

# AGENCY STRATEGIC PLAN

FISCAL YEARS 2015 – 2019

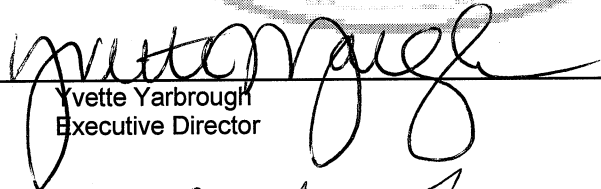
BY

THE TEXAS BOARD OF CHIROPRACTIC EXAMINERS

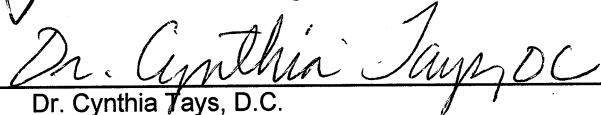
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| Mr. John Steinberg, Public Member        | 04/16/13 – 02/01/19 | Marion         |
| Patrick Thomas, D.C.                     | 03/25/09 – 02/01/15 | Corpus Christi |

Submitted June 23, 2014

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Board Chair



# Texas Board of Chiropractic Examiners Strategic Plan for Fiscal Years 2015 – 2019

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## STATEWIDE STRATEGIC PLANNING ELEMENTS

### Governor Rick Perry's Vision for Texas

March 2014

Fellow Public Servants:

Since the last round of strategic planning began in March 2012, our nation's economic challenges have persisted, but Texas' commitment to an efficient and limited government has kept us on the pathway to prosperity. Our flourishing economic climate and thriving jobs market continue to receive national attention and are not by accident. Texas has demonstrated the importance of fiscal discipline, setting priorities and demanding accountability and efficiency in state government. We have built and prudently managed important reserves in our state's "Rainy Day Fund," cut taxes on small business, balanced the state budget without raising taxes, protected essential services and prioritized a stable and predictable regulatory climate to help make the Lone Star State the best place to build a business and raise a family.

Over the last several years, families across this state and nation have tightened their belts to live within their means, and Texas followed suit. Unlike people in Washington, D.C., here in Texas we believe government should function no differently than the families and employers it serves. As we begin this next round in our strategic planning process, we must continue to critically examine the role of state government by identifying the core programs and activities necessary for the long-term economic health of our state, while eliminating outdated and inefficient functions. We must continue to adhere to the priorities that have made Texas a national economic leader:

- ensuring the economic competitiveness of our state by adhering to principles of fiscal discipline, setting clear budget priorities, living within our means and limiting the growth of government;
- investing in critical water, energy and transportation infrastructure needs to meet the demands of our rapidly growing state;
- ensuring excellence and accountability in public schools and institutions of higher education as we invest in the future of this state and ensure Texans are prepared to compete in the global marketplace;
- defending Texans by safeguarding our neighborhoods and protecting our international border; and
- increasing transparency and efficiency at all levels of government to guard against waste, fraud and abuse, ensuring that Texas taxpayers keep more of their hard-earned money to keep our economy and our families strong.

I am confident we can address the priorities of our citizens with the limited government principles and responsible governance they demand. I know you share my commitment to ensuring that this state continues to shine as a bright star for opportunity and prosperity for all Texans. I appreciate your dedication to excellence in public service and look forward to working with all of you as we continue charting a strong course for our great state.

Sincerely,



Rick Perry  
Governor of Texas

## **The Mission of Texas State Government**

Texas State Government must be limited, efficient, and completely accountable. It should foster opportunity and economic prosperity, focus on critical priorities, and support the creation of strong family environments for our children. The stewards of the public trust must be men and women who administer state government in a fair, just, and responsible manner. To honor the public trust, state officials must seek new and innovative ways to meet state government priorities in a fiscally responsible manner.

*AIM HIGH...*

*WE ARE NOT HERE TO ACHIEVE INCONSEQUENTIAL THINGS!*

## **The Philosophy of Texas State Government**

The task before all state public servants is to govern in a manner worthy of this great state. We are a great enterprise, and as an enterprise, we will promote the following core principles:

- First and foremost, Texas matters most. This is the overarching, guiding principle by which we will make decisions. Our state, and its future, is more important than party, politics, or individual recognition.
- Government should be limited in size and mission, but it must be highly effective in performing the tasks it undertakes.
- Decisions affecting individual Texans, in most instances, are best made by those individuals, their families, and the local government closest to their communities.
- Competition is the greatest incentive for achievement and excellence. It inspires ingenuity and requires individuals to set their sights high. Just as competition inspires excellence, a sense of personal responsibility drives individual citizens to do more for their future and the future of those they love.
- Public administration must be open and honest, pursuing the high road rather than the expedient course. We must be accountable to taxpayers for our actions.
- State government has a responsibility to safeguard taxpayer dollars by eliminating waste and abuse and providing efficient and honest government.
- Finally, state government should be humble, recognizing that all its power and authority is granted to it by the people of Texas, and those who make decisions wielding the power of the state should exercise their authority cautiously and fairly.



## **Relevant Statewide Goals and Benchmarks**

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### **Regulatory**

#### *Priority Goal*

TO ENSURE TEXANS ARE EFFECTIVELY AND EFFICIENTLY SERVED BY HIGH-QUALITY PROFESSIONALS AND BUSINESSES BY:

- Implementing clear standards;
- Ensuring compliance;
- Establishing market-based solutions; and
- Reducing the regulatory burden on people and businesses.

#### *Benchmarks (As Applicable)*

- Percentage of state professional licensee population with no documented violations.
- Percentage of new professional licensees as compared to the existing population
- Percentage of documented complaints to professional licensing agencies resolved within six months.
- Percentage of individuals given a test for professional licensure who received a passing score.
- Percentage of new and renewed professional licenses issued online.

## AGENCY STRATEGIC PLANNING ELEMENTS

### TBCE Mission

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



### TBCE Philosophy

The Texas Board of Chiropractic Examiners exists to protect and to serve the people of Texas through the regulation of the practice of chiropractic. We are accountable to the public, and we provide service in a manner that is ethical, efficient, and courteous. This Board and its employees strive to share knowledge, experience, and abilities in seeking ways to more effectively serve our customers.

### TBCE Vision

We will be an outstanding small state agency, with a culture of excellence in service and in the performance of all aspects of our responsibilities. We will focus on protecting the health and welfare of the people of Texas while not over-regulating or being unnecessarily intrusive into the practices of our licensees.

We will seek to create a regulatory environment that will:

- allow competent doctors of chiropractic to provide services within their scope of practice to their patients without unnecessary, overly intrusive regulation while fully protecting the health and welfare of the patient;
- ensure quick and firm disciplinary actions against those who commit serious transgressions of the law, especially against those who endanger the health or economic welfare of the public; and
- allow competition to flourish.

The members of the Texas Board of Chiropractic Examiners and Agency management and staff recognize that they will be challenged in fulfilling this vision and in establishing the Board and the Agency as recognized leaders among small agencies in Texas state government. We are determined to rise to that challenge.

## AGENCY EXTERNAL AND INTERNAL ASSESSMENT

### Overview of Agency Scope and Function

#### **STATUTORY BASIS**

The Texas Board of Chiropractic Examiners (the Board) is the independent state health regulatory agency charged with regulating the practice of chiropractic in the state of Texas. The Board currently operates under the authority of the Texas Occupations Code, Title 3, Subtitle C, Chapter 201, known as the Chiropractic Act (the Act). General rule-making authority is granted to the Board under Sec. 201.152 of the Act, and authority to address specific subjects is granted throughout the Act. The authority to set fees is granted in Sec. 201.153.

According to the Act, the use of “the term ‘chiropractor,’ ‘chiropractic,’ ‘doctor of chiropractic,’ ‘D.C.,’ or any derivative of those terms or initials in connection with the person’s name” implies competence in the profession of practicing chiropractic, and the use of those terms shall be limited to those individuals who have appropriate education and experience so that the public will not be misled. To this end, the Board examines, registers, and licenses all persons holding themselves out to the public as a doctor of chiropractic. In addition, any of the terms mentioned above are solely restricted to use by the Board’s licensees.

The Board underwent Sunset review in 2004-2005. The review resulted in a comprehensive Sunset bill that reauthorized the agency (HB 972, Acts 2005, 79<sup>th</sup> Leg., r.s., ch. 1020). The Board is next scheduled for Sunset review in 2016-2017 as provided under Sec. 201.004 of the Act, with active review by the Sunset Commission staff likely to begin in the summer of 2015.

#### **HISTORICAL PERSPECTIVE**

The Board has regulated the practice of chiropractic in Texas since its creation by the 51<sup>st</sup> Legislature in 1949. The primary charge for the original Board was “to protect the people of the State of Texas.”

Today, applicants for licensure as chiropractors in Texas who began their professional chiropractic education on or after September 1, 2005 are required to have at least 90 hours of undergraduate education in an accredited college. The Doctor of Chiropractic degree may be earned in a minimum of three-and-one-third years if a student attends classes year-round (4 academic years), and the degree is granted only after the student has demonstrated proficiency in classroom studies and in clinical settings and has passed all required portions of the national examination.

Chiropractic colleges extensively educate students in many areas to allow the graduate to practice in states that have greater or lesser scopes of practice than does Texas. (For example, in some states chiropractors may perform minor surgery or deliver babies, neither of which is within the scope of practice for a Texas licensee.) Because requirements for licensure and scope of practice are different from state-to-state, this agency must diligently review all educational transcripts for applicants for licensure to ensure that they meet or exceed the requirements for licensure in Texas.

## **AFFECTED POPULATIONS**

Individuals affected by the Board's actions include:

- (1) the public (citizens of Texas);
- (2) doctors of chiropractic;
- (3) owners (chiropractor and non-chiropractor) of chiropractic facilities;
- (4) radiological technologists licensed by the Board;
- (5) chiropractic schools;
- (6) students in chiropractic schools;
- (7) professional chiropractic associations;
- (8) executive, legislative, and judicial officials in Texas;
- (9) insurance companies; and
- (10) other entities affected by the practice of chiropractic, including other Texas state agencies and entities related to insurance and workers compensation issues, agencies of states other than Texas, and some federal agencies involved in the regulation of health care.

The population of Texas continues to experience growth at an annual rate much higher than that of other like-sized states. The Texas State Data Center and Office of the State Demographer project the population of Texas to reach 37 million by 2030. The 2010 census conducted by the Bureau calculated the population of Texas at that time to be over 25 million. From 2010 to 2030, this projected growth is approximately twelve million people, a 32.43% increase or approximately 1.62% per year.

In 2010, Texas was the second largest state in the country, with California having the largest population of over 37 million..

The number of licensed doctors of chiropractic (DCs) in Texas is growing, keeping Texas in the top three states for numbers of DCs in the United States. As shown below in Table 1, between 2007 and 2013, active Texas DCs increased in number from 4,534 to 5,185, an annual growth rate of 2.26%. Inactive Texas DCs increased in number from 571 to 665, an annual growth rate of 2.57%. The Board expects similar increases in these numbers during Fiscal Years 2015-2019.

|             | <b>Active DCs</b> | <b>Inactive DCs</b> |
|-------------|-------------------|---------------------|
| <b>2007</b> | 4,534             | 571                 |
| <b>2008</b> | 4,609             | 613                 |
| <b>2009</b> | 4,701             | 658                 |
| <b>2010</b> | 4,839             | 657                 |
| <b>2011</b> | 5,016             | 649                 |
| <b>2012</b> | 5,137             | 684                 |
| <b>2013</b> | 5,185             | 665                 |

*Table 1 – Number of Active and Inactive DCs in Texas*

The number of chiropractic facilities in Texas is growing as well. As seen below in Table 2, between 2007 and 2013, the number of facilities increased in number from 3,170 to 3,738, an annual growth rate of 3.20%. The Board expects this trend to continue during Fiscal Years 2015-2019.

|             | <b>Facilities</b> |
|-------------|-------------------|
| <b>2007</b> | 3,170             |
| <b>2008</b> | 3,224             |
| <b>2009</b> | 3,318             |
| <b>2010</b> | 3,457             |
| <b>2011</b> | 3,588             |
| <b>2012</b> | 3,738             |
| <b>2013</b> | 3,830             |

*Table 2 – Number of Chiropractic Facilities in Texas*

Graduates of Parker University and Texas Chiropractic College, the two chiropractic colleges in Texas, consistently comprise the majority of the number of applicants the Board processes each year. Between 2008 and 2013, the number of graduates of Texas chiropractic colleges applying for Texas licenses has seen some fluctuation, but has remained a majority of our applicant population, as seen in Table 3. The Board expects this to continue during Fiscal Years 2015-2019.

|             | <b>Applicants Who<br/>Graduated from<br/>Chiropractic Colleges in<br/>Texas</b> | <b>% Total Applicants</b> |
|-------------|---|---------------------------|
| <b>2008</b> | 203   | 71.98%                    |
| <b>2009</b> | 206   | 72.79%                    |
| <b>2010</b> | 243   | 77.39%                    |
| <b>2011</b> | 228   | 70.59%                    |
| <b>2012</b> | 208   | 68.42%                    |
| <b>2013</b> | 195   | 62.10%                    |

*Table 3 – Number of Applicants Who Graduated from Chiropractic College in Texas*

## **MAIN FUNCTIONS**

The Board's main function is to protect the health and welfare of the public through the regulation of chiropractic by:

- Ensuring compliance with the Chiropractic Act and Board Rules;
- Interacting with the public, the profession, and all stakeholders on matters of laws and rules;
- Promulgating reasonable and necessary rules and regulations;
- Examining and licensing qualified candidates for licensure;
- Registering all chiropractic facilities;
- Registering radiological technicians working in chiropractic facilities;
- Annually renewing licenses for chiropractors and registrations for facilities and radiological technicians;
- Investigating and resolving all complaints received in a timely manner;
- Initiating investigations of licensees and/or facilities when appropriate;
- Monitoring ongoing compliance of disciplined licensees and registrants;
- Monitoring licensees' compliance with continuing education requirements; and
- Providing to the public in a timely manner information on licensees, facilities and technicians regulated by the Board.

## **Board and Agency Structure**

### **BOARD**

The Board is comprised of nine members, each appointed by the Governor for six year terms. The expiration dates of members' terms are staggered such that three positions are open for appointment on February 1st of each odd-numbered year. Six of the nine members are Doctors of Chiropractic, and the other three are public members. The Governor appoints the Board President, and the Board members elect a Vice-President and Secretary.

The Board is required by statute to meet a minimum of two times per year, but usually meets at least quarterly (four times per year) depending upon budget constraints. Special meetings are called when needed.

The Board President appoints Board members to committees. There are currently four standing committees: 1) Executive Committee; 2) Rules Committee; 3) Licensure and Education Committee; 4) Enforcement Committee. Each committee meets quarterly in conjunction with Board meetings. The Rules Committee also holds special meetings to work on rule amendments with stakeholders. Additionally, the Enforcement Committee generally meets every other month to consider pending enforcement cases.

Special committees are created as needed. The Board is in the process of appointing an Executive Peer Review Committee and local peer review committees, in accordance with the Chiropractic Act (Texas Occupations Code, Chapter 201, Subchapter F). The purpose of these committees is to advise and assist the Board in resolution of certain types of complaints.

The President has also appointed a Chiropractic Acupuncture Advisory Committee to meet with stakeholders and members of the acupuncture community and to advise the Board on rules related to chiropractic acupuncture.

## **AGENCY**

### *Size and Composition of Workforce*

The agency is authorized to employ fourteen full time equivalent (FTE) employees. At the time of this Strategic Plan, the agency actually employs fourteen employees, one of whom works part-time (30 hours per week), for an FTE count of 13.7.

Of these fourteen employees, six are male and eight are female. There are three African-American employees, one Hispanic employee, and ten Caucasian employees. All agency employees report directly to the Executive Director.

### *Executive and Administrative Department*

The Executive and Administrative Department consists of 4.2 FTEs. These FTEs are the Executive Director, Executive Assistant, the Chief Financial Officer, a Systems Analyst/Programmer, and the Purchaser/HR employee (part-time). The Purchaser/HR employee splits time between these duties and imaging original license application files to a digital storage database.

### *Licensing Department*

The Licensing Department consists of 2.5 FTEs. These FTEs are the Director of Licensure, a Licensing Assistant, and an administrative assistant (part-time) who scans original license application files to a digital storage database. The Director of Licensure and the Licensing Assistant are responsible for reviewing and processing all applications for original licensure as a Doctor of Chiropractic in Texas. They verify that the applicant has met all qualifications for licensure, including pre-professional and professional education and examination requirements. They are also responsible for issuing original registrations for chiropractic facilities, registering chiropractic radiological technicians, and annually renewing all licenses and registrations for Doctors of Chiropractic, facilities, and chiropractic radiological technicians. The agency makes extensive use of the Texas Online licensing renewal system in renewing these licenses and registrations. The Director of Licensure and Licensing Assistant also review requests for approval of continuing education courses and providers.

