

TEXAS STATE BOARD OF PHARMACY
FRAUD PREVENTION AND DETECTION PLAN
SEPTEMBER 2004
Updated FY2006

I. Introduction

The Fraud Prevention and Detection Plan for the Texas State Board of Pharmacy (TSBP) is developed in accordance with Executive Order RP-36.

The potential for, or occurrence of, fraud and other illegal acts is a significant and sensitive management concern in any organization. In the TSBP this concern is heightened by the breadth and complexity of the responsibilities of this agency, as well as the public expectation of honesty and integrity in government.

The purpose of this policy is to minimize the impact of all potential or actual fraudulent or illegal acts at TSBP by deterring such activity or detecting it as early as possible; to alert all TSBP employees that there is a mechanism by which such activities can be reported and investigated; and to ensure the fair, objective and thorough investigation and reporting of all such activities while safeguarding individual rights and maintaining confidentiality in accordance with applicable law. The responsibility of coordinating all efforts of compliance with this policy is assigned to the General Counsel of the agency.

This policy relates to all potential or actual fraudulent and other illegal activities: (1) within TSBP involving its employees in the conduct of their employment responsibilities, which includes, but is not limited to theft, malfeasance or abuse of power or authority, or (2) that involve the loss, misappropriation or theft of any assets belonging to TSBP or for which TSBP is responsible, including, but not limited to cash, checks, intellectual property, property and equipment, information and other data.

II. Key Components

• **Culture of Honesty and Ethics**

The Executive Director/Secretary of the Board shall ensure that all employees of TSBP are aware of the agency's guiding principles with regard to a clear code of ethics and employee code of conduct. These policies are outlined in the TSBP Employee Handbook (attached) and Risk Management Program. Also outlined in the Employee Handbook are procedures for reporting complaints which allege violations of the Code of Conduct by a TSBP employee. Periodic ethics training is required of all staff and board.

These policies are relayed verbally and in writing by the Executive Director/Secretary to all

employees. Future revisions of personnel policies will include a confidential reporting system for employees to use in reporting suspected or possible fraud, without fear or reprisal.

- **Creating a Positive Workplace Environment**

The TSBP has developed written guidelines for a compensation reward system that is tied directly to an employee evaluation system. This evaluation system is tied to measurable job objectives and compliance with all TSBP policies and procedures regarding employee job-related conduct. Agency employees are provided ample opportunity to provide feedback through such mechanisms as the employee evaluation, employee suggestion system, and annual evaluation of the Executive Director/Secretary. In addition, the agency participates in a biennial Organizational Excellence Survey to solicit employee feedback about supervisor/management ethics, fairness and openness to employee concerns. The Agency has developed an Agency Change Team made up of front line employees, who routinely review and submit suggestions to the management team regarding suggestions made to the biennial Survey of Organizational Excellence. Changes are made as appropriate and possible to enhance the workforce environment.

The agency has also published on its website, a Compact with Texans which publicly states that the TSBP will assume a leadership role in regulating the practice of pharmacy and act in accordance with the highest standards of ethics, accountability, efficiency, effectiveness, and openness.

- **Hiring and Promoting Appropriate Employees**

The TSBP Recruitment Plan is clearly outlined in the TSBP Employee Handbook. The TSBP's policy was prepared to ensure that no artificial barriers are intentionally or otherwise created to deny applicants for employment or employees of the TSBP equal employment opportunities. Standards exist for hiring and promoting the most qualified individuals with an emphasis on thoroughly checking a candidate's education, employment history and personal references. In additional, criminal background investigations on individuals being considered for employment are conducted.

- **Training Employees**

Periodic ethics training is required for all TSBP staff, with attendance documented which confirms attendees' participation. Fraud policy development and/or fraud prevention/training will be mandatory training for the agency designated Fraud Coordinator, Risk Manager, and Chief Financial Officer.

- **Notification and Confirmation of Compliance**

New employees sign an affidavit acknowledging that the employee has received the *Texas State Board of Pharmacy Employee Handbook* of Personnel Policies & Procedures and the TSBP Risk Management and Safety Program Manuals. These manuals contain the policies referred to in this document.

- **Discipline**

The TSBP responds to complaints against employees as provided in the Employee Handbook. Also included in the Handbook are disciplinary actions and grievance procedures.

III. Antifraud Processes and Controls

- **Identifying and Measuring Fraud Risks**

Using the existing process of annual risk assessment, the TSBP will identify the risks of fraud and identify ways to reduce the occurrence of fraud, as well as promote the detection of fraud. An agency Business Continuity Plan is scheduled for completion in FY2008.

- **Mitigating Fraud Risks**

The annual risk assessment prioritizes the different types of risk, including fraud risk, and applies appropriate internal controls to mitigate that risk. In addition, the annual risk assessment will identify potential weaknesses in the agency's day-to-day procedures and identify ways in which they can be changed.

- **Implementing and Monitoring Appropriate Internal Controls**

The agency has in place, a number of internal controls which are outlined in agency manuals, including extensive financial controls, segregation of duties, supervisory monitoring, review processes, and other ongoing processes. Agency staff is aware of the need for constant examination and improvement of internal controls. Many of these controls are tested on an annual basis through audits of oversight agencies and through the annual review of the agency risk assessment plan.

IV. Appropriate Oversight Process

- **Audit Committee or Board of Directors**

The Board's Executive Committee serves as the Audit Committee and periodically evaluates the Executive Director's identification of fraud risks and the Director's leadership in this effort for the agency. The Board's oversight may include a review of the risk management plan and activities, a review of any investigations undertaken regarding fraud, and approval of any audits conducted as a result of the agency risk assessment.

- **Management**

The agency General Counsel is designated the coordinator of the fraud prevention program. This director reports directly to the Executive Director/Secretary and works with other agency managers to ensure that fraud policies are being met.

The agency has written procedures for all major policies and duties, including extensive policies and reporting system pertaining to an effective system of internal controls and segregation of duties. An ongoing process for regular identification of the significant fraud risks to which the agency is exposed is conducted by a biennial review/audit of the agency Risk Management Program, Safety Program, and annual risk assessment.

- **Other Oversight Resources**

The Board has the option of contracting with outside entities for fraud examination if this should become necessary. In addition, audits of functions that may be subject to fraud are performed periodically by the Office of the State Auditor, Comptroller, Legislative Budget Board, Governor's Office, Texas Building & Procurement, and the Sunset Commission.

Chapter: Chapter 02: Ethics
Section: Fraud Prevention and Detection

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Duty to Report TSBP investigates all reported cases of fraud and abuse. An employee can report potential fraud by phone, electronically, in person or in writing by contacting their Team Leader, Division Director, TSBP General Counsel, or any other member of the TSBP management staff. In all cases, the employee who receives the complaint must immediately confer with the Executive Director or General Counsel to initiate an investigation.

Reporting employees may identify themselves or may choose to remain anonymous. Either way, the report must contain sufficient details, including the following:

- the reason the employee believes that a fraudulent or abusive situation has occurred;
- information regarding the situation in question;
- The name of the individual that may have committed fraud or abuse; and
- the date(s) that the situation has occurred.

Any other information known to the employee that may help with the investigation or understanding of the situation.

Employees may also report suspected fraud, waste, and abuse to the State Auditor's Office at (1-800-TX-AUDIT) or <http://sao.fraud.state.tx.us>.

Whistle Blowing

A state agency or institution may not take action against an employee who, in good faith, reports a violation of the law to law enforcement. An employee who alleges a violation of this provision may file suit against the State, but such action must be taken no later than 90 days after the violation occurred or was discovered. Also, the employee must exhaust the appeals process during this 90-day period.