

Texas Optometry Board

Self-Evaluation Report



Submitted to the Sunset Advisory Commission
September 2015

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Texas Optometry Board Self-Evaluation Report

I. Agency Contact Information

A. Please fill in the following chart.

**Texas Optometry Board
Exhibit 1: Agency Contacts**

	Name	Address	Telephone & Fax Num- bers	Email Address
Agency Head	Chris Kloeris	333 Guadalupe St., Ste. 2-420, Austin, Texas 78701	512-305-8502 Fax(512-305-8501)	chris.kloeris@mail.capnet.state.tx.us
Agency's Sunset Liaison	Chris Kloeris	333 Guadalupe St., Ste. 2-420, Austin, Texas 78701	512-305-8502 Fax(512-305-8501)	chris.kloeris@mail.capnet.state.tx.us

Table 1 Exhibit 1 Agency Contacts

II. Key Functions and Performance

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

In 1921 an Act to define and regulate the practice of optometry was enacted by the Texas Legislature. The Act required a license to practice optometry which could be obtained by passing an examination. A state agency was created by the Act to implement its provisions, including the authority to review applicants for license and request disciplinary action for licensees who violated the Act. In 1925 the legislature specifically defined the purpose of legislation requiring an eye examination as a prerequisite for an eye glasses prescription to be "[i]n the interest of public health, welfare, safety and comfort"

Almost one hundred years after passage of the initial Act, the mission of the Texas Optometry Board remains to promote, preserve, and protect the health, safety and welfare of the citizens of Texas. The agency works to timely, fairly and efficiently implement the provisions of the Texas Optometry Act (and other acts that directly affect the practice of optometry, such as the Contact Lens Prescription Act). The Optometry Act, Chapter 351 of the Texas Occupations Code, not only provides for the regulation of the optometric profession, but contains provisions regarding ophthalmic dispensing.

The implementation of the Optometry Act requires these key functions:

- Licensing of optometrists and operating the agency
 - examination and licensure of optometrists
 - renewal of licenses on an annual basis

- approval of continuing education and recording continuing education hours
- Operating the administrative functions of the agency to facilitate licensing and enforcement activities
- Insuring compliance with Optometry Act and Board Rules
 - investigation and enforcement of compliance with the Act
 - providing information and responding to questions and concerns of the public and licensees
- Peer Assistance Program

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?

The key functions serve a clear and ongoing objective: to promote, preserve, and protect the health, safety and welfare of the citizens of Texas, by licensing qualified applicants and insuring that once licensed, optometrists comply with the requirements of the Optometry Act.

Every state authorizes a class of health professional, doctors of optometry, to determine powers and defects in vision, and to prescribe lenses or prisms to correct or remedy the condition. States require a prescription written by an optometrist or physician to obtain eye glasses and contact lenses. Federal law specifically defines all contact lenses as medical devices which can only be dispensed with a prescription.

All states authorize doctors of optometry to diagnose and treat diseases and abnormalities in the eye and adnexa with the administration and prescription of dangerous drugs which are only available by prescription. State law also allows optometrists to administer and prescribe Controlled Substances.

An eye exam properly performed by a doctor of optometry can detect systemic diseases (such as diabetes and hypertension) as well as defects and diseases of the eye, which if treated early may result in a cure, and which if untreated, may result in blindness and or severe injury (diabetic retinopathy, glaucoma, for example).

The protection of the health, safety and welfare of the citizens of Texas requires that only qualified persons be able to perform eye examinations and prescribe eye glasses, contact lenses and dangerous drugs. The legislature has recognized the relationship of expert eye exams to the health, safety and welfare since 1925. The requirement to have experts conducting eye exams and prescribing lenses and prescriptions is even more important today as advances in education, continuing education, and treatments, as well as an aging population, have increased the expertise needed to diagnose and treat health conditions timely and accurately with the accompanying increased expectation of remedy. The experts, optometrists, have a doctor of optometry degree from a four year program at an accredited school of optometry, and have passed multi-day practical and clinical examinations.

The initial licensing function insures that persons conducting eye exams and prescribing appropriate lenses and dangerous drugs have been adequately educated and have passed examinations testing for the exact skills required to properly and safely conduct exams and provide treatment. The agency also requires applicants to demonstrate a knowledge of state law and sufficient moral character to issue a license. The agency is not aware of any state that leaves the determination of qualification to the applicant.

Without this function, citizens of Texas would either be subject to examinations performed by persons without the knowledge and skills to accurately detect eye disease or abnormality, or be unable to reasonably find a health professional who could provide such an examination.

The licensing function also renews licenses on an annual basis, which includes the verification of continuing education hours. Although some licensees would obtain education to maintain skills and learn new examination and treatment protocols, every licensee needs to obtain the education to maintain the standards set by the licensing exams and the health and safety of patients. License renewal also funds the agency's programs.

Once licensed, a function must be in place to insure compliance with the Optometry Act, a function common to every professional licensing act. A very important component is the dissemination of information by agency staff who focus their attention on the regulation of optometry. Providing information to licensees and patients is a daily occurrence through telephone calls, emails and correspondence, but also includes pushing information by website or newsletter. Without this function, many licensees would not have clear guidance regarding prescribing drugs and providing treatment, and patients would not have guidance regarding the level of treatment that they are entitled to expect. The agency's focus on optometry allows staff to provide information quickly and efficiently.

The enforcement function also requires the agency to investigate complaints and otherwise operate programs to prevent licensees from practicing in a manner that does not insure the health and safety of patients. The agency has authority to discipline licensees who do not comply. The agency also inspects licensees' offices to insure compliance. Without this function it is possible that some number of licensees will treat patients or operate his or her office in a manner prohibited by the Optometry Act and thus put the safety of Texas citizens in jeopardy.

The agency has a Peer Assistance Program in place so that licensees may obtain treatment and hopefully be able to practice or resume practicing in the future.

Without the administrative functions, none of the other functions would be possible. Funds must be accounted for, employees managed, and supplies purchased so that the licensing and enforcement functions can operate.

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

Evidence of the overall effectiveness and efficiency may be found in the performance measures reported to the Legislative Budget Board, including number of complaints received, number of complaints resolved, percent of licensees not receiving discipline, number of inspections conducted, percent of licenses issued timely, number of licenses issued and renewed, percent of licensees meeting CE requirements, and percent of licensees renewing on-line. The agency reports to the Health Professions Council the number of disciplinary actions imposed each year.

Evidence of effectiveness and efficiency in providing information to licensees and the public may be found on the website, in annual newsletters, and in comments to surveys used to prepare the Report on Customer Service.

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?

For the most part the enabling law correctly reflects the agency's missions and objectives. During the last Sunset Review, the agency requested legislation giving the agency the authority to impose an emergency suspension. The agency also requested legislation making complaint files confidential as well as making any discussion between an optometrist and a patient confidential. The reauthorization bill added the authority to impose an emergency suspension. In a subsequent session authority was added to the Optometry Act to make complaint files confidential. Legislation adding a remedial plan was enacted after the agency showed interest.

However, changes are discussed in Section IX, Major Issues, that would improve the agency's operations.

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?

May be a minor overlap enforcing restrictions on dispensing contact lenses with the Federal Drug Administration, although that federal agency is directly tasked with enforcing those laws.

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

All states license optometrists. A large majority of the states have examination and licensing requirements very similar to Texas, including the use of the same national examinations. All states investigate complaints against licensees and unlicensed practice. Each state has a mechanism to impose disciplinary action when state law is violated. The scope of practice permitted varies significantly from state to state.

The organization of optometry boards also varies from state to state. Independent agencies similar to Texas exist in many states, while other state agencies are organized such that the agencies are connected in some manner, along with other agencies, to a larger state agency.

The organization of these connected agencies varies from agencies which are primarily independent of the larger agency such that the optometry agency has an independent staff, to agencies that are completely integrated into the larger agency with no independent staff, including no independent executive officer.

Although the agency is an independent agency, the agency has a working relationship with other health professional licensing agencies through its membership in the Health Professions Council (HPC). The HPC facilitates the database and information technology functions of the agency with significant cost and efficiency benefits to the agency. Some states (North Carolina and West Virginia) have recently looked at the Health Professions Council as a template for cooperation among health licensing agencies in these states.

The manner in which the licensing, renewal, compliance and administration functions are performed in some of the states depends on the integration with the larger agency. The larger agency in some other states may be the Secretary of State, the state health department, a professional licensing agency, or a consumer affairs agency. Some agencies are organized along functions rather than professions such that licensing staff works with licenses for many different professions. Where functions are performed by staff working with more than one type of health professional, a subject matter expertise regarding a particular profession would be more difficult to maintain. This would be most important in the enforcement functions of the agency. In some states, the compliance function consists of referring the investigation of complaints against licensees and unlicensed practice to the state attorney general.

Many of the optometry boards that are part of a larger agency have an independent governing board comprised of licensee members and public members. The powers and duties of the boards do vary to some degree, but it is quite common for the governing body to have significant control over the policy issues affecting the agency, including rule adoption and discipline.

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

The major obstacle is staff compensation. Increased use of technology to become more efficient requires a staff proficient in operation of technology with the ability to embrace new technology quickly and efficiently. These same proficiencies are highly desired by public and private employers, forcing the agency to compete in hiring and keeping employees that allow the agency to reap advantages that technology affords. The 84th Legislature did provide partial funding of the agency's request for additional staff funding. Funding for technology improvements can also be an issue. Many improvements have substantial upfront costs that can prevent implementation that would save money in the long term. For example, implementing a modern more efficient database required a substantial increase in license renewal fees. Activities occurring in other states suggest that funding for the investigation of unlicensed practice in the future may also become an issue.

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).

None.

