

**TEXAS MEDICAL BOARD**  
Austin, Texas

ANNUAL INTERNAL AUDIT REPORT

Fiscal Year 2018



TEXAS MEDICAL BOARD  
Austin, Texas

Annual Internal Audit Report  
Fiscal Year 2018

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# Garza/Gonzalez & Associates

CERTIFIED PUBLIC ACCOUNTANTS

Board Members and  
Executive Committee  
Texas Medical Board and the  
TXPHP Governing Board  
Austin, Texas

We performed tests of management's assertion about the effectiveness and efficiency of the internal control structure over the Texas Physician Health Program (TXPHP), which is administratively attached to the Texas Medical Board (TMB); and, its compliance with the Texas Occupations Code, Texas Administrative Code, and established policies and procedures, as applicable to the TXPHP, for the seven months ended March 31, 2018.

The results of our tests disclosed weaknesses in TXPHP's internal control structure and its compliance with established policies and procedures; and, other matters, that are opportunities for strengthening internal controls, improving efficiency of operations; and, ensuring compliance with TXPHP's established policies and procedures. Based on the degree of risk or effect in relation to the audit objective(s), these matters, which are included in this report, were rated as either Priority, High, Medium, or Low, which is further described in page 20 of this report in the "Summary and Related Rating of Observations/Findings and Recommendations".

We also performed a follow-up of the findings and recommendations that were presented in the prior year annual internal audit report. This report reflects the implementation status of those matters; and, includes all information required for compliance with the State of Texas Internal Audit Annual Report requirements.

We have discussed the comments and recommendations from the TXPHP audit; and, the implementation status from the follow-up performed, with various TMB and TXPHP personnel, and we will be pleased to discuss them in further detail; to perform an additional study of these matters; or, to assist you in implementing the recommendations.



May 25, 2018

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**INTRODUCTION**

The Texas Medical Board (TMB), formerly the Texas State Board of Medical Examiners, is an agency statutorily empowered to regulate the practice of medicine in Texas in order to protect the public's safety and welfare. TMB carries out the duty primarily through the licensure and discipline of physicians and other allied health care providers as mandated by law. The Texas Occupations Code (TOC) Title 3, Subtitle B, also known as the Medical Practice Act, includes enabling statutes for TMB as the primary means of licensing, regulating, and disciplining physicians. TMB also provides oversight and support for the following four other boards and two advisory committees:

- Texas Physician Assistant Board
- Texas State Board of Acupuncture Examiners
- Texas Board of Medical Radiologic Technology
- Texas Board of Respiratory Care
- Medical Physicist Licensure Advisory Committee
- Perfusionist Licensure Advisory Committee

TMB's governing board (the board) consists of 19 members that serve staggered 6 year terms and who are appointed by the Texas Governor (the Governor) with the advice and consent of the Texas Senate. The board consists of 9 physicians with a degree of doctor of medicine (M.D.) and licensed to practice medicine in Texas for at least 3 years; 3 physicians with a degree of doctor of osteopathic medicine (D.O.) and licensed to practice medicine in Texas for 3 years; and, 7 members who represent the public. The Governor designates a member of the board to serve as the President of the board. The Medical Board is statutorily required to meet at least 4 times a year, although it currently meets 5 times a year. Many of the board's duties are carried out in committee; recommendations made in committee are then accepted, modified, or rejected by the full board.

**2018 Internal Audit Plan**

Following is the internal audit and other functions performed, as identified in TMB's 2018 Internal Audit Plan, dated February 20, 2018 and approved by the Executive Committee on March 1, 2018:

- Texas Physician Health Program (TXPHP)
- Follow-up of Prior Year Internal Audits
- Other Tasks

This report contains the results of the Texas Physician Health Program (TXPHP) audit; reflects the results of the follow-up performed in the current year of the findings and recommendations that were presented in the prior year annual internal audit report; and, meets the State of Texas Internal Audit Annual Report requirements.

## INTERNAL AUDIT OBJECTIVES

In accordance with the **International Standards for the Professional Practice of Internal Auditing**, the audit scope encompassed the examination and evaluation of the adequacy and effectiveness of TMB's system of internal control and the quality of performance in carrying out assigned responsibilities. The audit scope included the following objectives:

- **Reliability and Integrity of Financial and Operational Information** – Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.
- **Compliance with Policies, Procedures, Laws, Regulations and Contracts** – Review the systems established to ensure compliance with those policies, procedures, laws, regulations, and contracts which could have a significant impact on operations and reports, and determine whether the organization is in compliance.
- **Safeguarding of Assets** – Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
- **Effectiveness and Efficiency of Operations and Programs** – Appraise the effectiveness and efficiency with which resources are employed.
- **Achievement of the Organization's Strategic Objectives** – Review operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

**I. Compliance with Texas Government Code 2102: Required Posting of Internal Audit Information**

To comply with the provisions of Texas Government Code 2102.015 and the State Auditor's Office, within 30 days of approval by the TMB's Board, TMB will post the following information on its website:

- An approved fiscal year 2019 audit plan, as provided by Texas Government Code, Section 2102.008.
- A fiscal year 2018 internal audit annual report, as required by Texas Government Code, Section 2102.009.

The internal audit annual report includes any weaknesses, deficiencies, wrongdoings, or other concerns raised by internal audits and other functions performed by the internal auditor as well as the summary of the action taken by TMB to address such concerns.

**II. Consulting and Nonaudit Services Completed**

The internal auditor did not perform any consulting services, as defined in the Institute of Internal Audit Auditors' *International Standards for the Professional Practice of Internal Auditing* or any non-audit services, as defined in the *Government Auditing Standards*, December 2011 Revision, Sections 3.33 -- 3.58.

**III. External Quality Assurance Review**

The internal audit department's most recent *System Review Report*, dated October 7, 2015, indicates that its system of quality control has been suitably designed and conforms to applicable professional standards in all material respects.

**IV. Internal Audit Plan for Fiscal Year 2018**

The approved Internal Audit Plan (Plan) included one audit to be performed during the 2018 fiscal year. The Plan also included a follow-up of the recommendations of the prior year internal audit recommendations, other tasks as may be assigned by the Executive Committee or Board members, and preparation of the Annual Internal Audit Report for fiscal year 2018.

**Risk Assessment**

Utilizing information obtained through the inquiries and background information reviewed, 21 audit areas were identified as the potential audit topics. A risk analysis utilizing 8 risk factors was completed for each individual audit topic and then compiled to develop an overall risk assessment.

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Following are the results of the risk assessment performed for the 21 potential audit topics identified:

<b>HIGH RISK</b>	<b>MODERATE RISK</b>	<b>LOW RISK</b>
Licensing – Medical Radiologic Technologists	Mail & Cash Receipts Processing	Travel
Investigations (includes related Enforcement Support)	Licensing – Other Types	Fixed Asset Management
Human Resources & Payroll	Litigation (includes related Enforcement Support)	Purchasing/Procurement/Cash Disbursements
Licensing – Physicians	Information Resources	Licensing - Acupuncturists
Texas Physician Health Program		Executive Support
Licensing – Physician Assistants		Financial Reporting
Licensing – Respiratory Care Practitioners		Records Management
		Governmental Affairs & Communications
		Compliance (includes related Enforcement Support)
		Performance Measures

In the prior 3 years, internal audits were performed in the following areas:

Fiscal Year 2017:

- Litigation

Fiscal Year 2016:

- Compliance

Fiscal Year 2015:

- Licensing - Physicians

The internal audit and other tasks performed for fiscal year 2018 were as follows:

<b>Report No.</b>	<b>Audits/Report Titles</b>	<b>Report Date</b>
1.	Texas Physician Health Program (TXPHP) <i>Objective:</i> To determine that the TXPHP is operating under established policies and procedures that are consistent with the requirements of Texas Occupation Code Chapter 167 Texas Physician Health Program.	5/25/2018
1.	Annual Internal Audit Report – Follow-Up of Prior Year Internal Audits	5/25/2018
-	Other Tasks Assigned by the Executive Committee/Board	None

**V. Executive Summary**

**Texas Physician Health Program**

**Background**

Under the authority of the Texas Occupations Code (OC) Chapter 167, the *Texas Physician Health Program (TXPHP)* was established to promote Physician and Physician Assistant wellness and to promote the “treatment of all health conditions that have the potential to compromise the physician’s or physician assistant’s ability to practice with reasonable skill and safety, including mental health issues, substance abuse issues and addiction issues”. TAC Chapter 180 defines a TXPHP program participant as a physician, physician assistant, acupuncturist, or surgical assistant who is licensed or who has applied for licensure and who receives services under the program. These individuals participate in the TXPHP on a voluntary basis.

