, chiropractic, acupuncture, and other healing arts fields. In even other practices, a chiropractor may possess other professional licenses with different scopes of practice. In the last ten years, an increase in the number of chiropractors who also hold advanced practice nursing licenses has been observed.

The lines of scope of practice that apply to a facility become blurry when multiple professions treat the same patient under the same roof. If a chiropractor provides chiropractic treatment to

a patient at the same time that a medical doctor orders the administration of controlled substances to the patient with a nurse doing the actual administration, it can become confusing to the patient who exactly is limited to specific parts of the overall treatment. The TBCE sees complaints filed by patients treated in a multi-disciplinary practice in which the patient is not clear what the chiropractor's role in the overall treatment is. If the practice is owned by a chiropractor, complaints are often received that the facility is operating outside the chiropractic scope of practice.

### **C. Possible Solutions and Impact**

Statutory clarification may be needed of what liability is attributed to a licensee practicing in or owning a multi-disciplinary practice. This would educate licensees on the proper way to practice in a multi-disciplinary setting, and it would reduce complaints that wind up being closed as non-jurisdictional because the behavior complained about was committed under another license.

## **IX.3. PEER REVIEW COMMITTEES**

### **A. Brief Description of Issue**

Should the TBCE be responsible for implementing peer review committees as contemplated in the Chiropractic Act?

### **B. Discussion**

Subchapter F of the Chiropractic Act discusses peer review committees. In § 201.251, the Chiropractic Act states the Board shall appoint local chiropractic peer review committees, and in § 201.253, the Chiropractic Act states the Board shall appoint an executive chiropractic peer review committee to direct the activities of the local committees. The purpose of local peer review committees is "to review and evaluate chiropractic treatment and services in disputes involving a chiropractor and a patient or a person obligated to pay a fee for chiropractic services or treatment;" and to "mediate in a dispute involving a chiropractor and a patient or person obligated to pay a fee for chiropractic services or treatment."

The agency has tried multiple times to implement Subchapter F of the Chiropractic Act and get the peer review program running. However, due to the limited resources and limited staff, this program proves to be more than the current agency can handle. The coordination of the Executive Peer Review Committee and local peer review committees will place an administrative burden on the Executive Director, Executive Assistant, and General Counsel – three already taxed staff members. No other Article VIII regulatory agency has a peer review committee structure as expansive as that in the Chiropractic Act; in fact, most other peer review committee programs are administered by the professional trade associations and not the licensing agency.

Additionally, training peer review committee members in the art and science of mediation is cost-prohibitive in implementing the program. None of the current staff members at the TBCE is trained in mediation, thus requiring outside training of peer review committee members. Such training is expensive, which cannot easily be absorbed into the current budget without additional

appropriations. In the past, additional appropriations were needed for more immediate concerns of the agency, thus why the agency did not pursue exceptional items for peer review committee member training.

**C. Possible Solutions and Impact**

Potential solutions to this issue include:

- eliminating Subchapter F from the Chiropractic Act and allowing professional trade associations to administer the peer review program;
- modifying Subchapter F to simplify the peer review program and authorizing additional staff to implement the program; or
- not modifying Subchapter F and authorizing additional staff to implement the peer review program at the TBCE.

It is estimated that initially one FTE could run this program, but that FTE should be in a position classified as at least a B19 (i.e. Program Specialist II). Therefore the fiscal impact for salary alone will be at least \$42,244 per fiscal year.

**X. Other Contacts**

**A. Fill in the following charts with updated information on people with an interest in your agency, and be sure to include the most recent email address.**

**Texas Board of Chiropractic Examiners  
Exhibit 14: Contacts**

***Interest Groups***

*(groups affected by agency actions or that represent others served by or affected by agency actions)*

<b>Group or Association Name/ Contact Person</b>	<b>Address</b>	<b>Telephone</b>	<b>Email Address</b>
Texas Chiropractic Association/ Jeff Jenkins, Executive Director	1122 Colorado Street, Suite 307, Austin, TX 78701	(512) 477-9292	<a href="mailto:exec@chirotxas.org">exec@chirotxas.org</a>
Chiropractic Society of Texas	312 E. Church Street, Livingston, TX 77351	(512) 321-9200	<a href="mailto:info@texaschiropractic.org">info@texaschiropractic.org</a>
Parker University/ Dr. Kenneth Thomas, Vice-President	2540 Walnut Hill Lane, Dallas, TX 75229		<a href="mailto:kthomas@parker.edu">kthomas@parker.edu</a>
Texas Chiropractic College/ Dr. Steve Foster, Vice-President	5912 Spencer Highway, Pasadena, TX 77505	(281) 487-1170	<a href="mailto:sfoster@txchiro.edu">sfoster@txchiro.edu</a>

Table 16 Exhibit 14 Interest Groups

***Interagency, State, or National Associations***

*(that serve as an information clearinghouse or regularly interact with your agency)*