The Licensing Assistant also serves as the receptionist for the agency. She answers the agency main telephone line, directs general telephone calls to the appropriate employee, handles open records requests related to licensure, verifies licenses, processes incoming mail, and handles other miscellaneous duties as necessary.

The administrative assistant employed part-time in licensing scans original applications, licensing files, and any file updates into the Health Professions Council (HPC) imaging system. This employee also performs HR and purchasing functions for the agency.

### *Enforcement/Legal Department*

The Enforcement Department consists of four Investigators, one Administrative Assistant, one Legal Assistant, and one Attorney (General Counsel). Together these seven individuals investigate all complaints and, working with the Executive Director, refer cases to the Enforcement Committee for review and resolution. The Department receives complaints from members of the public, but also initiates complaints against licensees when violations of the Act or rules are observed. Enforcement staff prepares all correspondence with complainants and those accused of violations of state statutes or agency rules, including sending initial letters of notification of violations, requests for information, proposed agreed orders, and final orders. Enforcement staff schedules cases to be heard at Enforcement Committee meetings and, upon a respondent's request, at an Informal Conference. When no settlement can be agreed upon by the Committee and the respondent, the General Counsel schedules and litigates cases at the State Office of Administrative Hearings.

The Board approves the disposition of all jurisdictional complaints that result in disciplinary action. An Enforcement Department staff member enters final disciplinary actions in the agency's database and into a national chiropractic database that allows regulatory agencies in other states to be aware of disciplinary actions taken by the Board against its licensees.

The investigators and legal staff, in conjunction with the Executive Director, also answer settled scope of practice questions and other questions regarding the applicable statutes and rules.

The General Counsel works with the Board's designated attorney at the Office of the Attorney General to advise the Board on legal matters. Additionally, the General Counsel coordinates rulemaking and rule review, as well as responding to open records requests.

Beginning in FY 2014, the Enforcement/Legal Department began operating digitally. All new investigative and litigation files are paperless, and older investigative files are being converted from paper files to digital files. This has had a drastic increase in efficiency and productivity of staff, as less time is taken sorting through physical files. Additionally, multiple staff members can work on files at the same time.

Also in FY 2014, the Board was able to hire two field investigators. These investigators operate out of Houston and Dallas/Fort Worth respectively, allowing the Board more direct oversight over licensees requiring monitoring and facilities operating without a registration. Additionally, the quality of investigations are improving, due to the ability of investigators to inspect facilities and conduct face-to-face interviews.

The Board in February 2010 made changes to the way in which complaints filed against licensees are heard by the Enforcement Committee (EC). The Chiropractic Act (TOC 201.506) establishes an Enforcement Committee to oversee the investigation of complaints. Because the EC is a board committee, its meetings are open to the public. Based on advice from our attorneys at the office of the Attorney General, the EC for several years held all its meetings in public (as required) and discussed the details of each complaint in open session. This action to comply with the Open Meetings Act led the Committee to violate the statutory requirements to keep its investigative files confidential as our attorneys advised us that it was not allowable for the EC to go into Executive Session to consider the evidence in each case. Therefore, shortly after the agency was able to hire its own attorney in September 2009, the Executive Director requested that the General Counsel review the situation and come up with a new process that both allowed the EC to meet in open session and also afforded the complaint and the



respondent the opportunity to meet to with staff and an EC member to discuss their cases in private, as most other agencies do. The new process was implemented in March 2010 and has proved to be very successful. One licensee complained extensively after the implementation of this new process that the Board is now acting unethically in “covering up” its investigation of complaints. That allegation is completely untrue. The Board has simply changed its procedures to better comply with all applicable laws.

### ***GEOGRAPHIC LOCATION OF AGENCY***

Board operations are headquartered in the William P. Hobby Building, located at 333 Guadalupe Street in Austin Texas. The Board office is located in Tower 3, Suite 825. Twelve employees work in this office, while one investigator works out of his home in Dallas and another investigator works out of his home in Houston.

### ***LOCATION OF SERVICE POPULATION***

The Board serves people and organizations throughout the state of Texas. Our service population includes all the people who make use of chiropractic services anywhere in the state, as well as the chiropractors, facility owners, and chiropractic radiological technicians involved in the treatment of those individuals. In addition, our service population includes anyone who has an interest in the regulation of the practice of chiropractic in Texas.

Our service population also includes the two chiropractic schools in Texas and the students, faculties and staffs of those schools. (The agency has no direct authority over the two chiropractic schools in Texas but seeks to work with the schools as appropriate.)

### ***KEY ORGANIZATIONAL EVENTS***

The Board of Chiropractic Examiners completed the Sunset Review process during the 79<sup>th</sup> Legislative Session (2005) and was continued for an additional twelve years. Among the more significant changes brought about by the Sunset Bill (HB 972) are the following:

1. As required by the HB 972, the Board has adopted scope of practice rules rather than depending on opinions issued by a board committee.
2. The number of pre-professional college credits required for licensure was increased from 60 hours to 90 hours.
3. The Board is creating an Executive Peer Review Committee and will complete the process of creating local peer review committees to assist the Board in evaluating standard of care complaints and in resolving minor disputes between doctors and patients.
4. The Board adopted rules to reduce fraud.
5. All applicants for a doctor of chiropractic license are subjected to a thorough criminal background check through both the Department of Public Safety and the Federal Bureau of Investigation.
6. The Board has changed its fees for late renewals of licenses to comply with the Sunset Licensing

Model.

7. The agency was able to hire its own General Counsel and legal assistant in 2010 for the first time in the 63-year history of the agency. The legal staff was able to reduce the “backlog” of enforcement cases pending SOAH hearings to cases—cases being tried are now from 2011 to present, while previously cases dated back to 2003.

8. In 2014, the agency hired two investigators to begin its field investigation program. Previously two investigators worked in the Austin office and were not able to physically visit facilities and licensees throughout the state to fully investigate complaints. With the addition of field investigators in Houston and Dallas, the agency is now able to more effectively carry out its mission.

9. In 2014, the Board began the undertaking of a substantive rule review, as required by the Administrative Procedures Act. Multiple calls for stakeholder input were disseminated and Board members are in the process of considering that input along with staff suggestions for changes. An emphasis on clarity of rules and adherence to statutory limits/guidance is prevalent during this rule review.

### ***HEALTH PROFESSIONS COUNCIL (HPC) MAKEUP***

The Board is a founding member of the Health Professions Council (HPC). HPC member agencies work closely with each other to increase the effectiveness and efficiency of each agency by sharing staff, serving as backups for one another, sharing best-practices information, and in the development of other resources such as procedures manuals and human resources training and materials. Information technology support (hardware and network – not programming) for the Board is presently provided by two employees who are shared by several smaller HPC agencies through the HPC. The long-standing cooperative efforts by the member agencies of the HPC allow each agency to reap the benefits of working together and sharing resources while still remaining as independent boards and agencies.

The members of the Health Professions Council are:

- Texas Board of Chiropractic Examiners
- Texas State Board of Dental Examiners
- Texas Funeral Service Commission
- Department of State Health Services, Professional Licensing and Certification Division
- Texas Medical Board
- Texas Board of Nursing
- Texas Optometry Board
- Texas State Board of Pharmacy
- Executive Council of Physical Therapy and Occupational Therapy Examiners
- Texas State Board of Podiatric Medical Examiners
- Texas State Board of Examiners of Psychologists, and
- Texas State Board of Veterinary Medical Examiners

## **Fiscal Overview**

### **METHOD OF FINANCE**

The agency is funded primarily by legislative appropriations from General Revenue, plus proceeds from a small amount of appropriated receipts generated by the sale of copies of agency lists and publications and by fees to cover the costs of requests for public information. The Board receives no federal funds.

It is important to note that the agency is a net source of funds for the State of Texas each year. It is a profit center for the state. It more than “pays its own way” and has raised more funds than required throughout its existence. In fact, the agency generates over three times as much revenue each year as it is appropriated to spend. Total revenue collected by the Board is projected to be approximately \$2,728,500 each year or about \$5,457,000 for the 2014-2015 biennium, while total expenditures will be approximately \$914,968 in FY 2014 and \$894,058 in FY 2015 (including benefits) or \$1,809,026 for the biennium. This will yield an estimated \$3,647,974 net for the General Fund during the 2014-2015 biennium. (See Tables 5-6, below.)

Included in the annual revenues is approximately \$1,115,000 per year collected for a \$200 Professional Fee imposed by the legislature and collected from each chiropractor who applies for an initial license in Texas or who renews his or her Texas license annually. All revenues from the Professional Fee are deposited into the General Fund and are used to help fund the state’s budget in other areas.

The agency is required by the Appropriations Act to generate enough revenues each year to cover both the costs of the appropriations made to the agency for its direct operating expenses and to cover all indirect costs such as employee benefits allocated to the agency by the state. Historically, the Legislature has incorporated a “revenue floor” in the agency’s bill pattern that requires the agency to generate revenue far in excess of what is necessary to cover all agency expenses. The Board sets its fees accordingly to meet the Legislature’s revenue target and thereby generates an excess of revenue each year for the state’s General Fund. Historically, the agency has been prevented from lowering its fees due to the necessity of generating at least enough revenue to satisfy the legislative requirement.

Additionally, the Legislature has imposed contingent revenue riders on the Board in the Appropriations Act, requiring the Board to raise additional revenue above the Comptroller of Public Accounts’ Biennial Revenue Estimate. During the 2012-13 biennium, in order to receive appropriations of \$57,154 in FY 2012 and \$57,154 in FY 2013, the Board was required to raise \$146,154 in excess of the \$2,630,000 revenue estimate for Object Code 3562 (licensing fees). In order to meet this contingent revenue requirement, the Board was required to raise licensing fees by \$13 and facility registration fees by \$5. Most recently, during the 2014-15 biennium, in order to receive appropriations of \$168,600 in FY 2014 and \$138,200 in FY 2015, the Board was required to raise \$372,228 in excess of the \$2,690,000 revenue estimate for Object Code 3562 (licensing fees). In order to meet this contingent revenue requirement, the Board was required to raise initial application fees by \$10, initial DC license fees by \$10, inactive license processing fees by \$30, initial facility registration applications by \$5, and continuing education course approval fees by \$35.

| REVENUE SOURCE                                 | FY 2010<br>Actual  | FY 2011<br>Actual  | FY 2012<br>Actual  | FY 2013<br>Actual  | FY 2014<br>Est.    | FY 2015<br>Est.    |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| License Fees & Related                         | \$1,224,046        | \$1,276,059        | \$1,320,876        | \$1,509,866        | \$1,532,000        | \$1,532,000        |
| Texas Online Fees                              | \$31,038           | \$32,215           | \$33,168           | \$34,268           | \$34,000           | \$34,000           |
| List Sales/Open Records<br>& Publications Fees | <u>\$47,724</u>    | <u>\$47,352</u>    | <u>\$47,311</u>    | <u>\$47,607</u>    | <u>\$47,500</u>    | <u>\$47,500</u>    |
| <b>SUBTOTAL without<br/>Professional Fees</b>  | <b>\$1,302,809</b> | <b>\$1,355,626</b> | <b>\$1,401,355</b> | <b>\$1,591,741</b> | <b>\$1,613,500</b> | <b>\$1,613,500</b> |
|  |                    |                    |                    |                    |                    |                    |
| \$200 Professional Fee                         | <u>\$1,041,200</u> | <u>\$1,076,800</u> | <u>\$1,090,800</u> | <u>\$1,111,000</u> | <u>\$1,115,000</u> | <u>\$1,115,000</u> |
|  |                    |                    |                    |                    |                    |                    |
| <b>TOTAL REVENUE</b>                           | <b>\$2,344,008</b> | <b>\$2,432,426</b> | <b>\$2,492,155</b> | <b>\$2,702,741</b> | <b>\$2,728,500</b> | <b>\$2,728,500</b> |
|  |                    |                    |                    |                    |                    |                    |

Table 4 – Chiropractic Board Revenue

|                       | FY 2010          | FY 2011          | FY 2012          | FY 2013          | FY 2014          | FY 2015          |
|-----------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| General Revenue Fund  | \$610,620        | \$592,620        | \$571,539        | \$571,539        | \$741,122        | \$710,843        |
| Appropriated Receipts | \$31,000         | \$31,000         | \$40,000         | \$40,000         | \$47,500         | \$47,500         |
| Benefits/Debt Service | \$88,762         | \$89,312         | \$126,654        | \$126,654        | \$126,346        | \$135,715        |
| <b>TOTALS</b>         | <b>\$730,382</b> | <b>\$712,932</b> | <b>\$738,193</b> | <b>\$738,193</b> | <b>\$914,968</b> | <b>\$894,058</b> |

Table 5 – Chiropractic Board Appropriations

| <b>Direct Agency Expenditures and Authorized FTEs</b>           | <b>FY 2010 Actual</b> | <b>FY 2011 Actual</b> | <b>FY 2012 Actual</b> | <b>FY 2013 Actual</b> | <b>FY 2014 Est.</b> | <b>FY 2014 Est.</b> |
|---|-----------------------|-----------------------|-----------------------|-----------------------|---------------------|---------------------|
| Expenditures:   |                       |                       |                       |                       |                     |                     |
| Agency Operations   | \$564,255             | \$585,610             | \$582,798             | \$583,094             | \$758,772           | \$728,493           |
| Texas Online Fees Collected & Paid to Texas Nexus               | <u>\$31,038</u>       | <u>\$32,215</u>       | <u>\$33,168</u>       | <u>\$34,268</u>       | <u>\$29,850</u>     | <u>\$29,850</u>     |
| Total Operational Expenditures w/o Benefits                     | \$595,293             | \$621,825             | \$615,966             | \$617,362             | \$788,622           | \$758,343           |
| Benefits:   |                       |                       |                       |                       |                     |                     |
| State Retirement  | \$31,202              | \$33,045              | \$25,448              | \$28,958              | \$27,568            | \$31,810            |
| OASI Match  | \$36,909              | \$38,419              | \$35,621              | \$37,910              | \$35,621            | \$35,621            |
| Group Insurance   | \$49,776              | \$54,989              | \$46,735              | \$54,531              | \$60,348            | \$65,129            |
| Benefits Replacement  | <u>\$1,027</u>        | <u>\$1,027</u>        | <u>\$770</u>          | <u>\$1,027</u>        | <u>\$673</u>        | <u>\$630</u>        |
| Total Benefits  | \$118,914             | \$127,480             | \$108,574             | \$122,426             | \$124,210           | \$133,190           |
| <b>TOTAL EXPENDITURES</b>                                       | <b>\$714,207</b>      | <b>\$749,305</b>      | <b>\$724,540</b>      | <b>\$739,788</b>      | <b>\$912,832</b>    | <b>\$891,533</b>    |
| Expenditures as a % of Revenue Generated w/o Professional Fee   | 54.82%                | 55.27%                | 51.70%                | 46.48%                | 56.57%              | 55.25%              |
| Expenditures as a % of Revenue Generated Incl. Professional Fee | 30.47%                | 30.80%                | 29.07%                | 27.37%                | 33.46%              | 32.67%              |
| Authorized Number of FTEs                                       | 11.0                  | 11.0                  | 11.0                  | 11.0                  | 14.0                | 14.0                |

Table 6 – Chiropractic Board Expenditure and FTE Analysis

## **SIZE OF BUDGET AND NUMBER OF FTEs**

Total agency expenditures, including employee benefits, for each year of the 2014-2015 biennium will average approximately \$904,513 per year vs. total revenues collected of \$2,728,500 each year. (As stated above, the Board collects approximately three (3) times as much revenue each year as it is allowed to spend in its operations. All revenue collected by the agency, with the exception of appropriated receipts, is deposited into the General Fund.)

The agency is authorized to employ 14.0 FTEs each year of the 2014-2015 biennium. However, 3.0 FTE positions are contingent upon the Board collecting \$372,228 in additional licensing revenue. All positions are currently filled.

Please note that for FY 2014 the agency will spend only 56.57% of the revenue it generates (excluding the \$200 Professional Fee). These expenditures include agency operations, Texas Online fees, and benefits. If the Professional Fee is included in the calculations for revenue, then the agency will spend only 33.46% of the total revenue it generates for the state.

## **BUDGET LIMITATIONS**

The agency cannot set its own budget because of the state's appropriations process. Even though the agency generates excess revenue for the state each year, because of limitations on its own appropriations the agency sometimes has difficulty fulfilling its mission as well as the staff, the Board, the Legislature, and the Governor's Office might like.

It is necessary for the agency to have the authority to transfer any unexpended budget appropriations forward from one fiscal year to the next ("UB authority"). The agency's budget is so relatively small that a seemingly small transfer of appropriations between years in a biennium could help the agency cope with unforeseen budget issues. This would be especially helpful during times of very tight budgets, as all state agencies must make the most out of every dollar of taxpayer money.