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

Becoming more efficient so that the same services can be provided to an ever expanding licensee and citizen population base. Greater utilization of the agency's Peer Assistance Program to insure that patients are protected, but in addition, giving a valuable asset of the state the ability to rehabilitate.

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. See Exhibit 2 Example.

**Texas Optometry Board
Exhibit 2: Key Performance Measures — Fiscal Year 2014**

Key Performance Measures	FY 2014 Target	FY 2014 Actual Performance	FY 2014 % of Annual Target
Percent of Licensees with No Recent Violations	98%	98.84%	100.86%
Percent of Licensees Who Renew Online	90%	95.10%	105.67%
Number of New Licenses Issued to Individuals	189	202	106.88%
Number of Licenses Renewed (Individuals)	4,073	4,120	101.15%
Number of Complaints Resolved	140	134	95.71%
Number of Investigations Conducted	63	64	101.59%
Average Time for Complaint Resolution (Days)	115	125.5	109.17%
Number of Licensed Individuals Participating in a Peer Assistance Program	3	0	0.00%

Table 2 Exhibit 2 Key Performance Measures

III. History and Major Events

1921 The Texas State Board of Examiners in Optometry was created by the Thirty-Seventh Legislature to regulate the practice of optometry. The Act defined the practice of optometry and required persons wishing to practice optometry to obtain a license by passing an examination and registering with the county. The five member Board could refuse to license an applicant, or request action against a licensee, who violated provisions of the act.

1925 Act amended to specifically define terms used in original act including the scope of practice of optometry. Section 13-f provided, "[i]n the interest of public health, welfare, safety and comfort, after the passage of this Act, it shall be unlawful, and a violation hereof to (1) Sign or cause to be signed, a prescription for an ophthalmic lens without first making a personal examination of the eyes of the person prescribed for,...."

1931 Board increased to six members.

1939 Additional specific causes for disciplinary action added to the Act.

1955 First optometrist licensed from University of Houston, the first optometry school located in Texas.

1957 Agency authority to promulgate rules regarding initial eye examination, advertising and corporate practice upheld by Texas Supreme Court.

1967 Agency authority to promulgate rules regarding fee splitting, practice under an assumed name, and display of professional name on office upheld by Texas Supreme Court.

1969 The 61st Legislature abolished the State Board of Examiners and created the Texas Optometry Board. Major revisions were made to the optometry statutes, including limiting rule making power to procedural rules. Many of the rules in effect at this time were made a part of the 1969 Act.

1973 Court of Appeals holds that Board Members may not initiate and conduct sole investigation if the remaining Board Members make the determination to impose disciplinary measures. New rule adopted to formalize enforcement functions in compliance with decision.

1975 Mandatory Continuing Education requirement added to Optometry Act.

1977 Executive Director hired as full time employee.

1981 The agency undergoes first Sunset Review. Act amended so that rule making power is no longer limited to procedural rules.

1991 Amendments to Act substantially expand the scope of optometry to include the practice of therapeutic optometry. Licensees may now examine, diagnose and treat visual defects, abnormal conditions and diseases of the eye and adnexa, and administer drugs. Optometrists already licensed were required to take additional education and pass national test prior to making application for therapeutic optometrist license. All new licensees receive a therapeutic license.

1993 Agency undergoes Sunset Review for second time. The current law is enacted (which was subsequently codified as Chapter 351 of the Texas Occupations Code in 1999).

1996 Agency ceases preparing and conducting written and practical examinations with the exception of the state Jurisprudence Examination. The national board examinations satisfy all examination requirements except for the Jurisprudence Examination.

1997 Contact Lens Prescription Act enacted. This act requires the release of contact lens prescriptions.

1999 Amendments to Optometry Act add a new license: optometric glaucoma specialist. These licensees may treat glaucoma with the co-management of ophthalmologists, and prescribe some oral prescription medications as well as anti-glaucoma topical medications. Applicants for license must be therapeutic optometrists who have completed a Board approved course and examination as well as other requirements. The Optometry Act was codified with other health profession acts into the Texas Occupations Code.

2001 Amendments to Act removed the association membership restrictions. Prior to amendments, three Board Members were required to be a member of Texas Optometric Association, three members associated with the Texas Association of Optometrists, and three members were public members. All licensee Board Members are now appointed regardless of association membership.

2004 Fairness to Contact Lens Consumers Act becomes effective, imposing federal guidelines on the release of contact lens prescriptions, including a requirement to verify prescriptions for dispensers.

2005 Agency undergoes Sunset Review for third time. House Bill 1025 amends Optometry Act to include specific statutory authority to conduct inspections, allowing some complaints regarding non-medical issues to be investigated by staff, and authority to impose temporary suspensions. The Contact Lens Prescription Act is amended to conform to the Fairness to Contact Lens Consumers Act. Legislation sets the next Sunset date for September 1, 2017.

2006 Federal Trade Commission notifies agency that a nonpublic investigation to determine whether certain conduct by the agency, or others, may unlawfully restrain trade in the sale of replacement contact lenses, has been closed with no finding. Investigation commenced in 2003.

2010 Agency signs contract with provider to begin the operation of a Peer Assistance Program to provide assistance to licensees and optometry school students with chemical or mental health issues that would affect the practice of optometry.

2013 The agency licenses the first graduates of the Rosenberg School of Optometry at the University of the Incarnate Word in San Antonio.

IV. Policymaking Structure

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

**Texas Optometry Board
Exhibit 3: Policymaking Body**

Member Name	Term / Appointment Dates / Appointed by	Qualification	City
Mario Gutierrez, O.D.	03/29/2011 -01/31/2017 Appointed by Governor	Optometrist (industry representative)	San Antonio
John Coble, O.D.	03/07/2006 -01/31/2017 Appointed by Governor	Optometrist	Rockwall
Larry W. Fields	12/14/2007 -01/31/2017 Appointed by Governor	Public Member	Carthage
Melvin G. Cleveland, O.D.	05/23/2007 -01/31/2019 Appointed by Governor	Optometrist	Arlington
Virginia Sosa, O.D.	05/23/2007 -01/31/2019 Appointed by Governor	Optometrist	Uvalde
Judith Chambers	01/31/2013 -01/31/2019 Appointed by Governor	Public Member	Austin
Ronald Hopping, O.D., M.P.H.	04/28/2015 -01/31/2021 Appointed by Governor	Optometrist	Houston
Carey Patrick, O.D.	04/28/2015 -01/31/2021 Appointed by Governor	Optometrist	Allen
Rene Peña	04/28/2015 -01/31/2021 Appointed by Governor	Public Member	El Paso

Table 3 Exhibit 3 Policymaking Body

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

The primary role of the policymaking body (the Board) is threefold: writing and adopting rules, reviewing investigations of complaints and making disciplinary decisions, and hiring and reviewing the performance of the executive director's management of the administration of the agency, which includes financial matters, enforcement, and the issuance and renewal of licenses. Most aspects of the license application and renewal are directly managed by the executive director following the rules adopted by the Board. The Board approves all continuing education courses. The Board also makes all decisions regarding litigation and ultimately, through the rules process and enforcement, interprets the provisions of the Optometry Act.

Normally the first day of each Board Meeting consists of committee meetings and disciplinary informal conferences. The second day of each meeting continues with committee meetings and the full Board Meeting. Public members serve a valuable role representing the citizens of Texas

in many of the issues faced by the Board, including rule making and imposing disciplinary action. These members actively serve on various administrative committees.

C. How is the chair selected?

Appointed by Governor

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

None.

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

Four times per year. Four meetings in FY 2014 and FY2015.

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

The members receive that training required by Section 351.059 of the Optometry Act. This includes a training session at the agency office conducted by the executive director. The New Board Member Training Manual developed by the Health Professions Council and agency specific training materials, including the Investigation-Enforcement Training Manual, are employed. Open Meetings Act (Government Code section 551.005) and the Public Information Act (Government Code section 552.012) courses provided by the Office of the Attorney General are completed. Board members also receive contract training provided by the Comptroller pursuant to Government Code §2262.

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.

The agency adopted a formal policy in 2006. The policy describes in detail the responsibilities of the policy making body, such as adopting formal and informal policies, official rules, financial plans and similar items, adopting the strategic planning process and funding plans submitted to legislature, setting Board Meeting schedule and contents of agenda, holding Board Meetings, monitoring the executive director's management of the agency, including review of revenue and expenditures, performance measures, personnel policies, contracts, compliance with state and federal law, and implementation of property and management controls by the executive director, and disciplining licensees and referring cases, when necessary, to the Office of Attorney General.

The policy describes the role of the executive director and agency staff to include establishing effective personnel practices and the selection, development, promotion, functions, discipline, and evaluation of agency employees; monitoring agency revenues and expenditures assuring that all funds, legal records, physical assets and other property and management controls are properly instituted and safeguarded, and representing the agency before the general public, licensees, the legislature and private organizations.

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

At each Board Meeting the policy making body is given a spreadsheet with current expenditures and expected expenditures, and the following lists: complaints received, complaints resolved, new licenses issued, number of current licensees, and number of Jurisprudence Examinations held. Additional information is presented at each Board Meeting when obtained, such as results of customer surveys. An Annual Report is presented each November containing performance measures reported, performance statistics that are not reported, a description of each division's accomplishments, meetings attended by staff, and reports prepared.

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 primary method in which the public provides input is through comments and questions in letters, telephone calls, and e-mails to the agency staff. These comments and questions are answered by the executive director and if the comment presents an unusual issue, an issue raised frequently, or an issue of first concern, the comments are referred to the chair or vice-chair of the Board. Other Board Members are also contacted by the public. Any Board Member may request that an item appear on the next Board Meeting agenda. A significant number of agenda items suggested by Board Members are the result of public and licensee input.