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Federation of Chiropractic Licensing Boards/ Dr. Jon Schwartzbauer, Executive Director	54401 W. 10 <sup>th</sup> Street, Suite 101, Greeley, CO 80634	(970) 356-3500	<a href="mailto:jschwartzbauer@fclb.org">jschwartzbauer@fclb.org</a>

Table 17 Exhibit 14 Interagency, State, and National Association

**Liaisons at Other State Agencies**

(with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)

Agency Name / Relationship / Contact Person	Address	Telephone	Email Address
Legislative Budget Board/ Trevor Whitney, Analyst	1501 N. Congress Avenue, 5 <sup>th</sup> Floor, Austin, TX 78701	(512) 463-8203	<a href="mailto:trevor.whitney@lbb.state.tx.us">trevor.whitney@lbb.state.tx.us</a>
Office of the Attorney General/ Joe Thrash, JD	300 W. 15 <sup>th</sup> Street, Austin, TX 78701	(512) 475-4685	<a href="mailto:joe.thrash@texasattorneygeneral.gov">joe.thrash@texasattorneygeneral.gov</a>
Kara Crawford/Governor's Office for Budget, Planning & Policy	1100 San Jacinto, Austin, TX 78701	(512) 463-9036	<a href="mailto:kara.crawford@gov.texas.gov">kara.crawford@gov.texas.gov</a>

Table 18 Exhibit 14 Liaisons at Other State Agencies

**XI. Additional Information**

- A. Texas Government Code, Sec. 325.0075 requires agencies under review to submit a report about their reporting requirements to Sunset with the same due date as the SER. Include a list of each agency-specific report that the agency is required by statute to prepare and an evaluation of the need for each report based on whether factors or conditions have changed since the statutory requirement was put in place. Please do not include general reporting requirements applicable to all agencies, reports that have an expiration date, routine notifications or notices, posting requirements, federally mandated reports, or reports required by G.A.A. rider. If the list is longer than one page, please include it as an attachment.**

**Texas Board of Chiropractic Examiners  
Exhibit 15: Evaluation of Agency Reporting Requirements**

Report Title	Legal Authority	Due Date and Frequency	Recipient	Description	Is the Report Still Needed? Why?
Report on a Violation by a Chiropractor	Labor Code, §413.0515(b)	As needed (usually quarterly)	Texas Dept of Insurance	TBCE notifies TDI-DWC of all DCs with disciplinary action, so that TDI-DWC can compare to their list of designated doctors.	Yes, so that TDI-DWC can ensure their list of designated doctors contains doctors without disciplinary actions.

Table 19 Exhibit 15 Agency Reporting Requirements

- B. Has the agency implemented statutory requirements to ensure the use of "first person respectful language"? Please explain and include any statutory provisions that prohibits these changes.**

The Chiropractic Act and Board rules use “person first respectful language” and do not contain any of the terms discouraged in Section 392.002(a) of the Government Code.

- C. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency’s practices.**

The agency does not track complaints against the agency. However, the most common feedback we hear involves the cost of fees, scope of practice limitations, enforcement, continuing education requirements, etc. Also, some licensees state that they do not feel the agency staff answers the phone quickly enough. (With limited staff, most phone calls to the agency result in voicemails, which are returned by staff in a timely manner – as verified by management with telephone logs.)

**Texas Board of Chiropractic Examiners  
Exhibit 16: Complaints Against the Agency — Fiscal Years 2013 and 2014**

	Fiscal Year 2013	Fiscal Year 2014
Number of complaints received	N/A	N/A
Number of complaints resolved	N/A	N/A
Number of complaints dropped / found to be without merit	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Average time period for resolution of a complaint	N/A	N/A

Table 20 Exhibit 16 Complaints Against the Agency

- D. Fill in the following charts detailing your agency’s Historically Underutilized Business (HUB) purchases.**

**Texas Board of Chiropractic Examiners  
Exhibit 17: Purchases from HUBs**

***Fiscal Year 2013***

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal*	Statewide Goal
Heavy Construction	\$0	\$0	0%	N/A	11.2%
Building Construction	\$0	\$0	0%	N/A	21.1%
Special Trade	\$0	\$0	0%	N/A	32.7%
Professional Services	\$4,876	\$4,876	100%	N/A	23.6%

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal*	Statewide Goal
Other Services	\$5,803	\$320	5.5%	N/A	24.6%
Commodities	\$15,800	\$5,235	33.1%	N/A	21.0%
<b>TOTAL</b>	<b>\$26,479</b>	<b>\$10,431</b>	<b>39.4%</b>		

Table 21 Exhibit 17 HUB Purchases for FY 2013

- \* If your goals are agency specific-goals and not statewide goals, please provide the goal percentages and describe the method used to determine those goals. (TAC Title 34, Part 1, Chapter 20, Rule 20.13)