## **CURRENT AND EXPECTED BUDGET NEEDS**

Currently, the agency's budget is relatively sufficient to meet its mission. However, there are a few key needs that must be addressed during FY 2015-2019.

Adequate Pay for Employees/Retention of Skilled Staff: Currently, funding is not adequate to increase pay for current employees. The agency needs to increase salaries for certain key employees in order to retain skilled staff. The amount of institutional knowledge held by current employees is worth more than the agency is able to pay to these employees. Any turnover of staff will hinder the agency's ability to fulfill its mission to protect the public, as it will be difficult to fill these positions with the current salaries.

Enforcement Investigation Tools: The agency currently utilizes the Thomson Reuters investigative platform "CLEAR" to assist in investigations. The cost for one user (currently our Director of Enforcement) is approximately \$150 per month. The agency would benefit greatly from additional funding to allow the other three investigators on staff to also be able to use CLEAR. In order to get access for these remaining three investigators, the agency needs approximately \$5,400 more per fiscal year to pay for these services.

FBI Background Check “Rap Backs”: Federal and state background checks are run for each applicant for licensure through the FBI and the Texas Department of Public Safety (DPS). Currently state “rap backs” (updates to the Board when the individual is arrested any time subsequent to the first background check) are provided for anyone previously fingerprinted through this background check program. Beginning in 2014, the FBI provides “rap backs” for federal offenses and any arrests in states other than Texas. However, there is a \$13 charge associated per applicant for this FBI “rap back” service. As the Board processes roughly 300 applicants per year, the associated cost of this valuable program is about \$4000 per year. The agency will require additional appropriations to pay for this program.

Conversion of Paper Records to Digital Format: Currently, the agency’s active license files and all enforcement files are digital. However, non-renewable license files and facility files still exist in hard-copy. In order to minimize the amount of space dedicated to paper files, the agency would like to have these physical files scanned and converted into digital images. Not only does this reduce the volume of paper being stored by the agency, it also increases efficiency of staff by not having to search for paper files.

Litigation Expenses: Litigation expenses are two-fold for the agency. First, the TBCE is currently involved in two active lawsuits. One was brought by the Texas Medical Association and the other by the Texas Association of Acupuncture and Oriental Medicine. The TMA suit is scheduled to begin trial in September 2014, but may be stayed pursuant to an interlocutory appeal by the TBCE of a Plea to the Jurisdiction ruling. Funds are available for the FY 2014-15 biennium, but if the trial is stayed and does not resume until after FY 2015, funds will not be available to defend this suit. The TAAOM suit is not currently scheduled for trial, but will involve extensive discovery and use of expert testimony. Funds will be necessary for the TBCE to defend this suit.

The second litigation expense involves the agency prosecuting cases at the State Office for Administrative Hearings. Currently, the agency has no budget to pay for expert testimony. This type of testimony is especially important in cases involving standard of care issues.

UB Authority: The agency requires a rider to allow it to transfer any unexpended budget appropriations from one fiscal year forward to the next fiscal year. The agency’s budget is so small that a relatively small transfer of appropriations between years in a biennium could help the agency cope with unforeseen budget issues. This would be especially helpful during times of very tight budgets.

Additional Personnel: The agency currently is authorized to employ 14.0 FTEs. There will be a need in the future to increase the number of authorized FTEs to 15.0, with adequate funding. The Enforcement/Legal Department would be drastically improved if funding were authorized for another attorney. As the lone attorney on staff, the General Counsel currently handles advising investigators and the Enforcement Committee, negotiating with respondents in Informal Conferences, litigating cases at the State Office of Administrative Hearings, presenting cases to the full Board for approval, answering scope of practice inquiries from licensees, writing and reviewing administrative rules, responding to complex open records requests, and advising the full Board on legal issues. In essence, the amount of work the General Counsel handles is appropriate for two people. Having another attorney on staff (and being able to pay that attorney a competitive salary to reduce turnover) would allow for better enforcement and regulation. Swift action by the Board following a finding of violation of law or rule will absolutely benefit the public.

## ***CAPITAL BUDGET NEEDS***

The agency anticipates that within the next 1-5 years it will need several relatively small additional capital appropriations to replace existing computers and printers during FY 2016. Previously, the agency was on a four-year replacement cycle, which would have mandated replacement in FY 2012. However due to budget cuts, the replacement cycle was extended by updating memory in computers in FY 2013 to bring the machines up to a level comparable to new computers.

The agency believes that it is more prudent to purchase the information technology equipment rather than to lease it because:

- the agency tends to keep its computers and printers for four years or more;
- funding streams to make lease payments cannot be guaranteed from one biennium to another; and
- the agency's low level of total appropriations makes it difficult to cut other expenditures to make lease payments if funds for lease payments are not appropriated as needed.

## ***USE OF HISTORICALLY UNDERUTILIZED BUSINESSES***

The agency has a long-standing commitment to support Historically Underutilized Businesses (HUBs) by making good-faith efforts to purchase goods and services from HUBs whenever it is reasonably possible to do so. As a result, agency purchases from HUBs in certain categories and overall often have exceeded 70% in recent years (see table below).

| <b>Category</b>                     | <b>FY 2008<br/>Actual</b> | <b>FY 2009<br/>Actual</b> | <b>FY 2010<br/>Actual</b> | <b>FY 2011<br/>Actual</b> | <b>FY 2012<br/>Actual</b> | <b>FY 2013<br/>Actual</b> | <b>GOAL<br/>AMT</b> |
|-------------------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------|
| Professional Svcs                   | 100%                      | 100%                      | 100%                      | 100%                      | 100%                      | 100%                      | 23.60%              |
| Other Services                      | 66.80%                    | 55.40%                    | 73.90%                    | 11.00%                    | 69.89%                    | 5.53%                     | 24.60%              |
| Commodities                         | 84.60%                    | 59.00%                    | 68.60%                    | 91.00%                    | 82.36%                    | 33.14%                    | 21.00%              |
|                                     |                           |                           |                           |                           |                           |                           |                     |
| <b>Overall HUB<br/>Expenditures</b> | 83.80%                    | 60.50%                    | 68.00%                    | 90.00%                    | 83.16%                    | 39.40%                    |                     |
|                                     |                           |                           |                           |                           |                           |                           |                     |

*Table 7 – HUB Purchases by Percent for FY 2008-FY 2013*

The agency did not meet the goal amount of 24.60% for Other Services in FY 2013. This was due to a one-time payment of \$2,100 to Prometric, the vendor who administers the Board's Jurisprudence Examination to applicants. The \$2,100 payment was for a much-needed update to the examination, which required extensive programming by Prometric to implement. Because this was a one-time expense, the Board expects its HUB use percentage to increase in future years.



## **Technology and the Agency**

### ***IMPACT OF TECHNOLOGY ON CURRENT OPERATIONS***

The agency makes as extensive use of technology as possible to be more effective and efficient. There are three servers that host the agency's database, office applications files and the agency's website. Each employee has a desktop computer that is connected to the servers via a local area network. The network and computers are supported by information technology employees associated with the Health Professions Council. The agency employs one systems analyst/programmer who develops and maintains the agency's database and website and other specialized applications as necessary. Each employee has access to a printer and there is one copy machine/fax machine/network printer/scanner and one color network printer accessible to all employees. The agency uses the state's telephone system that is available through DIR.

Employees use e-mail provided by Google Apps as approved by the Department of Information Resources, which provides a cost savings over the email service previously supplied by DIR. The use of the Google Apps e-mail allows employees to access e-mail from anywhere, thus increasing productivity and the effectiveness of telecommuting.

At the discretion of the Executive Director, certain employees are approved to telecommute periodically through the use of a Virtual Private Network (VPN) connection to the in-office servers. This also increases productivity of employees.

Board and committee meeting materials are uploaded to a secure section of the agency's website. Staff and members are able to download materials for use on laptop computers during meetings. This has eliminated the need for assembling meeting notebooks, reducing staff time and excessive paper usage.

The Texas Online License Renewal system is used to renew more than 90% of individual active DC licenses each year. More than 79% of chiropractic facility licenses are renewed online. Also, licensees can update their Profiles in a separate Texas Online application that is accessible by the licensees and the public. One shortfall of the Texas Online License Renewal system is that any change to contact information done through the Texas Online system is not communicated to the agency. Most licensees do not realize this and fail to change contact information in both places.

The agency has its own database and is not dependent upon any third party for support and development. It pays no annual software licensing fees, database maintenance fees or system enhancement fees. A private vendor used by some other Texas state health licensing agencies provided an unsolicited proposal to convert our database to their system with initial conversion costs exceeding \$170,000 and additional annual costs of \$30,000 or more. The agency strongly believes that it is much more efficient and effective to continue to keep the development and ownership of its small database and related programs entirely in-house. Doing so preserves management's ability to control costs and to react quickly to changing legislative requirements. The agency is not part of the HPC group of agencies that were on the former Northrop-Grumman systems that implemented new databases via an outside vendor during FY 2010.

In 2009-2010, the agency provided the public with a search function on the agency website to verify all licensees and chiropractic facilities. The name, city, licensure history, licensure status, and disciplinary history are now available online. The search function pulls data from the agency database, thus ensuring accurate information.

Recently, the agency added information to the website that will allow licensees and members of the public to be better informed of board policies and actions. The website now features the ability to listen to all board meetings and some committee meetings to the website. Also, the website lists all recently proposed rule amendments and all rule adoptions.

The agency began the use of social media in January 2013 when it joined Facebook and Twitter. These social media platforms allow the agency to communicate real-time with licensees and members of the public. Licensees are able to ask questions regarding licensure requirements, scope of practice, and the like. Members of the public have contacted the Board via Facebook to report licensee misconduct.

Additionally, the agency utilizes Constant Contact as a means of communicating with all licensees and facility owners via e-mail. This keeps all parties fully informed of rule and law changes, meeting times, and other agency events. Additionally, this e-mail communication allows the agency to send out monthly newsletters with valuable regulatory information to licensees, instead of relying on costly paper newsletters previously mailed out yearly. The cost savings of this e-mail communication will be invaluable to the agency, reducing the cost of design, printing, and postage for newsletters.

Finally, the agency has digitally imaged active licensing files and enforcement files. This allows the agency to easily review, retrieve and disseminate the imaged data. Additionally, the imaging project has reduced storage space and paper costs. The only remaining paper-based files are non-renewable and retired licensing files, as well as facility files, which are anticipated to be scanned over the next few years as resources allow.

## ***ANTICIPATED TECHNOLOGICAL ADVANCES***

The agency intends to continue to identify and implement technological solutions to bring about greater effectiveness and efficiencies in operations as resources allow. As a small agency, the TBCE cannot afford to be on the cutting edge of technology or innovation. However, the agency intends to adopt new standards and applications in technology as they are proven and become affordable.

Currently the agency is looking to improve its database infrastructure. The current database is functional but does not allow for easy expansion of programs or editing of applications. The agency's Programmer Analyst is in the process of completing a new database which will allow the agency to be more flexible in tracking and reporting data. The database improvement has involved, and continues to involve, an in-depth assessment of current requirements for all functions of the licensure and enforcement divisions, including identifying those functions not currently available in the existing database. The agency's Programmer Analyst uses these assessments to design the database, user interfaces, reports, etc for final deployment. One problem that has been identified is some trouble with migrating data from the old database to the new database. The agency will continue to work to efficiently and seamlessly transition to the new database.

While there has been some improvement in website contents, the agency is also looking to improve its website. The current website is outdated and does not present information in an organized, customer-friendly manner. The agency's Programmer Analyst is working on a complete overhaul of the agency website to improve user functionality.

The agency is exploring technological advances to allow licensees to watch video or complete courses online for continuing education (CE) credit. This will raise additional revenue for the agency and also allow the agency to have a greater impact on information being provided to licensees.

Most recently, the agency began looking into hosting an online message board for the use of Board members, as contemplated by the new Section 551.006 of the Government Code (S.B. 1297, 83rd Legislature). We have contacted a few vendors to see what pros and cons are of creating our own message board, as opposed to utilizing the services of a commercial vendor. The agency anticipates utilizing this technology as soon as FY 2014.

Finally, the agency will explore the use of videoconferencing to host meetings, in accordance with the amendments to Section 551.127 of the Government Code (S.B. 984, 83rd Legislature). Members of the Health Professions Council are contemplating the purchase of video-teleconferencing equipment, which may be available for use by member agencies in the future.

### ***ANTICIPATED TECHNOLOGY NEEDS FOR FISCAL YEARS 2015-2019***

The agency does not anticipate any significantly large expenditures for new technology initiatives during the next five years that would meet state thresholds for a “project.” Technology-related expenditures will be needed to:

- replace existing and new computers, printers and copy machines,
- upgrade existing computer software,
- pay staff to maintain current software and develop new applications as needed.

The agency believes that it is more prudent to purchase the information technology equipment rather than to lease it because:

- the agency tends to keep its computers, printers, and copiers for four years or more,
- annual expenditures are relatively small,
- funding streams to make lease payments cannot be guaranteed from one biennium to another, and
- the agency’s very low level of total appropriations does not allow for cutting other expenditures to make lease payments if funds for lease payments are not appropriated as needed.

## **Economic Variables**

The agency is affected by economic variables primarily indirectly through the following processes:

1. Agency appropriations are limited or reduced because of pressures on the state's budget; and
2. The number of individuals who seek licensure or re-licensure (thereby generating revenue for the state) varies with the economic vitality of the state due to the following factors:
  - changes in the number of people seeking chiropractic services;
  - changes in the number of licensees as the economic conditions in Texas vary;
  - changes in the number of graduates from chiropractic college;
  - changes in the population or demographics of the population;
  - changes in the insurance industry reimbursement policies and in workers compensation policies regarding reimbursement for chiropractic services; and
  - potential adverse judicial rulings or legislative action that may limit the scope of practice of chiropractors, thereby potentially reducing the number of practicing licensees.

## **Impact of Federal Statutes/Regulations**

The agency itself is not directly affected by federal statutes or regulations in carrying out its mission to protect the health and welfare of the people of Texas. Some federal laws do influence the Board's decisions in determining proper scope of practice for chiropractors. Federal laws do have an impact on the agency's licensees regarding their eligibility for participation in various federal health and insurance programs and in the amounts they are reimbursed for services rendered under coverage provided by those programs.

## **Other Legal Issues**

### ***IMPACT OF STATE STATUTORY CHANGES***

The Board's Sunset Bill (HB 972) passed in 2005 continued the Board for another twelve years while making some significant changes to the Board's enabling statute, Chapter 201 of the Texas Occupations Code. As directed by those statutory changes, the Board adopted rules that more clearly define scope of practice for doctors of chiropractic in Texas. In 2006, after adopting new rules concerning scope of practice, the Board was sued by the Texas Medical Association (TMA). The suit alleged that the Board had adopted rules that would allow doctors of chiropractic to engage in practices that constitute the practice of medicine, as detailed below. Additionally, in 2011, the TMA brought another suit against the Board based on the same scope of practice rule, as detailed below.

### ***IMPACT OF LITIGATION***

In 2006, the Board adopted a scope of practice rule that allowed qualified doctors of chiropractic to diagnose certain conditions and to perform Needle Electromyography (Needle EMG) and Manipulation Under Anesthesia (MUA). The Texas Medical Association (TMA) subsequently sued the Board alleging that the Board had adopted rules that allow doctors of chiropractic to practice medicine.

The state District Court in November 2009 issued summary judgment that Needle EMG and MUA were not within scope of practice for Texas DCs. However, the District Court also held that while

chiropractors could diagnose conditions within scope of practice, the rule promulgated by the Board was too broad and thus not valid.

The case was appealed to the 3rd Court of Appeals, who rendered an opinion in April 2012 affirming in part and reversing in part the District Court's opinion. The Court of Appeals affirmed that Needle EMG and MUA are not within scope of practice for Texas DCs. However, the Court reversed the District Court's decision regarding the rule on diagnosis and instead found that the rule was sufficient to outline the permissible limit of diagnosis for Texas DCs. The TMA filed a Motion for Rehearing, which was denied. The TMA then appealed the diagnosis issue to the Supreme Court of Texas, who denied their Petition for Review.

Additionally, the TMA sued the Board in a second and separate suit challenging not only the Board allowing "diagnosis" (the same issue as in the first TMA case), but also the Board's promulgation of a rule allowing qualified DCs to perform a diagnostic test called Vestibular Ocular Nystagmus Testing. The District Court ruled on summary judgment that this diagnostic test is outside the chiropractic scope of practice. The Board appealed this issue to the 3rd Court of Appeals, who found that summary judgment was not appropriate and remanded the case back to District Court. Once the case returned to District Court, the TMA amended its petition to include challenges to the Board's definitions of "subluxation complex" and "musculoskeletal system" in its scope of practice rule.

