



MYTH-BUSTING MISCONDUCT: SEPARATING FACT FROM FICTION IN BEHAVIORAL HEALTH



Claire Wilson – Program Manager
Carmen Moore – Program Manager

Introductions



Claire Wilson

Program Manager

Substance Use Disorder Professionals
Behavioral Health Support Specialists



Carmen (Leso) Moore

Program Manager

Agency Affiliated Counselors
Certified Counselors
Hypnotherapists

Acknowledgements

This presentation would not have been possible without the collaboration and assistance of dozens of Department of Health staff. Our fiscal team, legal services staff, epidemiologists, administrative assistants, policy analyst, and many others took time to share their feedback, data, and expertise with us.

Our role



Who we are

Regulators

Subject Matter
Experts

Credentialing
Consultants



Who we are not

Lawyers

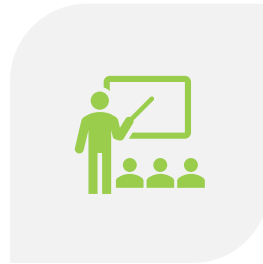
Billing experts

Law-makers

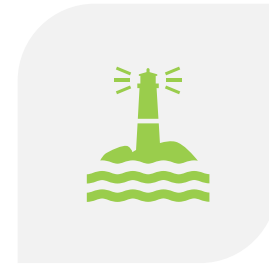
Presentation Goals



TRANSPARENCY



EDUCATION



AWARENESS

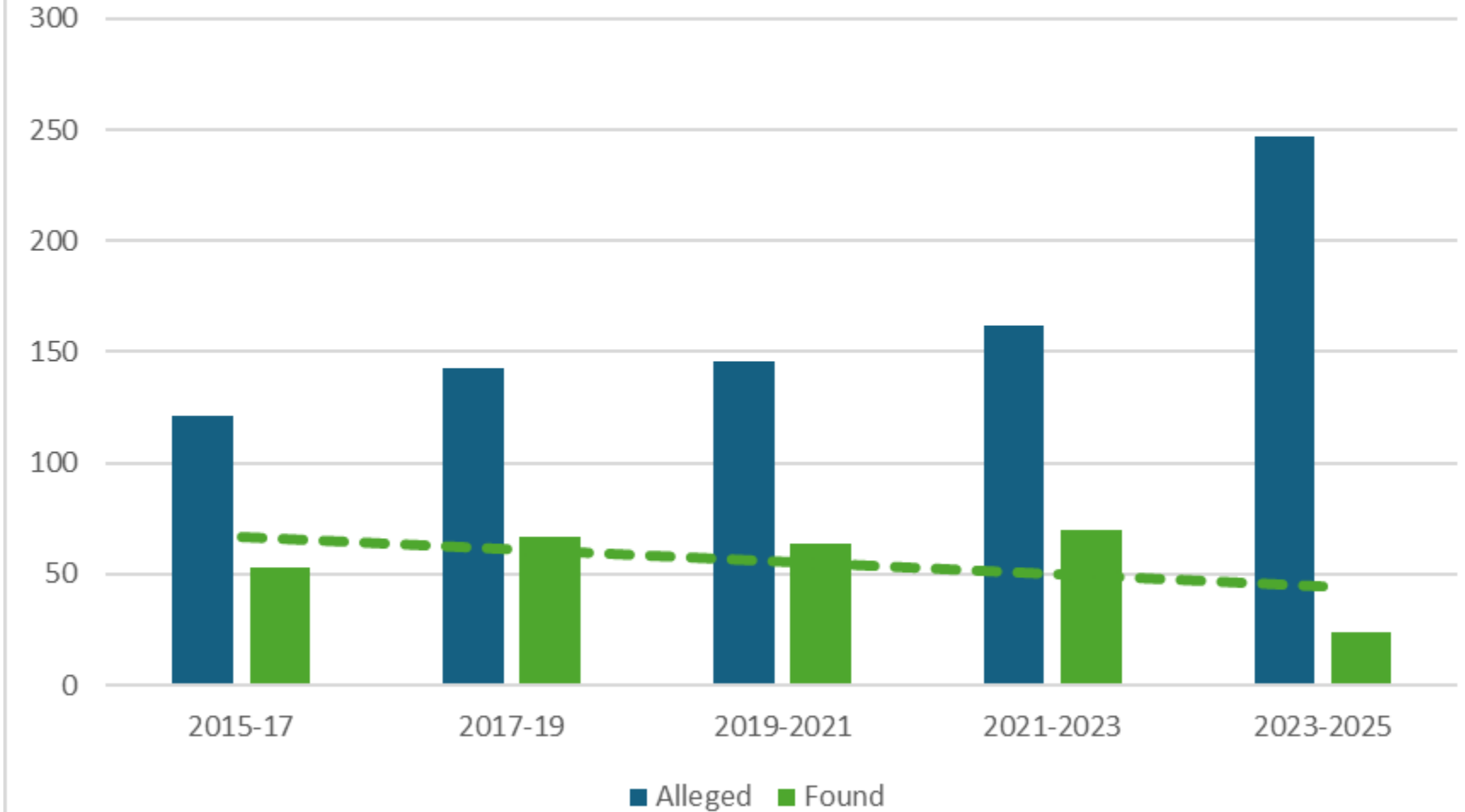
Part One

UNCOVERING MYTHS OF PROVIDER DISCIPLINE

Myth #1: It's ok to date a patient if enough time has passed since treatment ended.

FACT: It's never ok to date a patient, no matter how much time has passed since treatment ended.

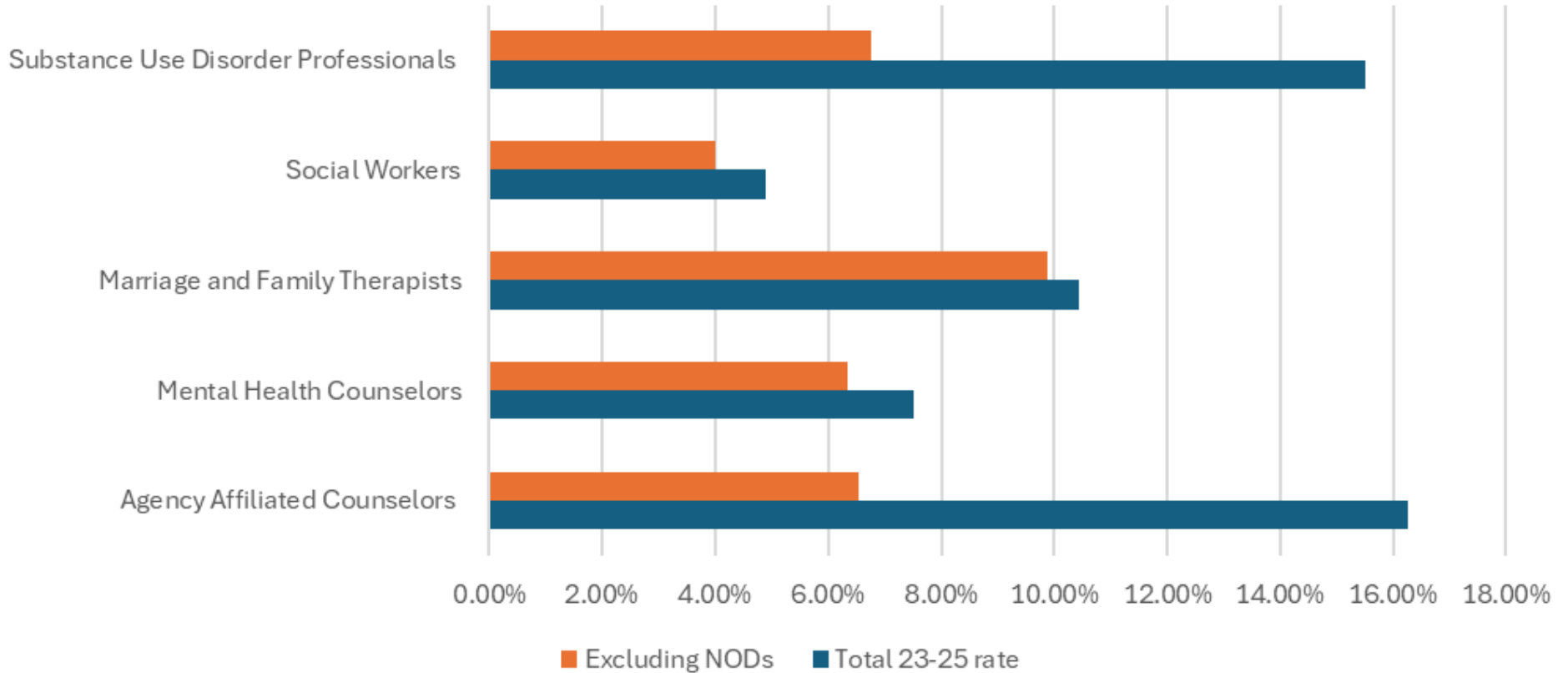
Myth #1: Sexual Misconduct By Biennium



Myth #2: I will lose my credential if a complaint is filed against me.