Each Board Meeting also has a time certain for public comment. Although decisions cannot be made at that time, the Board may instruct staff to research the issue.

The public also has a direct input to the Board in comments made to all proposed rules. The agency must respond by law to these comments in the Texas Register.

J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart. See Exhibit 4 Example.

**Texas Optometry Board
Exhibit 4: Subcommittees and Advisory Committees**

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee
Administrative/ Licensing Committee	Four board members appointed by the Board Chair	Recommends to Board after review of certain license applications, review of examination systems, review of licenses to be cancelled, and review of school compliance with rules.	Optometry Act, Section 351.159

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee
Continuing Education Committee	Four board members appointed by the Board Chair	Reviews to recommend for approval to Board continuing education courses, requests for exemption, and continuing education requirements.	Section 351.159
Rules Committee	Four board members appointed by the Board Chair	Drafts procedural and substantive rules for submission to Board for adoption.	Section 351.159
Peer Assistance Committee	Four board members appointed by the Board Chair	Oversees Peer Assistance Program, including recommendations on contract award to Board.	Section 351.159
Investigation-Enforcement Committees	Two to three board members determined by location in state.	Committees review complaints and hold informal conferences recommending disciplinary action to Board.	Section 351.159

Table 4 Exhibit 4 Subcommittees and Advisory Committees

V. Funding

A. Provide a brief description of your agency's funding.

The agency is appropriated operating funds by the legislature in the Appropriations Act for each biennium. The agency is self supporting such that revenue from license renewal fees, license issuance fees, and administrative penalties deposited in General Revenue exceed the amount appropriated to the agency.

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

Article VIII, Special Provisions Relating To All Regulatory Agencies, Pages 63 to 66, Section 2, Appropriations Limited to Revenue Collections, Section 3, Funding for Health Professions Council, Section 4, Texas.gov Appropriation, and Section 5, Peer Assistance Program Funding Requirements.

C. Show your agency's expenditures by strategy. See Exhibit 5 Example.

**Texas Optometry Board
Exhibit 5: Expenditures by Strategy — 2014 (Actual)**

Goal / Strategy	Amount Spent	Percent of Total	Contract Expenditures Included in Total Amount
A. Goal: Licensure And Enforcement			
A.1.1. Strategy: Licensure And Enforcement	\$273,381.84	65.6%	\$4,148.70
A.1.2. Strategy: Texas.Gov	\$19,915.00	4.78%	
A.1.3. Strategy: Indirect Administration	\$87,016.67	20.90%	
A.1.4. Strategy: Peer Assistance	\$36,000.00	8.65%	\$36,000.00
Total, Goal A: Licensure And Enforcement	\$416,313.51	100%	\$40,148.00
GRAND TOTAL:	\$416,313.51	100%	\$40,148.00

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. See Exhibit 6 Example.

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

Source	Amount
General Revenue Fund	\$429,217
Appropriated Receipts	\$5,930
Interagency Contracts	\$39,376
TOTAL	\$474,523

Table 6 Exhibit 6 Sources of Revenue

E. If you receive funds from multiple federal programs, show the types of federal funding sources. See Exhibit 7 Example.

None.

F. If applicable, provide detailed information on fees collected by your agency. See Exhibit 8 Example.

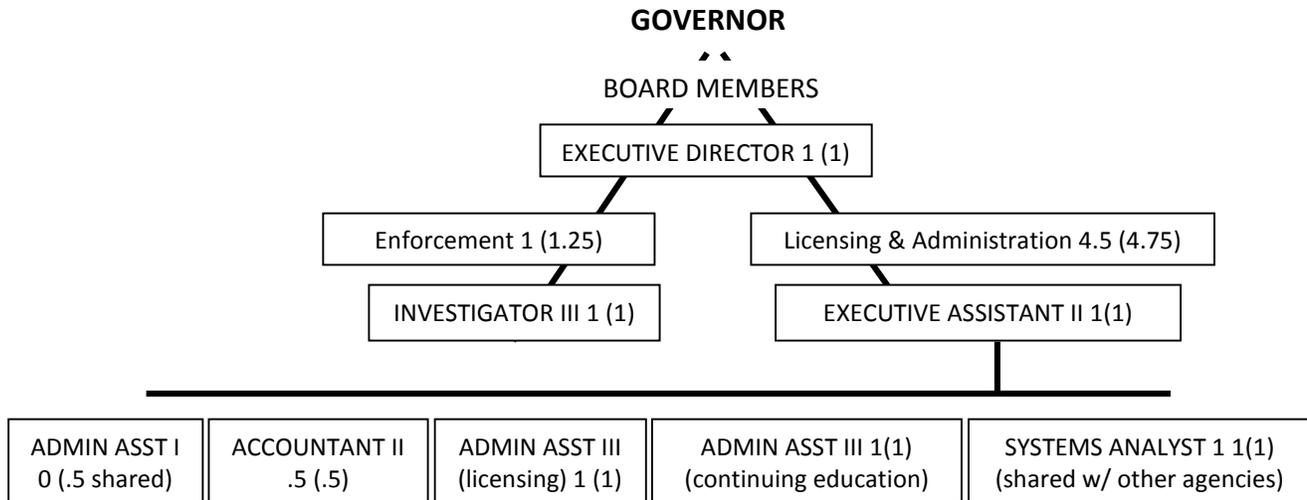
**Texas Optometry Board
Exhibit 8: Fee Revenue — Fiscal Year 2014**

Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Max- imum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Reve- nue is Deposited (e.g., <i>General Rev- enue Fund</i>)
Texas Occupations Code, Section 351.152: <u>Licensing:</u> Examination Application	\$150.00	249	\$37,350.00	General Revenue Fund
License W/O Exam App	\$300.00	8	\$2,550.00	General Revenue Fund
Initial License	\$50.00	197	\$9,850.00	General Revenue Fund
Duplicate License or Renewal Certificate	\$25.00	36	\$900.00	General Revenue Fund
License Renewal	\$193.00	4,003	\$772,579.00	General Revenue Fund
Therapeutic License Application	\$80.00	1	\$80.00	General Revenue Fund
Optometric Glaucoma Specialist License Application	\$50.00	163	\$8,150.00	General Revenue Fund
Texas Occupations Code, Section 351.153: <u>Licensing:</u> Professional Fees	200.00	3,611	\$722,200.00	General Revenue Fund and Foundation School
Texas Occupations Code, Sec. 101.307 <u>Licensing:</u> Late Fees	\$104/\$208	179	\$19,968.00	General Revenue Fund
Texas Occupations Code, Sec. 101.307 <u>Licensing:</u> Initial & Renewal Fees	\$5.00 initial \$1.00 renewal	200 4,003	\$1,000.00 \$4,003.00	General Revenue Fund
Texas Occupations Code, Section 351.154: <u>Licensing:</u> Fee to Univ of Houston	\$31.20 15% of ren fee	4,003	\$124,893.60	University of Houston
Texas Occupations Code, Section 351.551: <u>Enforcement:</u> Administrative Penalty	Varies/ \$2,500	16	\$6,500.00	General Revenue Fund

Table 7 Exhibit 8 Fee Revenue

VI. Organization

A. Provide an organizational chart that includes major programs and divisions:



B. If applicable, fill in the chart below listing field or regional offices. See Exhibit 9 Example.

No field or regional offices.

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

7.5 in 2014-2015 (0.5 FTE based on contingent appropriation which was not requested). FTE 7.0 for 2016-2017.

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

None.

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

Texas Optometry Board
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
Enforcement	1.25	1	\$76,815
Licensing and Administration	5.75	5.5	\$339,499
TOTAL	7	6.5	\$416,314

Table 8 Exhibit 10 List of Program FTEs and Expenditures

VII. Guide to Agency Programs

Program: Enforcement

A. *Name of Program or Function:* Enforcement

Location/Division: Austin

Contact Name: Dennis Riggins

Actual Expenditures, FY 2014: \$76,815

Number of Actual FTEs as of June 1, 2015: 1.0

Statutory Citation for Program: Texas Optometry Act, Subchapters D, E, K, L and M; Health and Safety Code Chapter 467

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

The objective of the Enforcement Program is the enforcement of the sections of the Optometry Act that regulate the competency of service provided by licensees, and very importantly, answering numerous daily questions from the public, patients and licensees regarding the practice of optometry. Enforcement of the Act is primarily through the agency's investigation of complaints and inspection of licensees' practices. Complaints investigated include written complaints from patients, the public, licensees, and complaints initiated by the agency.

Offices are inspected to determine compliance with sections of the Act concerning initial examination of patients (through an audit of patient records), prohibited control of licensees by retailers or wholesalers of optical goods, professional identification, and consumer notices.

This program includes a Peer Assistance Program which provides a confidential path for the treatment of chemical addiction or mental health issues that interfere with the practice of a licensee. The Peer Assistance Program may also be employed to monitor disciplinary actions that require addiction treatment.

Complaints concerning medical issues and the review of patients records obtained at an office inspection are reviewed by the Investigation-Enforcement Committee of the Board. If a violation is found, the agency initiates disciplinary action which may involve the holding of informal conferences and prosecution of cases with the State Office of Administrative Hearings. Both the agency's investigator and executive director are involved with the Enforcement Program.

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.

Evidence of the overall effectiveness and efficiency may be found in the performance measures reported to the Legislative Budget Board, including the number of complaints received, number of complaints resolved, percent of licensees not receiving discipline, and number of inspections conducted. The agency reports to the Health Professions Council the number of disciplinary actions imposed each year.

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.