The issue of diagnosis is very important. The TMA contends that only MDs and DOs are allowed to diagnose medical conditions. It is the Board's belief that "diagnosing" a patient is not limited to the practice of medicine but is a basic requirement for a doctor of chiropractic who must properly evaluate the condition of each patient and make a proper recommendation for treatment. A DC who cannot diagnose may have no basis on which to determine treatment for or to actually treat a patient.

The ongoing litigation involving the Board has a large impact on the Board, in addition to the profession. While the risks to the profession are obvious if the right to diagnose were lost, the impact on the Board involves loss of licensees and thus loss of revenue. Any limitation of the right to diagnose and treat beyond the current statutory scope of practice would make Texas a very undesirable place to practice for DCs. Additionally, the citizens of Texas would be denied their right to choose their health care provider. A large number of citizens in this state currently use Doctors of Chiropractic as their primary care doctor or wellness provider. These DCs practice within their scope of practice and refer to other health care providers where appropriate. If the right to diagnose by DCs were lost or limited further, that would in effect deny citizens their chosen option beyond allopathic care.

Most recently, in February 2014, the Texas Association of Acupuncture and Oriental Medicine brought suit against the Board alleging that acupuncture is outside the scope of practice for Texas DCs. Chiropractic scope of practice under the Chiropractic Act allows the "[performance of] nonsurgical, nonincisive procedures, including adjustment and manipulation, to improve the subluxation complex or the biomechanics of the musculoskeletal system." Acupuncture is statutorily defined in the Occupations Code as "the nonsurgical, nonincisive insertion of an acupuncture needle and the application of moxibustion to specific areas of the human body as a primary mode of therapy to treat and mitigate a human condition, including evaluation and assessment of the condition." Therefore, relying on this definition of acupuncture, the Board has allowed acupuncture as part of the chiropractic scope of practice to improve the subluxation complex or the biomechanics of the musculoskeletal system. The lawsuit is in the beginning stages; the parties have not yet begun discovery.

## ***CONSIDERATION OF POSSIBLE CHANGES TO STATUTE***

Two issues that the Board has faced recently that would require a change to the Chiropractic Act. The first involves animal chiropractic. Currently, the Chiropractic Act limits the practice of chiropractic to the human body. The Chiropractic Act further defines chiropractic as “[using] the term ‘chiropractor,’ ‘chiropractic,’ ‘doctor of chiropractic,’ ‘D.C.,’ or any derivative of those terms or initials in connection with the person's name.” However, the Veterinary Licensing Act (Chapter 801 of the Texas Occupations Code) requires the Board of Veterinary Medical Examiners (Vet Board) to promulgate rules to ensure alternative treatments, including chiropractic treatment, is performed under supervision of a veterinarian. Some Texas chiropractors would like to perform animal chiropractic, but are currently prohibited from doing so under their chiropractic license by the Chiropractic Act’s limit of chiropractic to the human body. There are also problems with individuals holding themselves out to be “animal chiropractors,” since the use of the term “chiropractor” in connection with one’s name constitutes the practice of chiropractic, requiring a chiropractic license. In dealing with similar issues, some states regulate the practice of animal chiropractic by restricting that practice to Doctors of Chiropractic and by allowing chiropractic licensing boards to certify or register those wishing to practice in this area.

The second issue the Board has faced is in the case of license applicants who have received discipline by another state licensing board. Currently, discipline in another state is not grounds to deny licensure in Texas, no matter the severity of the discipline. This has proved challenging when presented with individuals that the Board did not feel appropriate to license. In the past two years, the Board was presented with an individual who had disciplinary action imposed against him in another state for some rather troubling standard of practice issues. There was no corresponding violation of Section 201.502 of the Chiropractic Act, and thus the Board had no choice but to license him.

In its role of providing relevant information to the Governor and to the Legislature, the Board will continue to review its enabling statute to identify any possible changes to the Act that would clarify the existing statute or modify it in ways to allow the Board to be more effective or efficient in fulfilling its mission to protect the public.

## **Board and Agency Self-Evaluation**

### ***AGENCY SUCCESSES***

The agency has moved forward in an identifiably positive way over the last few years. After our previous Executive Director was hired near the end of Fiscal Year 2006, employee turnover was reduced and morale improved significantly. That Executive Director retired in 2011, and the Board hired its staff Attorney as the new Executive Director. The agency now has a stable, knowledgeable, and dedicated team that is moving the Board forward toward its goal of becoming an outstanding and efficient small state agency.

#### *Rulemaking*

The Board has been diligent in adopting and modifying rules to define scope of practice for doctors of chiropractic in Texas and will continue to update those rules as necessary in the coming years. The Board has moved away from its controversial practice of issuing “opinions” and is involving stakeholders and public input early on in the rulemaking process. The Board will continue in the future to adopt rules that better clarify issues in chiropractic regulation. The agency is currently undergoing its required rule review process to further improve its rules.

#### *Enforcement*

The resolution of complaints has noticeably improved. During FY 2006, fewer than 10 cases were resolved with disciplinary action being taken by the Board against licensees. This number has continued to improve since, as shown by the table below.

| <b>Fiscal Year</b> | <b># Cases Closed with Discipline</b> | <b>Total Jurisdictional Cases Closed</b> | <b>% Cases Closed with Discipline</b> |
|--------------------|---------------------------------------|--|---------------------------------------|
| <b>2006</b>        | 1                                     | 123                                      | 0.81%                                 |
| <b>2007</b>        | 48                                    | 221                                      | 21.72%                                |
| <b>2008</b>        | 52                                    | 248                                      | 20.97%                                |
| <b>2009</b>        | 63                                    | 213                                      | 29.58%                                |
| <b>2010</b>        | 71                                    | 246                                      | 28.86%                                |
| <b>2011</b>        | 80                                    | 298                                      | 26.85%                                |
| <b>2012</b>        | 90                                    | 258                                      | 34.88%                                |
| <b>2013</b>        | 145                                   | 338                                      | 42.90%                                |

*Table 8 – Disciplinary Actions Taken FY 2006 – FY 2013*

Additionally, the agency has had great success with closing older enforcement cases pending contested case hearings at SOAH. Since hiring its own legal staff in September 2009, the agency has been able to reduce the number of cases pending hearings. At the end of FY 2009, the agency had cases as old as FY 2001 pending hearings, while currently, the oldest open case is from FY 2010.

### *Licensing*

The Board now regulates over 5,300 active DCs. The number of licensees regulated continues to grow, but the efficiency and success of the agency's small Licensing Department has not wavered. Processing times for issuing licenses is consistently under seven (7) business days from the date a new applicant is eligible to receive a license, and the processing time for issuing a renewed license or registration is an astonishing one (1) business day. The agency enjoys good usage rates for the renewal of licenses through the Texas Online system. Texas Online renewal rates for individual chiropractors exceed 95%, while chiropractic facilities are utilizing Texas Online to renew at rates near 90%. The agency will continue its efforts to maintain and even improve its efficiency in licensing.

### *Customer Service*

Beginning in FY 2012, the agency made a renewed effort to improve customer service. A receptionist was hired, so that all phone calls to the agency's main line are answered by a "live" person, instead of a recorded message. Most calls to the main line involve licensing, and because the receptionist is also the Licensing Assistant, most callers' questions are answered without ever having to have a phone call transferred. The response by licensees to this customer service approach has been overwhelmingly positive.

A customer service survey was sent out to all licensees in May 2014 through the Institute for Organizational Excellence. Results had not yet been received as of the date of this report.

### *Technology*

In addition, the agency has made great progress in utilizing technology to become more efficient and to improve agency functions. We have improved our licensing database and analysis of database reports to make them more reliable. Also, we have expanded the digital imaging of paper files to eliminate the need to warehouse physical files and to make access to information in the files easier. We have also utilized web-based information and document sharing amongst staff and Board members, so as to reduce the expense of paper copies, postage, and storage. Additionally, we have made Board meeting agendas, minutes, and recordings available via the Internet, so as to improve the transparency of Board functions. We have also made it easier for members of the public to verify a licensee's licensure and disciplinary history by performing a web-based search on our agency home page. Finally, we are using email capabilities and social media to communicate with licensees more regularly and more reliably, with a large savings to the agency by reducing printing and postage costs.

## **EVALUATION OF CURRENT OPERATIONS**

The agency's goal is to be a successful and efficient state agency, despite its small size and limited budget.

### *Enforcement*

Agency operations focusing on the investigation and resolution of complaints have improved significantly since 2006, but more improvements are necessary before the agency reaches a satisfactory level of performance in this area. The current Enforcement Department staff members consist of the Director of Enforcement, three Investigators (two in the field), one Enforcement Administrative Assistant, the agency's General Counsel, and one Legal Assistant. These individuals do a good job of processing incoming complaints, conducting investigations, and bringing cases to the Enforcement Committee for resolution. However, they inherited a substantial backlog of complaints that had not



been investigated. Staff has been working diligently to resolve those issues. As of May 31, 2014, the agency has 206 open complaints. Of these 206 unresolved complaints, only 2 are from FY 2010 (and are near completion), only 9 are from FY 2011, and only 15 are from FY 2012. Most of those have requested a SOAH hearing and should be closed within the next 6-9 months. It is the agency's goal to eventually only have cases open in the current and preceding Fiscal Years.

More cases are being presented to the Enforcement Committee each year. However, more licensees are employing defense attorneys in enforcement cases. This increase in lawyer representation has resulted in increases in case resolution time due to time-consuming (and often excessive) discovery and increased litigation at the State Office of Administrative Hearings (SOAH). While there are some licensees who choose to voluntarily agree to discipline by the Board, many exercise the legal option of requesting a hearing at the SOAH. Prior to September 2009, the agency did not have its own attorney and was therefore dependent upon attorneys from the Office of the Attorney General to prepare and present cases for SOAH hearings. The increased number of SOAH requests combined with the small number of cases being tried at SOAH created a large backlog of cases. To resolve this problem, the agency requested and received authorization and funding for a Board Attorney and a Legal Assistant for the attorney beginning in the 2010-11 biennium. The addition of legal staff allows the agency to attempt to resolve more cases informally and to take cases to SOAH as necessary on a more timely basis.

During FY 2013, the agency hired two field investigators, as authorized by the 83rd Legislature. These additional investigative staff members allow the agency to inspect facilities, adequately monitor disciplinary actions involving stipulations on licenses, and take a proactive approach to misleading and deceptive advertising for services outside of the scope of practice. Despite the large number of respectable DCs in Texas, there are some licensees who advertise and perform services that are clearly outside the scope of practice. The prevalent use of internet marketing makes this issue a very high-visibility issue amongst citizens of Texas. While the agency believes that this is a major area of enforcement that needs serious attention, funding and staffing shortages had previously precluded any progress in this area. Because the field investigation program is very new, improvements in the enforcement program cannot be quantified at this time.

The agency would also in the future like to have peace officer status for its investigators to facilitate the exchange of information with local, state and federal law enforcement agencies. This would be a significant step forward in the agency's ability to be involved in the investigation and discipline of licensees who may engage in insurance fraud.

There is also a need to reimburse travel expenses for members of local peer review committees and the Executive Peer Review Committee who are called upon to travel to Austin to provide testimony or advice at informal or formal hearings for standard of care complaints for which the agency has asked the local peer review committee members to provide an opinion.

### *Licensing*

Agency operations for the issuance and renewal of licenses and registrations are functioning fairly smoothly, although staff members in those areas are working at peak capacity.

The agency successfully verifies credentials and issues licenses for approximately 250-275 new doctors of chiropractic each year while also renewing active licenses for over 5,100 chiropractors and active registrations for over 3,800 chiropractic facilities and over 100 chiropractic radiological technicians. Additionally, licensing staff processes inactive licenses for approximately 600 licensees. Licensing renewal operations are greatly enhanced by the fact that more than 90% of doctors of chiropractic renew online each year through the Texas Online program.

Licensing staff approves over 1,000 requests for continuing education (CE) classes. Beginning in 2009, DCs were required to meet specific continuing education requirements for courses in ethics, record keeping and risk management/jurisprudence. During the 2011 and 2012 calendar years, licensees were also required to fulfill a one-time eight-hour CE requirement in Medicare coding and documentation. The agency continues to analyze ways to improve the CE course approval criteria to ensure all topics are relevant and within the chiropractic scope of practice.

The agency has begun to actively track CE compliance for every licensee to verify that DCs comply with continuing education requirements each year. Beginning in January 2013, every licensee renewing a license was required to have proof of compliance on file with the Board before an active license renewal was processed. (Board rules state a license can be renewed, but must be renewed as probated, if the licensee has not complied with CE requirements prior to renewal. The licensee then has one year to “catch up” on the delinquent CE requirements.)

#### *Executive and Administrative*

The Executive and Administrative Department is doing a moderately good job of carrying out the agency’s executive, administrative and accounting functions but is understaffed. In the beginning of FY 2012, the agency’s previous Executive Director moved to a new agency. The Board hired a new Executive Director who was previously the Board’s Legal Assistant and then Board Attorney. By hiring a previous agency employee, the Board has benefitted from continuity of operations and information.

The current Executive Director has identified the need for greater progress in the creation and maintenance of agency policies and procedures. Administrative procedures, outlining the differentiation of duties between the Board and staff, have been approved by the Board. Additionally, the Executive Director has updated the agency’s Employee Handbook, containing most agency policies. Travel, payroll, and purchasing procedures have also been updated.

Despite the progress made, the agency’s Executive Director needed an administrative assistant to carry more of the workload for day-to-day activities so that she could focus on planning and problem solving to make the agency more effective. Authorization was received from the 83rd Legislature to hire an Executive Assistant, and the agency filled the position during FY 2014.

### **OPPORTUNITIES FOR IMPROVEMENT**

The agency continuously examines its operations to identify areas in which it can improve performance. Among those that will be pursued during 2015-2019 are the following:

- The Enforcement Department will ensure that all complaints and cases are properly accounted for and tracked throughout the entire complaint resolution process. Additionally, the Enforcement Department will ensure that complaints are processed according to a risk-based analysis so that complaints with the highest potential risk or harm to the public receive the highest priority.
- The Enforcement Department will continue to reduce the backlog of open complaints and pending cases to the greatest extent that funding and staffing will allow. The use of monthly quotas for case progression for investigators and legal staff has helped to provide clear guidelines for work prioritization.

- The Enforcement Department will look for additional ways to proactively enforce rules on advertising and rendering of services outside the chiropractic scope of practice, besides our current newsletter articles and social media postings.
- The Enforcement Department and the Board will continue to work with federal and state agencies to swiftly take action against licensees convicted of fraud or other crimes posing a risk of harm to the public of Texas.
- The Licensing Department will attempt to identify and track which licensees are qualified to perform acupuncture under Board rules.
- The Board and its Rules Committee will continue to review all Board rules to ensure clarity and necessity for regulation. The Board and agency staff will continue to solicit input from stakeholders at every opportunity.
- The agency will continue to improve the agency's website to add more information, to update FAQs, and to add features to allow licensees and the public to search the agency's database for pertinent information.
- The agency will provide effective, user-friendly customer service to all of its clients.
- Agency management will attempt to retain skilled staff in an effort to employ a long-term experienced workforce. However, the lack of funding for merit pay increases to reward exceptional performance and the lack of funding to increase salaries will continue to strain working relationships between employees and the agency.

## **KEY ISSUES FOR FY 2015-2019**

### *Adequate Pay for Agency Staff*

The agency's staffing level is at a point where we believe we can adequately carry out our mission of protection of the public. However, pay for agency staff—especially key staff—is extremely low. Several agency staff members have been employed with the Board the longest out of all current staff, but have not received meaningful pay increases during their employment despite increased workload.

The agency's Director of Licensure, Director of Enforcement and Chief Financial Officer are three key positions within the agency's staff that ensure a successful and efficient agency. These three individuals have been with the agency long enough to possess institutional knowledge that is invaluable to agency operations. However, their pay is not commensurate with their levels of responsibility and their job performance. Currently, none of these three key personnel earn even the midpoint salary for their position classifications.

The agency's Director of Licensure runs a flawless licensing program. Initial licenses and facility registrations are issued within one week of the time a completed application is received by the agency. License and registration renewals are processed the next business day. During FY 2013 alone, she processed nearly 5,800 license renewals and over 3,700 facility registration renewals, in addition to issuing nearly 300 new licenses and nearly 500 new facility registrations. However, presently, she earns only \$40,600, nearly \$9,600 less than the midpoint salary for her position classification (A18).

