

**Self-Evaluation Report
Texas State
Board of Medical Examiners**



**Submitted to the
Sunset Advisory Commission**

August 2003

TEXAS STATE BOARD OF MEDICAL EXAMINERS

SUNSET REPORT 2003

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Texas State Board of Medical Examiners Self-Evaluation Report

I. Key Functions, Powers, and Duties

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

A. Provide an overview of the agency's mission, key functions, powers, and duties. Specify which duties are statutory.

The mission of the Texas State Board of Medical Examiners is to protect and enhance the public's health, safety and welfare by establishing and maintaining standards of excellence used in the regulation of the practice of medicine and ensuring quality health care for the citizens of Texas through licensure, discipline and education.

All key functions of TSBME are statutory and include the following:

Licensure of qualified physicians, physician assistants, acupuncturists, and surgical assistants.

Annual (biennial beginning January 2005) registration of physicians, physician assistants, acupuncturists and surgical assistants.

Investigation of complaints against licensees.

Litigation of complaints to assure appropriate disciplinary actions.

Compliance monitoring to assure persons under disciplinary orders meet stated requirements.

Certification of acudetox specialists, nonprofit health care entities.

Registration of non-certified radiologic technicians.

Regulation of office-based anesthesia standards.

Regulation of prescriptive authority through registration of physician assistants and advanced practice nurses.

Provide verification of licensure information to public and health care entities.

Provide information to licensees and public including toll-free number, and agency newsletter.

Administrative functions to support statutory programs and comply with statutory state agency requirements.

B. Does the agency's enabling law correctly reflect the agency's mission, key functions, powers, and duties?

The statutory name of the agency does not accurately reflect its functions and powers. The name creates confusion for the public and even elected officials because the term "medical examiner" is generally associated with the functions of a coroner's office. Furthermore, the powers and functions of the agency are much broader than the name implies. "Board of Medicine" would be a more appropriate name for the agency.

The statutes regarding the functions, powers and duties of TSBME were strengthened and updated via SB 104 in the 78th legislature. There are statutory issues addressed in Section IX Policy Issues.

C. Please explain why these functions are needed. Are any of these functions required by federal law?

Licensure, certification and registration functions are necessary to protect the public from the harm of unlicensed and unqualified practice.

Annual registration promotes continued competency of licensed professionals.

Discipline, including investigation, litigation and compliance monitoring, are necessary to enforce the practice statutes and protect the public.

License verification, public information, and administrative functions are necessary to implement the regulatory functions.

Federal statute requires the reporting to National Practitioners Databank regarding disciplinary actions against licensees. Federal mandate to regulate violations of federal drug laws by physicians.

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

There are a variety of models for regulation of the practice of medicine and no two states are identical, but all states perform the same regulatory functions in some manner.

E. Describe any major agency functions that are outsourced.

The only major agency function outsourced is the drug testing function of compliance monitoring. The agency also participates with other HPC member agencies in outsource contracts for copy shop and courier services. Prior to the advent of online registration, data entry of physician profile information was performed by a vendor.

F. Discuss anticipated changes in federal law and outstanding court cases as they impact the agency's key functions.

1. The majority of the provisions of the federal Health Insurance Portability and Accountability Act (HIPAA) went into effect in April 2003 with remaining provisions to take effect in October 2003. The Board anticipates that it will receive numerous complaints for alleged HIPAA violations as HIPAA is implemented and enforced.
2. *Texas State Board of Medical Examiners v. Gregg Abbott, Attorney General of Texas, Cause No. GN302004.*
 - The Board is currently in litigation regarding an appeal of several open records determinations made by the Attorney General's Open Records Division. In this cause action the Board is appealing the AG's determination that all information gathered in relation to an application for physician licensure is subject to disclosure pursuant to the Public Information Act. The Board contends that licensure investigative files are confidential pursuant to Sections of 155.007(g), 155.058(a), and 164.007(c) of the Medical Practice Act. The appeal was filed in district court on June 6, 2003 and is still in the early stages of litigation. If the district court does not rule in the Board's

favor this could have a serious impact on the Board's ability to obtain documentation from third parties and create delays in the Board's processing of the licensure applications.

3. *Hugo Ramirez, M.D. v. Texas State Board of Medical Examiners*, Third Court of Appeals, Cause. No. 03-02-0424-CV.

- Dr. Ramirez's license was revoked in 1987 for violations of the Medical Practice Act in relation to the care of seven patients. Dr. Ramirez has unsuccessfully applied for reinstatement of his license five times and currently has a case pending with the Board on his 6th reinstatement application. The Board's rules provide that findings of fact and conclusions of law from the original revocation order may not be relitigated in relation to applications for reinstatement. Dr. Ramirez sought declaratory judgment in district court with regard to his request for reinstatement for the purpose of requesting an injunction to restrain the Board from applying the rule in his pending contested case at the State Office of Administrative Hearings. After a trial on the merits, the trial court denied all relief requested and entered a Final Judgment dated April 12, 2002. Dr. Ramirez appealed the district court's opinion to the Court of Appeals where the matter is still pending. If the Court of Appeals does not rule in the Board's favor and therefore has to relitigate the initial revocation order, not only will the relitigation process be expensive and waste of energy resources, but it would set a very unfortunate precedent.

G. Please fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact the agency. Do not include general state statutes that apply to all agencies, such as the Public Information (Open Records) Act, the Open Meetings Act, or the Administrative Procedure and Texas Register Act. Provide the same information for Attorney General opinions from FY 1999 - 2003, or earlier significant Attorney General opinions, that affect the agency's operations.

(Agency Name) Exhibit 1: Statutes/Attorney General Opinions	
Statutes	
Citation/Title	Authority/Impact on Agency (e.g., "provides authority to license and regulate nursing home administrators")
42 U.S.C. 11131	Health Care Quality Improvement Act of 1986 – require reports to be made relating to medical peer review, medical malpractice claims, and Board actions and information
Tex. Occ. Code §53	Provides for consequences of a criminal conviction related to the practice of medicine
Tex. Occ. Code §101	Provides for the Health Professions Council
Tex. Health & Safety Code 481	Texas Controlled Substances Act
Tex. Health & Safety Code 483	Texas Dangerous Drug Act
21 U.S.C.A. §801	Federal Comprehensive Drug Abuse Prevention and Control Act of 1970

Tex. Health & Safety Code 161	Reporting Requirements
Tex. Health & Safety Code 241	Texas Hospital Licensing Law – authority to credential and evaluate health care service
Tex. Rev. Civ. Stat. Art 4590i	Medical Liability and Insurance Improvement Act – Disclosure requirements
Tex. Fam Code 32	Consent Requirements for Minors
Tex. Health & Safety Code 3313	Consent Requirements for Incapacitated Adults
Tex. Health & Safety Code 166	Advance Directives Act
Tex. Health & Safety Code 611	Patient right to access mental health information
Tex. Penal Code 22	Assault and Battery
Emergency Medical Treatment and Active Labor Act (EMTALA)	Regarding “patient dumping”
Tex. Health & Safety Code 241	Hospital Licensing Law - Transfer of Patients
Tex. Health & Safety Code 170	Abortion Requirements
Tex. Fam. Code 33	Parental notification requirement for abortion performed on a minor
Tex. Health & Safety Code 245	Texas Abortion Facility Reporting and Licensing Act
Tex. Fam. Code 264	Death of a child under age six
Tex. Code Crim. Proc. Art. 49.25	Inquests and autopsies
Tex. Code Crim. Proc. Art. 49.13	Autopsy with consent
Tex. Penal Code 42.08	Criminal liability for “abuse of corpse”
Tex. Health & Safety Code 692	Texas Anatomical Gift Act
Tex. Health & Safety Code 692	Determination of time of death
Tex. Health & Safety Code 571	Texas Mental Health Code – to provide each person having sever mental illness access to humane care and treatment
Treatment Facilities Marketing Practices Act	Protect public from fraud, deceit, and misleading marketing practices related to provision of psychiatric and chemical dependency services.
21 U.S.C.A. 821	Federal Controlled Substances Act – Drug Enforcement Administration
Tex. Health & Safety Code 81	Communicable Diseases and Prevention Control Act
Tex. Health & Safety Code 84	Occupational Disease Reporting Act
42 U.S.C. 1320a-7b	Illegal Remuneration Law or Anti-Kickback Law – intended to preserve physician’s medical judgment and patient’s right to choose his or her own health care provider
42 U.S.C. 1395nn	Stark Law - Bans certain physician referrals
Tex. Occ. Code 102	Prohibits solicitation of patients
Tex. Rev. Civ. Stat. Art. 6132b	Texas Revised Partnership Act
Tex. Rev. Civ. Stat. Art. 1528f	Texas Professional Association Act
Tex. Rev. Civ. Stat. Art. 1528n	Professional Limited Liability Companies
Tex. Rev. Civ. Stat. Art. 1528e	Texas Professional Corporation Act
Tex. Rev. Civ. Stat. Art. 1396-1.01	Texas Non-Profit Corporation Act
Tex. Ins. Code ch 20A	Texas Health Maintenance Organization Act
Tex. Civ. Prac & Rem. Cod 88	Duty to health insurance carriers, health maintenance organizations, or other managed care entities for health care plans to exercise ordinary care when making “health care treatment decisions”.
Tex. Fam. Code 261	Investigation of report of child abuse or neglect
Tex. Hum. Res. Code 48	Criminal offense resulting from injury to a child, elderly, or disabled persons
Attorney General Opinions	
Attorney General Opinion No.	Impact on Agency
JC-0379	While the technique called Tui Na, which involves some manipulation of the spinal area, may be an energy flow exercise within the meaning of §205.001 of the Texas

	Occupations Code, the administration of such exercise is not within the statutory definition of the practice of acupuncture
JC-0342	The Texas Legislature has authorized the TSBME to adopt rules that prohibit use of all testimonials in physician advertising by deeming any health profession advertising containing a testimonial to be false, deceptive, or misleading in §101.201(b)(4) of the Occupations Code.
JC-0280	In accordance with a request from the Equal Employment Opportunity Commission (“EEOC”), the Board of Medical Examiners must transfer to the EEOC information that relates to a charge the EEOC is investigating under the Americans with Disabilities Act, 42 U.S.C. §§ 12101 – 12213 (1994 & Supp. 1997). To the extent section 164.007 of the Occupations Code deems the information strictly confidential, section 164.007 is preempted by federal law. <i>Compare</i> Tex. Occ. Code. Ann. §164.007(c) (Vernon 2000), <i>with</i> 42 U.S.C. §2000e-8(a) (1994).
JC-0108	Pursuant to the Medical Practice Act, the governing body of a hospital district acts as a medical peer review committee when it decides whether a physician should receive hospital privileges, evaluates the competence of a physician, or evaluates the quality of medical and health care services at the district’s hospital, to the extent that the evaluation involves discussions or records that specifically identify an individual patient or physician. Section 161.032(a) of the Texas Health and Safety Code exempts a hospital district’s proceedings as a medical peer review committee from the requirements of the Open Meetings Act.
DM-471	The practice of acupuncture, as defined by V.T.C.S. article 4495b, is not an “incisive or surgical procedure” excluded from the scope of the practice of chiropractic. The conclusion reached in Attorney General Opinion DM-415 with respect to the practice of acupuncture by chiropractors is superseded by statute.
Letter Opinion No. 98-025	The TSBME is not prohibited from requiring applicants for licensure by reciprocity to have passed an accepted licensing examination within three attempts. A statute and board rules establishing an examination limit may lawfully be applied to an applicant for licensure by reciprocity who took the examination and became licensed in another state before the statute and rules became effective.
DM-443	The decision by the Board of Medical Examiners that needle electromyography constitutes the practice of medicine and is within the scope of practice of a licensed physician is a reasonable one. The decision by the Board of Physical Therapy Examiners that electromyography is within the scope of practice of a licensed physical therapist is a reasonable one. Insofar as electromyography constitutes the practice of medicine, the Board of Medical Examiners has the authority to regulate the activity. Insofar as electromyography is within the scope of practice of a licensed physical therapist, the Board of Physical Therapy has that authority. Accordingly, the development of any general rules regulating this activity would require the cooperation of both boards, and is not within the province of either board exclusively. Physical therapists would, in their practice, be governed by the rules of the Board of

	Physical Therapy Examiners, doctors by those of the Board of Medical Examiners.
JC-0458	The United States Supreme Court has held that the government may freely regulate commercial speech that concerns unlawful activity or is misleading, but that commercial speech that falls into neither of those categories may be regulated only if the government satisfies a three prong test: (1) the government has a substantial interest in regulating the speech; (2) the restriction directly and materially advances that interest; and (3) the regulation is narrowly drawn. Because section 101.201(b)(4) of the Texas Occupations Code imposes an absolute ban on the use of testimonials regarding health care professionals, a court would probably find that it fails to satisfy the third prong of this test and, therefore, contravenes the First Amendment to the United States Constitution.
JC-0304	Because the phrase "a nonprofit corporation under the . . . Act" in section 162.001(b) of the Occupations Code can reasonably be read as the Board of Medical Examiners has interpreted it, <i>i.e.</i> , a nonprofit corporation organized under the Texas Non-Profit Corporation Act, and is in harmony with the rest of the statute, we accept that interpretation and it is controlling.
JC-0285	An executive session of a public meeting of a governmental body held in compliance with section 551.101 of the Government Code, which requires a quorum of the governmental body to announce the executive session after first convening in open session, may be continued until the following day, so long as, before convening the second-day executive session, the governmental body first meets in open session and complies with the requirements of section 551.101 of the Government Code.
JC-0097	The Texas Optometry Act, Texas Revised Civil Statutes article 4552-1.02, forbids a therapeutic optometrist to perform surgery. As amended by the Seventy-sixth Legislature, the Act expressly defines "surgery." Attorney General Opinion DM-425 (1996) defined "surgery" under the Act according to the term's ordinary meaning. To the extent it defined "surgery" according to the term's ordinary meaning, Attorney General Opinion DM-425 is superseded by statute.
LO-98-110	The use of a needle to inject substances or for any purpose other than the drawing of blood for diagnostic testing or for the practice of acupuncture is not within the scope of practice of a licensed Texas chiropractor. A chiropractor may be found to be in violation of V.T.C.S. article 4512b, prohibiting the prescription by a chiropractor of dangerous drugs, if the chiropractor prescribes a drug that does not bear, but is required to bear, a legend stating that federal law prohibits dispensing the drug without a prescription. A drug that bears a prescription legend falls within the definition of "dangerous drug" found in Health and Safety Code section 483.001(2).
DM-423	The Board of Medical Examiners has the authority to determine whether hyperbaric oxygen therapy constitutes the practice of medicine, the power to regulate the performance of such therapy, and the power to make rules which limit the ability of physicians to delegate performance of such therapy or which establish standards

	<p>for supervision of such therapy when a delegation has been made. Whether hyperbaric oxygen therapy is within the practice of podiatry depends upon the resolution of factual questions. However, if hyperbaric oxygen therapy is within the practice of podiatry, its practice by podiatrists is regulated by the Board of Podiatric Medical Examiners, not the Board of Medical Examiners.</p>
DM-415	<p>Only a health care professional whose license clearly encompasses the practice of acupuncture is excepted from the training and examination requirements set forth for acupuncturists in V.T.C.S. article 4495b, subchapter F. The practice of chiropractic, as delineated in V.T.C.S. article 4512b, section 1, does not clearly encompass the practice of acupuncture. Accordingly, V.T.C.S. article 4512b, section 1, which authorizes a chiropractor to perform only nonsurgical, nonincisive procedures, does not authorize a chiropractor to practice acupuncture.</p> <p>Thus, the practice of acupuncture is not within the scope of practice for a licensed Texas chiropractor. Conversely, a licensed chiropractor must obtain a license to practice acupuncture if the chiropractor desires to practice acupuncture.</p>
DM-336	<p>Subchapter F of the Medical Practice Act, V.T.C.S. art. 4495b, authorizes the Texas State Board of Acupuncture Examiners to recommend to the Texas State Board of Medical Examiners rules authorizing acupuncturists to use certain titles. Conversely, the board may recommend a rule limiting acupuncturists' use of such titles. Of course, pursuant to section 6.11(a)(7) of the Medical Practice Act, the Texas State Board of Acupuncture Examiners may not recommend to the Texas State Board of Medical Examiners a rule authorizing an acupuncturist to use the title "physician" or "surgeon" or a combination or derivative of those terms, nor may the board recommend a rule that is contrary to other law. Likewise, if, regardless of whether the board promulgates rules approving or limiting the titles an acupuncturist may use, an acupuncturist may not select a designation that contravenes article 4459b, section 6.11(a)(7) or any other law.</p> <p>A healing art practitioner's proper use of the title "doctor" under section 4 of the Healing Art Identification Act, V.T.C.S. article 4590e, does not constitute a violation of V.T.C.S. article 4512p, section 4. An acupuncturist may use the title "doctor" in accordance with section 4 of the Healing Art Identification Act. However, the board may not recommend to the Texas State Board of Medical Examiners a rule regarding an acupuncturist's use of the title "doctor."</p> <p>Whether an acupuncturist's use of the titles "Oriental Medical Doctor" and "O.M.D." would mislead or tend to deceive the public so as to violate article 4512p, section 4, for example, section 4(b)(5), is a question involving the determination of fact issues. The board may, of course, recommend to the Texas Board of Medical Examiners a rule limiting acupuncturists' use of the titles "Oriental Medical Doctor" and "O.M.D."</p>

03-4205	Occupations Code § 164.007(c). Section 164.007(c) applies to investigatory records gathered by the board during an investigation of a license holder. You indicate that the submitted information constitutes the board's investigative information relating to two licensed physicians. Based on your representation, we conclude that you must withhold this information under section 552.101 in conjunction with section 164.007(c) of the Occupations Code.
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H. Please fill in the following chart:

Texas State Board of Medical Examiners Exhibit 2: Agency Contacts				
	Name	Address	Telephone & Fax Numbers	E-mail Address
Agency Head	Donald Patrick, MD, JD	P.O. Box 2018 Austin TX 78768	512-305-7015	Donald.Patrick@ tsbme.state.tx.us
Agency's Sunset Liaison	Jerry Walker	P.O. Box 2018 Austin TX 78768	512-305-7114	jerry.walker @tsbme.state.tx.us

II. History and Major Events

Provide a time line discussion of the agency's history, briefly describing the key events in the development of the agency, including:

- the date the agency was established;
- the original purpose and responsibilities of the agency;
- major changes in responsibilities or statutory authority;
- agency/policymaking body name and composition changes;
- the impact of state/federal legislation, mandates, and funding;
- the impact of significant state/federal litigation that specifically affects the agency's operations; and
- key organizational events, and areas of change and impact on the agency's organization (e.g., a major reorganization of the agency's divisions or program areas).