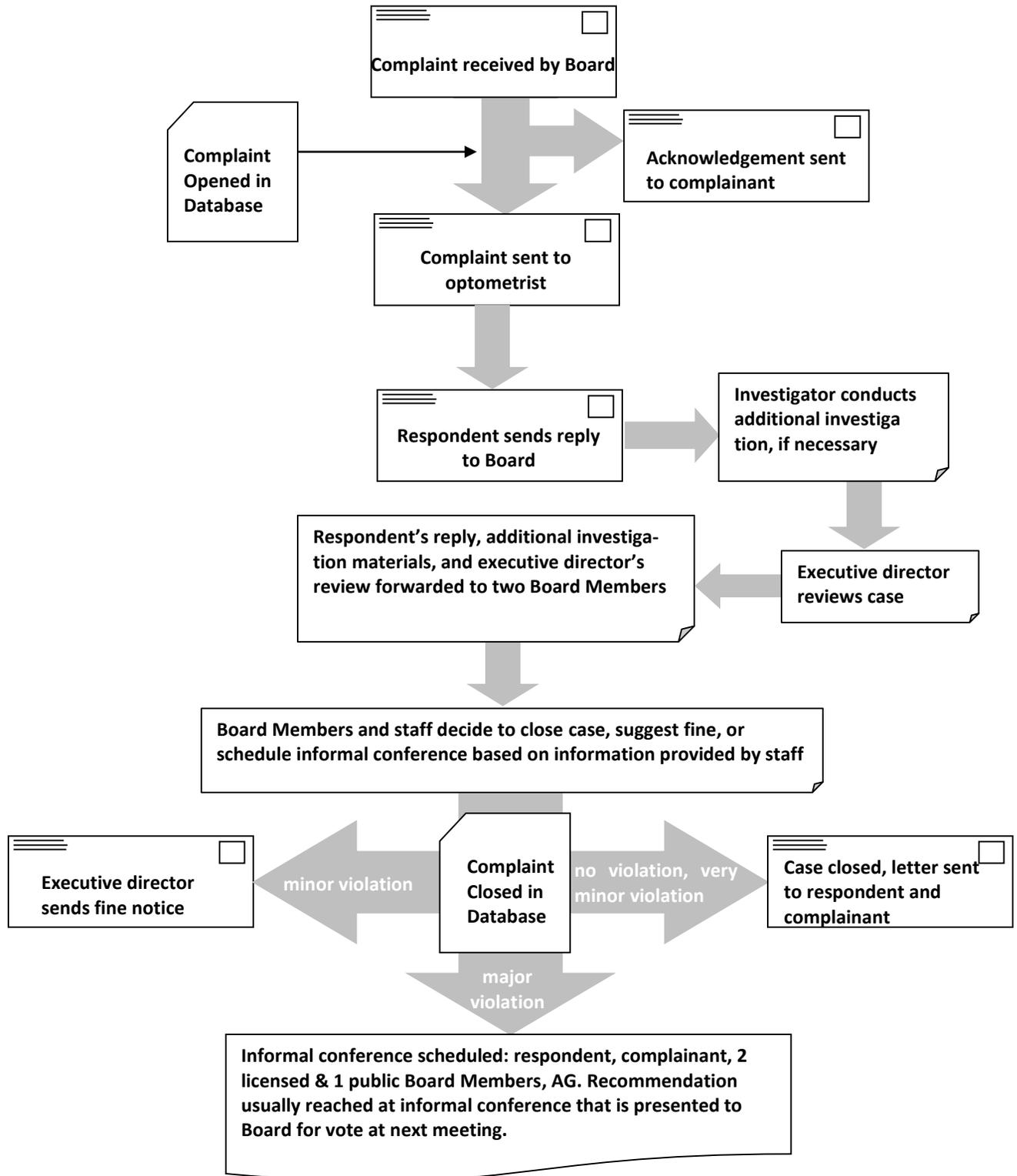
The inspection of offices was revised from the original procedure of employing optometry students to obtain eye examinations from licensees. Attorney General Opinion JC-0274 (2000) advised agencies that search warrants are required for certain types of investigations. The agency revised the inspection procedure such that the agency's investigator obtains copies of recent patient records which a licensed board member reviews for compliance with Section 351.353 of the Optometry Act and 22 T.A.C. §277.7. The Sunset Commission recommended several changes which were incorporated into the Optometry Act in 2005, including review of complaints by staff if the complaint does not concern medical issues, a requirement that three board members attend informal conferences, and the ability to impose a temporary license suspension. In subsequent legislation the agency gained the authority to use a Remedial Plan

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 program affects the public, including patients of licensees, optometrists licensed by the agency, applicants for license, and unlicensed persons or entities violating the Optometry Act. Applicants must be in the last semester of optometry school, a licensee must be a graduate of optometry school meeting the license requirements, and unlicensed persons or entities may be retailers or wholesalers of optical goods, unlicensed persons or entities that lease space to an optometrist. The public may be any person but is frequently a patient or prospective patient of an optometrist. Approximately one-half of the complaints are filed by patients. The agency does not keep statistics of the make-up of telephone callers (or e-mailers), but about half appear to be patients or prospective patients seeking information about the Optometry Act or a licensee of the agency.

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.

“Normal” Complaint Process (complaint with medical issues)



Enforcing the provisions of the Optometry Act (and other applicable acts, such as the Contact Lens Prescription Act) requires the services of an investigator, the executive director, and all the board members. The flowchart above presents a rough guide to the process employed in responding to a complaint which is described in detail below.

The flowchart and the following discussion do not include one of the most important services of this program – answering numerous daily questions from the public, patients, licensees and pharmacists concerning the statutes, rules, and all aspects of optometry practice. This is the primary proactive method of insuring compliance with agency rules and the Optometry Act. Phone calls and e-mails are answered in detail by persons with an extensive knowledge of the rules and Act, making compliance with the law much easier for licensees and the public. The investigator is the primary person answering questions, but the executive director also assists. In addition, the annual newsletter and the agency's website contain a large amount of information to assist a licensee in complying with the requirements of not only the Optometry Act but other state and federal laws.

The agency conducts the following types of investigations:

- investigations of complaints filed by public, patients, or licensees, including:
 - complaints of a violation of the Optometry Act, and
 - complaints of conduct by licensees related to the practice of optometry (technically outside the jurisdiction of the Optometry Act, but undertaken as a service to the public)
- investigations of possible violations of the Optometry Act discovered by the Board, such as
 - applicants for license not meeting statutory qualifications,
 - licensees reporting criminal convictions,
 - information received from law enforcement and other agencies, and
 - advertising violations
- investigations of licensees' offices and patient records

A complaint that is outside the jurisdiction of the Optometry Act and unrelated to the practice of a licensee is sent to another agency that appears to have jurisdiction. If no agency appears to have jurisdiction, the complaint is returned to the sender with suggestions on how to proceed. As a service to the public and patients, the agency may investigate a complaint outside the jurisdiction of the agency but related to the practice of an optometrist. For example, the agency may act as a facilitator to the resolution of a complaint concerning the amount charged for eyeglasses by a licensee or the refund policies of a licensee by insuring that the licensee receives the complainant's written complaint and requiring that the licensee respond. The response is sent to the complainant.

The framework for investigation of complaints is established by statute and agency rule. Under that framework, the state is divided into enforcement districts. Each licensed board member, as a member of an Investigation-Enforcement Committee, is assigned to review complaints concerning medical care from certain enforcement districts along with another board member.

Normally when a complaint is received by the agency, a formal case is opened and assigned a case number. A letter of acknowledgement is sent to the complainant. A letter is also sent to the licensee complained of, asking the licensee to respond to the statements in the written complaint enclosed with the letter to the optometrist.

If the complaint concerns a medical issue, the complaint and the licensee's response are sent to two professional board members. After the investigator, in consultation with the executive director and the two board members, determines that further investigation is not required, the investigation is reviewed by the two board members, the investigator and the executive director to determine whether there is evidence of violation of the Optometry Act. If there is no evidence of violation or insufficient evidence to prove a violation, the case is closed and the complainant and licensee notified by letter. A copy of the optometrist's written response is enclosed with the letter to the complainant.

If a minor violation of the Optometry Act appears to have occurred, or the evidence of the violation is weak, the executive director may impose an administrative penalty subject to approval by the board, or the complaint may be closed with a letter to the licensee that the licensee is not in strict compliance with the law. The executive director with concurrence of the board may also enter into a Remedial Plan agreement. For all serious violations of the Optometry Act, the licensee is invited to an informal conference, a step required under the Administrative Procedures Act, so that the licensee may present evidence of compliance with the Optometry Act. Present at the informal conference are the licensee (and an attorney at the licensee's option), the executive director, the investigator, the two licensed board members involved in the investigation, a public board member and an assistant attorney general (required by statute). The complainant is entitled to a conference to discuss the complaint.

In the notice of the informal conference the licensee is presented with findings which show a possible violation of the Optometry Act. The licensee is given an opportunity to show that the Optometry Act was not violated by the licensee. The Investigation-Enforcement Committee (the three members) then offers the licensee a proposed agreed settlement of the case (which, if evidence presented at the conference shows that no violation occurred, may be to close the case). Usually the full Board meets the next day, and the Committee presents the proposed settlement for Board approval. Once the Board approves an offer of settlement, the licensee is made a formal offer. If the licensee accepts, a disciplinary order is drafted, and the licensee is monitored for compliance with the order. If the licensee does not accept the offer of settlement, a case is filed with the State Office of Administration and the Attorney General represents the agency.

Office inspections are conducted by the agency investigator. The investigator obtains copies of a small number of recent patient records, which are examined by professional board members to determine compliance with agency rules and the provisions of the Optometry Act that require certain examination procedures be conducted and recorded. Office layout, signage, advertising, and the display of the required complaint sign is also inspected. A complaint is opened if there is an apparent violation of the Optometry Act or agency rules.