The agency's Director of Enforcement manages a busy enforcement section, dealing with the investigation of and resolution of over 300 complaints per year. He manages the investigation of complaints from the time they are received in the agency office, reviews all investigative reports, presents cases to the Board's Enforcement Committee, oversees the Informal Conference program, monitors cases pending resolution and refers cases for litigation to the agency General Counsel, testifies at the State Office of Administrative Hearings, and monitors completed disciplinary actions. Currently the Director of Enforcement earns only \$50,600, the minimum salary for his position classification (B22) and over \$15,000 less than the midpoint salary for B22.

The agency's Chief Financial Officer is the agency's first full-time accounting staff member since 2006, when the agency was in financial shambles. At that time, the agency was unable to pay all its bills because it had not provided justification for certain contingency appropriations to be transferred from the Comptroller's office. The agency previously had been placed on prepayment audit status by the Comptroller, meaning that all vouchers had to be approved in advance by the Comptroller's office before they could be paid. Finally, the agency's payroll and those bills that were being paid were being processed by the staff of the Board of Nursing because the agency lacked the necessary expertise. A part-time accountant was hired in 2006, which helped the agency's financial situation some. However, when the CFO was hired in 2009, the agency's financial situation improved drastically. The agency now meticulously ensures that all appropriations are spent correctly and that all revenue is collected. The agency recently underwent an audit by the Comptroller's Office (travel, payroll, and purchasing/procurement) in August 2012. Due to the CFO's diligent work, only minimal findings were recorded. However, she currently earns only \$48,600, nearly \$13,000 less than the midpoint salary for her position classification (B21).

If any of these three individuals were to leave the agency for a higher-paying job, agency operations would greatly suffer. The solution to this immediate problem is for the agency to be given the funding to provide these three key personnel a merit pay increase of \$10,000 each, thereby bringing their salaries closer to the midpoint salary for their position classifications.

Over the next five years, the Board may also seek increased funding for salaries for the executive director and other skilled employees in order to attract and retain an experienced and knowledgeable workforce. Additionally, the Board will be requesting merit pay for other employees to provide incentives for high-performing staff.

### *Chiropractic Scope of Practice*

Scope of practice questions are always an issue for all health care professions and will continue to be discussed in the coming years. Pharmacists seek a greater role in prescribing medications and in working directly with patients. The members of the medical and nursing communities struggle with the proper roles and scopes of practice for physicians' assistants and advanced practice nurses. Podiatrists and physicians have exhaustive discussions on where the foot ends and the leg begins and therefore what is included in the scope of practice for podiatrists. There are lots of discussions about the creation of health care teams to treat patients and no small amount of discussion about who gets to call the plays for the team. The scope of practice for DCs will continue to be included in those discussions.

The determination of the proper scope of practice for a group or for an individual member of that group often seems to come down to the determination of the knowledge and skill sets (core competencies) that are needed to safely perform the procedure, analysis, or act in question. If a professional licensee has the verifiable education, training, certification, and personal skill to ensure a good patient outcome in almost every situation for a particular scope of practice issue, then it is difficult logically to argue against

the inclusion of that procedure, analysis, or act in the scope of practice for that individual. As these components change over time, the Board must retain the flexibility to adjust scope of practice rules as prudent to reflect changes in the health professions in general and in chiropractic in particular.

No one health professions group should be able to unilaterally determine scopes of practice for other members of the health care community. Questions regarding whether a procedure is within the scope of practice of chiropractic in Texas have resulted in insurance companies withholding payments, causing economic hardships for patients and chiropractors. Similarly, insurance companies and other related entities should not be able unilaterally to determine what is or is not within the scope of practice for a profession. Professions seeking to protect the economic well-being of their members should not be able to use unjustified scope of practice issues as a sword or shield to prevent other qualified health professions from providing the same or similar services for patients.

In the current environment, the Texas Medical Association and its related national organization seem to have launched an aggressive campaign to challenge the scopes of practice for other health care practitioners, including chiropractors, podiatrists, nurse practitioners, psychologists, and family therapists among others, that they believe are infringing on the practice of medicine. These legal challenges to scope for chiropractors and others by the TMA and AMA are expected to continue in the courts and be transferred to the legislature in coming years.

The Texas Board of Chiropractic Examiners takes seriously its responsibility to adopt rules specifying the scope of practice for its licensees after due consideration of input from all interested parties. The Board will continue in good faith to refine the scope of practice rules to reflect educational, technological, and procedural changes in the profession and in the health-care community at large.

### *Animal Chiropractic*

Currently, the Chiropractic Act limits the practice of chiropractic to the human body. The Chiropractic Act further defines chiropractic as “[using] the term ‘chiropractor,’ ‘chiropractic,’ ‘doctor of chiropractic,’ ‘D.C.,’ or any derivative of those terms or initials in connection with the person's name..” However, the Veterinary Licensing Act (Chapter 801 of the Texas Occupations Code) requires the Board of Veterinary Medical Examiners (Vet Board) to promulgate rules to ensure alternative treatments, including chiropractic treatment, is performed under supervision of a veterinarian.

Some Texas chiropractors would like to perform animal chiropractic, but are currently prohibited from doing so under their chiropractic license by the Chiropractic Act's limit of chiropractic to the human body. There are also problems with individuals holding themselves out to be “animal chiropractors,” since the use of the term “chiropractor” in connection with one's name constitutes the practice of chiropractic, requiring a chiropractic license.

In dealing with similar issues, some states regulate the practice of animal chiropractic by restricting that practice to Doctors of Chiropractic and by allowing chiropractic licensing boards to certify or register those wishing to practice in this area

### *Fraud Prevention and Reduction*

Agency enforcement and legal staff members have worked to develop relationships with the Texas Department of Insurance (TDI), the Division of Workers' Compensation (DWC) within TDI, the Federal Bureau of Investigation (FBI), the Department of Justice (DOJ), the National Insurance Crime Bureau

(NICB) and with other groups as possible to develop and share information concerning alleged fraudulent activities involving its licensees. Many of the workgroups and meetings with these organizations require travel to Dallas, Houston, or San Antonio. Additional travel funding will be necessary in coming years to facilitate these growing relationships.

It would be very beneficial for at least the agency's Director of Enforcement to have peace officer status in the future to enhance his ability to work on fraud cases with TDI investigators, local, state and federal law enforcement officials, and insurance investigators. These other groups are sometimes reluctant to share information with investigators on staff who are not peace officers. The agency is often relegated to finding out about fraud investigations of its licensees from the media after the investigations have resulted in public arrests and formal charges. This sort of reactive approach from the Board leads to negative publicity for the State of Texas and its regulation of DCs.

#### *Enforcement Investigative Tools*

The agency currently utilizes the Thomson Reuters investigative platform "CLEAR" to assist in investigations. The cost for one user (currently our Director of Enforcement) is approximately \$150 per month. The agency would benefit greatly from additional funding to allow the other three investigators on staff to also be able to use CLEAR. In order to get access for these remaining three investigators, the agency needs approximately \$5,400 more per fiscal year to pay for these services.

#### *Criminal Background Checks – "Rap Backs"*

Federal and state background checks are run for each applicant for licensure through the FBI and the Texas Department of Public Safety (DPS). Currently state "rap backs" (updates to the Board when the individual is arrested any time subsequent to the first background check) are provided for anyone previously fingerprinted through this background check program. Beginning in 2014, the FBI provides "rap backs" for federal offenses and any arrests in states other than Texas. However, there is a \$13 charge associated per applicant for this FBI "rap back" service. As the Board processes roughly 300 applicants per year, the associated cost of this valuable program is about \$4000 per year. The agency will require additional appropriations to pay for this program.

#### *Ownership and Management of Chiropractic Facilities*

Approximately 17% of the chiropractic facilities in Texas are owned by non-chiropractors—roughly 700 facilities. Many members of the chiropractic profession believe that ownership of chiropractic facilities should be restricted to members of the profession, as is the case for some other health care professionals. The Board has consistently expressed concerns regarding the accountability and professionalism of non-DC owned facilities and would look favorably upon legislation to restrict ownership of chiropractic clinics to individuals who have a current Doctor of Chiropractic license in Texas.

#### *Stakeholder Workgroups*

The Board interacts with stakeholders during the rulemaking process, but does not have a formalized and regular procedure for stakeholder consultation. As such, the Board would like to establish standing Stakeholder Workgroups in three areas: Chiropractic Licensure, Chiropractic Facility Registration, Chiropractic Scope of Practice. Included in the major stakeholders are licensees and registrants,

professional associations, hospitals, health plans, other state agencies, chiropractic colleges, defense attorneys, and consumers.

As needed, the Board has interacted with stakeholders in more specialized areas, including Chiropractic Acupuncture, Chiropractic Nutrition, Chiropractic Neurology, etc. The Board would like to also formalize these stakeholder interactions into “focus groups” meeting on an as-needed basis.

The impact of formalized Stakeholder Workgroups will be to improve public perception of the Board’s regulatory function, better relationships with stakeholders, and valuable insight gained by the Board into stakeholder opinions and ideas.

### *Regulation of Chiropractic Assistants*

Doctors of Chiropractic routinely employ chiropractic assistants to whom many day-to-day tasks are delegated. There is currently no requirement that DCs employ assistants with a certain level of education or training background, only that DCs ensure that an assistant be “qualified and properly trained.” (See Board Rule 80.1(d).) Chiropractic assistants perform tasks and procedures that assist the DC in making a diagnosis, prescribing a treatment plan, or treating a patient, such as the following:

- Taking the patient’s medical history
- Taking or recording vital signs
- Performing radiologic procedures
- Taking or recording range of motion measurements
- Performing other prescribed clinical tests and measurements
- Performing prescribed physical therapy modalities, therapeutic procedures, physical medicine and rehabilitation, etc.
- Demonstrating prescribed exercises or stretches for a patient
- Demonstrating proper uses of dispensed supports and devices

All tasks and procedures done by chiropractic assistants must be done under the supervision of a DC. Chiropractic assistants cannot render a diagnosis, prescribe a treatment plan, or perform a chiropractic adjustment or manipulation.

There is currently discussion occurring in national chiropractic organizations regarding the need to regulate chiropractic assistants. There are some states who have already passed legislation giving authority to their respective chiropractic licensing boards to regulate chiropractic assistants by registration and/or certification. These states include Arizona, Florida, Maine, Maryland, and Oregon, and many others are in the process of drafting legislation.

Texas currently does not have any statutory authority for the Board to regulate these assistants; instead the Board regulates the DC under whom the assistant practices. The Board will continue to monitor the discussions regarding chiropractic assistants and will present information to the Legislature as requested.

## AGENCY GOALS, OBJECTIVES, STRATEGIES & MEASURES

The Texas Board of Chiropractic Examiner, in conjunction with the Legislative Budget Board and the Governor's Office of Budget, Planning and Policy, has identified the following goals for the 2012-2013 biennium. The respective objectives, strategies and outcome, output, efficiency, and effectiveness measures are aligned with each goal.

### **GOAL A: TO PROVIDE PUBLIC PROTECTION THROUGH ENFORCEMENT OF CHIROPRACTIC STATUTES**

Stated simply, the primary goal of the Texas Board of Chiropractic Examiners is protect the health and welfare of the people of Texas by effectively and fairly regulating the practice of chiropractic in the State of Texas. This is accomplished by the day-to-day management of agency programs in examination, licensure and enforcement to ensure only qualified individuals are licensed as Doctors of Chiropractic, to regulate our licensees in complying with the Statutes and Rules governing chiropractic in Texas, and to guarantee that the public is protected from incompetent services, fraud, and misrepresentation.

#### ***Objective A.1: Ensure All Chiropractors Meet Minimum Licensing Standards***

To maintain a licensing system that will guarantee that all chiropractors meet minimum compliance standards:

##### *Outcome Measures:*

- Percent of licensees with no recent violations.
- Percent of licensees who renew online.

#### **STRATEGY A.1.1: LICENSING SYSTEM**

Operate a comprehensive licensing system for chiropractors.

##### **OUTPUT MEASURES:**

- Number of individuals examined.
- Number of new licenses issued to individuals.
- Number of licenses renewed (individuals).

##### **EFFICIENCY MEASURES:**

- Percentage of new individual licenses issued within ten days.
- Percentage of individual license renewals issued within seven days.

##### **EXPLANATORY MEASURES:**

- Pass rate for examinations conducted.
- Total number of individuals licensed.
- Total number of business facilities licensed.



STRATEGY A.1.2: TEXAS ONLINE

Operate a system (in conjunction with DIR) to allow licenses to renew individual and facility licenses online and to apply for original licenses online.

OUTPUT MEASURES: None

EFFICIENCY MEASURES: None

EXPLANATORY MEASURES: None

STRATEGY A.1.3: LICENSING INDIRECT ADMINISTRATION

Provide indirect administration for the licensing strategy.

OUTPUT MEASURES: None

EFFICIENCY MEASURES: None

EXPLANATORY MEASURES: None

***Objective A.2: Ensure Chiropractors Comply with Established Law***

To maintain an enforcement system that will guarantee that all chiropractors meet minimum compliance standards:

*Outcome Measures:*

Percent of complaints resulting in disciplinary action.

Recidivism Rate for those receiving disciplinary action.

Percent of documented complaints resolved within six months.

STRATEGY A.2.1: ENFORCEMENT

Provide a system to investigate and resolve complaints.

OUTPUT MEASURES:

Number of complaints resolved

EFFICIENCY MEASURES:

Average time for complaint resolutions (days)

EXPLANATORY MEASURES:

Number of jurisdictional complaints received

Number of non-jurisdictional complaints received

STRATEGY A.2.2: ENFORCEMENT INDIRECT ADMINISTRATION

Provide indirect administration for the enforcement strategy.

**GOAL B:  
TO ESTABLISH AND IMPLEMENT POLICIES GOVERNING PURCHASING AND  
CONTRACTING IN ACCORDANCE WITH STATE LAW THAT FOSTER  
MEANINGFUL AND SUBSTANTIVE INCLUSION OF HISTORICALLY  
UNDERUTILIZED BUSINESSES**

*Objective B.1: To award at least 20% of applicable contracts and purchases to HUBs during each fiscal year*

To award at least twenty percent (20%) of the total value of applicable agency contracts and purchases to HUBs during each year for fiscal years 2014 and 2015.

*Outcome Measure:*

Percent of total dollar value of applicable agency contracts and purchases awarded to HUBs.

STRATEGY B.1.1: CONTRACT AND PURCHASE AWARD TO HUBs

To award at least 20% of the dollar value of annual applicable agency contracts and purchases to HUBs.

OUTPUT MEASURES:

Total number of contracts awarded to HUBs

Total number of HUBs from which agency made purchases

Total annual dollar value of contracts and purchases with HUBs

**GOAL C:  
TO MANAGE AGENCY RESOURCES IN THE MOST EFFECTIVE AND EFFICIENT  
MANNER POSSIBLE IN ORDER TO PRODUCE THE HIGHEST POSSIBLE LEVEL  
OF SERVICE AND BENEFIT TO THE PEOPLE OF TEXAS**