See **History and Major Events Examples** or [click here to link directly to the examples](#).

Timeline

- 1837 Law enacted establishing board of medical censors
- 1848 Board dissolved by the Legislature
- 1873 Regulatory law for physicians passed, establishing board of examiners in each county
- 1875 Constitution set up minimum qualifications for the practice of medicine
- 1876 Legislature required each district court to set up a board of three licensed doctors
- 1907 Texas Medical Practice Act passed by the Legislature, setting up a board of 11 physicians members, appointed by the Governor and confirmed by the Senate.
- 1931 Legislature increased the board to 12 physician members serving six-year terms
- 1981 Legislature changed the makeup of the board to nine allopathic physicians, three osteopathic physicians and three public members
- 1993 Legislature added three public members, bringing the number of board members to 18
- 1993 Legislature created the Physician Assistant Advisory Council, an advisory board to the medical board
- 1993 Legislature created the Texas State Board of Acupuncture Examiners, made up of nine members: four acupuncturists, two physicians and three public members
- 1995 Legislature passed the Physician Assistant Licensing act, which changed the PA Advisory Council to the Texas State Board of Physician Assistant Examiners, made up of nine members: three physicians, three physician assistants and three public members
- 1997 Legislature amended the Medical Practice Act to require that non-certified radiologic technicians be registered under the supervision of a licensed physician
- 2001 Legislature added the licensing of Surgical Assistants to the agency's functions
- 2003 Legislature strengthened board's disciplinary powers, to be funded by additional physician registration fees; required the board to collect registration fees biennially rather than annually (SB 104). Legislature also added one public member for a total of 7 public members and 19 board members.

Reorganizations of agency staff and processes have occurred as the agency evolved in response to changes in statute and personnel. During the current biennium, TSBME reorganized all major functions of the agency. The Licensure Division was incorporated into the Customer Affairs Division to promote customer service within our licensing operations. Investigation, litigation, and compliance staff and procedures were reorganized to ensure speedier resolutions and meet the mandates of SB 104.

III.1. Policymaking Structure – Board of Medical Examiners

A. Please complete the following chart:

Texas State Board of Medical Examiners Exhibit 3: Texas State Board of Medical Examiners					
Member Name	Term/ Appointment Dates/ Appointed by ____ (e.g., Governor, Lt. Governor, Speaker)	Qualification (e.g., public member, industry representative)	Address	Telephone & Fax Numbers	E-mail Address
Lee S. Anderson, M.D.	6-year term, May 1997-April 2003, appointed by Governor	Licensed Physician (M.D.)	Retina Consultants 1350 South Main, Ste 3200 Fort Worth, TX 76104	phone 817/332- 1782 fax 817/336- 8619	
Jose M. Benavides, M.D.	6-year term, July 1999-April 2005, appointed by Governor	Licensed Physician (M.D.)	University of Texas Health Science Center at San Antonio 7703 Floyd Curl Drive San Antonio, TX 78284- 7879	phone 210/358- 3656 fax 210/358- 5840	
Patricia S. Blackwell	6-year term, January 2002-April 2007, appointed by Governor	Public Member	3614 Andrews Hwy. Midland, TX 79703	phone 915/694- 7175 fax 915/683- 4971	
Peter Chang, M.D.	6-year term, May 1997-April 2003, appointed by Governor	Licensed Physician (M.D.)	Summit Medical Group 4126 Southwest Freeway, Ste 400 Houston, TX 77027-7388	phone 713/479- 1100 fax 713/629- 6032	
David E. Garza, D.O.	6-year term, August 1999-April 2005, appointed by Governor	Licensed Physician (D.O.)	P.O. Box 450447 Laredo, TX 78045	phone 956/717- 2971 fax 956/712- 3672	

Edward S. Hicks, Sr.	6-year term, May 1997-April 2003, appointed by Governor	Public Member	3026 S. Padre Island Drive Corpus Christi, TX 78415	phone 361/854-1955 fax 361/225-1955	
Roberta M. Kalafut, D.O.	6-year term, January 2002-April 2007, appointed by Governor	Licensed Physician (D.O.)	Spine and Joint Center 1888 Antilley Road Abilene, TX 79606	phone 325/795-1894 fax 325/795-9537	
Thomas D. Kirksey, M.D.	6-year term, May 1995-April 2007, appointed by Governor	Licensed Physician (M.D.)	P.O. Box 50548 Austin, TX 78763	phone 512/476-7109 fax 512/478-7608	
Eddie J. Miles, Jr.	6-year term, October 1997-April 2007, appointed by Governor	Public Member	7603 Forest Moon San Antonio, TX 78233	phone 210/590-0714 fax 210/335-2884	
Elvira Pascua-Lim, M.D.	6-year term, November 2000-April 2007, appointed by Governor	Licensed Physician (M.D.)	P.O. Box 75145 Lubbock, TX 79464	phone 806/785-9080 fax 806/785-2842	
John W. Pate, Jr., M.D.	6-year term, January 2002-April 2007, appointed by Governor	Licensed Physician (M.D.)	1700 Curie Drive, Ste 3500 El Paso, TX 79902	phone 915/533-4461 fax 915/533-3214	
Larry Price, D.O.	6-year term, April 1997-April 2003, appointed by Governor	Licensed Physician (D.O.)	Scott and White Clinic 2401 S. 31 st Street Temple, TX 76508	phone 254/724-2111 fax 254/724-2661	
Joyce A. Roberts, M.D.	6-year term, July 1999-April 2005, appointed by Governor	Licensed Physician (M.D.)	175 Spur 3007 Scroggins, TX 75480	phone 903/860-3711 fax 903/860-3721	
Nancy M. Seliger	6-year term, August 1999-April 2005, appointed by Governor	Public Member	3810 DeAnn Amarillo, TX 79121	phone 806/353-7406 fax 806/353-0616	

Paulette B. Southard	6-year term, July 1999-April 2005, appointed by Governor	Public Member	P.O. Box 3307 Alice, TX 78333-3307	phone 361/664-9793 fax 361/664-0617	
Janet Tornelli-Mitchell, M.D.	6-year term, May 1997-April 2003, appointed by Governor	Licensed Physician (M.D.)	Cooper Clinic 12200 Preston Road Dallas, TX 75230	phone 972/239-7223 fax 972/239-5107	
Teddy Turner, J.D.	6-year term, November 1995-April 2003, appointed by Governor	Public Member	1101 Silver Hill Driver Austin, TX 78746	phone 512/732-7358 no fax	
1 vacancy					

B. How is the chair of the policymaking body appointed?

The President of the Board is appointed by the Governor.

C. Describe the primary role and responsibilities of the policymaking body.

The primary role and responsibilities of the policymaking body are to make final decisions regarding board policy, approve board rules, grant licenses, and approve disciplinary actions against licensees.

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

The Board of Medical Examiners has oversight authority over the State Board of Physician Assistant Examiners in the area of rulemaking. The Board of Medical Examiners also has oversight authority over the State Board of Acupuncture Examiners in the areas of rulemaking, granting licenses, and approval of disciplinary actions. There is also a Surgical Assistants Advisory Committee which makes recommendations regarding regulation of surgical assistants to the Board of Medical Examiners through its Ad Hoc Surgical Assistants Committee.

E. In general, how often does the policymaking body meet? How many times did it meet in FY 2002? in FY 2003?

The Board of Medical Examiners generally meets six times per year. In FY02 and FY03, the Board of Medical Examiners met six times in each fiscal year.

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

Prior to serving, Board members receive training in the following areas: 1) enabling statute of the board (Medical Practice Act); 2) agency programs; 3) board rules; 4) role and functions of the board and the departments of the agency; 5) agency budget; 6) agency audit; 7) requirements of open meetings, open records, and administrative procedure laws; 8) requirements of other applicable laws and policies relating to public officials, including conflict of interest laws and ethics policies; 9) travel reimbursement

procedures; 10) what to expect at a board meeting; 11) how much time is involved in serving on the board; and 12) working with other governmental agencies, including the legislature.

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

Board Rule Chapter 161, General Provisions, establishes the role of the Board and its committees as the policy-making body. The formal communication link between the Board and staff is through the Executive Committee of the Board to the Executive Management Team of the agency (EMT) which is composed of the Executive Director, the Deputy Executive Director and the General Counsel. The EMT, in turn, manages the execution of policy decisions through the agency's Senior Management Team composed of division directors and other key managers.

H. If the policymaking body uses subcommittees or advisory committees to carry out its duties, please fill in the following chart. See Exhibit 4 Example or [click here to link directly to the example](#).

Texas State Board of Medical Examiners Exhibit 4: Subcommittees and Advisory Committees			
Name of Subcommittee or Advisory Committee	Size/Composition/How are members appointed?	Purpose/Duties	Legal Basis for Committee
Disciplinary Process Review Committee	6-9 members (at least 1 M.D., 1 D.O., and 1 public member), appointed by Board President	(A) oversee the disciplinary process and give guidance to the board and board staff regarding means to improve the disciplinary process and more effectively enforce the Medical Practice Act and board rules; (B) monitor the effectiveness, appropriateness and timeliness of the disciplinary process and enforcement of the Medical Practice Act and board rules; (C) make recommendations regarding resolution and disposition of specific cases and approve, adopt, modify, or reject recommendations from board staff or board representatives regarding actions to be taken on pending cases; (D) approve dismissals of complaints and closure of investigations; and (E) make recommendations to the board staff and the board regarding policies, priorities, budget, and any other matters related to the disciplinary process and enforcement of the Medical Practice Act and board rules.	Tex Occ Code Ann §153.005
Executive Committee	President, Vice President, Secretary-Treasurer, plus any other members the Board President deems necessary	(A) ensure records are maintained of all committee actions; (B) delegate tasks to other committees; (C) take action on matters of urgency that may arise between board meetings; (D) assist in the presentation of information concerning the board and the	Tex Occ Code Ann §153.005

		<p>regulation of the practice of medicine to the Legislature and other state officials;</p> <p>(E) review staff reports regarding finances and the budget; F) formulate and make recommendations to the board concerning future board goals and objectives and the establishment of priorities and methods for their accomplishment;</p> <p>(G) study and make recommendations to the board regarding the roles and responsibilities of the board offices and committees;</p> <p>(H) study and make recommendations to the board regarding ways to improve the efficiency and effectiveness of the administration of the board;</p> <p>(I) study and make recommendations to the board regarding board rules or any area of a board function that, in the judgment of the committee, needs consideration; and</p> <p>(J) make recommendations to the board regarding matters brought to the attention of the executive committee.</p>	
Finance Committee	5-7 members (at least 1 M.D., 1 D.O., and 1 public member) appointed by Board President	<p>(A) review staff reports regarding finances and the budget;</p> <p>(B) assist in the presentation of budget needs to the Legislature and other state officials;</p> <p>(C) recommend proper fees for the agency to charge; and</p> <p>(D) consider and make recommendations to the board regarding any aspect of board finances.</p>	Tex Occ Code Ann §153.005
Legislative Committee	5-7 members (at least 1 M.D., 1 D.O., and 1 public member) appointed by Board President	<p>(A) review and make recommendations to the board regarding proposed legislative changes concerning the Medical Practice Act and the regulation of medicine;</p> <p>(B) establish communication with members of the Legislature, trade associations, consumer groups, and related groups;</p> <p>(C) assist in the organization, preparation, and delivery of information and testimony to members and committees of the Legislature; and</p> <p>(D) make recommendations to the board regarding matters brought to the attention of the legislative committee.</p>	Tex Occ Code Ann §153.005
Licensure Committee	6-9 members (at least 1 M.D., 1 D.O., and 1 public member) appointed by Board President	<p>(A) review applications for licensure and permits, make determinations of eligibility and report to the board its recommendations as provided by the Medical Practice Act and board rules;</p> <p>(B) review board rules regarding</p>	Tex Occ Code Ann §153.005

		<p>licensure and make recommendations to the board regarding changes or implementation of such rules;</p> <p>(C) evaluate each examination accepted by the board and develop each examination administered by the board;</p> <p>(D) investigate and report to the board any problems in the administration of examinations and recommend and implement ways of correcting identified problems;</p> <p>(E) make recommendations to the board regarding postgraduate training permits and issues concerning physicians in training;</p> <p>(F) maintain communication with Texas medical schools;</p> <p>(G) develop rules with regard to international medical schools in the areas of curriculum, faculty, facilities, academic resources, and performance of graduates;</p> <p>(H) study and make recommendations regarding documentation and verification of records from all applicants for licensure or permits;</p> <p>(I) review applications for acudetox specialist certification, make determinations of eligibility, and report to the board its recommendations as provided by Texas Occupations Code Annotated, §205.303;</p> <p>(J) review applications for acupuncture licensure recommended by the Texas State Board of Acupuncture Examiners, make determinations of eligibility, and report to the board its recommendations;</p> <p>(K) review applications for approval and certification of non-profit health organizations pursuant to the Medical Practice Act;</p> <p>(L) review applications and reports for continued approval and certification of non-profit health organizations pursuant to the Medical Practice Act;</p> <p>(M) make initial determinations and recommendations to the board regarding approval, denial, revocation, decertification, or continued approval and certification of non-profit health organizations pursuant to the Medical Practice Act;</p> <p>(N) review board rules regarding non-profit health organizations, and make recommendations to the board regarding changes or implementation of such rules; and</p> <p>(O) make recommendations to the board regarding matters brought to the attention</p>	
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		of the licensure committee.	
Public Information/Profile Committee	5-7 Members (at least 1 M.D., 1 D.O., and 1 public member) appointed by Board President	(A) develop information for distribution to the public; (B) review and make recommendations to the board in regard to press releases, newsletters, web-sites and other publications; (C) study and make recommendations to the board regarding all aspects of public information and public relations; (D) receive information from the public concerning the regulation of medicine pursuant to a published agenda item and board rules; (E) study and make recommendation to the board regarding all aspects of physician profiles; and (F) make recommendations to the board regarding matters brought to the attention of the public information/physician profile committee.	Tex Occ Code Ann §153.005
Standing Orders Committee	5-7 members (at least 1 M.D., 1 D.O., and 1 public member) appointed by Board President	(A) review and make recommendations to the board regarding board rules pertaining to standing orders; (B) study and make recommendations to the board regarding issues concerning or referred by the Texas State Board of Acupuncture Examiners or other acupuncture issues; (C) study and make recommendations to the board regarding issues concerning or referred by the Texas State Board of Physician Assistant Examiners; (D) study and make recommendations to the board concerning ethical issues related to the practice of medicine; and (E) make recommendations to the board regarding matters brought to the attention of the standing orders committee.	Tex Occ Code Ann §153.005
Telemedicine Committee	5-7 members (at least 1 M.D., 1 D.O., and 1 public member) appointed by Board President	(A) review, study, and make recommendations to the board concerning the practice of telemedicine, including but not limited to licensure, regulation, and/or discipline of telemedicine license holders or applicants; (B) review, study, and make recommendations to the board concerning interstate and intrastate telemedicine issues; (C) review, study, and make recommendations to the board concerning board rules regarding or affecting the practice of telemedicine; and (D) review, study, and make recommendations to the board concerning any other issue brought to the attention of the committee.	Tex Occ Code Ann §153.005

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

A. Rulemaking. When the board proposes new rules or amendments to existing rules, a public hearing is held at one of its regularly scheduled board meetings to solicit comments on the rule. In addition, the board reviews its rules every four years and publishes notice of the rule review in the Texas Register.

B. Request by the Public to Speak to the Board. If someone from the public wishes to address the board on any subject, there is a procedure outlined in board rule §199.2.