OC Chapter 167 directed the Texas Medical Board (TMB) to appoint a TXPHP medical director to provide clinical and policy oversight; and, to establish a TXPHP Governing Board (Governing Board) that includes physicians, physician assistants, mental health providers, and other related professionals with experience addressing health conditions commonly found in the population of monitored licensees. The Governing Board is to provide advice and counsel to the (TMB) Board; and, establish policies and procedures for the operation and administration of the program; including, policies for the assessment, referral and initial contact used to determine the need for a clinical evaluation and/or to enter treatment, and the policies and guidelines for that evaluation and/or treatment. OC Chapter 167 further directed TMB to establish policies for interventions and for the management of substance abuse disorders, psychiatric disorders and physical illness and impairments; and, allowed for the establishment of a Physician Health and Rehabilitation Health and Advisory Committee. The 84<sup>th</sup> Legislature with Senate Bill 202, expanded referrals to the TXPHP for the Texas Board of Medical Radiologic Technology and the Texas Board of Respiratory Care.

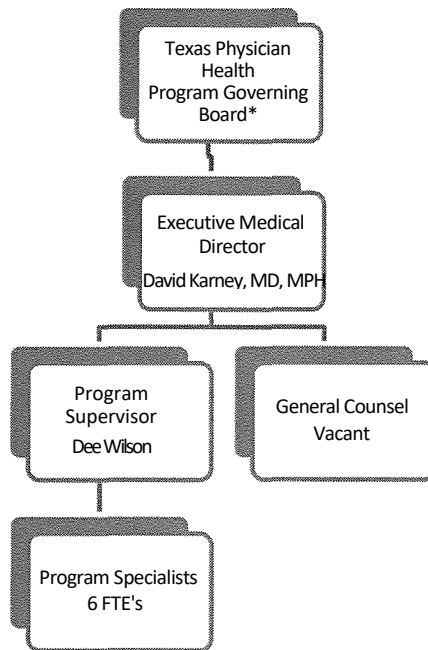
The Governing Board consists of 11 members that include 6 physicians licensed in Texas who are doctors of medicine; two physicians licensed in Texas who are doctors of osteopathic medicine; one physician assistant actively licensed by the PA Board; one other licensed mental health professional; and, one member of the public. The appointees serve staggered six-year terms and may be reappointed by the TMB President after completion of a term. Members of the Governing Board may not serve on a county medical society (CMS) committee on physician health and rehabilitation and/or have patient populations that include program participants. The Presiding Officer of the Governing Board is appointed by the TMB President.

**Organizational Structure**

The TXPHP’s FTEs consist of an Executive Medical Director (EMD), who manages the program, a Program Supervisor, a General Counsel, and six Program Specialists. Currently, a part-time General Counsel position and two Program Specialist positions are vacant; and, the addition of a requested Program Specialist position is frozen by TMB. The TXPHP plans to fill one vacant Program Specialist position and obtain approval to convert the other vacant Program Specialist position to an Administrative Assistant position. The duties of the part-time General Counsel position are currently being performed by a TMB legal staff member, effective March 31, 2018, the date TXPHP’s previous part-time General Counsel, who also served as the TXPHP’s HR department, resigned.



**TEXAS PHYSICIAN HEALTH PROGRAM**  
Organization Chart



- The Presiding Officer of the TXPHP Governing Board is appointed by the President of the Texas Medical Board

The primary responsibilities of the EMD include training and supervision of the Program Supervisor and Program Specialists; tracking protocol violations; developing action plans; establishing policies and procedures; making final determinations of expected or false positive drug screens; reporting to the Governing Board and to the various TMB disciplinary committees; and, making emergent referrals to TMB when appropriate.

The EMD is responsible for reviewing all positive screens and protocol violations and developing action plans, giving consideration to patient safety. The action plan may consist of collecting additional data from the various participant's monitors; evaluation of dilute screens and glucosuria; and, relapse evaluations. The EMD utilizes all clinical data to develop and/or modify an action plan. If protocols are not sufficient or available for program specialists to implement and potential threat to public safety exists, the EMD has the authority to request the participant cease practice and/or cease prescribing. However, actual enforcement is performed by TMB, through its licensing and regulatory authority. The EMD will also order relapse evaluations as needed, that will include Intensive Diagnostic Evaluation or the participant may elect to directly enter residential treatment. The type and extent of evaluation is tailored to the participant, considering the circumstances and protocol violations.

TXPHP allows for limited monitoring agreements when a participant has physical impairments in order to protect the public safety. An annual report from the participant's physician regarding the participant's medical condition is required each year based on the date of the agreement.

### **Policies and Procedures**

The TXPHP has published various documents for the operation of the program; including, the TXPHP Program Manual; the TXPHP Policies and Procedures Manual; and, the TXPHP Employee Handbook.

In addition, the TXPHP has documented processes for the use of the TXPHP Shared Drive and Recovery Trek. The Shared Drive is the repository of all data, agreements, forms and reports generated for each participant. Recovery Trek is a cloud-based case management and drug testing system.

To assist in the operation of the program, the TXPHP has published various documents to be used by the participants, which are available on its website. The published documents provide templates that are used by the participant, and various medical professionals and monitors, to consistently report activity that is required to be monitored. The documents include forms to be used when a licensee self-reports to TXPHP; a consent form that allows TXPHP to report the participant's compliance status to employers and other named parties, and a consent form used by the participant to allow the release of information to TXPHP by healthcare providers.

In the course of operating the program, the TXPHP has developed the following checklists and templates, which are used by staff to consistently process cases:

- Agreement Checklist
- New Participant Interview Form
- Sample Intake Fee Email
- Case Review Template and Sample Case Review

### **Referrals**

The TXPHP receives referrals from the various TMB departments (litigation, enforcement, registration and licensure); or, directly from licensees through the self-report process. The processing is the same for TMB and self-report referrals, with the exception of the set time requirements for reporting the progress of the referral made by the TMB departments. The resolution of a self-report referral is to be completed within 120 days from the referral date. For TMB referrals, TXPHP must inform TMB if the referral has been resolved; is unresolved; or, unresolved with no contact, within the following prescribed periods:

<u>TMB Referring Department</u>	<u>Reporting Period (from referral date)</u>
Litigation	30 days
Enforcement	45 days
Registration	90 days
Licensure	120 days

The intake process requires that the TXPHP contact the licensee within 5 days of receiving the referral to initiate the referral process. In evaluating the referral, the TXPHP determines whether the individual is eligible to participate in the program. Individuals are notified in writing that they are not eligible for the program, due to the following reasons:

- Committed a standard of care violation as a result of drugs or alcohol
- Committed a boundary violation with a patient or a patient's family member
- Convicted of, placed on deferred adjudication or community supervision for a felony
- Not licensed in Texas, if eligible to be licensed

If it is determined that the licensee is eligible to participate in the program, then contact is made with the individual and an interview is scheduled, which is performed only by the EMD. The Program Supervisor and the Program Specialists may schedule the licensee's interview with the EMD. In preparation for the interview the Program Specialist assigned to the referral completes the new participant interview form and gathers pertinent data for the EMD.

Upon completion of the interview, the Program Specialist prepares the agreement between the participant and the TXPHP. In some situations, the EMD may determine that an agreement is not needed; therefore, the TXPHP may close the enrollment process and inform TMB that the referral has been resolved. If an agreement is warranted, it is prepared by the Program Specialist and is sent to the participant via e-mail. The participant is given one week to return the signed agreement to the TXPHP and make the required payment. If the agreement is not returned in the allotted time or the participant requests an extension, the Program Supervisor may grant an extension of no more than two weeks; and, the EMD may approve an extension of more than two weeks. However, in no case can an extension of time pass the established TMB deadline.