Historically the public and patient complaints have mostly concerned matters outside the jurisdiction of the agency -- patient relations; prices charged; fitting, quality and price of optical goods sold by a licensee; and insurance reimbursement. However, with the increased scope of practice and increased prescriptive abilities, more and more patient complaints concern the diagnosis and treatment of medical conditions.

The complaints and inspections are tracked in a database. The database has the capability of generating letters based on templates which has helped the efficiency of the agency.

There are no field offices.

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).

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.

There are no programs that provide identical or similar services. Other state agencies and the federal government prosecute Medicare and Medicaid fraud, but their investigations are limited to these items. The Contact Lens Dispensing Program had the authority to investigate the illegal sale of contact lenses. It is also a violation of the Optometry Act to dispense contact lenses without a prescription.

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.

If Medicare or Medicaid fraud is an issue, the agency refers the case to those state or federal agencies whose expertise is in this area. If investigation by these agencies is completed, the board will accept referral to determine whether violation of the Optometry Act has occurred. A similar procedure was employed with the illegal dispensing of contact lenses.

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.

The Enforcement function works on occasion with local law enforcement: police, sheriff, and a county or district attorney regarding criminal complaints against licensees and the unauthorized practice of optometry.

K. Contracted expenditures made through this program:

Expenditures of \$36,000 annually for the contract to operate the agency's Peer Assistance Program are the only contracted expenditures. This contract and program are authorized by Chapter 467 of the Health and Safety Code to provide assistance to licensees and students whose practice is affected by chemical dependency or mental health issues. The contract expires on August 31, 2015, after having been renewed twice since the original award in 2010 in response to an RFP issued by the Comptroller. This is the first time that the agency has been able to contract for a Peer Assistance Program. Utilization has been lower than hoped, but not unexpected for a totally new program. The contract is with a professional association that operates the peer assistance program for several health professional licensing agencies. There have been no issues with the contract.

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

None

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

See discussion in the Section IX, Major Issues.

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

None.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity.

Need for Regulation: As stated above, licensees diagnose and treat diseases and abnormalities in the eye and surrounding tissue with the administration and prescription of dangerous drugs (including controlled substances) which are only available by prescription. An eye exam properly performed by a doctor of optometry can detect systemic diseases (such as diabetes and hypertension) as well as defects and diseases of the eye, which if treated early may result in a cure, and which if untreated, may result in blindness and or severe injury. Protection of the public health requires the agency to investigate complaints that less than competent health care was provided, that a licensee is defrauding patients, or that the licensee may not be able to provide competent health care. Investigation of an applicant's criminal history insures that a person who may pose a danger to the public is not licensed or has restrictions placed on the license. Proactive inspections uncover incompetent eye examinations even though patients may not have realized exam did not meet statutory requirements.

Inspections and Audits: Office inspections are conducted by the agency investigator who obtains copies of a small number of recent patient records which are examined by professional members of the Investigation-Enforcement Committee. The investigator also inspects the office layout, signage, advertising, and the display of the required complaint sign.

Follow-up: Licensees found to be in violation of Act or rules may be scheduled for future office inspections.

Sanctions: The agency may issue a letter of noncompliance, impose an administrative penalty, revoke or suspend a license, place on probation a person whose license has been suspended, impose a fine, impose a stipulation, limitation, or condition relating to continued practice, including conditioning continued practice on counseling or additional education, enter into a remedial plan, or reprimand a license holder.

Complaint procedure: The procedure is described in detail above. A complaint is investigated with information obtained from the complainant and the respondent licensee. Investigation of a complaint with medical issues is reviewed by professional Board Members, the investigator and the executive director to determine if evidence of violation is present.

- 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 Optometry Board
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	4,178	4,287
Total number of regulated entities	0	0
Total number of licensees inspected	63	64
Total number of complaints received from the public	80	59
Total number of complaints initiated by agency	84	53
Number of complaints pending from prior years	3	17
Number of complaints found to be non-jurisdictional	4	3
Number of jurisdictional complaints found to be without merit	92	75
Number of complaints resolved	145	134
Average number of days for complaint resolution	158.8	125.5
Complaints resulting in disciplinary action:	19	16
administrative penalty	13	15
reprimand (may include administrative penalty)	5	1
probation	0	0
suspension	1	0
revocation	0	0
other	0	0

Table 9 Exhibit 11 Information on Complaints Against Persons or Entities

Program: Licensing and Administration

A. *Name of Program or Function:* Licensing/Administration

Location/Division: Austin

Contact Name: Patty Ortiz

Actual Expenditures, FY 2014: \$339,499

Number of Actual FTEs as of June 1, 2015: 5.5 (one FTE is shared with several other health professions agencies)

Statutory Citation for Program: Texas Optometry Act, Subchapters B, C, D, F, and G

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

Licensing has two components: application for license (which covers additional licensure as well as initial licensure) including examination, and the second component, license renewal including continuing education. A very important part of each component is the answering of numerous daily questions from the public, applicants and licensees. The licensing section:

- provides applications (form is on website)
- reviews initial applications including a review of national test scores
- insures state jurisprudence examination is administered properly
- issues licenses to qualified candidates
- reviews additional license applications
- prepares continuing education course submission for approval
- tabulates each licensee's continuing education hours
- renews licenses
- verifies licenses to public

The administration functions of this program operates the agency (including the enforcement function) and performs the following services:

- payroll, purchasing, administration of budget
- deposits application and initial license fees
- deposits license renewal funds
- Board Meetings and rule adoption
- compliance with statutory requirements (reports, statistical tabulation, maintaining agency records, open records requests)
- human resources
- information technology services and security

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.*

Evidence of the overall effectiveness and efficiency may be found in the performance measures reported to the Legislative Budget Board, including percent of licenses issued timely, number of licenses issued and renewed, percent of licensees meeting CE requirements, and percent of licensees renewing on-line.

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 Jurisprudence Examination is now administered by national testing organization for optometrists, the National Board of Examiners in Optometry (NBEO). Previously the agency administered the exam four times per year and the NBEO administered the exam twice per year.

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.

Licensees, applicants, and ultimately the public who is dependent on the agency limiting licensing to those qualified to practice optometry safely and competently are affected by this function. Applicants must of course be eligible as is defined in the Act, which is basically a graduate of an approved college of optometry and passage of extensive written, practical and clinical examinations. Any member of the public who is a patient of an optometrist is affected. The actual number of patients exceeds the 79% of adults who wear contact lenses or eyeglasses (although some members of the public appoint with ophthalmologists) since patients visit optometrists for eye health concerns and may not need vision correction. Of course children are also patients. All licensees begin as applicants and all licensees must renew in order to practice optometry. Thirteen percent of licensees renew as inactive with no continuing education requirement.

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.

Licensing

---Examination

An applicant for initial license must be a graduate of an approved college of optometry or within the last semester prior to graduation. The applicant must submit an application and the appropriate fee. The agency reviews each application, determining whether the candidate has met statutory requirements from the documentation required with the application, including transcripts, birth certificates, military discharge, legal documents showing name change, and passing scores of all the tests given by the National Board of Examiners in Optometry (NBEO). Criminal history information provided by the applicant is verified with the Department of Public Safety. If the applicant is licensed in another state, verification of good standing in that state is required. Qualifying candidates are notified of application approval and provided with a schedule of the Texas Jurisprudence Examination.

All candidates must take a written, clinical, practical and jurisprudence examination. The written, clinical, and practical exams are administered by the NBEO and may be taken at various times while a student is in optometry school. Optometry school students typically apply for a license in the last semester of school with verification from the dean that the student is expected to graduate after that semester. This allows the student to take the Texas Jurisprudence exam before graduation. The jurisprudence exams are given six times per year.

Provided that the applicant file contains all the appropriate documents, including transcript proof of graduation, and the applicant has passed the jurisprudence exam, the agency is normally able to issue a license within a few weeks of the agency being notified by the NBEO that the national exams have been passed. This timeline is dependent on the receipt of the NBEO scores and prompt action by the applicant to pay the initial license fee. Many graduates have been licensed as early as mid June in recent years, with the bulk being licensed in the June through August period. The issuance of a license requires several time consuming operations in the agency's database, and preparation of a comprehensive mail-out packet. The initial license allows the practice of therapeutic optometry once the license is actually received in the mail.

Throughout the year, applicants practicing out-of-state apply for a license in one of two ways: an applicant having passed the NBEO examinations after the dates of acceptance by the agency (all examination parts after 1994 are accepted), and meeting the other statutory requirements, will be allowed to sit for the Jurisprudence Examination. Other applicants may be allowed to sit for the exam if they meet the Licensure Without Exam statutory requirements: licensed in another state in good standing, licensing exams in licensing state equivalent to Texas licensing exams, and practice as a therapeutic optometrist for five of the last seven years.

The licensing function also administers the application for and issuance of two licenses giving additional practice authority: therapeutic optometrist and optometric glaucoma specialist. Since 1992, the agency has only issued therapeutic optometrist licenses. Those licensees who obtained licenses before 1992 may apply for a therapeutic license after taking an extensive course in therapeutic optometry and passing the TMOD examination offered by the NBEO. Although the vast majority of licensees who wanted to obtain the therapeutic license have already done so, the agency does process a few applications each year. Since August of 2000, the agency has issued over 3,100 optometric glaucoma specialist licenses. Applicants are required to complete a Board approved course and examination in addition to other statutory requirements. These applications are administered in much the same manner as the applications for licensure, including processing of application fees.

---Renewal of Licenses

The Optometry Act requires annual renewal of all licenses. Licenses expire January 1 of each year. Licensees begin renewing in the first week of November. There is no grace period – licensees who have not renewed by January 1 cannot practice until the license is renewed. Penalties apply to late renewals.