III. 2 Policymaking Structure – Acupuncture Board

A. Please complete the following chart:

Texas State Board of Medical Examiners Exhibit 3: Texas State Board of Acupuncture Examiners					
Member Name	Term/ Appointment Dates/ Appointed by ____ (e.g., Governor, Lt. Governor, Speaker)	Qualification (e.g., public member, industry representative)	Address	Telephone & Fax Numbers	E-mail Address
Sheng Ting Chen	6-year term, March 2003-February 2009, appointed by Governor	Public Member	1212 W. Ben White Austin, TX 78704	phone 512/442- 2961 fax 512/441- 4477	
Pedro (Pete) V. Garcia	6- year term, October 1999- January 2003, appointed by Governor	Public Member	University Medical Center Patient Accounting P.O. Box 5980 602 Indiana Avenue Lubbock, TX 79408	phone 806/761- 0849 fax 806/472- 6803	
Everett G. Heinze, Jr., M.D.	6-year term, August 1997-January 2003, appointed by Governor	Licensed Physician	Austin Diagnostic Clinic 12221 N. Mopac Expressway Austin, TX 78758	phone 512/901- 3024 fax 512/901- 3911	
Hoang Xiong Ho, L.Ac.	6-year term, March 2003-February 2007, appointed by Governor	Licensed Acupuncturist	Ho Acupuncture Center 7300 Blanco Rd., Ste 712 San Antonio, TX 78230	phone 210/366- 0959	
Meng-Sheng Linda Lin, L.Ac.	6-year term, September 1999- January 2001, appointed by Governor	Licensed Acupuncturist	Mend-Sheng Linda Lin Acupuncture Clinic 2007 North Collins Blvd., Ste 307 Richardson, TX 75080	phone 972/644- 2608 fax 972- 644-2608	

Dee Ann Newbold, L.Ac.	6-year term, May 1999-January 2005, appointed by Governor	Licensed Acupuncturist	Acupuncture Medical and Research Centre 1600 West 38 th , #402 Austin, TX 78731	phone 512/371- 1121 fax 512/371- 1181	
Terry Glenn Rascoe, M.D.	6-year term, March 2003-February 2007, appointed by Governor	Licensed Physician	Scott and White Clinic 2401 S. 31 st Street Temple, TX 76508	phone 254/742- 3700 fax 254/742- 3740	
Claire H. Smith	6-year term, May 1999-January 2005, appointed by Governor	Public Member	4440 Northcrest Dallas, TX 75229	phone 214/357- 4408 fax 214/357- 9843	
1 vacancy					

B. How is the chair of the policymaking body appointed?

The Presiding Officer of the Board is appointed by the Governor.

C. Describe the primary role and responsibilities of the policymaking body.

The primary role and responsibilities of the Board of Acupuncture Examiners are to make recommendations to the Board of Medical Examiners regarding: 1) proposed board rules relating to the practice of acupuncture; 2) granting of acupuncture licenses; and 3) approval of disciplinary actions against acupuncture licensees.

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

The Board of Medical Examiners has oversight authority over the State Board of Acupuncture Examiners in the areas of rulemaking, granting licenses, and approval of disciplinary actions.

E. In general, how often does the policymaking body meet? How many times did it meet in FY 2002? in FY 2003?

The Board of Acupuncture Examiners generally meets four times per year. In FY02, the Board of Acupuncture Board met five times. In FY03, the Board of Acupuncture Board met four times.

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

Prior to serving, Board members receive training in the following areas: 1) enabling statute of the board; 2) agency programs; 3) board rules; 4) role and functions of the board and the departments of the agency; 5) agency budget; 6) agency audit; 7) requirements of open meetings, open records, and administrative procedure laws; 8) requirements of other applicable laws and policies relating to public officials, including conflict of interest laws and ethics policies; 9) travel reimbursement procedures; 10) what to

expect at a board meeting; 11) how much time is involved in serving on the board; and 12) working with other governmental agencies, including the legislature.

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

The Board of Acupuncture Examiners does not have authority over the agency. The Board of Medical Examiners is the agency governing body.

H. If the policymaking body uses subcommittees or advisory committees to carry out its duties, please fill in the following chart. See Exhibit 4 Example or [click here to link directly to the example](#).

Texas State Board of Medical Examiners Texas State Board of Acupuncture Examiners Exhibit 4: Subcommittees and Advisory Committees			
Name of Subcommittee or Advisory Committee	Size/Composition/How are members appointed?	Purpose/Duties	Legal Basis for Committee
Licensure Committee	3-5 members (at least 1 physician, 1 acupuncturist, and 1 public member) appointed by the presiding officer	(A) draft and review proposed rules regarding licensure, and make recommendations to the acupuncture board regarding changes or implementation of such rules; (B) draft and review proposed application forms for licensure, and make recommendations to the acupuncture board regarding changes or implementation of such rules; (C) oversee the application process for licensure; (D) receive and review applications for licensure; (E) present the results of reviews of applications for licensure and make recommendations to the acupuncture board regarding licensure of applicants; (F) oversee and make recommendations to the acupuncture board regarding any aspect of the examination process including the approval of an appropriate licensure examination and the administration of such an examination; (G) draft and review proposed rules regarding any aspect of the examination; (H) make recommendations to the acupuncture board regarding matters brought to the attention of the Licensure Committee.	
Discipline and Ethics Committee	3-5 members (at least 1 physician, 1	(A) draft and review proposed rules regarding the discipline of acupuncturists	

	<p>acupuncturist, and 1 public member) appointed by the presiding officer</p>	<p>and enforcement of Subchapter H of the Act; (B) oversee the disciplinary process and give guidance to the acupuncture board and staff regarding methods to improve the disciplinary process and more effectively enforce Subchapter H of the Act; (C) monitor the effectiveness, appropriateness, and timeliness of the disciplinary process; (D) make recommendations regarding resolution and disposition of specific cases and approve, adopt, modify, or reject recommendations from staff or representatives of the acupuncture board regarding actions to be taken on pending cases. Approve dismissals of complaints and closure of investigations; (E) draft and review proposed ethics guidelines and rules for the practice of acupuncture, and make recommendations to the acupuncture board regarding the adoption of such ethics guidelines and rules; (F) make recommendations to the acupuncture board and staff regarding policies, priorities, budget, and any other matters related to the disciplinary process and enforcement of Subchapter H of the Act; and (G) make recommendations to the acupuncture board regarding matters brought to the attention of the Discipline and Ethics Committee.</p>	
<p>Education Committee</p>	<p>3-5 members (at least 1 physician, 1 acupuncturist, and 1 public member) appointed by the presiding officer</p>	<p>(A) draft and propose rules regarding educational requirements for licensure in Texas and make recommendations to the acupuncture board regarding changes or implementation of such rules; (B) draft and propose rules regarding training required for licensure in Texas and make recommendations to the acupuncture board regarding changes or implementation of such rules; (C) draft and propose rules regarding continuing education requirements for renewal of a Texas license and make recommendations to the acupuncture board regarding changes or implementation of such rules; (D) consult with the Texas Higher Education Coordinating Board regarding educational requirements for schools of acupuncture, oversight responsibilities of each entity, degrees which may be offered by schools of acupuncture; (E) maintain communication with acupuncture schools;</p>	

		<p>(F) plan and make visits to acupuncture schools at specified intervals, with the goal of promoting opportunities to meet with the students so they may become aware of the board and its functions;</p> <p>(G) develop information regarding foreign acupuncture schools in the areas of curriculum, faculty, facilities, academic resources, and performance of graduates;</p> <p>(H) draft and propose rules which would set the requirements for degree programs in acupuncture;</p> <p>(I) be available for assistance with problems relating to acupuncture school issues which may arise within the purview of the board;</p> <p>(J) offer assistance to the Licensure Committee in determining eligibility of graduates of foreign acupuncture schools for licensure;</p> <p>(K) study and make recommendations regarding documentation and verification of records from foreign acupuncture schools;</p> <p>(L) make recommendations to the acupuncture board regarding matters brought to the attention of the Education Committee.</p>	
Executive Committee	<p>Presiding Officer, Assistant Presiding Officer, Secretary-Treasurer, and additional members as necessary to have a minimum of 2 acupuncturists, 1 physician, and 1 public member</p>	<p>(A) review agendum for board meetings;</p> <p>(B) ensure records are maintained of all committee actions;</p> <p>(C) review requests from the public to appear before the board and to speak regarding issues relating to acupuncture;</p> <p>(D) review inquiries regarding policy or administrative procedures;</p> <p>(E) delegate tasks to other committees;</p> <p>(F) take action on matters of urgency that may arise between board meetings;</p> <p>(G) assist the medical board in the organization, preparation, and delivery of information and testimony to the Legislature and committees of the Legislature;</p> <p>(H) formulate and make recommendations to the board concerning future board goals and objectives and the establishment of priorities and methods for their accomplishment;</p> <p>(I) study and make recommendations to the board regarding the role and responsibility of the board offices and committees;</p> <p>(J) study and make recommendations to the board regarding ways to improve the efficiency and effectiveness of the administration of the board pursuant to</p>	

		the Occupations Code, §205.102(b); (K) make recommendations to the board regarding matters brought to the attention of the executive committee.	
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I. How does the policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of the agency?

The Board of Acupuncture Examiners, through its Executive Committee, has a procedure for allowing the public to address issues by making a request to speak at a regularly scheduled board meeting. The Executive Committee then makes a determination as to whether the issue warrants further review and/or research and assigns the issue to the appropriate board committee for action.

III. 3. Policymaking Structure – Physician Assistant Board

A. Please complete the following chart:

Texas State Board of Medical Examiners Exhibit 3: Texas State Board of Physician Assistant Examiners					
Member Name	Term/ Appointment Dates/ Appointed by ____ (e.g., Governor, Lt. Governor, Speaker)	Qualification (e.g., public member, industry representative)	Address	Telephone & Fax Numbers	E-mail Address
Michael H. Belgard, PA-C	6-year term, September 1997- February 2003, appointed by Governor	Licensed Physician Assistant	109 East Main San Augustine, TX 75972	phone 936/275- 2798 fax 936/275- 0152	
G. Al Bendeck, PA- C	6-year term, July 1999-February 2005, appointed by Governor	Licensed Physician Assistant	Oasis Medical Clinic 235 W. Garza Street Slaton, TX 79364	phone 806/828- 3087 fax 806/828- 3138	
Stephen D. Benold, M.D.	6-year term, June 1999-February 2005, appointed by Governor	Licensed Physician	4018 Malaga Drive Georgetown, TX 78626	phone 512/08- 3039 fax 512/868- 3907	
Margaret K. Bentley	6-year term, September 2000- February 2003, appointed by Governor	Public Member	1420 Daventry Drive DeSoto, TX 75115	phone 972/572- 0449 fax 972/644- 3650	
Pamela W. Clark	6-year term, June 1999-February 2005, appointed by Governor	Public Member	Coldwell Banker Pacesetter Steel 5034 Holly Road Corpus Christi, TX 78411	phone 361/992- 9231 fax 361/994- 2924	
Dwight M. Deter, PA-C	6-year term, March 1994-February 2001, appointed by Governor	Licensed Physician Assistant	6225 Loma De Cristo El Paso, TX 79912	phone 915/533- 5486 fax 915/533- 9602	
Tony G. Hedges,	6-year term,	Licensed	104 East 21 st	phone	

D.O.	September 1995-February 2001, appointed by Governor	Physician	Street Littlefield, TX 79339	806/385-6424 fax 806/385-4305	
Timothy Webb	6-year term, September 2000-February 2001, appointed by Governor	Public Member	Law Offices of Webb & Assoc. 3401 Louisiana St. Ste 120 Houston, TX 77002	phone 713/752-0011 fax 713/752-0013	
1 physician vacancy					

B. How is the chair of the policymaking body appointed?

The Chairman of the Board is elected by the board members.

C. Describe the primary role and responsibilities of the policymaking body.

The primary role and responsibilities of the policymaking body are to grant licenses and to approve disciplinary actions against physician assistant licensees. The board also makes recommendations to the Board of Medical Examiners regarding proposed rule changes.

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

The Board of Medical Examiners has oversight authority over the State Board of Physician Assistant Examiners in the area of rulemaking.

E. In general, how often does the policymaking body meet? How many times did it meet in FY 2002? in FY 2003?

The Board of Physician Assistant Examiners generally meets four times per year. In FY02, the Board of Physician Assistant Examiners met five times. In FY03, the Board of Physician Assistant Examiners met four times.

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

Prior to serving, Board members receive training in the following areas: 1) enabling statute of the board (Physician Assistant Licensing Act); 2) agency programs; 3) board rules; 4) role and functions of the board and the departments of the agency; 5) agency budget; 6) agency audit; 7) requirements of open meetings, open records, and administrative procedure laws; 8) requirements of other applicable laws and policies relating to public officials, including conflict of interest laws and ethics policies; 9) travel reimbursement procedures; 10) what to expect at a board meeting; 11) how much time is involved in serving on the board; and 12) working with other governmental agencies, including the legislature.

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

The Board of Physician Assistant Examiners does not have authority over the agency. The Board of Medical Examiners is the agency governing body.

H. If the policymaking body uses subcommittees or advisory committees to carry out its duties, please fill in the following chart. See Exhibit 4 Example or [click here to link directly to the example](#).

(Agency Name)			
Exhibit 4: Subcommittees and Advisory Committees			
Name of Subcommittee or Advisory Committee	Size/Composition/How are members appointed?	Purpose/Duties	Legal Basis for Committee
Licensure Committee	3-4 Members, appointed by the Chairman of the Board	<p>(A) Draft and review proposed rules regarding licensure, and make recommendations to the board regarding changes or implementation of such rules.</p> <p>(B) Draft and review proposed rules pertaining to the overall licensure process, and make recommendations to the board regarding changes or implementation of such rules.</p> <p>(C) Receive and review applications for licensure in the event the eligibility for licensure of an applicant is in question.</p> <p>(D) Present the results of reviews of applications for licensure, and make recommendations to the board regarding licensure of applicants whose eligibility is in question.</p> <p>(E) Make recommendations to the board regarding matters brought to the attention of the Licensure Committee.</p>	Tex Occ Code Ann §204.101
Disciplinary and Ethics Committee	3-4 Members, appointed by the Chairman of the Board	<p>(A) Draft and review proposed rules regarding the discipline of physician assistants and enforcement of the Physician Assistant Licensing Act.</p> <p>(B) Oversee the disciplinary process and give guidance to the board and staff regarding methods to improve the disciplinary process and more effectively enforce the Physician Assistant Licensing Act.</p> <p>(C) Monitor the effectiveness, appropriateness, and timeliness of the disciplinary process.</p> <p>(D) Make recommendations regarding resolution and disposition of specific cases and approve, adopt, modify, or reject recommendations from staff or representatives of the board regarding actions to be taken on pending cases. Approve dismissals of complaints and closure of investigations.</p> <p>(E) Draft and review proposed ethics</p>	

		<p>guidelines and rules for the practice of physician assistants, and make recommendations to the board regarding the adoption of such ethics guidelines and rules.</p> <p>(F) Make recommendations to the board and staff regarding policies, priorities, budget, and any other matters related to the disciplinary process and enforcement of the Physician Assistant Licensing Act.</p> <p>(G) Make recommendations to the board regarding matters brought to the attention of the Disciplinary and Ethics Committee</p>	
Long Range Planning Committee	3-4 Members, appointed by the Chairman of the Board	<p>(A) Formulate and make recommendations to the board concerning future board goals and objectives and the establishment of priorities and methods for their accomplishment.</p> <p>(B) Study and make recommendations to the board regarding the role and responsibility of the board officers and committees.</p> <p>(C) Study and make recommendations to the board regarding ways to improve the efficiency and effectiveness of the administration of the board.</p> <p>(D) Study and make recommendations to the board regarding board rules or any area of a board function that, in the judgment of the committee needs consideration.</p> <p>(E) Study and make recommendations to the board regarding legislative changes pertinent to the practice of Physician Assistants.</p> <p>(F) Study and make recommendations to the board regarding financial issues.</p>	

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

Issues are assigned on a case-by-case basis to the appropriate committee by the Chairman of the Board. Issues not pertaining to Licensure or Disciplinary matters are handled by the Long Range Planning Committee or the full board.

IV. Funding

A. Describe the agency's process for determining budgetary needs and priorities.

The agency budget is derived by using prior year expenditures as a starting point. Additional known expenditures are then adjusted into the budget. All budgetary needs and priorities are discussed within the Senior Management Team at the agency (composed of E.D, Deputy E.D, General Counsel, and all division directors). This team meets once a week. Budgetary needs are discussed as needed and forwarded to the Executive or Finance Committee of the Board if necessary.

PLEASE FILL IN EACH OF THE CHARTS BELOW, USING EXACT DOLLAR AMOUNTS.

B. Show the agency's sources of revenue. Please include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency. See Exhibit 5 Example or [click here to link directly to the example](#).

Texas State Board of Medical Examiners Exhibit 5: Sources of Revenue — Fiscal Year 2002 (Actual)	
Source	Amount
General Revenue	21,093,909.20
Appropriated Receipts	123,138.48
TOTAL	21,217,047.68

C. If you receive funds from multiple federal programs, show the types of federal funding sources. See Exhibit 6 Example or [click here to link directly to the example](#).