An annual fee of \$1,200 is established by Sec. 180.4(3)(1) of the TAC; however, the Governing Board may waive all or part of the annual fee for a program participant upon a showing of good cause. In practice, the EMD has discretion, as the Governing Board designee, over the intake fee and has established reduced payments and the use of payment plans. Payments are received either through Texas.gov, by mail, or on site, by check. As stated in the TXPHP Policies and Procedures Manual, "participants are responsible for all costs owed for medical care, primary treatment, continuing care, and required evaluations including costs for drug testing associated with the participant's agreement". The Program Specialists request payment from the participant when the interview is complete; and, the Program Supervisor is responsible for the application of payments to the participant's account.

When the signed agreement is returned to the TXPHP, the Program Specialist will review for completeness, strikethroughs or other unilateral modifications and present it to the EMD for approval. A determination is made for the proper payment and the participant is sent an enrollment letter. Additionally, drug screening and reporting requirements are established in Recovery Trek.

### **Monitoring**

Participants that are accepted into the TXPHP are assigned to a Program Specialist, who becomes the participant's contact and among other tasks, follows up on drug tests, when necessary.

The participant or Program Specialist may request an agreement modification due to changed circumstances; or, the request may be initiated by the EMD, the Governing Board, or the TMB Disciplinary Process Review Committee following a case review. For an agreement modification to be approved, the participant's file must be up to date and accurate, state the correct diagnosis, the drugs of choice, sobriety date, reporting circumstance; and, all fees must be paid. The agreement modification is entered in Recovery Trek for the EMD's review and approval, and then signed and acknowledged by the participant.

The drug screening program is performed on a random basis by Recovery Trek, a third-party administrator (TPA). The participant is required to check-in via telephone or log-in on a daily basis between the hours of 6:00 am and 1:00 pm. Check-in is not required on weekends or TXPHP designated holidays. If selected for a drug test, the participant must submit the required specimen by 9:00 pm on the day selected. Participants are encouraged to submit the test prior to midnight even if the deadline is missed so that the test will be classified as a late as opposed to a missed test. The Program Specialists are responsible for reporting all abnormal test results to the EMD for review and a recommendation for follow-up steps.

The TXPHP requires that all tests other than a "witnessed" collection be approved by the EMD or the designee. Witnessed collections require the presence of a same-sex observer arranged by the testing site. The test site is responsible for documenting that a same-sex observer was not available which allows the participant to have an opposite sex observer or return the following day for a test. The participant is required to maintain the proper Chain-of-Custody (COC) forms to be used for all tests, which are made available by the testing contractor. Failure to have the proper form can result in a missed test.

The type and frequency of tests are determined by the EMD; however, it is the responsibility of the Program Specialist to document and order the correct type and frequency. Alternate tests (blood, hair, nail, saliva and breath) are to be used as adjuncts rather than replacements for urine screens. A standard drug test panel is the minimum standard; however, add-on or custom drug test panels are required if the drug of choice is not included in the standard panel.

Alcohol breath testing is used upon approval of the EMD in cases when alcohol is the sole drug of choice and with the requirement that a minimum breath test be taken twice daily and supplemented with other specimens, as determined for each individual participant.

Testing waivers may be requested any time a participant will not be available for testing since participant travel is generally not restricted. Travel is not restricted as long as the participant continues to check-in and test if selected, or if a testing waiver is granted in advance. The EMD may grant a testing waiver for leisure (vacation) or professional purposes; such as, attending continuing education. Waivers will only be approved by the EMD for a participant in good standing with no positive drug screens or missed tests etc., within the prior six months, or no missed or negative dilute screens in the prior 3 months. Request for a leisure or a professional waiver must be submitted two weeks in advance and actual proof of travel must be documented. The waiver may be rescinded and testing required if documentation is not supported.

Professional waivers can be granted once every six months for five testing days; while, waivers for leisure may be granted from five to fifteen days based on the number of months the participant has been in compliance, as follows:

Leisure Waivers	
Months in Compliance	Maximum Days Granted (Per Year)
Less than 12 months	1 waiver – 5 testing days
12 - 36 months	2 waivers – 10 testing days
Greater than 36 months	3 waivers – 15 testing days

Waivers for medical and mandatory in-house patient care are also allowed; however, documentation is required.

A provision for post waiver testing is required when any waiver exceeds two days.

In addition to the drug screens; the Program Specialist is responsible for receiving, analyzing, filing, and notifying the EMD of negative monitoring reports; or, changes in the reporting monitor or the related treatment. Changes in the participant's prescribed medication, as reported, must be supported by the prescription and be accompanied by documentation from the prescribing physician describing the reason for the change. A physician is required to provide information about prescriptions that can result in a participant's positive drug screen, which must be referred to the EMD for review.

A participant agreement may include a recovery monitor, a worksite monitor, and attendance in a 12 step/Caduceus program. In addition, TXPHP receives reports from the participant's treating providers; and, as necessary, mental health providers (treating psychiatrist, licensed professional counselor, licensed chemical dependency counselor). Participants may be required to have an independent medical or psychiatric evaluation, which may not require ongoing reporting requirements.

The monitoring reporting requirements, which are typically required on a quarterly basis, are included in the participant's agreement and are included in Recovery Trek.

### **Reporting of Non-Compliance**

A participant's failure to comply with the TXPHP directives and/or the agreement may lead to case review and reporting to the Governing Board and potential referral to the TMB and the respective disciplinary review committee.

Substantive violations of the monitoring agreements are defined as follows:

- Positive drug screens not attributable to a prescription by a physician.
- Relapse documented by positive drug screens, self-admission, or formal evaluation.
- Violations to the Drug Screening Protocol that result in changes to the participant's agreement.
- Other violations of TXPHP policies and procedures that result in changes to the participant's agreement.

- Upon review of the Governing Board based on violations of the TXPHP monitoring agreement, as referred by the EMD
- Reasonable suspicion that the participant is unsafe to practice

In cases where, in the opinion of the EMD, the participant poses a continuing threat to public welfare, the EMD may consult with the TXPHP Case Advisory Panel, or may refer the participant directly to TMB without a case review, which is known as an emergent referral. The TXPHP shall provide its files on the participant to TMB when the action for emergent referral is taken.

### **Case Closures**

Participants are released from the program upon satisfactory completion of all requirements in the monitoring agreement.

The length of a monitoring agreement is typically three to five years; however, early release of an agreement may be granted by the EMD, upon timely request by the participant or Program Specialist.

For a case to be closed, the participant file must be reviewed/audited by the Program Specialist to ensure the following:

- Successful completion of the drug screening requirements
- Receipt of all monitoring reports from Recovery Monitors; Work Site Monitors; and, mental health providers
- Payment of all fees
- Complete and accurate files

Once the above is found to be complete and accurate, the Program Specialist will prepare a case review memorandum to request that the file be closed or submit a request for early expiration through Recovery Trek.

The Program Specialist will document any discrepancies and generate a Closure Letter for the EMD's approval. If approved, the Closure Letter may be transmitted to the participant, and the Program Specialist is responsible for closing the file. If closure is denied, the Program Specialist is required to inform the participant and include the additional requirements through the agreement modification process.

Case closure also occurs upon termination for non-compliance; when an individual is determined to be ineligible; and, upon the retirement or cancellation of the license. When retirement of a license is requested by the participant, a retirement form agreement is prepared by the participant to be submitted to TMB. During the time the retirement agreement is being reviewed, the participant must meet all monitoring agreement requirements until TMB approves the retirement form agreement. The Program Specialist will monitor the participant's license status and initiate the case closure when the license reflects a retirement status.

In situations where the case requires a transfer to TMB for emergent reasons or at the direction of the Governing Board, all participant files are transferred to TMB. It is the Program Specialist's responsibility to notify the TMB enforcement support manager and provide them with the electronic files. If the participant was in the drug screening program, then the TMB compliance department must also be notified and provided access to the electronic files.