## TECHNOLOGY RESOURCES PLANNING

|  |         |
|--|---------|
| <b>1. Initiative Name:</b>   |         |
| Use of Google Apps   |         |
| <b>2. Initiative Description:</b>  |         |
| The agency utilizes Google Apps for mainly e-mail services. The Google Apps also offers services moderately used by employees such as Google Drive and Google Calendar.  |         |
| <b>3. Associated Project(s):</b>   |         |
| Name   | Status  |
| Daily Operations   | Ongoing |
| <b>4. Agency Objective(s):</b>   |         |
| Objective A.2: Ensure Chiropractors Comply With Established Law  |         |
| <b>5. Statewide Technology Priority(ies):</b>  |         |
| P1 (Cloud), P2 (Data Management), P3 (Data Sharing), P6 (Mobility), P7 (Network)   |         |
| <b>6. Guiding Principles:</b>  |         |
| <p><i>Connect</i>—The use of Google Apps allows employees to check email remotely, thus allowing citizens easier access to agency employees.</p> <p><i>Innovate</i>—Google Apps can be used across agencies to share ideas and documents.</p> <p><i>Trust</i>—Google Apps allows easier communication with the public.</p> <p><i>Deliver</i>—By allowing employees to access work remotely and share work more easily, the agency's workforce has become more connected and agile.</p> |         |
| <b>7. Anticipated Benefit(s):</b>  |         |
| Google Apps increase productivity and decrease time/cost by allowing employees to check email, access documents remotely and share/collaborate on documents easily. Security is increased in email due to Google's excellent spam filters. The agency will be able to build upon the established benefits of Google Apps by creating procedures to more fully utilize the document sharing capabilities of Google Apps.  |         |
| <b>8. Capabilities or Barriers:</b>  |         |
| The only barrier to the agency's ability to further implement this technology initiative is limited knowledge of the Google Apps functions by individual users.  |         |

|   |         |
|---|---------|
| <b>1. Initiative Name:</b>  |         |
| Database Maintenance and Development  |         |
| <b>2. Initiative Description:</b>   |         |
| The agency maintains its own database and is currently creating an updated database.  |         |
| <b>3. Associated Project(s):</b>  |         |
| Name  | Status  |
| Daily Operations  | Ongoing |
| Database Maintenance and Development  | Ongoing |
| <b>4. Agency Objective(s):</b>  |         |
| Objective A.1: Ensure All Chiropractors Meet Minimum Licensing Standards<br>Objective A.2: Ensure Chiropractors Comply with Established Law   |         |
| <b>5. Statewide Technology Priority(ies):</b>   |         |
| P2 (Data Management), P3 (Data Sharing), P4 (Infrastructure), P5 (Legacy Applications), P7 (Network), P9 (Security and Privacy)   |         |
| <b>6. Guiding Principles:</b>   |         |
| <p><i>Connect</i>—Licensing and disciplinary data pulled directly from the database is made available on the agency website for the public to access.</p> <p><i>Trust</i>—The database allows information to be tracked by the agency to provide a clear and transparent accounting of agency business.</p> <p><i>Deliver</i>—Different functions of the database correspond with one another so that information is easily shared by employees working in different departments of the agency.</p> |         |
| <b>7. Anticipated Benefit(s):</b>   |         |
| The reports function of the databases allow employees to operate efficiently and analyze input data. By being able to track licensee and enforcement data quickly and efficiently, licenses are issued and complaints are resolved in a timely manner. The improvements in the new database will allow the agency to more easily automate services like continuing education tracking and address changes in the future.  |         |
| <b>8. Capabilities or Barriers:</b>   |         |
| The current database is becoming outdated, so the agency has created a new database. We are having issues with data migration to the new database, requiring some additional work.  |         |

|   |         |
|---|---------|
| <b>1. Initiative Name:</b>  |         |
| Use of Texas Online   |         |
| <b>2. Initiative Description:</b>   |         |
| The Texas Online license renewal system is used by over 95% of licensees and over 90% of chiropractic facilities each year to renew licenses and registrations. Also, licensees can update their profiles in a separate Texas Online application that is accessible by licensees and the public.  |         |
| <b>3. Associated Project(s):</b>  |         |
| Name  | Status  |
| Daily Operations  | Ongoing |
| <b>4. Agency Objective(s):</b>  |         |
| Objective A.1: Ensure All Chiropractors Meet Minimum Licensing Standards  |         |
| <b>5. Statewide Technology Priority(ies):</b>   |         |
| P2 (Data Management), P3 (Data Sharing), P5 (Legacy Applications), P6 (Mobility), P8 (Open Data), P9 (Security and Privacy)   |         |
| <b>6. Guiding Principles:</b>   |         |
| <p><i>Connect</i>—Licensees/registrants are able to renew their licenses and facility registrations easily from their home or office computer. They are no longer required to submit paper applications. They can also pay online with a credit card, making renewals easier than ever.</p> <p><i>Innovate</i>—TexasOnline is a service utilized by multiple state agencies across Texas.</p> <p><i>Trust</i>—TexasOnline provides a clear and transparent accounting of online licensure renewal data.</p> |         |
| <b>7. Anticipated Benefit(s):</b>   |         |
| Texas Online contributes to the efficiency of the agency, as employees do not have to process as many paper renewal forms and checks. This cuts down on workload per employee and allows licenses and registrations to be renewed in usually one business day. Licensees are extremely satisfied with this customer-oriented application.   |         |
| <b>8. Capabilities or Barriers:</b>   |         |
| One issue with the Texas Online service is that many licensees change their address through the Texas Online system, which does not report that change to the agency. This creates problems when the agency attempts to send the renewal or other communication to the licensee at the old address.   |         |

|   |         |
|---|---------|
| <b>1. Initiative Name:</b>  |         |
| Agency Website Redesign   |         |
| <b>2. Initiative Description:</b>   |         |
| The agency will completely redesign its website with a function on ease of access to information and customer service.  |         |
| <b>3. Associated Project(s):</b>  |         |
| Name  | Status  |
| Daily Operations  | Ongoing |
| <b>4. Agency Objective(s):</b>  |         |
| Objective A.1: Ensure All Chiropractors Meet Minimum Licensing Standards<br>Objective A.2: Ensure Chiropractors Comply with Established Law   |         |
| <b>5. Statewide Technology Priority(ies):</b>   |         |
| P3 (Data Sharing), P7 (Network), P8 (Open Data), P9 (Security and Privacy)  |         |
| <b>6. Guiding Principles:</b>   |         |
| <p><i>Connect</i>—The public will be able to access all agency documents, forms, and information more easily, thus expanding citizen access to our services.</p> <p><i>Trust</i>—A clear and concise website will allow the agency to account for its services to the public.</p>   |         |
| <b>7. Anticipated Benefit(s):</b>   |         |
| Information that many licensees call the agency looking for will be available on the updated agency website, thus increasing the agency's operational efficiency and reducing workload. Customers will be increasingly satisfied with the quality of information available to them. The agency hopes to incorporate some automated services into the new website, such as online continuing education reporting, address changes, and open records contact data search functionality. |         |
| <b>8. Capabilities or Barriers:</b>   |         |
| The only barrier to implementing this initiative is the current Programmer Analyst's workload, which has prevented him from completing this project.  |         |

|   |         |
|---|---------|
| <b>1. Initiative Name:</b>  |         |
| Electronic Communication and Use of Social Media  |         |
| <b>2. Initiative Description:</b>   |         |
| The agency utilizes e-mail to disseminate information and newsletters. Additionally, the agency utilizes social media to communicate more effectively with licensees and the public.  |         |
| <b>3. Associated Project(s):</b>  |         |
| Name  | Status  |
| Daily Operations  | Ongoing |
| <b>4. Agency Objective(s):</b>  |         |
| Objective A.1: Ensure All Chiropractors Meet Minimum Licensing Standards<br>Objective A.2: Ensure Chiropractors Comply with Established Law   |         |
| <b>5. Statewide Technology Priority(ies):</b>   |         |
| P1 (Cloud), P9 (Security and Privacy), P10 (Social Media)   |         |
| <b>6. Guiding Principles:</b>   |         |
| <p><i>Connect</i>—Easier communication with licensees and the public will allow them greater access to agency services.</p> <p><i>Innovate</i>—Constant Contact is a program/service used by multiple state agencies.</p> <p><i>Trust</i>—Better communication with licensees and the public in the way that e-communication and social media allows will provide a more transparent view of agency operations.</p> <p><i>Deliver</i>—The workforce will be able to keep up with trends in licensure and enforcement more easily with this increased communication.</p> |         |
| <b>7. Anticipated Benefit(s):</b>   |         |
| Reducing paper communication and duplicative phone calls greatly increases operational efficiency for the agency. Customer satisfaction has also increased, as licensees and the public are able to communicate more easily with the agency. The agency hopes to use these technology resources to send quarterly news blasts and provide weekly tips for licensees.  |         |
| <b>8. Capabilities or Barriers:</b>   |         |
| The only barrier to fully implementing this initiative is staff time needed to devote to creating emails and social media postings on a regular basis.  |         |

|  |         |
|--|---------|
| <b>1. Initiative Name:</b>   |         |
| Online or Webinar Course Offerings for Licensees   |         |
| <b>2. Initiative Description:</b>  |         |
| The agency will create and offer online and webinar continuing education regarding chiropractic laws and Board rules. The online/webinar offerings will increase the number of licensees who will receive this training.   |         |
| <b>3. Associated Project(s):</b>   |         |
| Name   | Status  |
| Daily Operations   | Ongoing |
| <b>4. Agency Objective(s):</b>   |         |
| Objective A.1: Ensure All Chiropractors Meet Minimum Licensing Standards<br>Objective A.2: Ensure Chiropractors Comply with Established Law  |         |
| <b>5. Statewide Technology Priority(ies):</b>  |         |
| P6 (Mobility), P8 (Open Data)  |         |
| <b>6. Guiding Principles:</b>  |         |
| <p><i>Connect</i>—Online/webinar courses in topics regarding Texas laws and board rules will allow licensees to easily access the resources at the agency to answer questions about jurisprudence and the practice of chiropractic.</p> <p><i>Trust</i>—Explaining how the Board interprets rules and the law will provide a clear and transparent view of how the Board regulates chiropractic to licensees.</p> <p><i>Deliver</i>—Online/webinar courses will allow agency employees to reach out to large numbers of licensees at one time to disseminate valuable information.</p> |         |
| <b>7. Anticipated Benefit(s):</b>  |         |
| Having one course to explain the same information will allow staff to educate licensees without the added cost of travel to put on workshops. Licensees will be able to receive valuable information in their own time at their leisure. Improved communication with licensees about Board policies, laws and rules will also benefit the agency by eventually reducing the number of violations of law or rule because of ignorance.  |         |
| <b>8. Capabilities or Barriers:</b>  |         |
| The Executive Director and staff are currently developing the online course with the help of a Texas vendor. However, the lack of funding and adequate staffing has made it difficult for this project to advance, due to other pressing issues.   |         |



# APPENDICES

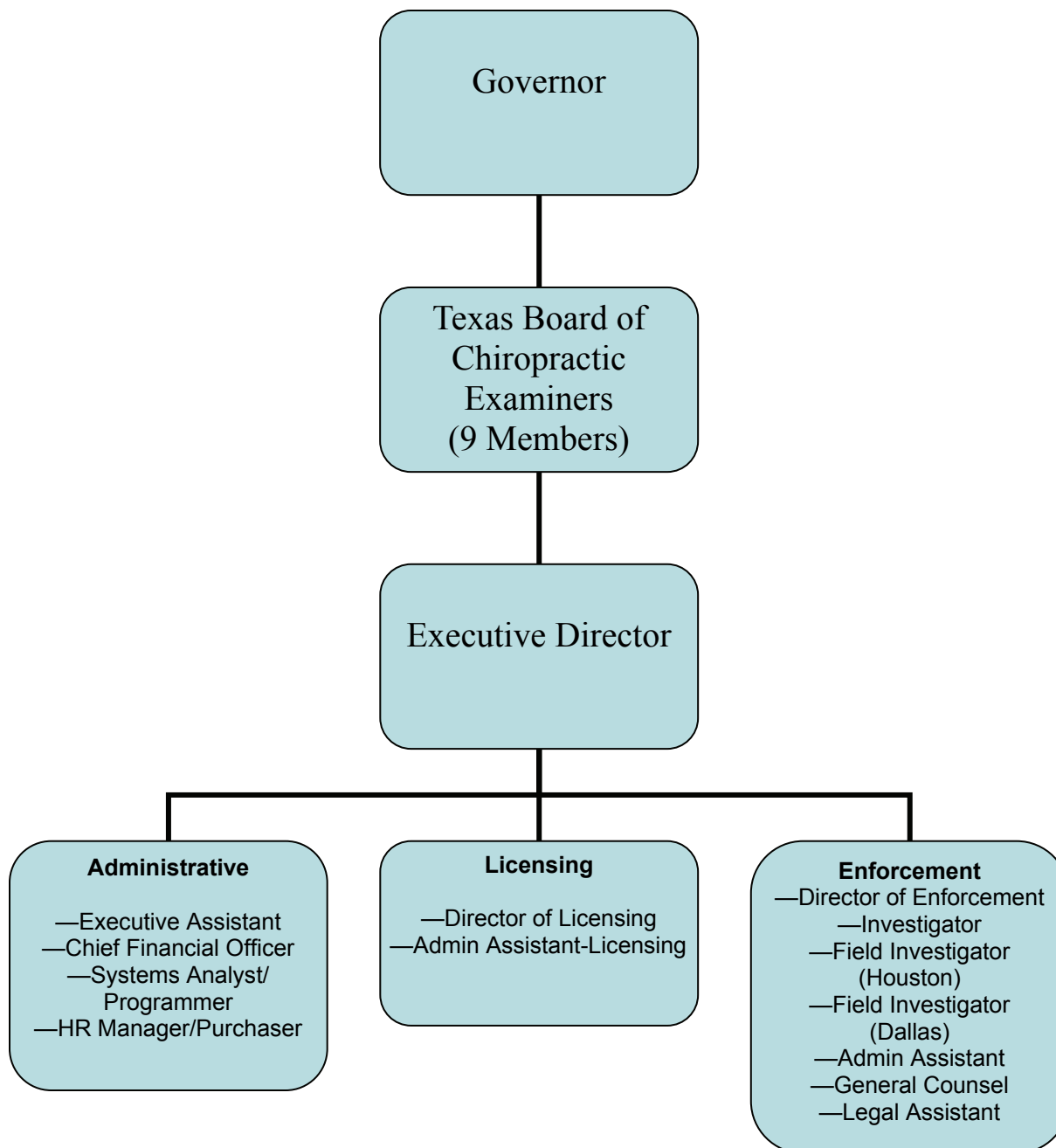
## **APPENDIX A**

### **Description of Agency Planning Process**

Agency staff, led by the Executive Director, review all agency activities and assess the changes impacting the agency's operation. Staff members present their findings to the Board and discuss likely developments over the five-year planning period. The Board takes public input at each board meeting and at some committee meetings, blends that public input with staff recommendations, and adds its own unique insight to arrive at overall directions to give to the staff concerning the development of the Strategic Plan. The Board also holds a planning session periodically as part of regularly scheduled board meetings. The Executive Director and other agency employees also meet informally with staff members of the Texas Chiropractic Association, administration of chiropractic colleges in Texas, individual licensees and other interested groups such as insurance company investigators and Texas Department of Insurance staff from time-to-time to discuss concerns from these stakeholders.

Staff members then develop the Strategic Plan in accordance with directions from the Board, subject to final Board review and approval. At each board meeting, the Board receives updated information from the Executive Director on agency activities, current progress, plans, operational issues and future concerns related to the Board's mission to protect the public through the effective regulation of the practice of chiropractic. Policy matters and operational changes are addressed as needed and new items are identified for inclusion in the next strategic planning process.

## APPENDIX B Current Organizational Chart



## APPENDIX C

### Five Year Projection for Outcomes

| OUTCOME MEASURE   | FY 2015 | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|---|---------|---------|---------|---------|---------|
| Percent of Licensees With No Recent Violations              | 95%     | 95%     | 97%     | 97%     | 97%     |
| Percent of Licensees Who Renew Online (Individuals)         | 96%     | 97%     | 97%     | 97%     | 97%     |
| Percent of Complaints Resulting in Disciplinary Action      | 35%     | 35%     | 30%     | 30%     | 30%     |
| Recidivism Rate for Those Receiving Disciplinary Action     | 3%      | 3%      | 3%      | 3%      | 3%      |
| Percent of Documented Complaints Resolved Within Six Months | 40%     | 50%     | 50%     | 50%     | 50%     |

## APPENDIX D

### List of Measure Definitions

#### A. GOAL: ENSURE PUBLIC PROTECTION

##### STRATEGY A.1.1 LICENSING SYSTEM

#### LICENSING OUTCOME MEASURES:

##### #1: Outcome Measure 01-01-01: Percent of Licensees With No Recent Violations (Key)

**SHORT DEFINITION:** The percent of the total number of licensed individuals (chiropractors and chiropractic radiologic technologists) at the end of the reporting period who have not incurred a violation within the current and preceding two years (three years total).

**PURPOSE/IMPORTANCE:** Licensing individuals helps ensure that practitioners meet legal standards for professional education and practice, which is a primary agency goal. This measure is important because it indicates how effectively the agency's activities deter violations of professional standards established by statute and rule.

**SOURCE/COLLECTION OF DATA:** The Enforcement Department staff enters all pertinent information about each complaint into the Enforcement database. The number of licensees with disciplinary action is extracted and printed from this database, and the total number of licensees is extracted from the Licensee database, which is maintained by the Licensing Department. These lists are maintained in the office of the Executive Director.

**METHOD OF CALCULATION:** The total number of individuals (chiropractors and radiologic technologists) currently licensed by the agency who have not incurred a violation within the current and preceding two years is divided by the total number of individuals (chiropractors and radiologic technologists) currently licensed by the agency. The numerator for this measure is calculated by subtracting the total number of licensed individuals with violations during the three-year period from the total number of licensed individuals at the end of the reporting period.

**DATA LIMITATIONS:** The database does not automatically track this information. Enforcement staff must run lists of disciplined licensees for the years involved and manually compare the lists to note repeat offenders.

**CALCULATION TYPE:** Non-cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** It is desired that a very high percentage of licensees (around 96% or higher) have not had any disciplinary action within the last three years. One hundred percent compliance may indicate that the agency is not sufficiently enforcing its statute and rules, while a significantly lower percent may indicate that the agency is unreasonably harsh in enforcing the statute and rules or else that an unacceptable number of licensees are engaging in violations of the law.

**#2: Outcome Measure 01-01-02: Percent of Licensees Who Renew Online (Key)**

**SHORT DEFINITION:** The percent of the total number of licensed chiropractors that renewed their chiropractic license online during the reporting period.