Texas State Board of Medical Examiners Exhibit 6: Federal Funds — Fiscal Year 2002 (Actual)				
Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
N/A				-0-
TOTAL				-0-

D. If applicable, please provide detailed information on fees collected by the agency. See Exhibit 7 Example or [click here to link directly to the example](#).

Texas State Board of Medical Examiners Exhibit 7: Fee Revenue and Statutory Fee Levels — Fiscal Year 2002				
Description/ Program/ Statutory Citation	Current Fee/ Statutory maximum	Number of persons or entities paying fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Physician Licensure Application Fee/ Licensing/ Sec. 153.051 Occupations Code	\$600/\$900	2,508	\$1,504,630	General Revenue Fund
Physician Institutional Permit/ Licensing/ Sec. 153.051 Occupations Code	\$45	755	\$33,990	General Revenue Fund
Physician Annual Registration/ Licensing/ Sec. 153.051 Occupations Code	\$130/\$200	52,852	6,870,784	General Revenue Fund
Physician CME Temporary License/ Licensing/ Sec. 153.051 Occupations Code	\$50/\$200	14	\$715	General Revenue Fund
Physician Duplicate Wall Certificate/ Licensing/ Sec. 153.051 Occupations Code	\$45/\$200	45	\$2,025	General Revenue Fund
Physician Temporary License/ Licensing/ Sec. 153.051 Occupations Code	\$50/\$200	2,353	\$117,650	General Revenue Fund

Physician Delinquent Penalty Fee/ Licensing/ Sec. 153.051 Occupations Code	\$50 < 90 days & \$100 > 90 days	1,933	\$96,650	General Revenue Fund
Post Graduate Renewal Permit Fee/ Licensing/ Sec. 153.051 Occupations Code	\$60/\$200	2,551	\$153,075	General Revenue Fund
Post Graduate 1 st Permit/ Licensing/ Sec. 153.051 Occupations Code	\$60/\$200	2,367	\$142,035	General Revenue Fund
Reinstatement for Cause/ Licensing/ Sec. 153.051 Occupations Code	\$150/\$700		-0-	General Revenue Fund
Physician Visiting Professor's Permit/ Licensing/ Sec. 153.051 Occupations Code	\$110	39	\$4,350	General Revenue Fund
Physician Faculty Temporary Permit/ Licensing/ Sec. 153.051 Occupations Code	\$110	256	\$28,220	General Revenue Fund
Post Graduate Fellowship Approval/ Licensing/ Sec. 153.051 Occupations Code	\$250	31	\$7,650	General Revenue Fund
Office Based Anesthesia Fee/ Licensing/ Sec. 153.051 Occupations Code	\$300/\$300	11	\$3,330	General Revenue Fund

Endorsement Fee/ Licensing/ Sec. 153.051 Occupations Code	\$40/\$200	40	\$1,620	General Revenue Fund
NCT Application/ Licensing/ Sec. 153.051 Occupations Code	\$50	478	\$23,945	General Revenue Fund
NCT Registration Renewal/ Licensing/ Sec. 153.051 Occupations Code	\$50	999	\$49,950	General Revenue Fund
NCT Delinquent Penalty/ Licensing/ Sec. 153.051 Occupations Code	\$25	191	\$4,775	General Revenue Fund
Physician Administrative Penalty/ Enforcement/ Sec. 165.003 Occupations Code	Up to \$5,000 per violation	37	\$95,850	General Revenue Fund
Professional Fee/ Licensing/ Sec. 153.053 Occupations Code	\$200/\$200	55,213	\$11,042,750	General Revenue Fund
Non-Profit Organization Permit Application Fee/ Licensing/ Sec. 153.051 Occupations Code	\$2,500	12	\$30,000	General Revenue Fund
Non-Profit Organization Biennial Permit Renewal/ Licensing/ Sec. 153.051 Occupations Code	\$1,000	109	\$109,000	General Revenue Fund
Non-Profit Organization Late Penalty Fee/ Licensing/ Sec. 153.051	\$1,000	6	\$6,000	General Revenue Fund

Occupations Code				
Physician Assistant Licensure Application Fee/ Licensing/ Sec. 204.103 Occupations Code	\$200	383	\$76,650	General Revenue Fund
Physician Assistant Annual Registration/ Licensing/ Sec. 204.103 Occupations Code	\$150	2,752	\$412,753	General Revenue Fund
Physician Assistant CME Temporary License/ Licensing/ Sec. 204.103 Occupations Code	\$50	5	\$288	General Revenue Fund
Physician Assistant Temporary License/ Licensing/ Sec. 204.103 Occupations Code	\$50	325	\$16,295	General Revenue Fund
Physician Assistant Delinquent Penalty Fee (1-90 days)/ Licensing/ Sec. 204.103 Occupations Code	\$50	71	\$3,550	General Revenue Fund
Physician Assistant Delinquent Penalty Fee (>90 days)/ Licensing/ Sec. 204.103 Occupations Code	\$100	22	\$2,250	General Revenue Fund
Physician Assistant Reactivation Fee/ Licensing/ Sec. 204.103 Occupations Code	\$150	1	\$150	General Revenue Fund
Physician Assistant Administrative Penalty/	Up to \$5,000 per		\$5,000	General Revenue Fund

Enforcement/ Sec. 204.351 Occupations Code	violation			
Acupuncture Licensure Application Fee/ Licensing/ Sec. 205.103 Occupations Code	\$300	83	\$24,920	General Revenue Fund
Acupuncture Annual Registration/ Licensing/ Sec. 205.103 Occupations Code	\$250	477	\$119,250	General Revenue Fund
Acupuncture CAE Program Registration/ Licensing/ Sec. 205.103 Occupations Code	\$50	13	\$650	General Revenue Fund
Acupuncture Temporary License/ Licensing/ Sec. 205.103 Occupations Code	\$50	72	\$3,600	General Revenue Fund
Acupuncture Distinguished Professor Temporary License/ Licensing/ Sec. 205.103 Occupations Code	\$50	7	\$350	General Revenue Fund
Acupuncture Delinquent Penalty Fee/ Licensing/ Sec. 205.103 Occupations Code	\$50	30	\$1,500	General Revenue Fund
Acudetox Permit Application Fee/ Licensing/ Sec. 205.103 Occupations Code	\$50	12	\$600	General Revenue Fund
Acudetox Annual	\$25	92	\$2,300	General Revenue Fund

Permit Renewal/ Licensing/ Sec. 205.103 Occupations Code				
Surgical Assistants Application Fee/ Licensing/ Sec. 206.208 Occupations Code	\$300	316	\$94,800	General Revenue Fund
Open Records Request/ Indirect Administration/ Sec. 153.054 Occupations Code	Varies		\$4,828	Appropriated Receipts
Sale of Date Products/ Indirect Administration/ Sec. 153.054 Occupations Code	Varies		\$86,545	Appropriated Receipts
Physician Licensure Application Packet/ Indirect Administration/ Sec. 153.054 Occupations Code	\$20	966	\$19,326	Appropriated Receipts
Physician Assistant Licensure Application Packet/ Indirect Administration/ Sec. 153.054 Occupations Code	\$20	509	\$10,180	Appropriated Receipts
Acupuncture Licensure Application Packet/ Indirect Administration/ Sec. 153.054 Occupations Code	\$20	115	\$2,300	Appropriated Receipts

E. Show the agency's expenditures by strategy. See Exhibit 8 Example or [click here to link directly to the example.](#)

Texas State Board of Medical Examiners Exhibit 8: Expenditures by Strategy — Fiscal Year 2002 (Actual)	
Goal/Strategy	Amount

Goal A: Licensure/A.1.1 Strategy: Licensing	1,522,436.12
Goal B: Enforce Acts/B1.1 Strategy: Enforcement	2,341,086.35
Goal B: Enforce Acts/B.2.1 Strategy: Public Education	187,736.46
Goal C: Indirect Administration/C.1.1 Strategy: Indirect Administration	1,221,952.49
Rider-Contingency Appropriation for HB 1183	70,445.76
Rider-Contingency Appropriation for SB 1166	11,670.00
GRAND TOTAL:	5,355,327.18

F. Show the agency's expenditures and FTEs by program. See Exhibit 9 Example or [click here to link directly to the example.](#)

Texas State Board of Medical Examiners Exhibit 9: Expenditures and FTEs by Program — Fiscal Year 2002 (Actual)					
Program	Budgeted FTEs, FY 2002	Actual FTEs as of August 31, 2002	Federal Funds Expended	State Funds Expended	Total Actual Expenditures
Customer Information Ctr.	7.75	5.75	N/A	205,642.66	205,642.66
Annual Registration & Permits	5.50	5.25	N/A	268,409.65	268,409.65
Physician Applications	16.00	13.50	N/A	522,527.18	522,527.18
Physician Assistants & Acupuncture	4.50	4.25	N/A	195,447.48	195,447.48
Physician Profile	3.00	3.00	N/A	330,409.15	330,409.15
Compliance	7.33	7.00	N/A	331,083.23	331,083.23
Investigations	28.34	28.00	N/A	1,413,427.65	1,413,427.65
Litigation	10.33	16.00	N/A	596,575.47	596,575.47
Public Information	3.25	3.25	N/A	187,736.46	187,736.46
Central Administration	7.00	5.00	N/A	523,220.68	523,220.68

Finance	9.00	8.00	N/A	306,283.31	306,283.31
Computer Services	6.00	5.50	N/A	388,062.91	388,062.91
Rider-Surgical Assistants (HB 1183)	3.00	2.00	N/A	70,445.76	70,445.76
Rider-SB 1166	1.00	1.00	N/A	11,670.00	11,670.00
TOTAL	112.00	107.50		5,355,327.18	5,355,327.18

G. Show the agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2004-2005. See Exhibit 10 Example or [click here to link directly to the example](#). Add columns and rows as necessary.

Texas State Board of Medical Examiners Exhibit 10: Objects of Expense by Program or Function -- Fiscal Year 2004				
Object-of-Expense Informational Listing	Licensing Strategy	Enforcement Strategy	Public Information Strategy	Indirect Administration Strategy
Salaries & Wages	1,130,638	1,808,659	102,679	703,031
Other Personnel Costs	24,593	43,212	1,920	23,357
Operating Costs	842,900	195,680	21,446	79,723
Professional Fees & Services	5,634	174,434	-0-	-0-
Travel	9,525	82,143	-0-	39,264
Capital Expenditures	4,307	5,415	-0-	2,584
Total, FY 2004 Object-of-Expense Informational Listing	2,017,597	2,309,543	126,045	847,959

Objects of Expense by Program or Function -- Fiscal Year 2005				
Object-of-Expense Informational Listing	Licensing Strategy	Enforcement Strategy	Public Information Strategy	Indirect Administration Strategy
Salaries & Wages	1,130,638	1,808,659	102,679	703,031
Other Personnel Costs	24,593	43,212	1,920	23,357
Operating Costs	842,407	195,185	22,433	79,724
Professional Fees & Services	5,634	174,434	-0-	-0-
Travel	9,525	82,143	-0-	39,264
Capital Expenditures	4,307	5,415	-0-	2,584
Total, FY 2005 Object-of-Expense Informational Listing	2,017,104	2,309,048	127,032	847,960

H. Please fill in the following chart. See Exhibit 11 Example or [click here to link directly to the example](#).

Texas State Board of Medical Examiners Exhibit 11: Purchases from HUBs				
FISCAL YEAR 2000				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	N/A			11.9%
Building Construction	N/A			26.1%
Special Trade	376.00	-0-	0%	57.2%
Professional Services	661.00	-0-	0%	20.0%
Other Services	221,096.00	56,327.00	25.48%	33.0%
Commodities	101,840.00	4,625.00	4.54%	12.6%
TOTAL	323,793.00	60,952.00	18.82%	
FISCAL YEAR 2001				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	N/A			11.9%
Building Construction	N/A			26.1%
Special Trade	N/A			57.2%
Professional Services	2,453.00	-0-	0%	20.0%
Other Services	794,808.00	44,508.00	5.60%	33.0%
Commodities	453,605.00	25,805.00	5.68%	12.6%
TOTAL	1,250,866.00	70,313.00	5.62%	
FISCAL YEAR 2002				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	N/A			11.9%
Building Construction	N/A			26.1%
Special Trade	N/A			57.2%
Professional Services	536.00	-0-	0%	20.0%
Other Services	540,199.00	18,112.00	3.35%	33.0%
Commodities	135,702.00	6,301.00	4.64%	12.6%
TOTAL	676,437.00	24,413.00	3.61%	

I. Does the agency have a HUB policy? How does the agency address performance shortfalls related to the policy?

The agency adheres to state laws and purchasing requirements regarding selection of vendors, including use of HUB vendors. The agency does seek HUB vendors as part of the purchasing and procurement

policy and selects HUB vendors as much as possible to fulfill purchasing and/or contract needs. The agency does not have a separate, written HUB policy.

J. For agency with contracts valued at \$100,000 or more:

	Response / Agency Contact
Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available under contracts of \$100,000 or more? (Tex. Government Code, Sec. 2161.252; TAC 111.14)	The agency would rarely have a contract valued at \$100,000 or more for which a subcontract vendor would be appropriate.

K. For agencies with biennial appropriations exceeding \$10 million:

	Response / Agency Contact
Do you have a HUB coordinator? (Tex. Government Code, Sec. 2161.062; TAC 111.126)	Designated HUB coordinator is Ossie Boneparte-Torres, Purchaser I
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? (Tex. Government Code, Sec. 2161.066; TAC 111.127)	No
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? (Tex. Government Code, Sec. 2161.065; TAC 111.128)	No

V. Organization

A. Please fill in the chart below. If applicable, list field or regional offices. See Exhibit 12 Example or [click here to link directly to the example](#).

(Agency Name) Exhibit 12: FTEs by Location — Fiscal Year 2002			
Headquarters, Region, or Field Office	Location	Number of Budgeted FTEs, FY 2002	Number of Actual FTEs as of August 31, 2002
Headquarters	Austin, Travis County	91	87
Field Offices	Bexar County	2	2
Field Offices	Dallas County	6	6
Field Offices	Grayson County	2	2
Field Offices	Harris County	7	7
Field Offices	Lubbock County	2	2
Field Offices	Tarrant County	2	2
TOTAL		112	108

B. What was the agency's FTE cap for fiscal years 2002 - 2005?

Fiscal Year	FTE Cap
2002	112.0
2003	113.0
2004	133.0
2005	133.0

C. How many temporary or contract employees did the agency have as of August 31, 2002?

The Agency did not have any contract employees on August 31, 2002.

D. Please fill in the chart below. See Exhibit 13 Example or [click here to link directly to the example](#).

**Texas State Board of Medical Examiners
Exhibit 13: Equal Employment Opportunity Statistics**

FISCAL YEAR 2000							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	5	0	5%	0	8%	2	26%
Professional	59	6	7%	5	7%	37	44%
Technical	7	1	13%	2	14%	5	41%
Protective Services	0	0	13%	0	18%	0	15%
Para-Professionals	17	2	25%	2	30%	14	55%
Administrative Support	34	7	16%	7	17%	29	84%
Skilled Craft	0	0	11%	0	20%	0	8%
Service/Maintenance	0	0	19%	0	32%	0	27%
FISCAL YEAR 2001							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	5	0	5%	0	8%	2	26%
Professional	55	7	7%	3	7%	37	44%
Technical	7	1	13%	1	14%	4	41%
Protective Services	0	0	13%	0	18%	0	15%
Para-Professionals	16	1	25%	2	30%	14	55%
Administrative Support	36	8	16%	5	17%	30	84%
Skilled Craft	0	0	11%	0	20%	0	8%
Service/Maintenance	0	0	19%	0	32%	0	27%
FISCAL YEAR 2002							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	4	0	5%	0	8%	2	26%

Professional	58	7	7%	4	7%	38	44%
Technical	7	1	13%	1	14%	4	41%
Protective Services	0	0	13%	0	18%	0	15%
Para-Professionals	19	0	25%	2	30%	15	55%
Administrative Support	36	8	16%	5	17%	30	84%
Skilled Craft	0	0	11%	0	20%	0	8%
Service/Maintenance	0	0	19%	0	32%	0	27%

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

The Agency does address equal employment opportunity in the Personnel Policy Manual. All employees and applicants for employment will receive an equal opportunity for employment or advancement without regard to race, color, religion, sex, national origin, age, or disability.

VI.1. Guide to Agency Programs - Central Administration

Please complete this section for each agency program (or each agency function, activity, or service if more appropriate). Copy and paste the question boxes as many times as needed to discuss each program, activity, or function. Please contact Sunset staff with any questions about applying this section to your agency.