Self-referred participants may only withdraw from the monitoring agreement upon review and approval by the EMD.

The steps to case closure require that the testing status in Recovery Trek be marked complete, fee payment must be current and complete; and, in all cases, there must be documentation of a closure letter or termination letter to the participant. As a final step, the participant's folder is transferred to the "Former Participant" folder in the Shared Drive, by the Program Supervisor.

### **TXPHP – Operations**

The TXPHP has recently experienced a number of changes, with the more significant being turnover in the EMD position and the addition of a number of new license holders, which are regulated by TMB. Senate Bill 202 Article 2 *Regulatory Programs Transferred to the Medical Board* was passed and effectively transferred certain regulatory programs to TMB. Included in SB 202 was an amendment to Sec. 167.001 of the Texas Occupations Code as follows:

Sec. 167.0091. REFERRALS FOR CERTAIN PROFESSIONS. Notwithstanding any other provision of this chapter, the board, the Texas Board of Medical Radiologic Technology, or the Texas Board of Respiratory Care, as appropriate, may make a referral to the program and require participation in the program as a prerequisite for issuing or maintaining a license, certificate, permit, or other authorization under Chapter 601, 602, 603, or 604.

The effect of SB 202 to the TXPHP is the addition of referrals for the following license holders:

- Medical Radiologic Technologists
- Respiratory Care Practitioners
- Medical Physicists
- Perfusionists

The transfer of these license holders to TMB increased the number of referrals made by TMB to the TXPHP, due to the results of the fingerprint and background checks performed as part of the renewal process for all the newly transferred licensees. An additional complication was the departure of the previous Medical Director, which seems to have occurred concurrently with the increase in referrals and which left the position vacant for approximately three months during fiscal year 2017.

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The following data was prepared by TMB for planning purposes in developing its fiscal year 2018 Operating Budget, and may not reflect the actual number of licensees. The following table is included to illustrate the effect of the Allied Health Professional (AHP) SB202 added licensees.

Licensees Regulated by TMB			
License Type	FY 2016	FY 2017	FY 2018
Physicians	78,441	81,253	82,000
Acupuncturists	1,230	1,260	1,240
Physician Assistants	8,050	8,556	8,480
Surgical Assistants	442	469	420
Physicians in Training	7,546	7,754	7,939
AHP (SB202)	48,949	47,874	48,411
<b>Total</b>	<b>144,658</b>	<b>147,166</b>	<b>148,490</b>
<b>% of AHP (SB202)</b>	<b>34%</b>	<b>33%</b>	<b>33%</b>

We requested and obtained the number of referrals from TMB to TXPHP for fiscal years 2016, 2017 and through March 31, 2018. This data was provided by TMB's Registration, Enforcement, and Licensure departments. For purposes of illustrating the effect of the additional SB202 licensees, the combined TMB data is as follows:

TMB Referrals to TXPHP			
License Type	FY 2016	FY 2017	FY 2018 (Through March 31, 2018)
Physicians	156	180	76
Acupuncturists	3	2	-
Physician Assistants	27	49	18
Surgical Assistants	-	-	-
Physicians in Training	-	-	-
Non-certified Radiologic Technician	5	17	17
AHP (SB202)	54	152	109
<b>Total</b>	<b>245</b>	<b>400</b>	<b>220</b>
<b>% of AHP (SB202)</b>	<b>22%</b>	<b>38%</b>	<b>50%</b>

The table above indicates that SB202 licensees represented 22%; 38% and 50% of all referrals from TMB for the fiscal years 2016, 2017 and fiscal year 2018 through March 31, 2018.

The new and current EMD was hired in July 2017; thus, during the period estimated to be March 5, 2017 through July 5, 2017, the EMD position was vacant. We were provided anecdotal information to document the increase in referrals to the TXPHP as follows:

- 72 referrals were received in May 2017 which was almost three times the average prior to SB202.
- Other high-volume months were March 2017 and August 2017.
- The split for referrals for fiscal year 2017 was approximately 61% non-SB202 and 39% SB202 licensees



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To assess the accuracy of various reported counts of pending referrals, we obtained data for the referrals pending resolution as of September 5, 2017, from the TXPHP manual Referral Log prepared by the Program Supervisor. Using this data, we performed an analysis and recomputed the referrals pending resolution for the year ended August 31, 2017.

Our results were as follows and indicated that the number reported internally by TXPHP in the TXPHP manual Referral Log as of September 5, 2017 appeared accurate but may not be consistent with what is reflected in Recovery Trek:

For The Year Ended August 31, 2017		
Type of License	Open Referral (1)	Referral Needing Interview with EMD (2)
Pre SB202	106	41
SB202	102	78
<b>Total</b>	<b>208</b>	<b>119</b>

- (1) Referral interviewed by EMD but not yet resolved.  
(2) Included in the "Open Referral".

We extended our analysis through March 31, 2018 to determine if TXPHP made progress in addressing the backlog, using data from Recovery Trek. From Recovery Trek we utilized the categories of participant status identified as follows:

Pending Active – Referrals interviewed but not yet accepted into the program because of pending fees or pending evaluation.

Pending Interview – Referrals pending interview with the EMD.

The results of our analysis were as follows:

License Type	July 31, 2017		October 5, 2017		March 31, 2018	
	Pending Active	Pending Interview	Pending Active	Pending Interview	Pending Active	Pending Interview
Doctor of Osteopathy	9	4	6	5	3	-
Medical Doctor	44	12	47	10	18	2
Physician in Training - MD	6	-	5	1	4	2
Medical Student	1	-	1	-	-	-
Physician Assistant	12	6	9	4	1	-
Physician Assistant - Certified	-	-	1	-	-	-
Non-certified Radiologic Technician	9	1	10	2	10	2
<b>Total TMB Pre-SB202 Licensees</b>	<b>81</b>	<b>23</b>	<b>79</b>	<b>22</b>	<b>36</b>	<b>6</b>
SB 202 Licensees:						
Medical Radiologic Technologists	42	14	65	23	91	29
Medical Physicists	-	-	-	-	1	-
Perfusionist	1	-	-	-	-	-
Respiratory Care Practitioner	13	4	33	14	50	15
<b>Total SB202 Licensees</b>	<b>56</b>	<b>18</b>	<b>98</b>	<b>37</b>	<b>142</b>	<b>44</b>
<b>Grand Total</b>	<b>137</b>	<b>41</b>	<b>177</b>	<b>59</b>	<b>178</b>	<b>50</b>

Note: For the period from September 1, 2017 to March 31, 2018, a total of 59 referrals were resolved.

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The above table indicates that the backlog of Pre-SB202 licensees is being addressed since those numbers decreased in both categories. However, the backlog of SB202 licensees continues to increase. During the period of October 2017 to the present, TXPHP adopted a practice to only schedule a SB202 licensee for an interview for “humanitarian reasons”; such as, the pending loss of a job, etc.

**Financial Data**

The following financial data compares the TXPHP operating budget to collections for the periods reflected:

	Fiscal Year 2017 As of August 31, 2017	Fiscal Year 2018 As of October 31, 2017	Fiscal Year 2018 As of May 23, 2018
Appropriations (as adjusted)	\$ 465,787	\$ 541,972	\$ 541,972
Expended	471,747	39,136	306,406
Encumbered	-	4,471	3,430
Total Expenditures and Encumbrances	471,747	43,607	309,836
Unexpended/Unencumbered	\$ (5,960)	\$ 498,365	\$ 214,002
Amounts Collected	\$ 317,651	\$ 49,500	\$ 232,136
Total Expenditures and Encumbrances	471,747	43,607	309,836
Gain/(Loss) from Collections	\$ (154,096)	\$ 5,893	\$ (95,834)
Funded by State	148,136	-	95,834
Funded by TMB	\$ (5,960)	\$ -	\$ -

TMB and TXPHP’s state appropriations are contingent upon both entities collecting sufficient revenue to cover legislative appropriations as well as all other direct and indirect costs (cost of employee benefits) allocated by the Appropriations Bill. TMB generates significantly more in revenue than its appropriations, due to fees, fines, and miscellaneous revenues that are estimated to be 45% more than comparable appropriations. Therefore, this could be the reason that TXPHP appropriations have not been targeted for reduction although its revenue collections are not sufficient to cover the biennial legislative appropriations.