A postcard notice is sent to all licensees notifying them that the license is set to expire. More than ninety percent of licensees renew on-line using the agency's website as the portal to the

database where renewal actually takes place. The website contains detailed instructions. Licensees who cannot renew on-line may request that a form be mailed or e-mailed to them which they can send to the agency with the proper fee. The entire staff assists in the processing of renewals. All renewed licensees are sent a renewal certificate required by the Optometry Act to practice optometry.

All active licenses (with some exceptions) must obtain sixteen hours of Board approved continuing education as a prerequisite to license renewal. The agency does not audit compliance, but tabulates continuing education hours attended by each licensee throughout the year. A licensee cannot renew unless he or she has provided the agency proof that the continuing education requirement has been met. The agency is transitioning from using a prior database to an in-house designed spreadsheet to the current database to store continuing education records and calculate meeting the requirements for each licensee. The information is available to the licensees through the agency's website. Only Board approved courses satisfy the continuing education requirement. The licensing function accepts submission of continuing education courses for approval pending a vote of the Board.

Since the number of staff members has not increased for quite some time and the number of licensees continues to increase, license renewal can only timely be accomplished because of the significant number of licensees renewing on-line. On-line renewal relieves the staff from individually entering deposits and licensee information, as well as providing appropriate forms.

Much of staff time is spent answering telephone calls or e-mails from licensees during this period. To minimize the number of telephone calls received, the agency publishes extensive instructions on the website, features a search function on the website so that the licensee can determine the continuing education hours submitted, and attempts to keep the renewal process the same from year to year.

This function of the agency also receives and prepares license verifications for the public, credentialing organizations and insurance providers. Much of this information is available on the agency's website, but official verifications under seal are prepared for sending to the requestor.

Administration

This function operates the entire agency (including the enforcement function) and performs services similar to those administrative functions of any state agency, including preparing and following a budget, purchasing, and payroll. Human resource functions such as hiring, discipline, promotion, and evaluation of positions within the needs of the agency are performed by this function. With the move to more and more functions being performed online, the administration function's computer security services are even more essential. The agency has been able to share the information technology staff member with other HPC agencies in a documented sharing arrangement. The administration function also acts to comply with all statutory requirements for reports, statistical tabulations, maintenance of agency records, and answering open records requests.

There are no field offices.

- 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 primary funding source is general revenue. This program also received \$39,376 (FY 2014) under an MOU from other HPC agencies to fund the shared services of the systems analyst staff member. This staff person provides information technology services to many other agencies in the Health Professions Council in addition to the agency. Additional funding is provided by appropriated receipts of \$5,930 (FY 2014) from the charges for license and continuing education verifications and charges for licensee address lists.

- 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.**

None

- 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.**

Not applicable.

- 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.**

Not applicable.

- K. Contracted expenditures are made through this program:**

Two contracts totaling \$4,148.7 in FY 2014 expenditures are made through this program. One contract is for the services of an accountant to prepare the agency's Annual Financial Report. The agency has contracted with the same organization for over ten years and there have been no issues with the contract. The other contract is with a calligrapher to prepare the agency's licenses. The agency has contracted this type of service for over ten years. There have been no issues with this contract.

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

None.

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

See discussion in the Section IX, Major Issues.

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

No additional information at this time.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity.

Need for Regulation: As stated previously, licensees may administer and prescribe dangerous drugs requiring a prescription and similarly prescribe medical devices only available by prescription. Improperly performed eye examinations not only may fail to correct serious vision needs, but also may miss eye disease and systemic disease that if diagnosed early may be easily controlled or cured, and if not diagnosed timely may lead to permanent vision loss or serious health issues. Therefore the protection of public health and safety requires that only competent applicants receive a license to practice. The protection of public health also requires that licensees maintain competency through continuing education. Another element of public safety is the assurance that a licensee of the agency does not have a criminal background that may pose a danger to patients. These functions are performed in the initial licensing and the annual renewal of licenses.

Inspections and Audits: All licensees must submit direct proof of continuing education attendance each year before a license is renewed. All licensees must report criminal convictions. Criminal history background checks through fingerprinting are obtained on all applicants.

Follow-up for non-compliance: The satisfaction of the continuing education requirement is verified for each licensee. If sufficient continuing education hours are not obtained, licensees are not permitted to renew and practice and must pay the statutory penalty when the requirements are met. A complaint is opened by the Enforcement Program when a criminal conviction is reported by an applicant or a licensee. These complaints follow the same process as other complaints.

Sanctions: The disciplinary actions available in the Enforcement Program are available in addition to the ability of the agency to not grant a license to an applicant. If a licensee has not met renewal or continuing education requirements, he or she is prohibited from practicing and is subject to the same disciplinary action as other respondents in the Enforcement Program.

Complaint procedures: Complaints opened by the agency concerning applicant and licensee criminal history, and practice without renewing license are investigated by the enforcement program in the same manner as any complaint.

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.

All complaints regarding the licensing and administration are investigated by the enforcement program.

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. Provide information on Attorney General opinions from FY 2011–2015, or earlier significant Attorney General opinions, that affect your agency’s operations.

**Texas Optometry Board
Exhibit 12: Statutes / Attorney General Opinions**

Statutes

Citation / Title	Authority / Impact on Agency <i>(e.g., “provides authority to license and regulate nursing home administrators”)</i>
Texas Occupations Code Chapter 351	Texas Optometry Act: provides authority to license, and discipline optometrists and operate the Optometry Board. Defines legal practice of optometry
Texas Occupations Code Chapter 353	Contact Lens Prescription Act: requirements for contents of and release requirements for contact lens prescriptions
Texas Occupations Code Chapter 104	Healing Art Identification Act: requirements for professional identification
Texas Occupations Code Chapters 53, 55	Provides limitations on effect of criminal convictions. Provides procedures for the licensing of military personnel and spouses.
Texas Health & Safety Code Chapter 181	Protection of personally identifiable health records applies to agency and licensees

Table 10 Exhibit 12 Statutes

Attorney General Opinions

Attorney General Opinion No.	Impact on Agency
MW-292 (1981)	Regarding Optometry Act requirement that the business of an optician be separate from the practice of an optometrist
DM-170 (1992)	Person with ownership interest in business selling ophthalmic goods is a “retailer” for purposes of Section 351.408. Optometrist who is also a retailer of ophthalmic goods and who has offices at fewer than four locations is excepted from the restrictions listed in Section 351.408.

Table 11 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. *See Exhibit 13 Example.*

**Texas Optometry Board
Exhibit 13: 84th Legislative Session**

Legislation Enacted

Bill Number	Author	Summary of Key Provisions
HB 7	Darby	Removes \$200 professional fee on the renewal of an active license.

Table 12 Exhibit 13 Legislation Enacted 84th Leg

Legislation Not Passed

Bill Number	Author	Summary of Key Provisions / Reason Bill Did Not Pass
HB 1420	Lozano	Removes restrictions on oral medications w/ exception of oral analgesics. Adds Schedule II hydrocodone to medications that can be prescribed. Removes ophthalmologist consultation / referral requirements for treating glaucoma. Reason for not passing unknown.
SB 577	Perry	Removes restrictions on oral medications w/ exception of oral analgesics. Adds Schedule II hydrocodone to medications that can be prescribed. Removes ophthalmologist consultation / referral requirements for treating glaucoma. Reason for not passing unknown.
HB 1413	Goldman	Removes restrictions on oral medications w/ exception of oral analgesics. Adds Schedule II hydrocodone to medications that can be prescribed. Removes ophthalmologist consultation / referral requirements for treating glaucoma. Also allows therapeutic optometrist to perform surgery w/ exceptions included in amendment. Allows administration of medicine by subconjunctival means. Reason for not passing unknown.
HB2129	Klick	Allows optometrists to issue orders to nurses to administer treatment or medication, and to refer to physical and occupation therapists. Reason for not passing unknown.
SB 1111	Burton	Allows optometrists to issue orders to nurses to administer treatment or medication, and to refer to physical and occupation therapists. Reason for not passing unknown.

Table 13 Exhibit 13 Legislation Not Passed 84th Leg

IX. Major Issues**Issue: Clinical Training Provisions in Statute****A. Brief Description of Issue**

Optometrists undergo extensive clinical training in school similar to other professional health care providers who are authorized by statute to diagnose and treat disease and abnormalities and authorized to administer and prescribe medication. The clinical training for optometrists typically includes an "externship" during the last year of optometry school during which the currently enrolled student receives clinical training outside the school in the office of a licensed optometrist or at a federal government facility.

Many of the practice acts in the Texas Occupations Code contain specific language regarding clinical training as it relates to the authorized practice of the profession, but that exact language is not included in the Texas Optometry Act.

B. Discussion

Background. Each health professional licensing act contains a definition of that professional practice and provides penalties for persons practicing without a license. The Texas Optometry Act similarly defines the practice of optometry and imposes penalties when an unlicensed individual performs an action which is defined as the practice of optometry.

Most practice acts contain a provision that exempts a student undergoing clinical training from any penalties for the unauthorized practice of that profession. Typically these exemptions apply when the student is receiving clinical training on an accredited school campus and/or is receiving the training at another facility supervised by a licensee. See for example: the Dental Practice Act, Tex. Occ. Code §251.004, the Medical Practice Act, Tex. Occ. Code §151.052, statutes regulating the practice of Chiropractors, Tex. Occ. Code §201.003, and the Veterinary Licensing Act, Tex. Occ. Code §801.004. The Optometry Act does not contain a similar section.