A. Please complete the following chart.

(Agency Name) Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Central Administration
Location/Division	Central Administration
Contact Name	Jerry Walker
Number of Budgeted FTEs, FY 2002	7
Number of Actual FTEs as of August 31, 2002	5

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

Support for three boards and one advisory committee
 Prepare agendas, minutes and rules for required postings
 Prepare and distribute meetings materials
 Facilitate meeting arrangements
 Legislative information
 Respond to legislative inquiries
 Track legislative issues and implementation of legislation
 Executive management
 Agency policies and procedures

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

It is assumed that administrative functions have existed since the creation of the board.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

Agency administration will continue to be required

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 serves
agency employees – 113 (133 for FY 04/05)
Medical Board – 19 members as of 9/1/2003
Physician Assistant Board – 9 members
Acupuncture Board - 9 members
Surgical Assistants Advisory Board - 6

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Central Administration functions are managed by the Deputy Executive Director who reports to the Executive Director.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

NA

H. 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).

Legislative appropriation of general revenue generated by agency fees.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

While funding is currently adequate, the restriction on out of state travel (Article IX, Section 5.09, Limitation on Travel Expenditures), which limits travel outside the state to the amount spent during fiscal year 2000. The amount spent for out of state travel during that fiscal year was not representative of the agency's needs or usual expenditures in that a major national training conference for agency staff and board members was held in Texas that year.

This travel restriction has reduced our ability to maintain current knowledge of issues and solutions in medical regulation and diminished the agency's influence in related national policy and legal initiatives.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

There are no internal or external programs that provide the same services or functions.

K. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers. If

applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

See Complaints and Investigations Program.

VI.2. Guide to Agency Programs – Finance

Please complete this section for each agency program (or each agency function, activity, or service if more appropriate). Copy and paste the question boxes as many times as needed to discuss each program, activity, or function. Please contact Sunset staff with any questions about applying this section to your agency.

A. Please complete the following chart.

Texas State Board of Medical Examiners Exhibit 14: Program or Function Information – Fiscal Year 2002	
Name of Program or Function	Indirect Administration
Location/Division	Headquarters/Finance & Administration
Contact Name	Laurie Perez
Number of Budgeted FTEs, FY 2002	9.00
Number of Actual FTEs as of August 31, 2002	8.00

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

Key services of the Finance Division are support functions of the agency. Support functions provided include accounts payable, purchasing, facilities management, cash posting and updating, budgeting and planning, general accounting, mailroom operations (incoming & outgoing mail), payroll, human resources, reporting, and reception area.

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The Indirect Administration strategy was included by the 74th Legislative Session (1996-1997 biennium). There has always been a Finance Division; expenses were allocated among the strategies before the Indirect Administration strategy was created.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

The support functions within the Finance Division have increased along with the increase of the size of the agency. As the agency increases in size and complexity, so does the responsibility to support the agency.

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 Finance Division supports all agency employees on the functions listed above. The division also interacts with many other state agencies with regard to financial and administrative matters. The Finance Division also provides all accounting support to the Health Professions Council. This includes accounts payable, payroll, general accounting, and reporting. This is accomplished through an interagency agreement. In the past, this agency shared functions with the Board of Nurse Examiners. Payroll and accounts payable functions were shared through an interagency agreement during a staff transition time.

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

All staff of the Finance Division is located within the headquarters building in Austin, Texas. Seven staff members report directly to the Director of Finance. Each staff members takes on specific responsibilities with the Finance Division to ensure support is given to the agency in an accurate, timely, and professional manner.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

N/A

H. 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 Finance Division is funded through the Indirect Administration strategy of the appropriations process with General Revenue.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Yes

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

N/A

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

This agency has shared in interagency agreements with other HPC member agencies for copy shop services and courier services through outsourced contracts managed by TSBME.

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

See Complaints and Investigations Program

VI.3. Guide to Agency Programs - Public Education

(Agency Name) Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Public Education
Location/Division	Central Administration
Contact Name	Jane McFarland
Number of Budgeted FTEs, FY 2002	3.25
Number of Actual FTEs as of August 31, 2002	3.25

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

The public education program serves as the major point of contact with members of the news media and the primary source of information regarding agency programs. Functions include the following:

- Media relations: responding to inquiries; disseminating press releases; providing media interviews; coordinating media contact with senior staff and board members
- Preparing publications: gathering information, writing, editing, doing layout, design and pre-press for agency publications; working with printers and other means of dissemination; determining quantities; maintaining databases and coordinating mailing and other means of distribution.
- Presentations: preparing presentations for senior staff and board members; representing agency at meetings and functions.
- Public Information Committee: Providing support for the board's Public Information Committee; coordinating with members of the public who wish to address the board through the committee.
- Customer Outreach Plan: Developing coordinated plan for communication of agency's messages to various segments of its constituencies using various media including publications, presentations and the agency website.

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The function was created to help the agency better fill its mission to protect the public by creating greater public awareness. Prior to creation of the public information officer position, the functions were carried out at a minimal level by various other staff members. The statutory basis is in Texas Occupations Code, **Chapter 154. Public Interest Information And Complaint Procedures** Board Rule 199, Public Information.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

The Public Information Officer position was created in 1994. The duties at that time were media relations, publications, and presentations. During an agency reorganization in 1999, the program was

moved to the Customer Affairs division and additional duties were added, including supervision of the agency's open records function and design and content of the agency web site. Two FTEs were moved from other departments to handle these functions. In 2002, the program reverted to its original functions and was moved into Central Administration to allow greater contact with the executive director and senior staff.

The mission will continue to be ongoing as there will always be a need to inform the public.

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 Public Education Program affects the following:
All agency staff and members of the boards
Media from throughout the state, nation and other countries
All licensees
The public (indirectly through the media)
Elected officials
Health care entities and professional organizations

There are no eligibility requirements.

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The program is administered under the agency's Executive Director. The Public Information Officer reports to the agency's Special Projects Manager who works under the direction of the Deputy Executive Director. The Public Information/Profile Committee of the Medical Board provides policy direction to the program.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

NA

H. 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).

Public Education is funded by general revenue appropriation in the agency's Enforcement Strategy 2.2.1

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Agency funding during the FY02/03 biennium was not sufficient to support public outreach and education programs at the same level as previous years. Publication of the agency newsletter was delayed and the number of pages reduced. Beginning in summer of 2003, the newsletter was produced only in electronic format through the agency's website. With passage of SB 104 by the 78th Legislature, agency appropriations were increased and will provide for increased public education programs.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

There is no other program that provides identical or similar functions. Most large state agencies provide information through a public information officer and each has unique knowledge of his/her agency.

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

NA

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

NA

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

See Complaints and Investigations Program.

VI.4. Guide to Agency Programs - Computer Services

A. Please complete the following chart.

Texas State Board of Medical Examiners Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Computer Services
Location/Division	Customer Affairs
Contact Name	Jaime Garanflo
Number of Budgeted FTEs, FY 2002	6.0
Number of Actual FTEs as of August 31, 2002	5.5

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

Computer Services provides programming and technical support services to the agency. A custom-written automated information system tracks all facets of the agency's services, from cash receipting, to licensure to enforcement. In addition, technical staff provide network administration, PC support, and technical programming services for the agency's web site.

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The program was created in the late 1980's when the agency's automated information functions were moved from a service provider to in-house staff. There are no statutory requirements for it.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

Originally the program consisted of two programmers and has grown over time to handle the increased automation needs of agency staff and customers.

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.

Most users are agency staff, located in Austin. The agency's field investigators also utilize PCs and the automated information system and are supported by Computer Services. The public is able to browse TSBME data and service information via the agency's web site.

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

This program is administered by the Customer Affairs Division of the agency. The manager of the department reports directly to the Director of Customer Affairs. Staff include the manager, 3 programmers, a network administrator and PC support specialist.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

Not applicable.

H. 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).

This program is funded through the agency's licensure strategy via funds appropriated by the legislature (general revenue).

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

None.

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

Not applicable.

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

Computer Services recently (July 2003) implemented a new automated information system, custom-written by in-house programming staff. It brings the system into the Windows environment, with a graphical user interface, and will allow for easier modification as statute and rules change over time. The program is in the midst of preparing for changes required due to the passage of SB 104 in the last legislative session, which expands Enforcement activities and creates new data reporting requirements..

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

Not applicable.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

See Complaints and Investigations Program.

VI. 5. Guide to Agency Programs - Customer Information Center

A. Please complete the following chart.

Texas State Board of Medical Examiners Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Customer Information Center
Location/Division	Customer Affairs
Contact Name	Jaime Garanflo
Number of Budgeted FTEs, FY 2002	7.75
Number of Actual FTEs as of August 31, 2002	5.75

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

The Customer Information Center (CIC) is the front line of the agency. The CIC representatives provide information about the agency's licensees, programs, rules and statute to members of the public and other customers. This information is provided by phone, electronically and in writing. Responsibility for the content and format of agency's web site and sale of data is also a part of this program.

As of 9/1/02, the CIC began screening applicants for physician licensure, and corresponding with the applicants to advise them of their status.

Total Calls – Verifications, Licensure, Permits, Hotline	11,313
In-House Written Verifications of Physicians	5,216
Automated (Dial up) HCE Verifications of Physicians	5,438
Automated (Dial up) Public Verifications of Physicians	21,536
TSBME Public Web-Based Verifications	10,834
TSBME Profile Verifications	N/A
Total Written/Automated Verifications	43,024
State Board Verifications	266
Total - All Types of Verifications and Calls	54,336
Enforcement Complaint Brochures Mailed	664
Renewals	
Renewals for Permits Dept. (represents 45% of total sent by agency)	168
Responses from General Agency E-Mail Account	526
Queued Calls	
Percentage of calls answered without going to queue	59%
Average speed of answer for calls in queue	0:20
Products Sold	
Data Products (Rev Cd 4457)	\$7,259.19

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The CIC in its current format was created in 1999 following a study of the agency by KPMG. KPMG recommended a dedicated customer service function for a first line of incoming customer contact.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

Before the KPMG study, the CIC existed as the Verifications Department and handled only requests for information about licensees. The CIC has expanded since then and become an integral part of the agency. The CIC provides general information about all agency programs so that the program staff can concentrate on their detailed work. With the advent of the screening process, the agency was able to reduce the time to license physician applicants and improve communication with all parties. This program will always be needed within the agency.

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.

Entities served by this program include:

- Consumers of health care
- Complainants
- Licensees (physicians, physician assistants, acupuncturists, surgical assistants)
- Permit holders
- Applicants for licensure
- Health care entities
- Internal agency program staff
- Other state medical boards
- Other government agencies
- Law enforcement personnel

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

This program is administered by the Customer Affairs Division of the agency. The manager of the department reports to the Director of Customer Affairs. Staff include the manager, a lead representative and 5 CIC representative positions.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

Not applicable.

H. 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).

This program is funded through the agency's licensure strategy via funds appropriated by the legislature (general revenue).

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

The duties and responsibilities of the CIC representatives in this program have expanded considerably. Staff retention issues based in state benefits reduction and increased demands of the position will have to be addressed.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

None.

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

Not applicable.

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

Not applicable.

VI. 6. Guide to Agency Programs - Physician Licensure

A. Please complete the following chart.

Texas State Board of Medical Examiners Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Physician Licensure
Location/Division	Customer Affairs
Contact Name	Jaime Garanflo
Number of Budgeted FTEs, FY 2002	16
Number of Actual FTEs as of August 31, 2002	13.5

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

This program administers the application processing and initial license issuance for physicians. Activities include:

- Communication with prospective applicants
- Data entry of application information
- Review, investigation and analysis of applications
- Recommendations of eligibility of applicants to Executive Director and Board
- On-going communication with applicants
- Administrative support to the Texas State Board of Medical Examiners
- Reports and recommendations to Executive Director and Board regarding rules

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

Licenses to practice medicine are governed by Texas Occupations Code Chapter 155, Board Rules Chapter 163. The function has been in existence since the creation of the Texas State Board of Medical Examiners. The purpose of the program is to ensure that only qualified physicians become licensed in Texas.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

This function is on-going; there will not be a time when it is no longer needed.

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.

Entities served by this program include:

- Patients in need of services to be provided by newly licensed physicians

- Entities employing/recruiting physicians
- Physician applicants
- Board and committee members

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

This program is administered by the Customer Affairs Division of the agency. The manager of the department reports to the Director of Customer Affairs. Staff include the manager, senior investigators and junior investigators. Applications are received by the mail room and forwarded to the program for data entry. The Customer Information Center screens the applications to determine if the required documents have been received. Once all documents are in, the files are forwarded to this program for investigation and content analysis. Staff advise the applicant of any items lacking to make a determination of eligibility. Questions related to an applicant's eligibility are presented to the Executive Director, who may make a determination or refer the applicant to a committee of a board for a determination.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

Not applicable.

H. 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).

This program is funded through the agency's licensure strategy via funds appropriated by the legislature (general revenue).

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Current funding resources are sufficient, however, additional resources would be needed in the future if services are to be expanded.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

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

L. Please provide any additional information needed to gain a preliminary understanding of the

program or function.

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

Why Regulation is Needed

- To ensure that the licensed physicians meet minimum qualifications for licensure and practice in compliance with the statute.

Inspections, Audits

Please see the guides for the Complaints and Investigations Program.

Non-Compliance Activities

Please see the guides for the Complaints and Investigations programs.

Sanctions Available

Please see the guides for the Complaints and Investigations programs.

Complaint Procedures

Please see the guides for the Complaints and Investigations programs.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

Please see Complaints and Investigations program.

VI.7. Guide to Agency Programs - Physician Assistant and Acupuncture

A. Please complete the following chart.

Texas State Board of Medical Examiners Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Physician Assistant and Acupuncture Program
Location/Division	Customer Affairs
Contact Name	Jaime Garanflo
Number of Budgeted FTEs, FY 2002	4.5
Number of Actual FTEs as of August 31, 2002	4.25

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

This program administers the application processing and initial license issuance of physician assistants, acupuncturists and acudetox specialists. This program is also responsible for the initial and biennial certification of non-profit health organizations. The process for prescriptive delegation waivers became law last session, and this program also manages that process. Activities include:

- Communication with prospective applicants/organizations
- Data entry of application information
- Review, investigation and analysis of applications
- Recommendations of eligibility of applicants to Executive Director and Board
- On-going communication with applicants
- Biennial recertification of non-profit health care organizations
- Administrative support to the Texas State Board of Acupuncture Examiners, the Texas State Board of Physician Assistant Examiners, the Texas State Board of Medical Examiners and the Prescriptive Delegation Waiver Committee
- Reports and recommendations to Executive Director and Board regarding rules

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

Physician assistants – Texas Occupations Code Chapter 204 (this statute was passed in 1993, creating the Texas State Board of Physician Assistant Examiners with 9 members), Board Rules Chapter 185. Prior to 1993, physician assistants were simply registered with the Texas State Board of Medical Examiners. The purpose of the current program is to ensure that only qualified physician assistants become licensed in Texas.

Acupuncturists – Texas Occupations Code Chapter 205 (this statute was passed in 1993, creating the Texas State Board of Acupuncture Examiners with 9 members), Board Rules Chapter 183. Prior to 1993, acupuncturists were simply registered with the Texas State Board of Medical Examiners. The purpose of the current program is to ensure that only qualified acupuncturists become licensed in Texas.

Acudetox Specialists – Texas Occupations Code Chapter 205.303 (added in 1997 by the 75th Legislature), Board Rules Chapter 183. The purpose of the program is to allow the practice of acupuncture for the treatment of alcoholism, substance abuse or chemical dependency by a non-licensed acupuncturist under certain conditions.

Prescriptive Delegation Waivers – Texas Occupations Code Chapter 157.0542 (added in 2001 by the 77th Legislature), Board Rules Chapter 193.6. The purpose of the program is to allow waiver of site or supervision requirements for a physician to delegate the carrying out or signing of prescription drug orders to an advanced practice nurse or physician assistant.

Nonprofit Health Corporations – Texas Occupations Code Chapter 162.001-162.003 (added in 1981 by the 67th Legislature), Board Rules Chapter 177. The purpose of the program is to allow certain nonprofit health corporations to employ physicians without the physicians violating the statute regarding corporate practice of medicine.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

These function are on-going; there will not be a time when they are completed.

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.

Entities served by this program include:

- Patients receiving the services of licensed physician assistants, licensed acupuncturists, and certified acudetox specialists
- Entities employing the licensees and certificate holders listed above
- Physician assistant applicants, acupuncturist applicants, acudetox specialist applicants, nonprofit health organization applicants
- Patients receiving services through a nonprofit health organization certified by the board
- Board and committee members

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

This program is administered by the Customer Affairs Division of the agency. The manager of the department reports to the Director of Customer Affairs. Staff include the manager and three staff positions. Applications are received by the mail room and forwarded to the program for data entry. Staff then perform initial review and advise the applicant of any items lacking to make a determination of eligibility. Questions related to an applicant's eligibility are presented to the Executive Director, who may make a determination or refer the applicant to a committee of a board for a determination.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

Not applicable.

H. 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).

This program is funded through the agency's licensure strategy via funds appropriated by the legislature (general revenue).

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Current funding resources are sufficient, however, additional resources would be needed in the future if services are to be expanded.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

None.

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

Not applicable.

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

Why Regulation is Needed

- To ensure that the licensed physician assistants, licensed acupuncturists, and certified acudetox specialists meet minimum qualifications for licensure and practice in compliance with the statute.
- To ensure that certified nonprofit health organizations meet eligibility criteria set out in statute.

Inspections, Audits

Please see the guides for the Complaints and Investigations programs.

Non-Compliance Activities

Please see the guides for the Complaints and Investigations programs.

Sanctions Available

Please see the guides for the Complaints and Investigations programs.

Complaint Procedures

Please see the guides for the Complaints and Investigations programs.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

Please see Complaints and Investigations program.