**Audit Objective, Scope, and Methodology**

**Objective**

The objective of our audit was to determine whether TXPHP has developed and implemented policies and procedures; and, internal controls to ensure compliance with state laws and regulations in operating the TXPHP.

**Scope**

The scope of our audit was the review and assessment of program operations; including, the referral, monitoring and closure processes for the 7-month period from September 1, 2017 through March 31, 2018, and relevant activities performed during the same period. The review of the monitoring process was limited to the receipt and monitoring of reports and drug screening results of participants, since the technical nature of the drug screening process and the complete monitoring of participants would result in a separate auditable area.

## **Methodology**

The audit methodology included a review of applicable policies and procedures; laws and regulations; various internal and external documentation; and, various interviews and correspondence with selected TMB and TXPHP employees and certain members of the TMB Board and the Presiding Chair of the TXPHP Governing Board.

We obtained and/or reviewed the following information:

- a. The Texas Occupations Code and the Texas Administrative Code, as applicable to the TXPHP and TMB.
- b. TXPHP policies and procedures, checklists, templates, and training materials.
- c. TXPHP organizational chart and job descriptions.
- d. A listing of participant referrals to TXPHP for the period from September 1, 2017 through March 31, 2018.
- e. A listing of current participants in TXPHP as of March 31, 2018.
- f. A listing of participants terminated from the TXPHP program during the period from September 1, 2017 through March 31, 2018.
- g. Samples of case files, which stipulate the following agreements and/or include certain documents:
  - Participation (signed)
  - Abstinence and the requirement to immediately report any substance use
  - Not to treat his or her own family, either medically or surgically, except under emergency situations
  - Not to manage ones own care
  - Attend self-help groups such as AA or NA.
  - Attend a regularly held support group for recovering healthcare professionals
  - Maintain consent for ongoing communication with an approved work site monitor
  - Abide by any specified work site restrictions as stated in the TXPHP Monitoring and Assistance Agreement
  - Maintain consent for TXPHP to communicate with participant's family and/or significant other to obtain information as needed
  - Submit biological specimen monitoring without question
  - Notify TXPHP of an intent to relocate out of the state and that monitoring will be required to be transferred to the appropriate state PHP or licensure board

- Follow up with designated treatment providers (individual therapists, family therapists, marriage therapists, psychiatrists, relapse prevention group) and others designated
  - Release of all information to TMB in the case of substantive non-compliance
  - Drug testing reports
  - Case reviews performed by TXPHP
- h. A listing of receipts through the mail or received on site for the fiscal year 2017 and during the period from September 1, 2017 through March 31, 2018.
- i. Obtained the TXPHP Referral Log for the periods through September 5, 2017 and through March 31, 2018.
- j. Obtained reports and the source data from Recovery Trek data presented to the Governing Board in October 2017 and for the periods ended August 31, 2017 and through March 31, 2018.
- k. Counts of licensee referrals from TMB for the periods of fiscal year 2016 and 2017 and for fiscal year 2018 through March 31, 2018
- l. Financial data provided by TMB for fiscal year 2017 and fiscal year 2018 through May 23, 2018.

We performed various procedures to achieve the objective of our audit, to include the following:

- a. We obtained and reviewed the Texas Occupations Code (TOC) Title 3. Health Professions Subtitle B. Physicians Chapter 167. Texas Physician Health Program, and the Texas Administrative Code (TAC) Title 22. Examining Boards Part 9. Texas Medical Board Chapter 180. Texas Physician Health Program and Rehabilitation Orders.
- b. We obtained and reviewed TXPHP's established policies and procedures, collected and tested documentation, and conducted interviews with certain TMB Board Members; various TMB employees; the Presiding Officer of the TXPHP Governing Board; the EMD and certain TXPHP employees to document and evaluate formal/informal processes and controls; to include, the management of confidential information and the referral and intake process.
- c. Obtained an understanding of TXPHP's administrative attachment to TMB.
- d. Selected a sample of (self or 3<sup>rd</sup> party) referrals made to TXPHP during the year to test attributes; such as, accuracy, completeness, and timeliness; and, assess whether internal control procedures are operating effectively and compliance with established policies and procedures. This testing included a determination that all fees were received from the participant in accordance with the intake interview process and the determination of the EMD.

- e. Selected a sample of program participants during the year to evaluate the monitoring function performed by TXPHP to ensure compliance with terms and conditions of the participant agreements and compliance with established policies and procedures.
- f. Selected and tested a sample of program participants who terminated participation in the program to evaluate the process for termination performed by TXPHP to ensure compliance with established policies and procedures. This testing included a determination that all fees were received from the participant in accordance with the termination.
- g. Selected and tested funds received by TXPHP staff through the mail or received on site to determine that the receipt was processed and included in TXPHP revenue for the applicable fiscal year.
- h. Performed data analysis for the effect of SB202 on the increase of licensees regulated by TMB for fiscal years 2016, 2017 and 2018.
- i. Performed data analysis for the effect of SB202 on the total referrals from TMB for the fiscal years 2016, 2017 and 2018.
- j. Performed data analysis of the TXPHP manual Referral Log in comparison to data from Recovery Trek and the progress towards addressing the effects of SB202.
- k. Performed an analysis of TXPHP's recorded revenue to state appropriations and budget for fiscal year 2017 and for fiscal year 2018 through May 23, 2018.

**VI. Observations/Findings and Recommendations**

SUMMARY and RELATED RATING of OBSERVATIONS/FINDINGS and RECOMMENDATIONS

As TMB's internal auditors, we used our professional judgment in rating the audit findings identified in this report. The rating system used was developed by the Texas State Auditor's Office and is based on the degree of risk or effect of the findings in relation to the audit objective(s). The table below presents a summary of the observations/findings in this report and the related rating.

Summary of Observations/Findings & Recommendations and Related Ratings		
Finding No.	Title	Rating
1	Processing Referrals	High
2	Processing, Tracking and Reporting Payments	High
3	Accuracy and Timely Update of Referral Log	High
4	Collection and Reconciliation of Receipts	High
5	Processing Participant Discharge	Medium
Observation No.	Title	Rating
1	MOU between TXPHP & TMB	--
2	TXPHP – Operations	--
3	Employee Training	--
<p><u>Description of Rating</u></p> <p>A finding is rated <i>Priority</i> if the issues identified present risks or effects that if not addressed could <u>critically affect</u> the audited entity's ability to effectively administer the programs(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.</p> <p>A finding is rated <i>High</i> if the issues identified present risks or effects that if not addressed could <u>substantially affect</u> the audited entity's ability to effectively administer the programs(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.</p> <p>A finding is rated <i>Medium</i> if the issues identified present risks or effects that if not addressed could <u>moderately affect</u> the audited entity's ability to effectively administer programs(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.</p> <p>A finding is rated <i>Low</i> if the audit identified strengths that support the audited entity's ability to administer the programs(s)/function(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the programs(s)/function(s) audited.</p>		