### Fiscal Year 2014

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	\$0	\$0	0%	N/A	11.2%
Building Construction	\$0	\$0	0%	N/A	21.1%
Special Trade	\$0	\$0	0%	N/A	32.7%
Professional Services	\$6,986.90	\$6986.90	100%	N/A	23.6%
Other Services	\$18,358.15	\$9,369.82	51%	N/A	24.6%
Commodities	\$28,717.83	\$10,340.05	36%	N/A	21.0%
<b>TOTAL</b>	<b>\$54,062.88</b>	<b>\$26,696.77</b>	<b>49.4%</b>		

Table 22 Exhibit 17 HUB Purchases for FY 2014

### Fiscal Year 2015

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	\$0	\$0	0%	N/A	11.2%
Building Construction	\$0	\$0	0%	N/A	21.1%
Special Trade	\$0	\$0	0%	N/A	32.7%
Professional Services	\$3,827.88	\$3,827.88	100%	N/A	23.6%
Other Services	\$13,038	\$345	2.6%	N/A	24.6%
Commodities	\$29,820.43	\$27,894.12	93.5%	N/A	21.0%
<b>TOTAL</b>	<b>\$46,686.31</b>	<b>\$32,067</b>	<b>68.7%</b>		

Table 23 Exhibit 17 HUB Purchases for FY 2015

**E. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Sec. 2161.003; TAC Title 34, Part 1, rule 20.15b)**

The TBCE has and will continue to seek every opportunity to utilize HUBs. We have had great success with meeting HUB utilization goals and will seek continued HUB involvement in areas where we have come short in the past. Whenever goods or services are contemplated, we first check the Comptroller's website for opportunities to engage the services of HUBs.

- F. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Texas Government Code, Sec. 2161.252; TAC Title 34, Part 1, rule 20.14)**

The TBCE has no contracts valued at \$100,000 or more.

- G. For agencies with biennial appropriations exceeding \$10 million, answer the following HUB questions.**

- 1. Do you have a HUB coordinator? If yes, provide name and contact information. (Texas Government Code, Sec. 2161.062; TAC Title 34, Part 1, rule 20.26)**

N/A

- 2. Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Texas Government Code, Sec. 2161.066; TAC Title 34, Part 1, rule 20.27)**

N/A

- 3. Has your agency developed a mentor-protégé program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Texas Government Code, Sec. 2161.065; TAC Title 34, Part 1, rule 20.28)**

N/A

- H. Fill in the charts below detailing your agency’s Equal Employment Opportunity (EEO) statistics.**

**Texas Board of Chiropractic Examiners  
Exhibit 18: Equal Employment Opportunity Statistics**

**1. Officials / Administration**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	0	0%	8.99%	0%	19.51%	0%	39.34%
2014	0	0%	8.99%	0%	19.51%	0%	39.34%
2015	1	0%	8.99%	0%	19.51%	100%	39.34%

Table 24 Exhibit 18 EEO Statistics for Officials/Administration

**2. Professional/Para-Professional**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	8	25%	11.33%	12.5%	17.4%	37.5%	59.14%
2014	10	20%	11.33%	20%	17.4%	30%	59.14%
2015	8	25%	11.33%	12.5%	17.4%	25%	59.14%

Table 25 Exhibit 18 EEO Statistics for Professionals

### 3. Technical

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	1	100%	14.16%	0%	21.36%	0%	41.47%
2014	1	100%	14.16%	0%	21.36%	0%	41.47%
2015	1	100%	14.16%	0%	21.36%	0%	41.47%

Table 26 Exhibit 18 EEO Statistics for Technical

### 4. Administrative Support

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	4	0%	13.57%	25%	30.53%	100%	65.62%
2014	5	0%	13.57%	20%	30.53%	100%	65.62%
2015	4	0%	13.57%	25%	30.53%	100%	65.62%

Table 27 Exhibit 18 EEO Statistics for Administrative Support

### 5. Service / Maintenance

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	0	0%	14.68%	0%	48.18%	0%	40.79%
2014	0	0%	14.68%	0%	48.18%	0%	40.79%
2015	0	0%	14.68%	0%	48.18%	0%	40.79%

Table 28 Exhibit 18 EEO Statistics for Service and Maintenance

### 6. Skilled Craft

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	0	0%	6.35%	0%	47.44%	0%	4.19%
2014	0	0%	6.35%	0%	47.44%	0%	4.19%
2015	0	0%	6.35%	0%	47.44%	0%	4.19%

**Table 29 Exhibit 18 EEO Statistics for Skilled Craft**

**I. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?**

Yes, our agency has an equal employment opportunity policy. Because the TBCE is so small (14 FTEs), there may sometimes be performance shortfalls related to the policy. However, every effort is made to hire and retain qualified minority applicants.

**XII. Agency Comments**

The agency will be experiencing turnover in the Executive Director position in August 2015. A new Executive Director is expected to be hired in September 2015. In the interim, the agency's General Counsel is acting as Interim Executive Director.