Optometry students at the two schools located in Texas receive clinical training as part of the school curriculum. The national test required by most states, including Texas, contains a significant clinical component which can only be passed after extensive clinical training. Clinical training is received at the school campus or at clinics operated by the schools. In addition, students from the two schools in Texas have the opportunity to participate in extern programs in Texas during the last year of optometry school. Students from accredited schools in other states and Canada could participate in the extern programs if the Optometry Act contained an exemption from unauthorized practice. The extern programs include clinical training in the office of a licensed optometrist affiliated with an optometry school. The programs also include training at locations operated by the federal government, such as Veteran's Administration clinics.

C. Possible Solutions and Impact

Amending the Texas Optometry Act to include specific exemptions for clinical training similar to the exemptions in other health licensing acts will resolve the issue. There will be no fiscal impact of such a change that will clarify the responsibilities of the agency, the optometry schools located in Texas, and optometry students. Since the change would amend the Optometry Act to mirror other health licensing acts, no drawbacks are foreseen. Such a change will allow the agency to focus on complaints where clearly defined unauthorized practice of optometry is occurring. The suggested change should be viewed favorably by schools, students and the public as amendments to the act will clearly set out the privileges and liabilities of each party.

Issue: Telehealth

A. Brief Description of Issue

Telehealth is a developing issue for many health professions. Advancements in technology and a desire by payors to determine where and who provides treatment are components to the growth of telehealth. Treatment in rural areas and the access to specialists is also frequently mentioned by proponents of telehealth. Texas, as set out in the Optometry Act, has a strong interest in protecting the health of its citizens by requiring a high level of expertise to practice optometry along with a mechanism to insure that patients are treated with that high level of expertise. This includes specific definitions of the practice of optometry and the requirements for eye examinations. Any barriers to the ability of the agency to provide oversight of treatment occurring in Texas may diminish the quality of health care received by patients located in Texas.

B. Discussion

Background. Telehealth has many components as it relates to optometry, ranging from the transmission of information between two or more optometrists licensed in Texas where the patient is in the office of one of the licensees, to situations in which unlicensed and untrained individuals attempt to practice optometry using unproven means of ascertaining the health of a patient.

For example, it may be technologically possible for a patient in Texas at a location where no licensee is present to transmit information about eye health to a health care provider not licensed in Texas (but possibly licensed in another state). However, the technologically possible does not necessarily translate to adequate health care if the agency cannot oversee the qualifications and treatment provided by the treating health care provider.

Similarly, it may be technologically possible to transmit information concerning some aspect of an eye condition from a location in Texas to a site anywhere in the world, where a "diagnosis" is made by an untrained and unlicensed individual, or a "diagnosis" is "made" by a computer program operating under the supervision of an untrained and unlicensed individual. Again technologically possible does not necessarily translate to adequate health care if the agency cannot oversee the qualifications and treatment provided. An example would be the providing of a prescription for glasses or contacts based on a simplistic measurement of vision versus the complete medical exam long required by the Texas Optometry Act.

C. Possible Solutions and Impact

A solution to many of issues that telehealth presents requires the Texas Optometry Act to contain provisions to protect Texas patients receiving health care when located in Texas. These provisions would not prohibit the use of telehealth when beneficial to patients as long as Texas licensed health care providers were specifically involved, and the agency has the legal authority to insure that quality treatment is being provided by qualified individuals.

If the use of telehealth grows as predicted, there will be fiscal implications to the agency as it acts to enforce current requirements in the Texas Optometry Act regarding who may provide treatment. Maintaining the restrictions currently present in the statute will allow enforcement, but additional enforcement authority may be necessary as different methods of providing care emerge. Although enforcement costs may increase, the increased costs will insure that Texas citizens receive adequate health care when located in Texas.

Groups that wish to act under the umbrella of a very broad definition of telehealth may be opposed to restrictions that require licensed health professionals to provide examination and treatment. Technology by itself is not a replacement for professional health care.

Issue: Disciplinary Language in Statute

A. Brief Description of Issue

The Optometry Act authorizes the Board to refuse license to an applicant or to discipline a current licensee if the person is a "habitual drunkard," "is addicted to the use of morphine, cocaine, or other drugs having similar effect," "has become insane," or "has been found by a court to be of unsound mind." This language from the 1939 statute is outdated and could be difficult to define for the public, licensees, the agency, and judges.

B. Discussion

Similar sections in other health profession licensing acts authorize the agency to impose a restriction for drug or alcohol use, or mental health issues in relation to the licensee's ability to safely and effectively practice the health profession. For example, restrictions would be available if the licensee is unable to practice with reasonable skill and safety because of excessive use of drugs, narcotics, chemicals, including alcohol, or another substance; or a mental or physical condition.

Terms such as "habitual drunkard" are still present in Texas law, but at least in the Probate Code is defined in part as someone who is "incapable of taking care of himself or managing his property and financial affairs." This condition would be reason to consider disciplinary action, but the Optometry Act should have a mechanism to restrict or prohibit practice because of an impairment as it relates to safely treating patients where great skill and substantial knowledge and decision making is required. This may be a lower threshold than the type of alcohol abuse which has reached the level that the licensee is incapable of taking care of himself or managing his or her property.

Similarly, the phrase "addicted to the use of morphine, cocaine, or other drugs having similar effect" is outdated, and again focuses on "addiction" rather than the ability to safely treat a patient. Compare that to the "excessive use" language above. The language "other drugs having similar effect" at first glance may leave out narcotics and chemicals that may not have a similar effect as cocaine or morphine, but which if misused may prevent the practitioner from safely treating patients. "[H]as become insane" is also outdated and does not on its face refer to the

broad spectrum of the more modern phrase "a mental or physical condition." As it stands, the agency might be required to show that dementia is included in the term "become insane?"

C. Possible Solutions and Impact

Amending the Optometry Act to language in the current vernacular that focuses on the the ability to safely treat patients which describes a broad range of impairments is one solution. The language will be easier to understand while providing the range of authority needed to protect the safety of patients.

Such a change would allow the agency to focus on the issue of patient safety rather the how to fit serious conditions into language first enacted in 1939. The change should only be a change in the language – the drafters of the 1939 language surely intended the statute to allow the agency to restrict a licensee when the licensee could not safely treat patients. Therefore the changes should not impact any entities or interest groups. No negative fiscal impact is forecast for such a change.

Other than the unforeseen unintended consequences of any change, this amendment to the language in the Optometry Act does not have any drawbacks.

Issue: Mental or Physical Examination

A. Brief Description of Issue

Many health professional licensing agencies are able to use a statutory procedure to enforce the agency's authority to restrict a licensee who is unable to safely treat patients because of a mental or physical impairment or an impairment caused by chemical abuse. Such a statute authorizes the agency to conduct a physical or mental examination of a licensee suspected of not being able to safely practice his or her profession.

B. Discussion

Direct evidence of an impairment, mental, physical, or chemical, can be obtained from a physical or mental examination of the licensee. Such an examination can also clearly show the absence of an impairment and the ability to safely treat patients. A statute authorizing such an examination, with safeguards for the rights of the licensee, protects the public and would allow the agency to accurately and efficiently determine any dangers for patient care. A statute authorizing a definitive timeline for the examination, again with safeguards for the rights of the licensee, increases the ability to protect the public.

C. Possible Solutions and Impact

Adding a section to the Optometry Act authorizing a mental and physical examination that includes a timeline and includes due process protections for the licensee is a solution in place in

other health professional licensing acts. Such a provision will allow the agency to protect patient safety when the need arises using specific statutory authority (the same authority that would provide specific statutory safeguards for the licensees when a request for the examination is made). A specific statute to follow would increase the efficiency of the disciplinary process.

Since the statute would specifically spell out the procedure and the limits of the agency's request, licensees as a group should be supportive of this addition to the Optometry Act. No fiscal implications are forecast.

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 Optometry Board Exhibit 14: Contacts

Interest Groups

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

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Texas Optometric Association/ BJ Avery, Executive Director	1104 West Avenue Austin, TX 78701	512.707.2020	toa@txeyedoctors.com
University of Houston College of Optometry/ Dean Earl Smith III, O.D., Ph.D	505 J Davis Armistead Bldg Houston TX 77204	713.743.1899	esmith@uh.edu
University of the Incarnate Word, Rosenberg School of Optometry/ Dean Timothy Wingert, O.D.	9725 Datapoint Dr San Antonio, Texas 78229	210-883-1195	twingert@uiwtx.edu
Texas Medical Association / Louis J. Goodman, Ph.D, CAE	401 West 15th Street, Austin TX 78701	(512) 370-1300	knowledge@texmed.org
Texas Ophthalmological Associ- ation / Halsey M. Settle III, M.D.	401 W. 15th St., Ste. 825 Austin, TX 78701	(512) 370-1504	president@texaseyes.org
Certified Opticians Association of Texas / Mustafa Asif, ABOC	P.O. Box 27630 Houston, TX 77227	713-890-2520	coatpresident@yahoo.com
Texas Association of Retail Op- tical Companies / A.R. Babe Schwartz	1122 Colorado St Apt 2102, Austin, TX 78701-2142		

Table 14 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
Health Professions Council / John Monk, Administrative Officer	333 Guadalupe Street, Ste. 2- 220, Austin, TX 78701	512-305-8550	jmonk@hpc.texas.gov
Association of Regulatory Board of Examiners of Optometry / Lisa Fennell, Executive Director	200 South College Street, Suite 2030, Charlotte, NC 28202	704-970-2710	LFennell@arbo.org
National Board of Examiners in Optometry / Jack Terry, Ph.D., O.D., CEO	200 S. College Street, #2010 Charlotte, NC 28202	704-332-9565	nbeo@optometry.org