**OBSERVATIONS/FINDINGS and RECOMMENDATIONS**

Report No.	Report Date	Name of Report	Observations/ Findings and Recommendations	Current Status (Fully Implemented, Substantially Implemented, Incomplete/Ongoing, or Not Implemented)	Fiscal Impact/Other Impact
1	May 25, 2018	TXPHP	<p><b>1. <u>Processing Referrals</u></b></p> <p>We tested 20 participant referrals received during the period of September 1, 2017 through March 31, 2018, which resulted in the following:</p> <ul style="list-style-type: none"> <li>• TXPHP policies require that the individual identified in the referral be contacted within 5 days of the referral date. In 17 of the 20 referrals tested, the individual was not contacted within 5 days; and, in 5 of those 17 instances, contact had not been made as of May 2018.</li> <li>• TXPHP policies require that TMB be notified within certain specified time frames if a referral has been resolved, is unresolved or is unresolved with no contact. For the 20 referrals tested, TXPHP did not timely notify TMB for 3 of the referrals and for 5 additional referrals, the deadline expired as of March 31, 2018 with no notification to TMB.</li> </ul> <p>We recommend that TXPHP adhere to its policies and timely contact the individuals and TMB. TMB must be notified and the referral must be returned to TMB for enforcement purposes, if the referral is unresolved or is unresolved with no contact.</p> <p><b>2. <u>Processing, Tracking and Reporting Payments</u></b></p> <p>To determine that payments received from participants either by mail or on-site, were properly processed, we obtained the listing of payments received on-site for fiscal year 2017 and through March 31, 2018, and selected 5 receipts for testing. Although each payment was submitted to TMB and deposited by TMB, the following instances were identified in relation to those receipts:</p> <ul style="list-style-type: none"> <li>• In 2 instances, there was no indication in Recovery Trek that a payment was received; and, in 2 other instances, the payment was posted in Recovery Trek 25 and 299 days after receipt.</li> <li>• In 1 instance, the payment was held at TXPHP for 6 days before it was submitted to TMB.</li> <li>• In 3 instances, the payments were deposited by TMB 6 to 8 days after receipt from TXPHP.</li> </ul>		<p>To ensure compliance with TXPHP policies and procedures and improve effectiveness and efficiency.</p> <p>To improve control over fees collected and safeguard TXPHP assets.</p>

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Report No.	Report Date	Name of Report	Observations/ Findings and Recommendations	Current Status (Fully Implemented, Substantially Implemented, Incomplete/ Ongoing, or Not Implemented)	Fiscal Impact/Other Impact
1	May 25, 2018	TXPHP	<p>We recommend that TXPHP record each payment in Recovery Trek in a timely manner to ensure that participant records are current and accurate. In addition, we recommend that TXPHP timely notify TMB when a payment is received to ensure funds are deposited without delay and that TMB make timely deposits.</p> <p><b>3. <u>Accuracy and Timely Update of Referral Log</u></b></p> <p>According to the TXPHP Policies and Procedures Manual, "The Program Supervisor shall log all referrals into the referrals spreadsheet and shall include the response deadline when applicable". In performing our analysis of the progress towards the SB202 backlog through March 31, 2018, we identified variances in the counts of open referrals from the manual Referral Log maintained by the Program Supervisor and the source data obtained from Recovery Trek. Following are the discrepancies identified:</p> <ul style="list-style-type: none"> <li>• In 111 instances, the Referral Log reflected a licensee with no resolution; however, Recovery Trek indicated the referral was resolved.</li> <li>• In 21 instances, a licensee was included in the Referral Log but not in Recovery Trek.</li> <li>• In 14 instances, the license type in the Referral Log differed from what was recorded in Recovery Trek.</li> <li>• In 4 instances, the Referral Log reflected a referral as resolved; however, in Recovery Trek, the referral was reported as pending.</li> </ul> <p>A manual listing; such as, the Referral Log can be utilized to ensure completeness and accuracy of all data files in the electronic database. However, during fiscal year 2018, the manual Recovery Log was not sufficiently updated and reviewed.</p> <p>We recommend that TXPHP reconcile the Referral Log to the data in Recovery Trek to serve as a control in determining that all referrals are properly entered into the Recovery Trek database.</p>		To improve controls over electronic data and ensure accuracy of information collected.



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1	May 25, 2018	TXPHP	<p><b>4. Collection and Reconciliation of Receipts</b></p> <p>The TXPHP records payments received by participants into Recovery Trek to track payment activity; however, it does not perform reconciliations of receipts as recorded by TMB to the receipts recorded in Recovery Trek. In addition, the TXPHP has a listing of 25 past participants that did not pay all required fees, totaling \$17,600, and considered to be uncollectible by the TXPHP. These unpaid fees range from the oldest dated September 1, 2013 to the most recent dated November 10, 2017, and in amounts ranging from \$150 to \$2,700.</p> <p>We recommend that TXPHP generate a report of payments received and recorded in Recovery Trek and perform a reconciliation to receipts recorded by TMB, on a periodic basis, to ensure completeness and accuracy. In addition, the TXPHP should establish an aged receivable ledger to initiate collections; and, to be used in determining the amounts considered to be uncollectible, which should be reported to the Governing Board at their regular scheduled meetings, as applicable.</p> <p><b>5. Processing Participant Discharge</b></p> <p>TXPHP policies require that all fees be paid before a participant can be discharged from the program. Our testing of the discharge process for 8 participants that exited the program during the period of September 1, 2017 through March 31, 2018, indicated that in 1 instance, the participant was reflected as "discharged" in Recovery Trek although the intake fee had not been paid. In addition, TMB has not been notified of the participant's status.</p> <p>We recommend that TXPHP identify the participant's status as "active" in Recovery Trek until the participant has paid all fees and that the TXPHP timely notify TMB of the participant's status.</p>		<p>To ensure the reconciliation of receipts between the TXPHP and TMB; and, to maximize and ensure timely collection of fees from participants.</p> <p>To ensure an equivalent process to participants and ensure compliance with TXPHP policies and procedures.</p>

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1	May 25, 2018	TXPHP	<p style="text-align: center;"><b><u>Observations</u></b></p> <p><b>1. Memorandum of Understanding (MOU) between TXPHP &amp; TMB</b></p> <p>Because the TXPHP is administratively attached to TMB, various administrative functions are performed by TMB on behalf of the TXPHP; such as, the accounting, budgeting, human resources, and purchasing functions. The two entities also have duties and obligations related to the sharing of information and tracking participants for referral to the TXPHP; and, for sharing and tracking investigation and case information for investigation and enforcement purposes. These shared duties and responsibilities are performed without a written MOU that defines the shared functions and activities. In addition, based on our inquiries with management, we understand that the TXPHP has not compiled performance measure data since August 2016.</p> <p>We recommend that a written MOU be adopted that clearly defines the obligations of each entity and the duties that each entity will be responsible for performing, considering each entities separate policies and procedures. The administrative and operational areas that should be addressed; include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Financial support and services</li> <li>• Purchasing and procurement</li> <li>• Human resources</li> <li>• Legal counsel</li> <li>• Authorization of positions, duties, and pay</li> <li>• Travel processing and reimbursement</li> <li>• Information resources</li> <li>• Performance measures</li> <li>• Criteria for SB202 licensee referrals to the TXPHP</li> <li>• Shared information: (1) Type of information; (2) Purpose (i.e. participant tracking; investigation &amp; enforcement; audit &amp; review, etc.); and, (3) Safeguarding the confidentiality of information in accordance with laws and regulations.</li> </ul>		To define the duties to be performed by both entities and document the arrangement of such in an executed agreement.

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1	May 25, 2018	TXPHP	<p><b>2. TXPHP -- Operations</b></p> <p><i>Increased Referrals (SB202)</i>            The passing of SB202 by the 84<sup>th</sup> Legislature, provided that the Texas Board of Medical Radiologic Technology and the Texas Board of Respiratory Care may make referrals to the TXPHP. This resulted in approximately 48,000 additional possible participants to the program, expanding the possible population by approximately 33% or 1/3. The actual referrals, based on TMB data, increased from 22% or 54 referrals in fiscal year 2016 to 50% or 109 referrals in fiscal year 2018, through March 31, 2018.</p> <p><i>Backlog in Referral Interviews &amp; Evaluations</i>            The additional referrals, followed closely by the departure of the former TXPHP Medical Director, caused a workload that could not be managed by the remaining staff since the Executive Medical Director position was vacant for approximately three months and it is the only position that is authorized to interview and evaluate a referral for acceptance to the program. Various options to address the additional referrals were explored, which consisted of members of the TXPHP Governing Board participating in the interview and evaluation of participants and in accepting voluntary assistance from the Physician Health and Rehabilitation Advisory Committee, commonly referred to as the TXPHP Advisory Committee; however, since the indemnity of the volunteers was not assured, minimal interviews and evaluations were performed.</p> <p>As a result of only one position authorized to perform referral interviews and evaluations, the backlog of such interviews and evaluations continues to increase. As of July 31, 2017, the backlog was 74; and, has increased to 186 as of March 31, 2018.</p> <p><i>Turnover in Medical Director Position</i>            Since fiscal year 2010, the TXPHP has had four different individuals in the Medical Director position, with the current (4<sup>th</sup>) one being in the position less than one year, as of May, 2018.</p> <p><i>TXPHP Policies &amp; Procedures Manual (Manual)</i>            Currently there are two draft versions of the Manual, one dated 2015 and the other dated March 2018. Management initially provided us with the 2015 version and the TXPHP presiding officer later provided the 2018 version.</p> <p><i>Eligibility of Medical Students</i>            The TXPHP allows medical students to participate in the program; however, their eligibility has not been defined in either the Occupation Code or the Texas Administrative Code.</p>		To increase the effectiveness and efficiency in the TXPHP's operations.