VI.8. Guide to Agency Programs - Surgical Assistants

Texas State Board of Medical Examiners Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Surgical Assistants
Location/Division	Customer Affairs
Contact Name	Jaime Garanflo
Number of Budgeted FTEs, FY 2002	3.0
Number of Actual FTEs as of August 31, 2002	2.0

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

This program administers the application processing and initial license issuance of surgical assistants. The activities include:

- Communication with prospective applicants
- Data entry of application information
- Review, investigation and analysis of applications
- Recommendations of eligibility of applicants to Executive Director and Board
- On-going communication with applicants
- Administrative support to Surgical Assistants Advisory Committee and Surgical Assistants Ad Hoc Committee
- Reports and recommendations to Executive Director and Board regarding rules

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

This program was created by the 77th Legislature and became effective September 1, 2001. Chapter 206 of the Occupations Code lays out the provisions for licensing and enforcement of surgical assistants and is further defined in Board Rules, Chapter 184. It should be noted that although an individual may not use the title “Licensed Surgical Assistant” without holding a license as such, a license to practice as a surgical assistant is not required for an individual to practice surgical assisting, if that individual is acting under the delegated authority of a licensed physician.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

This is a relatively recent program, however, the number of applications received, other than those filing under the grandfathering provisions, has been extremely low. Between September 1, 2001 and August 31, 2002, the board received 375 applications, almost all of which qualified under the grandfathering provisions. Between September 1, 2002 (the deadline for filing under the grandfather provisions) and June 4, 2003, the board received only 15 surgical assistant applications. Because of this low number of applicants, the Surgical Assistants Ad Hoc Committee of the board recommended that this information be

brought to the attention of the Sunset Advisory Committee during the agency's review, and the full board ratified that recommendation.

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.

Entities served by this program include:

- Patients receiving the services of licensed surgical assistants
- Physicians and other entities employing licensed surgical assistants
- Surgical assistant applicants

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

This program is administered by the Customer Affairs Division of the agency. The manager of the department reports to the Director of Customer Affairs. Staff include the manager and two staff positions. Applications are received by the mail room and forwarded to the program for data entry. Staff then perform initial review and advise the applicant of any items lacking to make a determination of eligibility. Questions related to an applicant's eligibility are presented to the Executive Director, who may make a determination or refer the applicant to the board's Surgical Assistant Ad Hoc Committee for a determination.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

Not applicable.

H. 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).

This program is funded through the agency's licensure strategy via funds appropriated by the legislature (general revenue).

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Yes.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

None.

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

Not applicable.

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

None.

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

Why Regulation is Needed

To ensure that the licensed surgical assistants meet minimum qualifications for licensure and practice in compliance with the statute.

Inspections, Audits

Please see the guides for the Complaints and Investigations programs.

Non-Compliance Activities

Please see the guides for the Complaints and Investigations programs.

Sanctions Available

Please see the guides for the Complaints and Investigations programs.

Complaint Procedures

Please see the guides for the Complaints and Investigations programs.

See Complaints and Investigations Program.

VI. 9. Guide to Agency Programs - Permits and Registration

A. Please complete the following chart.

Texas State Board of Medical Examiners Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Permits and Registration Program
Location/Division	Customer Affairs
Contact Name	Jaime Garanflo
Number of Budgeted FTEs, FY 2002	5.5
Number of Actual FTEs as of August 31, 2002	5.25

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

This program conducts registration of physician, physician assistant and acupuncturist licensees, registration and renewal of non-certified radiologic technicians, registration of acudetox specialists, issuance/renewal of various postgraduate training permits. Activities include:

- Communication with applicants and licensees
- Data entry of application, registration and renewal information
- Review, investigation and analysis of applications, registrations and renewals
- Recommendations of eligibility to Executive Director and Board
- On-going communication with applicants
- Administrative support to the Texas State Board of Medical Examiners
- Reports and recommendations to Executive Director and Board regarding rules

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

Physician registration – Texas Occupations Code Chapter 156, Board Rules Chapter 166. The purpose of the program is to ensure that licensees meet ongoing requirements.

Physician Assistant registration – Texas Occupations Code Chapter 204.156-204.1565, Board Rules Chapter 185. The purpose of the program is to ensure that licensees meet ongoing requirements.

Acupuncturist registration – Texas Occupations Code Chapter 205.251-205.255, Board Rules Chapter 183. The purpose of the program is to ensure that licensees meet ongoing requirements.

Non-certified radiologic technician registration and renewal – Texas Occupations Code Chapter 601.252. Board Rules Chapter 194. The purpose of the program is to ensure that the technicians meet initial and ongoing requirements.

Acudetox specialist registrations – Texas Occupations Code Chapter 205.303, Board Rules Chapter 183.14. The purpose of the program is to ensure that the acudetox specialists meet ongoing requirements.

Postgraduate training permit issuance/registration – Texas Occupations Code Chapter 155.105, Board Rules Chapter 171. The purpose of the program is to ensure that the permit holders meet initial and ongoing requirements.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

These function are on-going; there will not be a time when they are completed.

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.

Entities served by this program include:

- Patients receiving the services of licensees and registrants
- Entities employing the licensees and registrants
- Applicants for the various permits
- Board and committee members

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

This program is administered by the Customer Affairs Division of the agency. The manager of the department reports to the Director of Customer Affairs. Staff include the manager, two staff positions responsible for registration of licensees and non-certified radiologic technicians, and two positions responsible for postgraduate training permits. Applications and registrations are received by the mail room and forwarded to the program for data entry and processing. Staff then perform initial review and advise the applicant of any items lacking to make a determination of eligibility, if required. Questions related to an applicant's eligibility are presented to the Executive Director, who may make a determination or refer the applicant to a committee of a board for a determination.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

Not applicable.

H. 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).

This program is funded through the agency's licensure strategy via funds appropriated by the legislature (general revenue).

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Current funding resources are sufficient, however, additional resources would be needed in the future if services are to be expanded.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

None.

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

Not applicable.

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

Why Regulation is Needed

- To ensure that the licensees, permit holders and registrants meet minimum qualifications for licensure and practice in compliance with the statute.

Inspections, Audits

Please see the guides for the Complaints and Investigations programs.

Non-Compliance Activities

Please see the guides for the Complaints and Investigations programs.

Sanctions Available

Please see the guides for the Complaints and Investigations programs.

Complaint Procedures

Please see the guides for the Complaints and Investigations programs.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

See Complaints and Investigations Program.

VI.10. Guide to Agency Programs - Complaints and Investigations

A. Please complete the following chart.	
Texas State Board of Medical Examiners Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Complaints & Investigations Department
Location/Division	Austin and 16 Field Offices
Contact Name	Mari Robinson
Number of Budgeted FTEs, FY 2002	28.34
Number of Actual FTEs as of August 31, 2002	28.00

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

The key services of this department are to receive, process, file, and investigate complaints against licensees. The major activities involved in providing these services are:

1. Receiving the complaints via the mail, e-mail, and by telephone and routing the complaints through the evaluation system.
2. Determining which complaints fall within the jurisdiction of the board.
3. Gathering all evidence and information pertinent to jurisdictional complaints to allow the board to make an appropriate resolution for each complaint.
4. Maintaining all files and records related to the complaints.
5. Answering inquiries into current complaints and the history of licensees.
6. Corresponding with licensees and complainants.
7. Drafting reports related to investigations of jurisdictional complaints.
8. Giving testimony in informal and formal hearings concerning complaints.

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

This Department was established at least as early as 1954 to investigate complaints received by the board, including communicating with complainants, licensees, and other governmental agencies about the

complaints. The statutes that pertain to this department are in the Medical Practices Act, §§ 153.006, 153.007, 153.012, 154.051-.058, Chapter 164, 204.251-.305, 205.152, 205.351, 206.153-.159, and 206.302-.309.

D. Describe any important history not included in the general agency history department, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

This department will always be needed.

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.

This Department affects the citizens of the state of Texas and potentially every licensee of the Board of Medical Examiners. It is the function of this department to identify those licensees that present a danger to the public and provide the necessary evidence and information to allow for the appropriate actions to be taken with regard to these licensees. Every citizen, including licensees, could be a complainant or a witness. Additionally, any licensee could be the subject of a complaint brought before the board.

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

A complaint is sent to the board and received by this department. The complaint is analyzed to determine if the complaint is jurisdictional or not, and more information may be requested from the complainant before this determination is made. If a complaint is determined to be non-jurisdictional, the complainant is notified of this decision. A percentage of these complaints are reviewed by the Disciplinary Process Review Committee (DPRC). If a complaint is determined to be jurisdictional, it is assigned to a field investigator. The subject licensee is informed that a complaint has been opened against him. The field investigator gathers all pertinent information and evidence relating to the complaint, including a consultant opinion when necessary. The field investigator then writes a final report with a recommendation as to whether the complaint should be referred to DPRC for consideration of dismissal or to the legal department for further action on the complaint.

If a case is referred to DPRC it must be reviewed and accepted by the Manager of Investigations, who may send the complaint back for further investigation if necessary. If the Manager of Investigations accepts the recommendation to send the case to the DPRC, the complaint will be reviewed at the next meeting of the DPRC. At that time, the DPRC can approve the case for closure (which will also require approval by the full board), return the case to the field investigator to gather more information, or forward the case to the legal department for further action on the complaint.

If a case is referred to the legal department for further action on the complaint, it must be reviewed and accepted by the Manager of Investigations, the Manager of Legal, and the Executive Director (if a standard of care case)/Deputy Executive Director (if a non-standard of care case). Any of these reviewers may send the complaint back for further investigation if necessary or refer the case to DPRC. If the case is accepted to the legal department, it is handled by the legal department from that point on.

In addition to the above, the complainant and the subject licensee are informed of the status of the complaint every 90 days. Requests by other entities are processed on an as received basis.

***It is important to note that many aspects of this procedure will change in FY'04.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

This department, particularly field investigators, maintains relationships with state and local police departments and any other law enforcement agencies (DEA, FBI, etc) that may have involvement with licensees. In addition, this department responds to requests for information from other governmental entities.

H. 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).

Appropriations

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Yes. While the agency has been under funded in the past, it is believed SB 104 has provided for sufficient future funds to achieve the goals of this department.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

For licensees that commit a crime, other law enforcement agencies may also be investigating a licensee. However, such agencies often choose not to pursue such cases. When they do pursue a case, it is for violation of the criminal law while we are investigating possible violations of the Medical Practices Act.

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

If we are notified of the other investigation, we often try to work in concert with other law enforcement agencies.

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

N/A

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

All of the requested information is provided in the sections above.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

Texas State Board of Medical Examiners Investigations Division Exhibit 15: Complaints <u>Against</u> Regulated Entities or Persons – Fiscal Years 2001 and 2002		
	FY 2001	FY 2002
Number of complaints received	1,365 jurisdictional (4,648 total)	1,725 jurisdictional (5,164 total)
Number of complaints resolved	1,118 (jurisdictional)	1,773 (jurisdictional)
Number of complaints dropped/found to be without merit (non-jurisdictional)	3,283	3,439
Number of sanctions	108	203
Number of complaints pending from prior years	No corresponding data measure available	No corresponding data measure available
Average time period for resolution of a complaint	354 (physicians)	308 (physicians)
Number of entities inspected or audited by the agency	NA	NA
Total number of entities or persons regulated by the agency	54,374	55,579

VI.11. Guide to Agency Programs - Litigation

A. Please complete the following chart.

(Agency Name) Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	LITIGATION
Location/Division	
Contact Name	STEPHEN WHITE
Number of Budgeted FTEs, FY 2002	18
Number of Actual FTEs as of August 31, 2002	18

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

The litigation department is responsible for the prosecution of all disciplinary actions brought by the agency against licensees and permit holders. The key services of the department are to handle all aspects of the resolution of disciplinary cases through the informal and formal processes. The major activities involved in providing these services:

1. Receiving an investigation that has been approved for litigation; assigning the case to an attorney; and establishing any special priority.
2. Organizing and preparing the investigation information into a packet of allegation and evidence (ISC packet) to be distributed to the licensee under review (and any attorney of the licensee), the board representatives who are scheduled to serve on the panel, and the hearings counsel.
3. Representing the agency in the presentation of the alleged violation at the informal hearing (ISC).
4. Preparing and distributing the draft of the agreed order that includes the terms and conditions recommended by the panel for informal resolution of the matter.
5. Communicating with the licensee (or the attorney) concerning the agreed order.
6. Preparing the final agreed order for signature by the licensee.
7. Presenting the final agreed order for action.
8. Following up as needed on the board's action regarding the agreed order.
9. If the case is not resolved by an agreed order, filing a Formal Complaint at the State Office of Administrative Hearings (SOAH).
10. Handling all aspects of presenting the case at SOAH to include drafting of pleadings, written discover, dispositions, briefs, and the oral and written argument.
11. Developing any needed exceptions to the Proposal for Decision.
12. Presenting the case to the board for action on the Proposal for Decision.
13. Preparing the order of the board in the case.

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The Medical Practice Act mandates the Board discipline licensees for violations of the Act.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

There is no foreseeable time when the program function will no longer be needed.

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.

Effects physicians, physician assistants and acupuncturists. Indirectly affects complainants and the public in general when decisions are made to allow, or not to allow a licensee to continue to practice.

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Litigation staff are supervised by the Litigation Manager who reports to the General Counsel.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

We work with DPS, local law enforcement agencies and prosecutors, the U.S. Attorney's Office.

H. 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).

All funding comes from the general revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Additional funding effective 1 Sept 03 will be adequate to meet agency litigation needs..

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

No other program in the agency provides litigation services regarding TSBME licensees.

K. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers. If

applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

- why the regulation is needed; To protect the public from incompetent, impaired or dishonest physicians
- the scope of, and procedures for, inspections or audits of regulated entities; We are authorized to do drug audits of physicians. We are authorized to issue subpoenas.
- follow-up activities conducted when non-compliance is identified; We have an extensive Compliance Program once a physician is placed on an order including drug testing, additional training and testing, and monitoring of a physician's practice
- sanctions available to the agency to ensure compliance; and The Board can revoke or suspend the license of a physician or place the physician on probation under various terms and conditions
- procedures for handling consumer/public complaints against regulated entities.

All complaints are reviewed and investigations are opened if appropriate

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

See Complaints and Investigations Program.

VI. 12. Guide to Agency Programs - Compliance

(Agency Name) Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Compliance
Location/Division	Austin and 4 Field Offices
Contact Name	Ivan Hurwitz
Number of Budgeted FTEs, FY 2002	7.33
Number of Actual FTEs as of August 31, 2002	7.00

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

Monitor and assure probationers' compliance with Board Orders. Compliance Officers serve as liaison to licensees sanctioned by the Board. The Compliance Section reviews Board Orders, meets with probationers to explain probation requirements, assists in the approval process for evaluators, monitors, trainers, treating physicians, etc. and oversees the alcohol/drug screening program. The Compliance Section identifies potential violations of probation and prepares reports, documents, and testimony for Board hearings. Compliance Officers routinely appear before investigative Panels to report on probationers' adherence to Board mandates.

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The Compliance Section was established in 1987 with the intention of offering the Board assurance that licensees were sanctioned, rehabilitated, and/or retrained according to its directives. MPA – 164.010 – 1993,

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

NO

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 Compliance Section potentially affects every licensee of the Board of Medical Examiners. Any licensee who is found to be in violation of the Medical Practice Act or of Board Rules is subject to discipline by the Board and subsequent monitoring by the Compliance Section.

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The presiding Officer of the Board signs an Order. The Order is forwarded to the Compliance Section where the probationer is assigned to a Compliance Officer. The Compliance Officer personally visits the probationer to discuss the Order. Assistance is provided in obtaining approval for mandated education, evaluation or treatment that is required. Compliance Officers provide on-going monitoring of probationers' activities to assure that they are adhering to the Board's directives. Where deviations are noted, the Compliance Section prepares a report delineating potential violations. If deemed appropriate, a hearing for the probationer is scheduled before a Panel of the Board. Compliance Officers testify as needed. A significant number of probationers are required to participate in a drug-screening program. The Compliance Section monitors the program that is contracted for this activity as well as the probationers that are mandated to participate in it. The Compliance Section makes recommendations to the Board concerning the on-going status of probationers' licenses.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

Compliance Officers maintain relationships with parole officers, State and local police departments and any other law enforcement agencies (DEA, FBI, etc) that may have involvement with their probationers.

H. 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).

Appropriations

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

As the number of licensees who are practicing under an Order of the Board increase, it is anticipated that the funding for additional personnel to monitor these probationers will increase as well.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

For a small number of licensees who have been convicted of a crime, parole officers provide similar services. Parole officers, presumably, do not have extensive access to medicine-related resources, as would Medical Board staff. Monitoring of drug/alcohol addicted licensees is performed by some professional societies. The professional societies have no ability to compel compliance or to sanction for non-compliance.

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

Compliance Officers establish personal contact with the parole officer assigned to any probationer assigned to him or her. The Compliance Officer shares such information as is public with the PO and vice versa. The drug monitoring programs of the professional societies are permitted, in some cases, to monitor licensees so long as they and the probationer agree that all information gathered through the monitoring is shared with the Board.

L. Please provide any additional information needed to gain a preliminary understanding of the

program or function.