**PURPOSE/IMPORTANCE:** To track use of online license renewal technology by the licensee population.

**SOURCE/COLLECTION OF DATA:** The information comes from the Accounting module of the database. Licensing employees update each renewal record to show whether the renewal was done online or through manual paper process. At the end of each fiscal quarter, Licensing employees print a paper copy of two separate reports listing the names of all individual chiropractors whose license was renewed online or manually during the previous three months. These lists are maintained in the office of the Executive Director.

**METHOD OF CALCULATION:** The total number of individual chiropractic licenses renewed online during the reporting period is divided by the total number of individual chiropractic licenses that were renewed either online or manually during the reporting period.

**DATA LIMITATIONS:** Approximately 95% or more of the chiropractors who renew their licenses each year do so online. The agency database does not automatically count the number who renew online or manually. Licensing employees must manually update the database to properly reflect that a renewal was done online.

**CALCULATION TYPE:** Non-cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** A high (75% or more) percentage is desired. Having licensees renew online provides convenience for the licensees and is more efficient for the agency.

**LICENSING EFFICIENCY MEASURES:**

**#1: Efficiency Measure 01-01-01-01: Percent of New Individual Licensing Issued Within Ten Days (Non-Key)**

**SHORT DEFINITION:** The percentage of individual license applications that were processed during the reporting period within 10 days, measured from the time in days elapsed from receipt of the final information required to meet licensing requirements until the date the license is mailed.

**PURPOSE/IMPORTANCE:** This measure demonstrates the ability of the agency to process new applications promptly and the agency's responsiveness to a primary constituent group.

**SOURCE/COLLECTION OF DATA:** The data for this performance measure comes from the Licensing database's New Examinee module and the Radiologic Technologists module. The Licensing Department enters the date of receipt of the final piece of information needed to license a new applicant into the New Examinee or Radiologic Technologists modules in the database. The Licensing employees then enter the date the license is mailed, and extract a report from the Examinee module and the Rad Tech module that shows the number of calendar days elapsed between the initial receipt of the final necessary information and license mailing date for each individual license issued during the quarter.

The Licensing employees divide the number of licenses that were mailed in 10 days or less (numerator) by the total number of individual licenses issued.

**METHOD OF CALCULATION:** The number of new individual licenses that were mailed within 10 days or less (numerator) is divided by the total number of new licenses issued during the quarter (denominator) and multiplied by 100 to convert to a percentage.

**DATA LIMITATIONS:** The agency database does not automatically calculate this performance measure. Licensing Department employees must extract the data from the database and review the record for each license issued to determine if any fell outside the 10-day window.

**CALCULATION TYPE:** Non-cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** The desired performance is 100% of new licenses issued within 10 days of the agency receiving the final information required before issuing the license.

**#2: Efficiency Measure 01-01-01-02: Percentage of Individual License Renewals Issued Within Seven Days (Non-Key)**

**SHORT DEFINITION:** The percentage of individual license renewal applications that were processed during the reporting period with 7 days of receipt, measured from the time (in calendar days) elapsed from the receipt of the complete and accurate renewal application until the date the renewed license is mailed.

**PURPOSE/IMPORTANCE:** This measure reflects the ability of the agency to process renewal applications promptly and the agency's responsiveness to a primary constituent group.

**SOURCE/COLLECTION OF DATA:** The data for the performance measure comes from the Accounting and Licensing modules of the agency database. Licensing employees enter the date that the completed renewal application was received either by mail or through Texas Online. They also enter the date the renewed license was mailed. They then extract reports from the Accounting I database that show the number of calendar days elapsed between initial receipt and the date that the renewed license was mailed.

**METHOD OF CALCULATION:** Licensing employees divide the number of renewed individual licenses that were mailed in 7 days or less (numerator) by the total number of individual licenses renewed during the period (denominator) and multiple the result by 100 to achieve a percentage.

**DATA LIMITATIONS:** The agency database does not automatically calculate this performance measure. Licensing Department employees must extract the data from the database and review the record for each license renewed to determine if any fell outside the 7-day window.

**CALCULATION TYPE:** Non-cumulative

**NEW MEASURE:** No

**DESIRED Performance:** The desired performance is that 100% of renewed licenses be issued within 7 days of the receipt of all necessary and correction information fees.

## **LICENSING EXPLANATORY MEASURES**

### **#1: Explanatory Measure 01-01-01-01: Pass Rate (Non-Key)**

**SHORT DEFINITION:** The percentage of individuals who passed the Chiropractic Jurisprudence Examination out of the total number of examinations given during the reporting period.

**PURPOSE/IMPORTANCE:** The measure shows the rate at which those examined passed. This is an important step in the licensing process. A low pass rate may represent unnecessarily restrictive licensure requirements or inadequate preparation by licensure applicants.

**SOURCE/COLLECTION OF DATA:** The Director of Licensing retrieves the needed data from the Examinee module of the Licensing database.

**METHOD OF CALCULATION:** The total number of individuals who passed the examination (numerator) is divided by the total number of examinations administered (denominator). The result is multiplied by 100 to achieve a percentage. Persons taking the examination multiple times are counted each time they take the exam.

**DATA LIMITATIONS:** The agency receives reports regularly from its vendor that administers the examination. The vendor does not supply a quarterly report that provides the pass rate. Agency staff maintains separate tally of how many individuals take and pass the examination each quarter.

**CALCULATION TYPE:** Non-cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** A pass rate around 90% is generally desired. This indicates that the exam is sufficiently difficult to require an individual to have some specialized knowledge of the applicable statutes and rules but not so difficult as to present an unfairly high barrier to licensure.

### **#2: Explanatory Measure 01-01-01-02: Total Number of Licensees (Non-Key)**

**SHORT DEFINITION:** This is the total number of individuals (chiropractors and radiologic technologists) who hold current, active licenses at the end of the reporting period.

**PURPOSE/IMPORTANCE:** The measure shows the total number of individual licenses currently active, which indicates the size of one of the agency's primary constituencies. Changes in the total number of licensees from year-to-year should reflect changes in the agencies workload.

**SOURCE/COLLECTION OF DATA:** At the end of each fiscal year, the Licensing Department retrieves the records in the Licensing database of all chiropractors and radiologic technologists licensed by the agency. The lists are checked for duplicate records and the duplicate records are removed. The lists are printed and maintained in the office of the Executive Director.

**METHOD OF CALCULATION:** This measure is the total unduplicated number of chiropractors and radiologic technologists licensed at the end of the reporting period whose licenses are current (active). It does not include any licenses that are in inactive, retired, expired, non-renewable or provisional status.

**DATA LIMITATIONS:** The total number of individual licensees includes doctors of chiropractic and



radiologic technologists. The agency has no direct control and little influence over which individuals choose to renew their licenses. The agency database provides a quick and reliable method of counting the number of licensees at any point in time.

**CALCULATION TYPE:** Non-cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** The only desired performance is that this measure be accurately reported. A higher or growing number indicates that the chiropractic profession is healthy and expanding in Texas. A static or decreasing number may indicate that the profession is encountering some difficulties for whatever reasons.

### **#3: Explanatory Measure 01-01-01-03: Total Number of Businesses Licensed (Key)**

**SHORT DEFINITION:** The unduplicated number of chiropractic facilities licensed or registered by the agency at the end of the reporting period.

**PURPOSE/IMPORTANCE:** The measure shows the number of chiropractic facilities (clinics) licensed (registered) at the end of the reporting period, which relates to the agency's workload.

**SOURCE/COLLECTION OF DATA:** At the end of each fiscal year, the Licensing Department retrieves the records in the Facilities module of the agency database and runs a count (list) of all chiropractic facilities that have a current (active) license. The list is checked for duplicates and the duplicate records are removed. The list is printed and then maintained in the office of the Executive Director.

**METHOD OF CALCULATION:** The unduplicated list of actively licensed facility locations is counted. If a facility has more than one location each location is counted because the statute/rules require that a license be issued for each separate location.

**DATA LIMITATIONS:** The agency's database can quickly and accurately count the number of actively licensed clinics at any point in time. The agency has little or no control over the number of chiropractic clinics in Texas as this is a function of the number of licensed chiropractors and of economic conditions.

**CALCULATION TYPE:** Non-cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** The only desired performance for this measure is that it be reported accurately. A higher or growing number indicates that the chiropractic profession is healthy and expanding in Texas. A static or decreasing number may indicate that the profession is encountering some difficulties for whatever reason.

## LICENSING OUTPUT MEASURES

### #1: Output Measure 01-01-01-01: Number of Individuals Examined (Key)

**SHORT DEFINITION:** The number of individuals to whom the Chiropractic Jurisprudence Examination was administered during the period.

**PURPOSE/IMPORTANCE:** The measure shows the number of individuals examined, which is a primary step in licensing the individual applicant. The measure serves as an indicator of the agency's workload and for tracking the trends in the number of new licensees and potential license renewals.

**SOURCE/COLLECTION OF DATA:** The information for this measure comes from the electronic reports supplied by the vendor that administers the jurisprudence exam. The Director of Licensing updates the licensing database to indicate who has taken the exam each time and who passed. The Licensing Department prints a list of the names of the individuals who have taken the exam for the period in question. The list is maintained in the office of the Executive Director.

**METHOD OF CALCULATION:** Each person who takes the jurisprudence exam is counted for the reporting period. If an individual fails the exam and takes it again, he/she is counted twice.

**DATA LIMITATIONS:** The jurisprudence exam is administered only after the applicant meets all other licensing requirements. The number of people taking the exam is limited by the number of graduates from the 18 chiropractic colleges in the United States who desire to be licensed in Texas. Other examinees include doctors of chiropractic already licensed in other states who are moving to Texas to practice.

**CALCULATION TYPE:** Cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** A higher number of applicants taking the jurisprudence exam would indicate that the chiropractic profession is growing in Texas.

### #2: Output Measure 01-01-01-02: Number of New Licenses Issued to Individuals (Key)

**SHORT DEFINITION:** The number of chiropractic and radiologic technologist licenses issued to previously unlicensed individuals during the reporting period.

**PURPOSE/IMPORTANCE:** A successful licensing structure must ensure that legal standards for professional education and practice are met prior to licensure. This measure is a primary workload indicator which is intended to show the number of previously unlicensed persons who were documented to have successfully met all licensure criteria established by statute and rule as verified by the agency during the reporting period.

**SOURCE/COLLECTION OF DATA:** This information comes from the Examinee and Rad Tech modules of the agency database that records those individuals newly licensed by the agency. The Licensing Department prints a paper copy of the log listing the names of individuals newly licensed during the previous three months at the end of each fiscal quarter.

**METHOD OF CALCULATION:** This measure counts the total number of licenses issued to previously

unlicensed individuals during the reporting period, regardless of when the application was officially received. Those individuals who had a license in the previous period are not counted. Only new licenses are counted. Provisional licenses are not counted. Licenses are counted as new for persons who were previously licensed but whose license expired so that they were required to meet all criteria for a new applicant.

**DATA LIMITATIONS:** The agency has little control over the number of new licenses that it will issue each year as this is primarily a function of new chiropractic graduates entering the profession or currently licensed DCs moving to Texas from other states. The agency assigns unique, consecutive numbers to each licensee and can easily determine the number of new licenses issued each year.

**CALCULATION TYPE:** Cumulative

**NEW MEASURE:** No

**DESIRED Performance:** A high or growing number would indicate a healthy condition for the chiropractic profession in Texas.

### **#3: Output Measure 01-01-01-03: Number of Licenses Renewed (Individuals)**

**SHORT DEFINITION:** The number of licensed chiropractors and radiologic technologists who held licenses previously and renewed those licenses during the current reporting period.

**PURPOSE/IMPORTANCE:** License renewal is intended to ensure that persons who want to continue to practice in the profession satisfy current legal standards established by statute and rule for professional education and practice. It is also a significant workload measure for the agency.

**SOURCE/COLLECTION OF DATA:** This information comes from the Accounting 1 and Accounting 3 modules of the database which keep a log of those individuals renewing their licenses to practice. At the end of each fiscal quarter, the Licensing Department prints a paper copy of the log listing the names and license numbers of all individuals whose licenses were renewed during the period in question. These lists are maintained in the office of the Executive Director.

**METHOD OF CALCULATION:** The measure is calculated by querying the Accounting I and Accounting 3 modules of the database to extract and print a list of the individuals who renewed their licenses during the period. This measure includes active or inactive status licenses that were renewed. It does not include retired licensees or those in non-renewable status.

**DATA LIMITATIONS:** Active licenses that are not renewed and that remained Expired for longer than one year are cancelled and placed on Non-Renewable status. Renewals decrease when licensees move to another state and fail to renew their Texas license, when licensees retire or choose another profession. The database does not automatically count renewals for a period – staff must set up reports to extract the data for the count.

**CALCULATION TYPE:** Cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** An increasing number of renewed licenses would be preferable because it would indicate that the chiropractic profession in Texas is expanding.

## STRATEGY A.2.1 ENFORCEMENT

### ENFORCEMENT OUTCOME MEASURES:

#### **#1: Outcome Measure 01-02-01: Percent of Complaints Resulting in Disciplinary Action (Key)**

**SHORT DEFINITION:** Percentage of jurisdictional complaints that were resolved during the reporting period that resulted in disciplinary action.

**PURPOSE/IMPORTANCE:** The measure is intended to show the extent to which the agency exercises its disciplinary authority in proportion to the number of complaints received. It is important that both the public and licensees have an expectation that the agency will work to ensure fair and effective enforcement of the statute and rules. This measure seeks to indicate agency responsiveness to this expectation.

**SOURCE/COLLECTION OF DATA:** The Enforcement Department retrieves this information from the Enforcement database and prints a list of resolved cases and a list of cases resolved with discipline. These lists are maintained in the office of the Executive Director.

**METHOD OF CALCULATION:** The total number of jurisdictional complaints resolved during the reporting period that resulted in disciplinary action (numerator) is divided by the total number of jurisdictional complaints resolved during the reporting period (denominator). The result is multiplied by 100 to achieve a percentage. Disciplinary actions include board orders, agreed orders, letters of reprimand, suspensions, probations, revocation, restitution, fines and/or licenses surrender in lieu of revocation on which the Board has taken final action. Warning letters do not constitute disciplinary action.

**DATA LIMITATIONS:** The database does not have reports that automatically list all cases that were closed during a period or that were closed with disciplinary actions. This data must be extracted with queries and summed each time.

**CALCULATION TYPE:** Non-cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** The desired performance range for this measure would be in the 15%-to-30% range. A lower percentage may indicate that the agency is not adequately enforcing its statute and rules, while a higher percentage may indicate that the agency is being overly aggressive in its enforcement efforts. However, the agency must always be cognizant of its responsibility to protect the people of Texas. Each complaint must be investigated and resolved fairly in accordance with the statutes and rules regardless of the effect of the outcome on this performance measure.

#### **#2: Outcome Measure 01-02-02: Recidivism Rate for Those Receiving Disciplinary Action (Non-Key)**

**SHORT DEFINITION:** The number of repeat offenders at the end of the reporting period as a percentage of all offenders during the most recent three-year period.

**PURPOSE/IMPORTANCE:** The measure is intended to show the degree to which disciplinary action taken by the Board is effective in preventing further violations by the same licensees. It is important that the agency enforce its act and rules strictly enough to ensure consumers are protected from unsafe,

incompetent or unethical practices by the licensees.

**SOURCE/COLLECTION OF DATA:** Enforcement Department employees collect and print the data from the Enforcement database. The printed reports and agency calculations are maintained in the office of the Executive Director.

**METHOD OF CALCULATION:** The number of individuals (chiropractors, non-DC clinic owners or radiologic technologists) against whom two or more disciplinary actions were taken on different dates by the Board within the current and preceding two fiscal years (numerator) is divided by the total number of individuals receiving disciplinary actions within the current and preceding two fiscal years (denominator). The result is multiplied by 100 to achieve a percentage.

**DATA LIMITATIONS:** The agency database does not automatically report this information. Enforcement Department employees must extract and list all individuals who were disciplined during the three-year period and then search the list for individuals who were disciplined more than once.

**CALCULATION TYPE:** Non-cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** A very low percentage is the desired performance for this measure because it would indicate that the disciplinary actions taken by the Board are effective in preventing repeat offenses by the same licensees.

### **#3: Outcome Measure 01-02-03: Percent of Documented Complaints Resolved Within Six Months (Non-Key)**

**SHORT DEFINITION:** The percent of jurisdictional complaints resolved during the reporting period that were resolved within a six-month period from the time they were initially received by the agency.

**PURPOSE/IMPORTANCE:** The measure is intended to show the percentage of complaints that are resolved within a reasonable period of time. It is important to ensure the swift enforcement of the Chiropractic Act.

**SOURCE/COLLECTION OF DATA:** The Enforcement staff extracts and prints the data from the Enforcement database. The reports and calculations are maintained in the office of the Executive Director.