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1	May 25, 2018	TXPHP	<p>We recommend the following:</p> <ul style="list-style-type: none"> <li>• Consider the indemnification of the TXPHP Advisory Committee members, as suggested by the TXPHP's former General Counsel in a February 16, 2016 memo to the former TXPHP Medical Director.</li> <li>• Explore the possibility of a contractual agreement with a company or an individual that is qualified to perform such evaluations of a participant on behalf of the TXPHP.</li> <li>• Determine the cause for the high turnover in the Executive Medical Director (EMD) position. Circumstances that may be the cause could be related to pay and/or the duties required to be performed. We recommend that a compensation survey be conducted to determine if an adjustment in the salary is warranted and practical; and/or, determine if any clerical or administrative functions performed by the EMD could be performed by an administrative assistant position, leaving the EMD with more time to perform interviews and evaluations of referrals for entrance into the program.</li> <li>• Finalize the draft Manual to ensure staff is utilizing the correct version and performing functions in a uniform manner.</li> <li>• Determine the propriety of medical students, other than residents, participating in the program.</li> </ul> <p><b>3. <u>Employee Training</u></b></p> <p>Our review of employee training during the fiscal year indicated that 4 of the 7 TXPHP employees obtained EEO training provided by the Texas Workforce Commission; and, hands on training was provided to the most recently hired employee. However, specific training; such as, participant contact, substance use or mental and physical issues was not obtained by any of the employees.</p> <p>We recommend that TXPHP establish a training program that addresses topics; such as, participant contact, substance use and mental and physical issues so that employees; specifically, Program Specialists, are better prepared for their expected daily job requirements.</p>		To improve overall operations and provision of services.

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Report No.	Report Date	Name of Report	Observations/ Findings and Recommendations	Current Status (Fully Implemented, Substantially Implemented, Incomplete/Ongoing, or Not Implemented)	Fiscal Impact/Other Impact
1	May 25, 2018	2018 Follow-Up	<p><b><u>Follow-Up of Prior Year Internal Audits</u></b></p> <p>Following is the status of the recommendations made during fiscal year 2017 that had not been fully implemented.</p> <p><b>Litigation</b></p> <p>1. <b>Expert Voucher Templates</b></p> <p>Establish procedures to ensure correct expert voucher templates are used, related to services rendered by experts (i.e. medical experts) and that the vouchers are kept current to avoid the use of obsolete versions.</p> <p>2. <b>Notice Regarding Certain Complaints/ Annual Reporting</b></p> <p>Establish and implement procedures to ensure compliance with all requirements of OC Sec. 164.0036 regarding notice to all parties to a complaint that includes an explanation of the reason why the informal meeting has not been scheduled before the 180th day after the official investigation of the complaint is commenced. In addition, the board include in its annual report to the legislature information about any complaint for which notice is required, including the reason for failing to schedule the informal meeting before the 180-day deadline. The information provided in the annual report must also list any complaint in which the investigation has extended beyond the first anniversary of the date the complaint was filed with the board.</p> <p>3. <b>Board Orders Review and Approval</b></p> <p>Evaluate the current practice for internal peer review and approval of Board Orders and determine the need to formalize a policy and procedure. The policy should require documentation of the peer review and the approval of all Board Orders.</p>	<p><b>Fully Implemented</b></p> <p><b>Incomplete/Ongoing</b></p> <p><b>Fully Implemented</b></p>	<p>Document templates are current and the correct version is used.</p> <p>Compliance with Occupations Code Sec. 164.0036.</p> <p>Quality assurance of board orders is consistently achieved.</p>

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1	May 25, 2018	2018 Follow-Up	<p>Following is the status of the recommendations made during fiscal year 2016 that had not been fully implemented.</p> <p><b><u>Compliance Department</u></b></p> <p><b>1. Acknowledgement Forms</b></p> <p>Enhance its current process to ensure compliance with the established procedures and revise the Compliance Operations Manual to reflect the expectation for the Compliance Officer to sign and date the Acknowledgement form.</p> <p><b>2. Compliance Forms</b></p> <p>Perform a review of the Compliance Manual and revise it accordingly to ensure it is comprehensive and reflective of the current practices in place. We further recommend that the CO make notes in the file of the accepted exceptions.</p>	<p><b>Substantially Implemented</b></p> <p>In 1 of the 12 plans/orders tested, a probationer's signed Acknowledgment Form was not included in the Compliance file.</p> <p><b>Substantially Implemented</b></p> <p>In 2 of the 12 plans/orders tested, the Compliance file did not include the probationer's signed Email Notice Form or the Contact Form.</p>	

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1	May 25, 2018	2018 Follow-Up	<p>Following is the status of the recommendation made during fiscal year 2015 that had not been fully implemented.</p> <p><b><u>Licensing – Physicians</u></b></p> <p><b>1. Review of Written Procedures</b></p> <p>TOC §155.007(h) requires the Executive Director to review TMB's policies and procedures for issuing licenses no later than January 1 of each year.</p> <p>Include a revision and review date on each procedure to provide evidence of compliance with TOC requirement; and, ensure that staff members refer to only the most recent procedures.</p>	<p><b>Incomplete/Ongoing</b></p> <p>Implementation was delayed due to the change in the Executive Director position during FY 2017 and FY 2018.</p>	

**VII. External Audit Services Procured in Fiscal Year 2018**

TMB procured the internal audit services documented in the approved Internal Audit Plan for fiscal year 2018. No other external audit services were performed.

**VIII. Reporting Suspected Fraud and Abuse**

TMB has provided information on their website home page on how to report suspected fraud, waste, and abuse to the State Auditor's Office (SAO) by posting a link to the SAO's fraud hotline. TMB has also developed a Fraud Reporting Policy that provides information on how to report suspected fraud, waste, and abuse to the SAO.