N/A

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

Imposition of sanctions or retraining or rehabilitation would be pointless without a method of verification. The Compliance Section provides affirmation of the Board effectiveness. Compliance Officers provide on-going interaction with probationers, report on non-compliance and prepare files for the Board to determine issues of non-compliance. The Board determines appropriate sanctions based upon merits of the individual case.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

See Complaints and Investigations Program

VII. Agency Performance Evaluation

A. What are the agency's most significant accomplishments?

In 1999, TSBME contracted with KPMG for a study which resulted in a complete reorganization of the agency along functional lines, eliminating duplication of processes between programs. Extensive process revisions and further reorganization of personnel were undertaken during the last two years to achieve even greater efficiency in all program areas.

Licensure: Since the beginning of FY 2003, TSBME has decreased the average time to complete initial physician licensure applications from an average of 134 days to an average of 22 days for new applications filed after 9/1/02. This was accomplished by involving the Customer Information Center staff in the initial screening and applicant contact to assure licensure staff receive complete applications ready for analysis. The licensure application form was reduced from 49 pages to as few as eight pages which also increased processing efficiency.

New efficiencies in the permit process for Physician in Training permits greatly reduced the staff time required to issue permits.

Enforcement: Staffing has been reorganized and processes revised to create both increased efficiency and an improved quality of product. The average time to complete an investigation has been reduced from 283 days to a current target of 125 days. The board has set a standard of 125 days for closure of litigation cases through filing at SOAH or completion of an agreed order. The agency implemented a new system of drug screening for probationers resulting in improved and expedited identification of physicians who are not in compliance.

The number of disciplinary actions increased dramatically between calendar year 2001 and 2002:

	2001	2002
Total disciplinary actions	142	241
Temporary suspensions	7	30
Revocations/surrenders of licenses	23	42
License suspensions	19	43
License restrictions	49	70
Administrative penalties	29	57
Penalties dollar amounts	76,800	356,380
Contested cases filed at SOAH	8	57

It is also a significant accomplishment that the turnover in staff attorneys, once a major handicap, has been greatly reduced during FY 2003. Currently, all staff attorneys have at least one year of tenure.

Financial management: The agency reallocated resources to achieve required budget cuts in FY 03 while effectively fulfilling its core mission and meeting increased workloads.

B. Describe the internal process used to evaluate agency performance, including how often performance is formally evaluated and how the resulting information is used by the

policymaking body, management, the public, and customers.

Internal evaluation is data-driven and constant. Data is collected at each point in the licensure and enforcement processes. Deadlines and performance data are tracked. Budget reports are prepared and reviewed monthly. All data is reviewed by the Senior Management Team, Executive Management Team and the Board. The Board has set performance goals such as the reduction in time to complete investigations and litigation of complaints. The agency also utilizes findings from an internal audit and external audits by the State Auditor and Comptroller.

C. What are the agency's biggest opportunities for improvement?

Agency staff have identified the following areas where they would like to improve:

Improved procedures to assure consistency and quality in enforcement.
Appropriate and effective allocation of resources to achieve disciplinary goals of agency.
Effective management of paper and elimination of paper that is not useful.
Improved management of data to provide better access, analysis, and interpretation of data.
Improved communication with other agencies and with complainants.
Establish clear expectations regarding the disciplinary process. Communicate the cause and effect of violation of the Medical Practice Act.
Training to improve staff effectiveness.
Improved ongoing training of board and district review committee members.
Utilization of the expertise of former board members.

D. How does the agency ensure its functions do not duplicate those of other entities?

The agency performs only those functions within its statutory authority which is not duplicated in the statutes of other agencies.

E. Are there any other entities that could perform any of the agency's functions?

There are no other agencies with statutory authority to perform the functions of TSBME.

F. What process does the agency use to determine customer satisfaction and how does the agency use this information?

The agency conducts a formal survey of customer satisfaction once each biennium. Surveys are mailed to nine identified customer groups. A tenth group is composed persons who call the agencies toll-free number with requests and are asked to complete an oral survey. Survey ratings are used to determine areas of relative weakness.

Informal feedback through individual and institutional customers, elected officials and media have proven more reliable in determining customer satisfaction than formal surveys. Survey ratings have reflected a high level of satisfaction and no category of service has received negative ratings from more than 21 per cent of respondents. However, the agency had anecdotal evidence that there were customer service problems related to both the licensure and disciplinary

processes. The board and agency staff responded by reorganizing process and staffing to improve service to both licensees and the public.

G. Describe the agency's process for handling complaints against the agency, including the maintenance of complaint files and procedures for keeping parties informed about the process. If the agency has a division or office, such as an ombudsman, for tracking and resolving complaints from the public or other entities, please provide a description.

The agency has a designated the Director of Customer Affairs as the Customer Relations Representative to receive complaints about the agency's facilities, staff, communications, Internet site, complaint handling process, timeliness of service delivery or printed information.

Every effort will be made by agency staff members to resolve concerns when customers contact the agency. If concerns cannot be resolved by telephone, agency staff direct customers to submit written complaints by mail, fax or e-mail to Director of Customer Affairs.

Within two working days of receipt of the complaint, the Director of Customer Affairs will:

- Log the complaint
- Provide a copy of the complaint to the appropriate Division Director(s)

Within the next two weeks, the Division Director(s) involved will:

- Investigate the complaint
- Summarize their findings
- Prepare a response to send to the complainant
- Forward the response to the customer and a copy to the Director of Customer Affairs

Within two working days, the Director of Customer Affairs will log the response.

Once a month, the Director of Customer Affairs prepares a summary report of complaints and their resolution. At the end of each fiscal year, the Director of Customer Affairs prepares a summary report of the year's complaints and their resolutions.

H. Please fill in the following chart. The chart headings may be changed if needed to better reflect the agency's practices.

(Agency Name)		
Exhibit 16: Complaints <u>Against the Agency</u> – Fiscal Years 2001 and 2002		
	FY 2001	FY 2002
Number of complaints received	CHART FOLLOWS ON NEXT PAGE	
Number of complaints resolved		
Number of complaints dropped/found to be without merit		

Number of complaints pending from prior years		
Average time period for resolution of a complaint		

LOG OF AGENCY COMPLAINTS

Log #	Complainant	Location of Complaint	Date Rec'd by Customer Affairs	Copy to Div Dir on	Copy of Response Rec'd from Div Dir on	Note
FY 01						
01-01	Mark Shippy	Agency Complaint 01-01.txt	10/2/2000			Thought this would develop into agency complaint, so log # assigned, but no complaint rec'd as of 10/24/00
01-02	Chae Miebs	Agency complaint 01-02. Miebs.doc Agency Complaint 01-02 2nd email.txt	10/16/2000		10/31/2000	
01-03	Heinz Aeschbach, MD	Hard copy - my file; original - Lloyd	11/1/2000	11/1/2000	11/7/2000	
01-04	James Jay Herman, MD	Hard copy - my file; original - Lloyd	11/1/2000	11/1/2000	11/7/2000	
01-05	Vicki S Adelman, RN	Hard copy - my file	12/1/2000	12/1/2000	12/7/2000	
01-06	Joel Dow, MD	Agency Complaint 01-06.txt	12/14/2000	12/14/2000		see e-mail folder for responses
01-07	Sally Boesdorfer	Hard copy - my file	1/2/2001	1/8/2001	1/8/2001	Will send to all SMT as involves agency, but with note that I will draft response.
FY 02						
02-01	Ajey Godbole MD	Agency Complaint 02-01.txt	1/21/2002	1/23/2002	1/30/2002	See e-mail folder for response from Ivan.
02-02	Dr. Rozner	File cabinet - agency complaint 02-02. Also in e-mail folder.	1/29/2002	1/29/2002	2/4/2002	I handled this one with SMT and Dr. Patrick. See e-mail folder for response.
02-03	Linda M Miller	File cabinet - agency complaint 02-03	6/12/2002	6/12/2002	6/14/2002	See word document responses to both complainant and governor's office in agency complaints folder.

I. What process does the agency use to respond to requests under the Public Information (Open Records) Act?

The agency has adopted a policy and an 8-page procedure for responding to Open Records requests. Requests may be submitted in writing through mail, fax or email through the agency website. Requests are logged as received and the requestor is notified immediately that the agency has received the request. Documents that meet Open Records guidelines are forwarded to the Open Records Assistant to be filled. Documents that are not clearly open under agency statutes are forwarded to the Assistant General Counsel for review. If the requested documents are not available under statute, the request is forwarded to the Attorney General's Office for review. The requestor and the subject are notified of that the matter has been referred to the AG for opinion. Copies of open records requests are filed and kept for two years.

J. Please fill in the following chart with updated information and be sure to include the most recent e-mail address if possible.

(Agency Name) Exhibit 17: 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 & Fax Numbers	E-mail Address
Texas Academy of Physician Assistants Lisa Jackson	T.A.P.A. 401 W. 15th Street Austin, Texas 78701-1680	Phone: (800)280-7655 Fax: 512-370-1626	lisa.jackson@texmed.org
Texas Association of Community Health Centers Joe Comacho	2301 South Capital of Texas Hwy. Building H Austin, TX 78746	(512) 329-5959 phone (512) 329-9189 fax	jcamacho@tachc.org
Texas Association of Acupuncture and Oriental Medicine			
Texas Association of Family Practice Jim White	6034 W. Courtyard #140 Austin Texas 78730	512-329-8666	
Texas Association of Health Plans Leah Rummel	1115 San Jacinto, Ste. 275 Austin TX 78701	(512) 476-2091	lrummel@tahp.org
Texas Hospital Association Matt Wall or Charles Bailey	P.O. Box 15587 Austin, TX 78761-5587	512/465-1000	cbailey@tha.org
Texas Medical Association Louis Goodman	401 West 15th Street Austin TX 78701	512/370-1301	lou.goodman@texmed.org
Texas Medical Foundation Tom Manley	Barton Oaks Plaza Two, Suite 200 901 Mopac Expressway South Austin, Texas 78746-5799	Phone: 1-800-725-9216 Local Phone: (512) 329-6610 Fax: (512) 327-	tmanley@tmf.org

		7159	
Texas Organization of Rural and Community Hospitals John Boff	P.O. Box 14547 Austin, Texas 78761	512-873-0045	torch@torchnet.org
Texas Osteopathic Medical Association Terry Boucher, M.P.H.	1415 Lavaca Street Austin, TX 78701-1634	(512) 708-8662 Fax: (512) 708-1415	terryb@txosteo.org
Texas Rural Health Association Lolly Lockhart	Address: PO Box 2337, Austin TX 78768-2337	Phone: (512)990-7755 Fax: (512) 252-2965	lollylock@aol.com
Texas Society of Medical Staff Services Roy Boher	8317 Cross Park Dr. , Suite 150 Austin, Texas 78754	Phone: 512-454-8626 Fax: 512-454-3036	rbohrer@assnmgmt.com
INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS (that serve as an information clearinghouse or regularly interact with the agency)			
Group or Association Name/ Contact Person	Address	Telephone & Fax Numbers	E-mail Address
Administrators in Medicine Barbara Neuman			aim.docfinder@verizon.net
American Board of Medical Specialties	1007 Church Street, Suite 404 Evanston, IL 60201-5913	Phone: (847) 491-9091 Fax: (847) 328-3596	
American Medical Association	515 N. State Street Chicago, IL 60610	312-464-5000	
American Osteopathic Association	142 East Ontario Street Chicago, IL 60611	(312) 202-8000 (312) 202-8200	
American Association of College Registrars and Admissions Officers Dale Gough	One Dupont Circle NW Suite 520 Washington, DC 20036	Tel: (202) 293-9161 Fax: (202) 872-8857	GoughD@aacrao.org
Educational Commission for Foreign Medical Graduates Stephen Seeling	3624 Market Street Philadelphia, PA 19104-2685	(215) 386-5900 FAX: (215) 386-9196	Sseeling@ECFMG.org
Federation of State Medical Boards Tim Knettler	P.O. Box 619850 Dallas, TX 75261-9850	phone (817) 868-4000; fax (817) 868-4098	Tknettler@fmsb.org
National Association of Medical Staff Services Becky Nichols	8317 Cross Park Drive, Suite 150 Austin, TX 78754	512 454-7928 512 454-0336 (fax)	
National Board of Medical Examiners Ellen Landau	3750 Market Street Philadelphia, PA 19104-3102	Telephone (215) 590-9500	
National Board of Osteopathic Examiners	8765 W. Higgins Rd Suite 200 Chicago, IL 60631-4101	Phone: (773) 714-0622	jsmoley@nbome.com

Joe Smoley		<i>Fax: (773) 714-0631</i>	
National Practitioners Data Bank/Healthcare Integrity Data Bank	U.S. Department of Health and Human Services U.S. Public Health Service Health Resources and Services Administration Division of Practitioner Data Banks 7519 Standish Place, Suite 300 Rockville, Maryland 20857	301-443-2300 301-443-6725	
USMLE (United States Medical Licensing Examination)	3750 Market Street Philadelphia, PA19104-3190	Telephone: (215) 590-9700	
LIAISONS AT OTHER STATE AGENCIES (with which the agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)			
Agency Name/Relationship/ Contact Person	Address	Telephone & Fax Numbers	E-mail Address
Legislative Budget Board Jody Wright	Robert E. Johnson Building Fifth Floor 1501 North Congress Austin, Texas 78701	(512) 475-2106	jody.wright@lbb.state.tx.us
Comptroller's Office Cheryl Ornelas Appropriation Control Officer	Post Office Box 13528, Capitol Station Austin, Texas 78711-3528	463-3848	Cheryl.Ornelas@cpa.state.tx.us
State Auditors Office Stacy McClure HR Contact	Robert E. Johnson, Sr. Building - 1501 N. Congress Avenue - Austin, TX 78701	936-9632	
Office of the Governor Victoria Ford	Office of the Governor P.O. Box 12428 Austin, Texas 78711-2428	(512) 463-5449 fax- 463-8158	vford@governor.state.tx.us
Office of the Attorney General Joseph Pitner	PO Box 12548 Austin 78711-2548	475-4300 fax 474-1062	joseph.pitner@oag.state.tx.us
Health Professions Council Charles Horton	333 Guadalupe, Ste. 2-220 Austin, Texas	512-305-8550 512-305-8553- fax	charles.horton@hpc.state.tx.us
Texas Higher Education Coordinating Board Stacey Silverman	P.O. Box 12788 Austin, TX 78711.	512-427-6101 512-427-6127 (fax)	Stacey.Silverman@THECB.state.tx.us
Texas Department of Health Texas Primary Care Office Connie Berry	1100 West 49 th Street Austin, Texas 78756-3199	458-7111, X2187 Fax: 458-7235	
Office of Rural and Community Affairs Rural Health Unit Mike Easely	1700 N. Congress Suite 220 Austin, TX 78701	(512)-936-6701 (512)-936-6776	measely@orca.state.tx.us
Texas Department of Public Safety	P O Box 4087	512-424-2000,	

Fingerprinting Dorothy Porter	Austin, Texas 78773-0001	ext. 2089	
Texas Department of Public Safety Controlled Substances Registration	P O Box 4087 Austin, Texas 78773-0001	512-24-2188	controlled.substances@txdps.state.tx.us
Texas Department of Insurance Dept. of HMO Quality Assurance Cady Crismon	P.O. Box 149104 Mail Code 103-6A Austin TX 78714	(512) 305-7238 (512) 322-4260	cady.crismon@tdi.state.tx.us
Texas Workers Compensation Commission Dr. Bill Nemoth, Medical Director	Southfield Building 4000 S. IH-35 Austin, TX 78704-7491	512-804-4000 512-804-4001	

VIII. 78th Legislative Session Chart

Fill in the chart below or attach information if it is already available in an agency-developed format. In addition to summarizing the key provisions, please provide the intent of the legislation. For example, if a bill establishes a new regulatory program, please explain why the new program is necessary (e.g., to address specific health and safety concerns, or to meet federal mandates). For bills that did not pass, please briefly explain the issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). See Exhibit 18 Example or [click here to link directly to the example](#).

(Agency Name) Exhibit 18: 78th Legislative Session Chart		
Legislation Enacted - 78th Legislative Session		
Bill Number	Author	Summary of Key Provisions/Intent
		<i>See attached chart.</i>
Legislation Not Passed - 78th Legislative Session		
Bill Number	Author	Summary of Key Provisions/Intent/Reason the Bill did not Pass
		See attached chart.