Table 15 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 / Relation- ship / Contact Person	Address	Telephone	Email Address
Attorney General's Office / Eu- gene Montes, Agency Legal Counsel	209 W. 14th Street Austin, TX 78711		Eugene.Montes @texasattorneygeneral.gov
Texas Facilities Commission / Loren Smith, Property Manager		(512) 936-2117	loren.smith@tfc.state.tx.us
Legislative Budget Board Trevor Whitney, Agency Analyst	1501 Congress Avenue, 5th Floor. Austin, TX 78701	(512) 463-8203	Trevor.Whitney@lbb.state.tx.us
Governor's Office of Budget, Planning & Policy Kara.Crawford, Agency Budget Analyst	1100 San Jacinto, Ste. 4.300 Austin, TX 78701		kara.crawford@gov.texas.gov
Health Professions Council John Monk, Administrative Of- ficer	333 Guadalupe Street, Ste. 2-220 Austin, TX 78701	(512) 305-8550	jmonk@hpc.texas.gov
Board of Nurse Examiners for State of Texas Katherine Thomas, M.N., R.N., Executive Director HPC Member	333 Guadalupe Street, Ste. 3-460 Austin, TX 78701	(512) 305-7400	webmaster@bon.texas.gov
Texas State Board of Pharmacy Gay Dodson, R.Ph., Executive Director, HPC Member	333 Guadalupe Street, Ste. 3-600 Austin, TX 78701	(512) 305-8000	general_info @pharmacy.texas.gov
Texas Medical Board Mari Robinson, J.D., Executive Director, HPC Member	333 Guadalupe St., Ste. 3- 610 Austin, TX 78701-3942	(512) 305-7010	verificic@tmb.state.tx.us

Self-Evaluation Report

Agency Name / Relationship / Contact Person	Address	Telephone	Email Address
Texas Board of Chiropractic Examiners Yvette Yarbrough, Executive Director, HPC Member	333 Guadalupe Street, Ste. 3-825 Austin, TX 78701	(512) 305-6700	tbce@tbce.state.tx.us
Texas State Board of Dental Examiners Nycia Deal, Interim Executive Director, HPC Member	333 Guadalupe Street, Ste. 3-800 Austin, TX 78701	(512) 305-7010	information@tsbde.texas.gov
Executive Council of Physical Therapy & Occupational Therapy Examiners John P. Maline, Executive Director, HPC Member	333 Guadalupe Street, Ste. 2-510 Austin, TX 78701	(512) 305-6900	john@ptot.texas.gov
Texas State Board of Podiatric Medical Examiners Hemant Makan, Executive Director, HPC Member	333 Guadalupe Street, Ste 2-320 Austin, TX 78701	(512) 305-7000	Hemant.Makan@tsbpme.texas.gov
Texas State Board of Examiners of Psychologists Darrel Spinks, Executive Director, HPC Member	333 Guadalupe Street, Ste. 2-450 Austin, TX 78701	(512) 305-7700	Executive.Director@tsbep.texas.gov
Texas State Board of Veterinary Medical Examiners Nicole Oriá, J.D., Executive Director HPC Member	333 Guadalupe Street, Ste. 3-810 Austin, TX 78701	(512) 305-7555	vet.board@veterinary.texas.gov
Texas Department of State Health Services, Professional Licensing & Certification Division Tim Speer, Director, HPC Member	1100 West 49th Street Austin, TX 78756	(512) 834-6628	customer.service@dshs.state.tx.us
Texas Funeral Service Commission Janice McCoy, Executive Director, HPC Member	333 Guadalupe Street, Ste. 2-110 Austin, TX 78701	(512) 936-2474	info@tfsc.state.tx.us

Table 16 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. *See Exhibit 15 Example.*

Texas Optometry Board
Exhibit 15: Evaluation of Agency Reporting Requirements

Report Title	Legal Authority	Due Date and Frequency	Recipient	Description	Is the Report Still Needed? Why?
n/a	n/a	n/a	n/a	n/a	n/a

[Table 17 Exhibit 15 Agency Reporting Requirements](#)

Note: If more than one page of space is needed, please provide this chart as an attachment, and feel free to convert it to landscape orientation or transfer it to an Excel file.

- 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 agency uses language similar to that recommended in Chapter 392, Texas 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.

Texas Optometry Board
Exhibit 16: Complaints Against the Agency — Fiscal Years 2013 and 2014

	Fiscal Year 2013	Fiscal Year 2014
Number of complaints received	0	1
Number of complaints resolved	0	1
Number of complaints dropped / found to be without merit	0	0
Number of complaints pending from prior years	0	0
Average time period for resolution of a complaint	n/a	58 days

[Table 18 Exhibit 16 Complaints Against the Agency](#)

The agency rarely receives a complaint from the public. Complainants have submitted correspondence regarding the resolution of an enforcement complaint to which the agency responds as part of the enforcement process. When solicited in the Report on Customer Service, licenses and the public have provided information which is considered by staff and the policy making body.

D. Fill in the following charts detailing your agency’s Historically Underutilized Business (HUB) purchases. See Exhibit 17 Example.

**Texas Optometry Board
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	\$3,444	\$3,444	100.00%	n/a	23.6%
Other Services	\$37,568	\$54	0.15%	n/a	24.6%
Commodities	\$9,353	\$7,332	78.39%	n/a	21.0%
TOTAL	\$50,365	\$10,830	21.51%		

Table 19 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	\$3,407	\$3,407	100.00%	n/a	23.6%
Other Services	\$40,017	\$441	1.10%	n/a	24.6%
Commodities	\$8,352	\$7,931	94.97%	n/a	21.0%
TOTAL	\$51,776	\$11,779	21.95%		

Table 20 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	\$3,591	\$3,591	partial year	n/a	23.6%
Other Services	\$18,437	\$0	partial year	n/a	24.6%
Commodities	\$9,734	\$8,313	partial year	n/a	21.0%
TOTAL	\$31,722	\$11,904	partial year		

Table 21 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)

Yes, the agency's policy is to make a good faith effort to include historically underutilized businesses (HUB) in all purchases. The agency will continue to contact historically underutilized businesses through the use of the web site of the Comptroller's Office. When three bids are required, the agency will contact at least two HUB businesses, one woman-owned and the other minority-owned. The agency follows the guidelines of the Comptroller and accepts the lowest and best bid as well as consideration of availability of the purchase. The agency's shortfall is in one category where the most significant expenditure is not a HUB. Two bids were submitted when the contract was bid through the Comptroller and neither bidder was a HUB.

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)

Not applicable.

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)

Not applicable.

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)

Not applicable.

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)

Not applicable.

- H. Fill in the charts below detailing your agency’s Equal Employment Opportunity (EEO) statistics. *See Exhibit 18 Example.*

**Texas Optometry Board
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	1	0	8.99%	0	19.51%	0	39.34%
2014	1	0	8.99%	0	19.51%	0	39.34%
2015	1	0	8.99%	0	19.51%	0	39.34%

Table 22 Exhibit 18 EEO Statistics for Officials/Administration

2. 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	1.5	0	11.33%	0	17.4%	0	59.14%
2014	1.5	0	11.33%	0	17.4%	0	59.14%
2015	1.5	0	11.33%	0	17.4%	0	59.14%

Table 23 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	0	14.16%	0	21.36%	0	41.47%
2014	1	0	14.16%	0	21.36%	0	41.47%
2015	1	0	14.16%	0	21.36%	0	41.47%

Table 24 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	3.5	0	13.57%	43	30.53%	71	65.62%
2014	3	0	13.57%	66	30.53%	66	65.62%
2015	3	0	13.57%	66	30.53%	66	65.62%

Table 25 Exhibit 18 EEO Statistics for Administrative Support

5. Service / Maintenance

Not Applicable.

6. Skilled Craft

Not Applicable.

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

The agency has established an Affirmative Action Plan which is approved each year by the Board. Shortfalls are primarily addressed by recruitment from multiple sources, but in recent years the applicant pool from placing notices on the Work in Texas has been very diverse.

XII. Agency Comments

The agency's website, www.tob.state.tx.us has additional information regarding many of the issues presented in this review. The website also illustrates the agency's commitment to customer service and using technology to provide more information, more quickly, but at the same time maintaining a human resource when the Internet cannot provide all the necessary information.

ATTACHMENTS ---

Create a separate file and label each attachment (e.g., Attachment 1, Agency Statute) and include a list of items submitted.

Attachments Relating to Key Functions, Powers, and Duties

1. Agency's enabling statute.
2. Annual report published by the agency from FY 2012–2015.
3. Internal or external newsletters published by the agency from FY 2014–2015.
4. List of publications and brochures describing the agency.
5. List of studies that the agency is required to do by legislation or riders.
6. List of legislative or interagency studies relating to the agency that are being performed during the current interim.
7. List of studies from other states, the federal government, or national groups/associations that relate to or affect the agency or agencies with similar duties or functions. Provide links if available.

Attachments Relating to Policymaking Structure

8. Biographical information (e.g., education, employment, affiliations, and honors) or resumes of all policymaking body members. *See Attachment 8 Example.*
9. Agency's most recent rules. If lengthy, please provide citations.

Attachments Relating to Funding

10. Agency's Legislative Appropriations Request for FY 2016–2017.
11. Annual financial reports from FY 2012–2014.
12. Operating budgets from FY 2013–2015.

Attachments Relating to Organization

13. If applicable, a map to illustrate the regional boundaries, headquarters location, and field or regional office locations.

Attachments Relating to Agency Performance Evaluation

14. Quarterly performance reports completed by the agency in FY 2012–2015.

15. Any recent studies on the agency or any of its functions conducted by outside management consultants or academic institutions.
16. Agency's current internal audit plan.
17. Agency's current strategic plan.
18. Internal audit reports from FY 2011–2015 completed by or in progress at the agency.
19. List of State Auditor reports from FY 2011–2015 that relate to the agency or any of its functions.
20. Any customer service surveys conducted by or for your agency in FY 2014–2015.