**IX. Proposed Internal Audit Plan for Fiscal Year 2019**

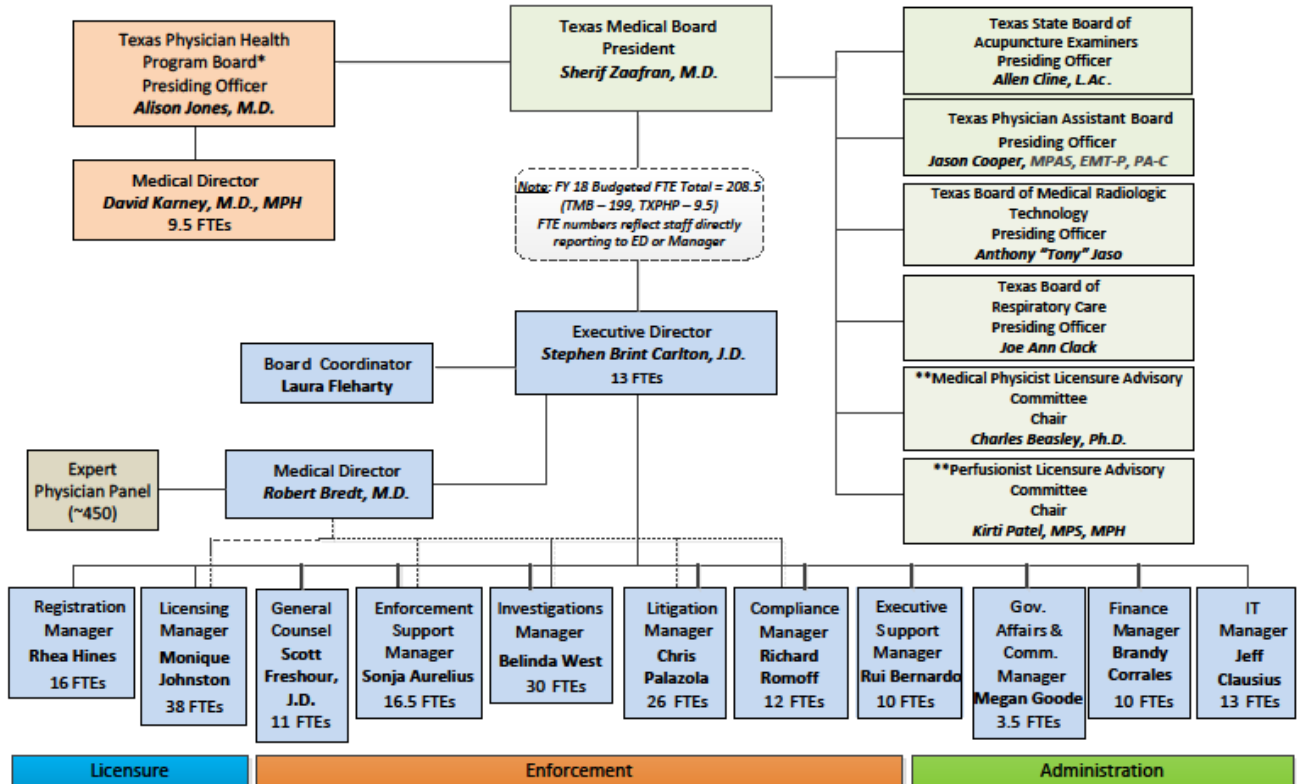
The risk assessment performed during the 2018 fiscal year was used to identify the following *proposed* area that is recommended for internal audit and other tasks to be performed for fiscal year 2019. The Internal Audit Plan for Fiscal Year 2019 will be developed and presented to the Executive Committee/Board, for acceptance and approval, at a meeting to be determined at a later date.

- Licensing – Allied Health Professionals
- Follow-up of Prior Year Internal Audits
- Other Tasks Assigned by the Executive Committee/Board



**X. Organizational Chart**

**Texas Medical Board Organizational Chart**



\* The Texas Physician Health Program, which is administratively attached to the TMB, has a governing board appointed by the TMB president.

\*\* The TMB advisory committees are appointed by the TMB president.

— The TMB Medical Director has oversight on standard of care issues within designated departments.

As of May 2018

TEXAS PHYSICIANS HEALTH PROGRAM  
Management Response  
TMB 2018 INTERNAL AUDIT REPORT

July 22, 2018

1. Because of the precarious and changing situation in which the TXPHP finds itself at this time, especially with regard to personnel, this narrative summary response is being presented in lieu of an item-by-item response to the various findings. Generally speaking, the findings are true; but time has passed and things have changed, and are continuing to change daily. Some findings have been corrected, some are better, others are worse, a few contain errors. But within the milieu in which TXPHP operates, serious problems existed or have developed that caused or worsened those conditions. This chronological narrative will describe how the situation evolved and its current status.
2. November 30, 2015 The Current TXPHP EMD decided to fully retire from Medical Practice in 2 years on November 30, 2017.
3. SB 202 came along and significantly increased the TXPHP workload, without increasing TXPHP fiscal or personnel resources.
4. In early 2017, the then TXPHP Executive Medical Director (EMD) resigned and moved on to another TX State position. The TXPHP EMD position remained unfilled for 3.5 months.
5. A serious backlog of un-interviewed Potential Participants and other Program tasks accumulated.
6. The Presiding Officer, Secretary, and Members of the TXPHP Advisory Board/Committee pitched in and did as much as they could to keep things afloat. No obvious EMD candidates surfaced.
7. Late Spring or early Summer of 2017, the Presiding Officer, TXPHP contacted the Current EMD and asked if he knew anyone who might be interested in the EMD position; or would he be interested in applying?
8. The current EMD decided to delay his retirement 2 years, renewed his License, applied for the job, was selected, and reported for work as the 4th TXPHP EMD on July 5, 2017 - committed to work for as long as he was useful or until a replacement could be found; but not past a new planned retirement date of November 30, 2019.
9. The past year has been unpredictable, eventful, hectic, and not without serious problems. The major challenges have been STAFFING, especially STAFF EXPERIENCE and TURNOVER; FUNDING; and WORKLOAD/BACKLOG. There also appears to have never been any kind of analysis of TXPHP tasks to estimate minimum staffing or funding levels.
10. Program tasks took priority such that important administrative tasks were done poorly, or not done at all; partially because there is no identified staff position responsible for administration. Critical planning that was needed to argue for additional program and admin resources was delayed to accomplish essential day-to-day Program tasks. Even then, with current staffing, it is not possible to accomplish everything that needs to be done in any given day. Other required tasks in Promotion, Outreach, Education, Research, and Coordination were hardly touched. The EMD is the only Licensed Health Care Professional on the TXPHP Staff and the only one credentialed or experienced in treating addictions.
11. Problems developed because the EMD is inexperienced in the nuances of the Texas State Employment system. Differences of opinion regarding priorities went unresolved. Intake and Interviews were the daily priority to the relative neglect of Agreement Modification and Closures. New IT systems,

manuals, and policies and procedures had to be learned. Privacy concerns were touched on but not resolved.

12. Resignations during the past 16 months have taken a toll.
  - a. One of the two TXPHP Managers began extended leave for up to 12 weeks.
  - b. The previous EMD resigned on March 17, 2017.
  - c. The General Council Resigned March 31, 2018.
    - (1) The optional half-time General Council position is not filled.
    - (2) TMB now provides legal support.
  - d. Four Clinical Coordinators resigned during this this same 16 months.
    - (1) 2 were replaced - new hires (one completed training, one still in training)]
    - (2) One position remains vacant.
      - It was posted and candidates identified.
      - Screening and interviews pending.
12. Number of recognized TXPHP Positions: 9 (One never funded or filled)
13. Number of funded TXPHP Positions: 8
14. Current Staff reporting for work daily: 5
  - a. 1 EMD
  - b. 4 Clinical Coordinators (2 experienced, one recently trained, one nearing end of training.)
15. Other Assistance
  - a. TXPHP Governing Board Presiding Officer is kept fully informed of the situation, The Presiding Officer involves others as appropriate.
  - b. The TXPHP Personnel Committee is involved, the EMD position and staffing levels are closely watched.
  - c. The next meeting of the Full TXPHP Governing Board is in less than 3 weeks on Friday, August 10, 2018.
  - b. A TXPHP Advisory Committee Member is assisting with Interviews.
  - c. TMB HR is providing support with posting, screening, and interviewing, performance appraisals, etc.
  - d. TMB General Council is providing Legal support as needed.
16. Operational process
  - a. Daily Staff Meeting
  - b. Review tasks to be done
  - c. Prioritize tasks
  - d. Who is available with what skill sets
  - e. Assign tasks
  - f. End of day review
    - Tasks completed
    - Tasks remaining
    - New tasks
  - g. Daily Staff Meeting
17. Where does TXPHP stand now? At the time of the Audit, the TXPHP was inadequately resourced to accomplish its mission. Since then personnel resources have continued to decrease so that the situation is worse today than it was a year ago and at the time of the audit. The most recent exacerbation in the situation came as the TXPHP manager, who handles TXPHP's administrative matters and supervises the Program, left recently on extended leave. There was no assistant Supervisor and no other staff member was adequately trained to be a replacement. The immediate and most important task now is to recreate that position by spreading its tasks among all the remaining staff. All the remaining TXPHP personnel are being totally flexible and cooperative, helping cover as much of the mission requirements as possible.