**TSBME/MEDICAL PRACTICE ACT
BILLS PASSED 78TH LEGISLATURE**

No.	Author	Description
HB 1095	Capelo	Extends delegated prescriptive authority for Pas/APNs to include controlled substances.
HB 2985	Capelo	Creates Office of Patient Protection at Health Professions Council funded by increase in licensure fess for TSBME and all HPC member boards.
SB 104	Nelson <i>Comp. HB 6 by Allen</i>	TSBME omnibus bill – See attached summary.
SB 144	Averitt <i>House sponsor Capelo</i>	Requires TSBME to provide information to license holders each biennium on pain medications. Allows electronic communication of information.
SB 279	Jackson	Requires TDLR to collect address changes for licensing entities and recover costs; requires licensing entities to electronically share disciplinary information; requires TDLR to establish 800 number for all licensing entities. (HPC agencies already use common 800 number operated by HPC)
SB 287	Ellis, R <i>Comp. HB 2495 by Branch</i>	Alters membership of state agency governing bodies to establish odd-numbers of members. Adds one public member to Medical Board.
SB 769	Carona <i>Companion HB 3008 by Capelo</i>	Creates biennial license registration process for surgical assistants.
SB 1574	Carona <i>House sponsor Giddings</i>	Authorizes the Texas Workers' Compensation Commission and the Texas State Board of Medical Examiners to share information for investigative purposes

TSBME BILLS INTRODUCED – NOT PASSED
78TH LEGISLATURE

Bill	Author	Description	Notes
HB 945	King	Requires TSBME to suspend license of physician who performs abortion without parental consent	Died in House
HB 1381	Thompson	Allows pharmacists to initiate emergency contraception drug therapy. Requires Pharmacy Bd. to consult with TSBME to develop fact sheet for patients. SAME AS SB 1339.	Died in House
HB 1383	Solis	Reduces 3 year training requirement for foreign medical graduates to 1 year	Died in House
HB 2260	Smithee	Revises reporting of malpractice claims by insurers to TSBME to include only those claims in which a settlement agreement was made or an expert report filed.	Included in SB 104
HB 2281	Coleman	Raises caps on TSBME fees	Died, but was not necessary as most fees are far below caps.
HB 1325	Keffer	Requires PA loan reimbursement program funded by TSBME	Died in House
HB 2800	Thompson	Gives Board discretion to determine by rule the number of examination attempts	Died in House
HB 3038	Cook, R.	Eliminates Acupuncture Board and transfers most duties to Association.	Died in House
HB 3091	Madden	Requirement that health care entities notify TSBME of all actions regarding privileges of physician	Died in House
HB 3095	Madden	Requires HCE's report to TSBME within 30 days after final actions regarding actions over 30 days.	Died in House
HB 3590	Giddings	Requires exchange of information between TWCC and TSBME	Provisions included in SB 1574
SB 208	Harris	Removes criminal history, malpractice investigations and formal complaints from profiles.	Died in Senate
SB 248	Janek	TSBME omnibus bill	Some provisions incorporated into SB 104.

SB 702	Harris	Same bill as last session revising reporting requirements for reporting pending complaints to health care entities, eliminating claim letters (4590i's) submission. Also requires deletion of information regarding dismissed complaints after 10 years.	Some provisions incorporated into SB 104
SB 787	Carona <i>Companion HB 2495 by Branch</i>	Extends time to pass all parts of licensure examination from 7 to 10 years.	Died with SB 1952
SB 788	Carona House sponsor Capelo	Creates eminent physician licensure requirements	Failed to receive unanimous vote in House Public Health committee to get on local calendar. Died in House calendars committee.
SB 1172	Janek	Creates medical expert witness certificate	Died in Senate
SB 1266	Armbrister	Billing, scope of practice, and control over the initiation of practitioner/patient relationships for practice of acupuncture.	Died in Senate
SB 1339	Wentworth	Allows pharmacists to initiate emergency contraception drug therapy. Requires Pharmacy Bd. to consult with TSBME to develop fact sheet for patients. SAME AS HB 1381	Died in Senate

CONSOLIDATION BILLS

No.	Author	Description	Notes
HB 2	Swinford	Omnibus reorganization bill	Much of bill in SB 1952
HB 1386	Hamric	Consolidates Customer Service functions of all licensing agencies at Texas Dept. of Licensing and Regulation. May also encompass annual permits functions. SAME AS SB 622	Died in House
HB 1814	Pitts	Omnibus reorganization of Health and Human Service agencies. Eliminates TSBME and other licensing boards, transfers duties to new	HB 2292 by Wohlgermuth passed with

		agency Department of Health and Mental Health under HHSC. Eliminates both boards and agencies. Based on recommendation in Comptroller's E-Texas Report. SAME AS 1421	similar provisions but did not include licensing boards
HB 3006	Swinford	Consolidates administrative services at HPC for member agencies. Includes finance, HR, IT.	Died in House
HB 3231	Smith, Todd	Requires HPC to "adopt policies to govern" the member agencies. Gives HPC rulemaking authority. States HPC may manage the operations of member agencies. SAME AS SB 1353	Died in House
SB 622	Armbrister	Consolidates Customer Service functions of all licensing agencies at Texas Dept. of Licensing and Regulation. May also encompass annual permits functions. SAME AS HB 1286.	Died in Senate
SB 1353	Ellis, R	Requires HPC to "adopt policies to govern" the member agencies. Gives HPC rulemaking authority. States HPC may manage the operations of member agencies. SAME AS HB 3231	Died in Senate
SB 1421	Janek	Eliminates TSBME and other licensing boards, transfers duties to new agency Department of Health and Mental Health under HHSC. Eliminates both boards and agencies. Based on recommendation in Comptroller's E-Texas Report. SAME AS HB 1814	Died in Senate
SB 1684	Gallegos	Establishes requirement for TDI to receive and report medical liability statistics and to provide report to TSBME. SAME AS HB 3405	Died in Senate

IX.1. Policy Issues – Administrative Penalties

A. Brief Description of Issue

Should the agency be allowed to impose administrative penalties without either the agreement of the licensee or a formal hearing at the State Office of Administrative Hearings (SOAH)?

B. Discussion

Currently, the board is only utilizing three methods of complaint resolution: dismissal of the complaint; entry of an Agreed Order; and the adoption of a final order following a formal hearing at SOAH. An Agreed Order is settlement agreement between the board and the subject licensee that resolves an open complaint(s) against the subject licensee. This is also referred to as a Mediated Order if the case settles after a Formal Complaint is filed with SOAH or a Rehabilitation Order if it is a confidential order under §§164.202, 204.305, 205.356, or 206.305 of the Medical Practices Act.

In 1999 and 2001, the 76th and 77th Legislature enacted §§165.001-.008, 204.351, and 206.351 of the Medical Practices Act relating to Administrative Penalties. Each of these statutes states that the board “shall prescribe by rule the procedure by which it may impose an administrative penalty” and that these rules shall be subject to Chapter 2001 of the Government Code. Each of these provisions also state that if the board determines that a violation has occurred and imposes an administrative penalty, the board shall notify the licensee of the penalty and his right of review of the imposition of the penalty.

The above provisions very strongly imply that the board may impose an administrative penalty without either the agreement of the licensee or a formal hearing at SOAH, yet it does not expressly state so.

C. Recommendation(s) and Impact

Recommendation 1: Modify §§165.001-.008, 204.351, and 206.351 of the Medical Practices Act relating to Administrative Penalties to expressly state that an administrative penalty may be imposed by the board without either the agreement of the licensee or a formal hearing at SOAH.

Impact: This recommendation would allow the agency to save time and money by giving the board the authority to issue administrative penalties without the necessity of either the agreement of the physician or a hearing at SOAH. It will also allow the board to put more time and resources on the more egregious cases, those that are not appropriate for administrative penalties.

IX. 2. Policy Issues – Hearing and Compliance Costs

A. Brief Description of Issue

Should the board have the authority to assess and collect its costs in an administrative hearing and for participation in the board's compliance program for licensees under an order?

B. Discussion

The Medical Practice Act does not speak to the assessment of costs of an administrative hearing against the licensee. At the current time, the taxpayers pay all board costs for an administrative hearing. This eliminates an incentive for the physician to settle a matter through an Agreed Order. Instead, the physician can force the matter to a hearing before the State Office of Administrative Hearings without any possible additional financial consequences concerning the board's cost. The longer a matter goes unresolved, the longer the physician stays out in unrestricted practice. The Administrative Law Judge should have the option of assessing hearing costs against the physician.

The Medical Practice Act does not speak to the assessment of costs against a probationer for participation in the board's Compliance Program. At the current time, physicians under board monitoring pay nothing for the costs incurred by the state to provide this program. Without this monitoring, there would be no way to investigate compliance by each probationer concerning the individual requirements and restrictions set out in each board order. Without a Compliance Program, the options for disciplinary action by the board would be narrowed to either a fine or revocation. In order to have the opportunity to stay in practice with restrictions, the probationer should pay a fee to participate in the Compliance Program.

C. Possible Solutions and Impact

Recommendation: Amend the Medical Practice Act to allow the board to assess, in addition to or instead of any administrative penalty, the actual costs of the administrative hearing, including investigative and legal costs, witness fees, deposition expenses, travel expenses, costs of adjudication before State Office of Administrative Hearings, costs of transcriptions of testimony, and any other costs that are necessary of the board's case.

Recommendation: Amend the Medical Practice Act to allow the board to charge a fee to participate in the Compliance Program.

Impact: The recommendation concerning assessment of hearing costs will allow relief for the state and the taxpayer to fund unnecessary and expensive hearings costs. The recommendation concerning participation fee in the Compliance Program will also allow relief for the state and the taxpayer for a program that allows physicians to stay in practice while under an order.

IX.3. Policy Issues – Peer Action Reporting

A. Brief Description of Issue

Should a medical peer review committee be required to report in writing to the board the results and circumstances of all medical peer review actions that adversely affect the clinical privileges of a physician?

B. Discussion

Medical peer committees are required by the Medical Practice Act and federal law to assure high standards of medical care by reporting any peer review that adversely affects the clinical privileges of a physician for a period of longer than 30 days. As set out in the Medical Practice Act, the board may take disciplinary action against a physician who is the subject of a medical peer review action if the board finds the action was based on unprofessional conduct or professional incompetence that was likely to harm the public, and was supported by evidence submitted to the board.

This system provides that medical review by other physicians and health care professionals most familiar with the physician identifies a problem appropriate for review by the board. However, the 30-day limitation on reporting prevents the board from learning about all peer review actions in this state. It is common for physicians who have been sanctioned for unprofessional conduct or professional incompetence to negotiate with the health care entity for a disciplinary action of period of less than 30 days so as to evade possible investigation by the board. This allows dangerous physicians to continue to practice without review or restrictions because of lack of required notification to the board.

C. Possible Solutions and Impact

Recommendation: Amend Section 160.002 of the Medical Practice Act to require the reporting by a medical peer review committee or health care entity of all medical review actions regardless of the length of the period of the action.

Impact: This recommendation will provide the board with necessary information concerning those physicians identified by their peers of not meeting the professional standards for competence and conduct. This information will allow the board to review the facts of the actions and consider possible restrictions or requirements as deemed necessary to protect the public. This recommendation will provide a mandated reporting requirement instead of presenting an option for negotiation.

IX. 4. Policy Issues – Peer Review Evidence

A. Brief Description of Issue

Should records and documents relating to medical peer review by a hospital or health care entity be admissible as evidence in an administrative hearing on a disciplinary matter concerning the same issue?

B. Discussion

The Medical Practice Act authorizes the board to discipline a physician who is removed, suspended, or is subject to disciplinary action as a result of medical peer review. During the investigation of the matter, the medical peer review committee of the hospital or health care entity taking the action develops records and documentation. The board is authorized to subpoena these records and documents during any board investigation of the physician.

This information may be presented to a panel of representatives of the board charged with making a recommendation concerning whether a violation of the Medical Practice Act has occurred. Upon a recommendation of a violation, the board may attempt to resolve the case through an Agreed Order. If informal resolution is not successful, the board files a formal complaint at the State Office of Administrative Hearings on the alleged violation of medical peer review action. During the administrative hearing, the board attorney needs to introduce the evidence of the medical peer review action to prove up the statutory violation.

At the current time, some Administrative Law Judges have taken the position that the records and documentation related to the medical peer review action are privileged and not admissible without a written waiver from the peer review committee. Peer review committees are understandably reluctant to waive the privilege because of fear of retaliation by the physician. As a result, the board is left with no way to prove up the very act set out as a violation of the Medical Practice Act.

C. Possible Solutions and Impact

Recommendation: Amend Section 164.007 of the Medical Practice Act to clarify that there is no requirement to obtain a waiver to use peer review documents in a disciplinary hearing before the board or the State Office of Administrative Hearings or subsequent trial or appeal of a board action or order.

Impact: This recommendation will allow the board to use the same information in both the informal and formal hearings as necessary to prove up a medical peer review action. To do otherwise obliterates the intent of the Legislature to include peer review action as a violation of the Medical Practice Act.

IX.5. Policy Issues – Corrective Actions

A. Brief Description of Issue

Should the board be allowed to take action against a licensee who does not commit an act that violates the Medical Practice Act but yet whose practice raises concerns that a future injury could occur?

B. Discussion

Currently under the Medical Practice Act, when a complaint is filed with the board, the board has two options. The board may either close the complaint for lack of sufficient evidence to support a violation of the Act, or the Board may determine that the licensee violated the Act and dispose of the complaint through a public disciplinary order.

The Board receives thousands of complaints each year. As evidenced by the number of investigations the Board conducts and the subsequent number of Board orders that result, not all complaints result in disciplinary action. Often the Board is presented with single patient cases with minimal harm that are the result of several factors. To discipline a doctor for a single occurrence with no other history of poor outcomes is not something the Board believes is appropriate. Disciplinary actions that include a public reprimand or more severe action are reportable to the National Practitioner Data Bank and often result in physicians losing hospital privileges and insurance coverage.

Medical errors are unfortunately a frequent occurrence in the medical community. Many medical errors are the result of system failures and not just one practitioner. Further many medical errors do not necessarily result in poor outcomes, yet clearly if they continue, there is the potential for future harm.

C. Possible Solutions and Impact

Recommendation: Amend Section 164.002 of the Medical Practice Act to allow the Board to dispose of complaints through letters of concern and corrective action plans that are not considered disciplinary in nature. Failure to comply with the corrective action plan may result in disciplinary action.

Impact: This recommendation will provide the Board with a third option of how to resolve complaints. Licensees and the public will be put on notice that the Board has concerns with the licensee's current practice, even when the Board determines that the conduct does not warrant a violation of the Medical Practice Act. Letters of concern and corrective action plans would educate other practitioners on concerns of the Board, encourage physicians and health care entities to report instances of medical errors to the Board, and allow the Board to be more responsive to the 80% of complaints filed with the Board that are currently dismissed for lack of sufficient evidence to support a violation of the Act.

IX.6. Policy Issues – Consistency of Statutes

A. Brief Description of Issue

Should the provisions in the Medical Practice Act that pertain to physicians be applied to Physician Assistants, Acupuncturists, and Surgical Assistants if the topics of those provisions are not specifically addressed in the PAs, Acupuncturists, and SAs respective Acts or are otherwise inconsistent with the Medical Practice Act?

B. Discussion

Until the 1990s, the only board that made up the agency was the Texas State Board of Medical Examiners. Although the Medical Board licensed acupuncturists and physician assistants, neither profession had their own board. Today, pursuant to statute, agency staff serve the Texas State Board of Medical Examiners, the Texas State Board of Acupuncture Examiners, and the Texas State Board of Physician Assistant Examiners. Physician Assistants are subject to Chapter 204 of the Occupations Code and Acupuncturists are subject to Chapter 205 of the Occupations Code. In addition, in 2001, the Legislature enacted Chapter 206 of the Occupations Code, establishing procedures for the licensing and discipline of surgical assistants by the Medical Board with the appointment of surgical assistant advisory committee.

Agency staff provide support for all three boards. For instance, staff investigators and attorneys at any given time will have cases comprised of licensees of all three boards. Although many of the policies and procedures that are applied to physicians are uniformly applied to other licensees, with four different statutory acts applied, especially with regard to disciplinary matters, there are frequent inconsistencies.

During the 78th legislative session, the Medical Practice Act was amended under SB104. Changes to the Act included changes in reference to complaint resolution, investigative processes, temporary licensure restrictions, grounds for suspension and revocation, and the definition of “continuing threat to public health and welfare.” These changes however were not made to the PA, SA, or Acupuncture Acts.

In addition, as the Acts have evolved over the years, there have been inconsistencies between the Acts with regard to confidentiality of agency records, eligibility for temporary licenses, medical record release, grounds for disciplinary actions, health care entity requests for information, and voluntary surrender of licenses.

C. Possible Solutions and Impact

Recommendation 1: The Medical Practice Act, Physician Assistant Act, Acupuncture Act, and Surgical Assistant should all be reviewed with uniform provisions applied when appropriate.

Impact 1: This change should make the agency more efficient and provide each board with the same availability of options in licensing and disciplinary matters.

Recommendation 2: The Physician Assistant Act, Acupuncture Act, and Surgical Assistant Act should be amended so that in future legislative sessions when the Medical Practice Act is amended, those amendments are applied to the other three Acts when appropriate.

Impact 2: This change will ensure that licensees other than physicians will have the benefit of changes made to the Medical Practice Act.

X. Comments

Please provide any additional information needed to gain a preliminary understanding of the agency.

TSBME is an agency in transition. Agency-wide changes to processes, personnel and organizational structure have occurred in the last two years. With passage of SB 104 (78R), effective June 10, 2003, even greater changes are mandated. The legislation made statutory changes affecting all agency programs and implementation of the legislation requires extensive rule changes. The agenda for the August 2003 meeting of the Board of Medical Examiners listed 18 chapters of rules that were new or revised. Processes, personnel, and organizational structure are now undergoing additional changes to accommodate the mandates of SB104.