**METHOD OF CALCULATION:** The number of jurisdictional complaints resolved within a period of six months or less from the date of receipt (numerator) is divided by the total number of jurisdictional complaints resolved during the reporting period (denominator). The result is multiplied by 100 to achieve a percentage.

**DATA LIMITATIONS:** The agency database automatically calculates the length of time that each case was open. However, Enforcement staff must be careful to select only jurisdictional complaints that have been closed when calculating this measure. The Board must approve the final disposition of all cases closed with disciplinary action. Because the Board meets only 4 times each year, most cases closed with disciplinary action take more than 6 months to resolve, especially if the licensee seeks a formal hearing at SOAH.

**CALCULATION TYPE:** Non-cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** Ideally, one would like to see a high percentage of jurisdictional complaints closed within six months, assuming that the complaints are being closed with the appropriate disciplinary actions (or no actions) being taken in each case

**ENFORCEMENT EFFICIENCY MEASURES:**

**#1: Efficiency Measure 01-02-01-01: Average Time Per Complaint Resolution (in Days) (Key)**

**SHORT DEFINITION:** The average length of time, in days, to resolve a complaint, for all jurisdictional complaints resolved during the reporting period.

**PURPOSE/IMPORTANCE:** The measure shows the agency's efficiency in resolving complaints.

**SOURCE/COLLECTION OF DATA:** The Enforcement staff extracts and prints the data from the Enforcement database. The printed reports and agency calculations are maintained in the office of the Executive Director.

**METHOD OF CALCULATION:** The total number of calendar days per jurisdictional complaint resolved, summed for all jurisdictional complaints resolved during the reporting period, that elapsed from receipt of the complaint to the date upon which final action on the complaint was taken by the Board (numerator) is divided by the number of jurisdictional complaints resolved during the reporting period (denominator). The calculation excludes non-jurisdictional complaints.

**DATA LIMITATIONS:** The average length of time to resolve a complaint is directly related to the complexity of the complaint. Complaints in which the licensee admits that he/she violated the agency rules and accepts the recommended sanctions by the Enforcement Committee can be resolved relatively quickly (in a year or less). The cases that are complex or contested take much longer and increase the average time to resolve an agency complaint.

**CALCULATION TYPE:** Non-Cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** Generally, a lower number is preferable for this measure, assuming that the complaints are being closed with the appropriate response by the agency.

**ENFORCEMENT EXPLANATORY MEASURES:**

**#1: Explanatory Measure 01-02-01-01: Number of Jurisdictional Complaints Received (Key)**

**SHORT DEFINITION:** The total number of complaints received during the reporting period that are within the agency's jurisdiction of statutory responsibility.

**PURPOSE/IMPORTANCE:** The measure shows the number of jurisdictional complaints received during a period that the agency is expected ultimately to resolve, which is an agency workload

indicator.

**SOURCE/COLLECTION OF DATA:** The Enforcement staff enters all complaints into the Enforcement database. An employee extracts data on all complaints received during a period and determines which were jurisdictional and counts those jurisdictional complaints received.

**METHOD OF CALCULATION:** The Enforcement staff extracts and lists all complaints received during a period. Complaints from that list that were closed as being non-jurisdictional are removed from the list. The remaining jurisdictional complaints are counted for this measure.

**DATA LIMITATIONS:** Most complaints received by the agency are jurisdictional, but the agency does receive cases that are not within our jurisdictional authority. All jurisdictional complaints are processed according to agency policy. Each non-jurisdictional complaint is beyond the control of the agency, but the complainant is notified that the matter is not within our jurisdiction. It is not always apparent upon initial receipt that some complaints are non-jurisdictional.

**CALCULATION TYPE:** Cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** The agency has little control over the number of complaints its will receive. Generally, a very low number of complaints received may indicate that patients and other stakeholders are not aware of the agency's responsibility to investigate and resolve complaints. A very high number relative to the number of licensees may indicate that the profession is not being properly regulated. The agency expects to receive around 250-350 jurisdictional complaints each year.

**#2: Explanatory Measure 01-02-01-02: Number of Non-Jurisdictional Complaints Received (Non-Key)**

**SHORT DEFINITION:** The number of complaints received which, after preliminary investigation, are determined to be outside the agency's responsibility.

**PURPOSE/IMPORTANCE:** The purpose of the measure is to eliminate non-jurisdictional complaints from agency reports and to gauge the impact that non-jurisdictional complaints might have on agency workloads.

**SOURCE/COLLECTION OF DATA:** Data for this measure is extracted from the agency's Enforcement database by department employees. All complaints received, both jurisdictional and non-jurisdictional, are entered into the agency's Enforcement database.

**METHOD OF CALCULATION:** Enforcement staff extracts a list of all complaints entered during the reporting period. They then review the list and count those that are identified as being closed because they were non-jurisdictional.

**DATA LIMITATIONS:** The agency has little control over the number of non-jurisdictional complaints it receives. Also, some complaints are not determined to be non-jurisdictional until a preliminary investigation has been completed.

**CALCULATION TYPE:** Cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** The agency would prefer to receive no or almost no non-jurisdictional complaints.

**ENFORCEMENT OUTPUT MEASURES:**

**#1: Output Measure 01-02-01-01: Number of Jurisdictional Complaints Resolved**

**SHORT DEFINITION:** The total number of jurisdictional complaints resolved during the reporting period.

**PURPOSE/IMPORTANCE:** The measure shows the workload associated with resolving complaints.

**SOURCE/COLLECTION OF DATA:** The Enforcement staff extracts and prints the data from the Enforcement database. The printed report is maintained in the office of the Executive Director.

**METHOD OF CALCULATION:** The total number of complaints during the reporting period upon which final action was taken by the Board or for which a determination was made that a violation did not occur. A complaint that, after preliminary investigation, is determined to be non-jurisdictional is not a resolved complaint.

**DATA LIMITATIONS:** The number of complaints that the agency can resolve during any period is limited by the resources available to the agency, especially the number of investigators on staff, the availability of legal support, and funds for necessary investigation expenses. The resolution of complaints is also affected by the complexity of the cases and the willingness of the respondents to fight the cases in SOAH or in district court. Another limiting factor is the fact that all cases resulting in disciplinary action must be approved by the Board, which meets quarterly.

**CALCULATION TYPE:** Cumulative

**NEW MEASURE:** No

**DESIRED PERFORMANCE:** The desired performance is to close the highest number of cases possible each period with quality outcomes appropriate to each case.



## **APPENDIX E**

### **Workforce Plan**

#### **Overview**

##### **A. Agency Mission**

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

##### **B. Agency Strategic Goals and Objectives**

Goal A: To ensure public protection

Objective A.1: Ensure all chiropractors meet minimum licensing standards

Objective A.2: Ensure chiropractors comply with established law

##### **C. Core Business Functions**

The Texas Board of Chiropractic Examiners licenses Doctors of Chiropractic (DCs) and chiropractic radiological technicians and also registers chiropractic facilities. The Board also investigates alleged violations of the Chiropractic Act and the Board's rules.

##### **D. Anticipated Changes to the Mission, Goals and Strategies Over Next Five Years**

The TBCE does not anticipate any changes within the mission and goals over the next five years. The agency will reevaluate goals and strategies each year.

#### **Current Workforce Profile**

##### **A. Critical Workforce Skills**

The Board of Chiropractic Examiners is a small state agency with an authorized workforce of fourteen (14) Full Time Equivalent employees. Because of the agency's small size it is important that each employee have good general office skills and also have additional specific knowledge and skills related to his or her particular area of responsibility.

Some essential skills are listed below:

1. Knowledge of applicable statutes and rules.
2. Knowledge of state accounting and purchasing rules and procedures.
3. Knowledge of their specific area such as initial licensing, license renewals, complaint processing, investigative techniques, open records requests, the Administrative Procedures Act, and working with the State Office of Administrative Hearings (SOAH).
4. Commitment to customer service.

5. Willingness to cross train and develop skills to back-up fellow employees.
6. Skill in working with agency computer software and databases.
7. Willingness to acquire new skills as needs develop in the agency.
8. Good communication skills.
9. Skill in analyzing and solving problems.
10. Ability to produce large volumes of accurate work under time pressure.

## **B. Workforce Demographics**

The following table presents a profile of the agency's workforce as of June 2014.

| Agency Employees By Gender | Hispanic | African American | Anglo | Total | Total % |
|----------------------------|----------|------------------|-------|-------|---------|
| Female                     | 1        | 1                | 5     | 7     | 50%     |
| Male                       | 0        | 2                | 5     | 7     | 50%     |
| Total                      | 1        | 3                | 10    | 14    | 100%    |
| Percent of Total           | 10%      | 30%              | 60%   | 100%  |         |

Eight of the agency's employees are over the age of 50. Three employees are under the age of 35. The four most senior employees have over five years of experience with the agency. Three other employees have between four and five years of experience with the agency. The other seven employees have three years or less of experience with the agency. Most employees have had at least five or more years of experience with the state or other government agencies. After a period of instability in 2005-2006, the agency has had much better employee retention for 2007-2014 and expects this positive trend to continue for the next 3-5 years barring reductions in force caused by budget cutbacks.

## **C. Employee Turnover**

Establishing an experienced, stable workforce is important for any organization. The Texas Board of Chiropractic Examiners had a high turnover ratio during Fiscal Year 2006, but has since become much more stable. The previous Executive Director (hired in May of 2006, left in September of 2011) hired seven of our current employees, including the current Executive Director, who previously served as a Legal Assistant and Board Attorney. Employees who have left the agency in the last eight years have done so because they were let go, retired or took a job at much higher pay elsewhere. For the next five years, turnover is expected to be driven primarily by employees who leave because they find better opportunities and higher pay at other state agencies or by forced layoffs due to mandatory budget reductions.

## **D. Retirement Eligibility**

One employee is eligible to retire in the next two years. However, they are not expected to retire for at least 4-7 years. In addition, two other current employees are state retirees from other agencies who chose to come to work at the Chiropractic Board, and two employees are retired from Travis County.

## **Future Workforce Profile**

These are the changes the TBCE anticipates in its workforce within the few years.

## **A. Critical Functions**

If forced by budget reductions, the agency may have to reduce its staff by one employee during the 2015-2016 biennium. It is expected that any necessary staff reductions will be temporary and will be restored when the state's fiscal condition improves. No other changes in the critical functions to be performed by staff are expected.

## **B. Expected Workforce Changes**

TBCE's workload has increased due to increased numbers of new licensees, as well as an increase in the complexity of enforcement cases and hearings. Advances in technology will continue to impact the agency by requiring that employees be able to function proficiently in a business environment that is dependent upon electronic data and documents. The agency expects the average age of its workers to continue to increase over the next five years.

## **C. Anticipated Increase/Decrease in Number of Employees Needed to Do the Work**

The agency may be forced to reduce the number of FTEs by one employee during the 2015-2016 biennium if the state decides to impose an additional 5%-10% budget reduction during the appropriations process. The agency does not expect to add any employees during the next five years, except to replace any FTEs whose positions may be eliminated because of budget reductions during the 2015-2016 biennium and possibly to add a Board Attorney at a later point in time.

Additional increased demands on the workforce will be met by changes in operations and better use of technology.

## **D. Additional Critical Competencies**

The agency relies on competent and knowledgeable staff to fulfill its obligation to protect the public. In addition to the critical competencies listed earlier, there are additional ones that are essential for future positions:

1. Ability to set goals,
2. Ability to be self-directed, and
3. Ability to take ownership of responsibilities within agency guidelines.

## **Gap Analysis**

### **A. Anticipated Surplus or Shortage of Workers or Skills**

Like most other small state agencies, retention of staff is frequently a challenge due to high workloads and lack of funding to provide competitive salaries.

TBCE employees continue to need training in critical and future workforce skills. There is a small deficit in change management, process re-engineering and problem-solving skills. Ongoing internal training will address these issues. Technology skills are also lacking in some employees, but skills are adequate for performance.

## B. Strategy Development

In order to address some of the deficits between the current workforce and future demands, the agency has developed several goals for the current workforce plan. These are based on a range of factors identified through analyzing the agency and its workforce. The agency's workforce development plan can be grouped into two key areas.

1. Continue to develop skills of current employees.

**Goal:** Provide in-agency and off-site training for current employees.

**Rationale:** The training and development of current employees is critical to the success of the agency. It must analyze existing staff to determine which employees demonstrate the potential to develop new competencies and match the correct employee with the proper training best suited to develop his or her skills.

**Action Steps:**

- Identify new skill sets required as a result of program changes or technological advancements.
- Conduct assessment of the level of risk facing the agency regarding the potential loss of knowledge particularly in areas where there is a high turnover rate.
- Develop strategies to ensure that institutional knowledge is retained by promoting cross-training as an agency value.

2. The agency has some difficulty in attracting and retaining skilled employees.

**Goal:** Become an employer of choice.

**Rationale:** Finding and developing a workforce is just the beginning. If the agency is to recruit and retain the right workers in the right jobs at the right time, it must recognize that there is a competitive market for good workers and take appropriate actions. The agency will focus on rewarding good performance, providing a structured approach to staff development, creating a culture that supports innovation and excellence, and compensating staff fairly to the extent possible within the agency's limited budget.

**Action Steps:**

- Develop and implement plan to pay employees appropriately within the agency's budget limitations.
- Create a positive work environment in which employees know that they are appreciated and are empowered to do their jobs.
- Create opportunities that allow employees who are seeking new challenges to work on special projects or develop skills in new areas.
- Seek out state training opportunities for employees that are free to allow employees to continue to develop their skills.

## **APPENDIX F**

### **Survey of Employee Engagement Results and Utilization Plans**

The Texas Board of Chiropractic Examiners participated in the Survey of Organizational Excellence in December 2013. The overall score for the agency was 401, which is excellent, with an 80% response rate. According to the Institute for Organizational Excellence, overall scores typically range from 325 to 375. Additionally, response rates higher than 50% suggest soundness.

The highest scoring constructs were Supervision (Score: 434), Physical Environment (Score: 422), and Information Systems (Score: 420). The lowest scoring constructs were Internal Communication (Score: 388), Diversity (Score: 378), and Pay (Score: 267). Of note is the fact that scores above 350 suggest that employees perceive the issue more positively than negatively, and scores of 375 or higher indicate areas of substantial strength. Of our three lowest scoring constructs, two of them scored higher than 375 — indicating that these areas may have scored in the bottom three for the agency, but these scores do not indicate areas of concern.

The climate analysis showed that employees perceive the areas of Atmosphere, Ethics, Fairness, Feedback, and Management all very positively. All of these areas scored above 375, which indicates substantial strength.

The over time comparison shows that between the last survey (2010) and the current survey, all constructs but two scored higher. Most significantly, scores improved by 40 points or more for Supervision (+40), Team (+52), Quality, and Information Systems (+60). Only the constructs of Pay (-7) and External Communication (-2) decreased.

In all, the agency's employees appear to be very satisfied with their position and with the agency. The current score for Employee Engagement was 407 and for Employee Development was 410. The current score for Job Satisfaction was 411. Each of these scores increased from the 2010 score and is much higher than the scores reported for all respondents and the Article VIII agency respondents.

## APPENDIX G

### Historically Underutilized Business Plan

Texas Administrative Code § 20.13(b) requires that each state agency make a good faith effort to award procurement opportunities to businesses certified as historically underutilized. The goal of this good faith effort is to ensure that a fair share of state business is awarded to Historically Underutilized Businesses (HUBs).

To be certified as a HUB, a business must meet the following criteria:

- be at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American and/or American woman,
- maintain its principal place of business in Texas, and
- have an owner residing in Texas with a proportionate interest that actively participates in the control, operations and management of the entity's affairs.

The Texas Board of Chiropractic Examiners (TBCE) strives to meet the statewide HUB goals as established by the Comptroller of Public Accounts (CPA). These goals include 23.60% for professional service contracts, 24.60% for all other service contracts, and 21.00% for commodities contracts.

During the most recent fiscal years, TBCE has almost always exceeded these goals, with the exception of Other Services in FY 2011 (11.0%) and FY 2013 (5.53%).

**GOAL:** To establish and implement policies governing purchasing and contracting in accordance with state law that foster meaningful and substantive inclusion of HUBs.

**Objective:** To award at least twenty percent (20%) of the total value of applicable agency contracts and purchases to HUBs during each year for fiscal years 2014 and 2015.

*Outcome Measure:* Percent of total dollar value of applicable agency contracts and purchases awarded to HUBs.

*Strategy Measure:* To award at least 20% of the dollar value of annual applicable agency contracts and purchases to HUBs.

*Output Measure 1:* Total number of contracts awarded to HUBs

*Output Measure 2:* Total number of HUBs from which agency made purchases.

*Output Measure 3:* Total annual dollar value of contracts and purchases with HUBs.