FACT: A complaint is not a legal finding; it is not accessible to the public until enforcement action has taken place.

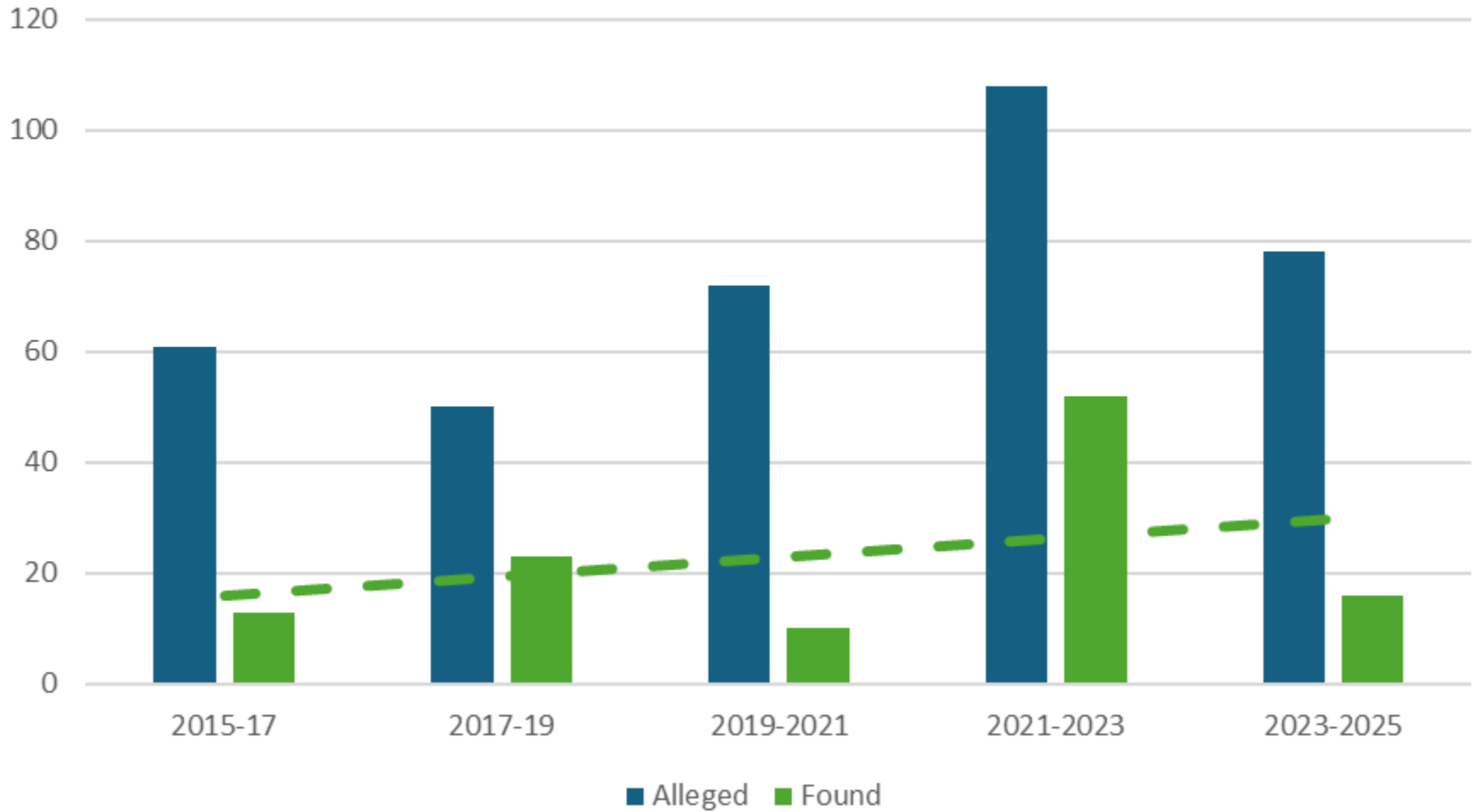
Rates of Discipline



Myth #3: Because substance use disorder is a protected diagnosis, I should not report my friend or coworker's relapse.

FACT: While you're obligated to maintain confidentiality for patients, you're not obligated to maintain confidentiality for coworkers. If you're not providing direct treatment to them, and they hold a credential, you need to report their relapse.

Myth #3: Substance Use By Biennium



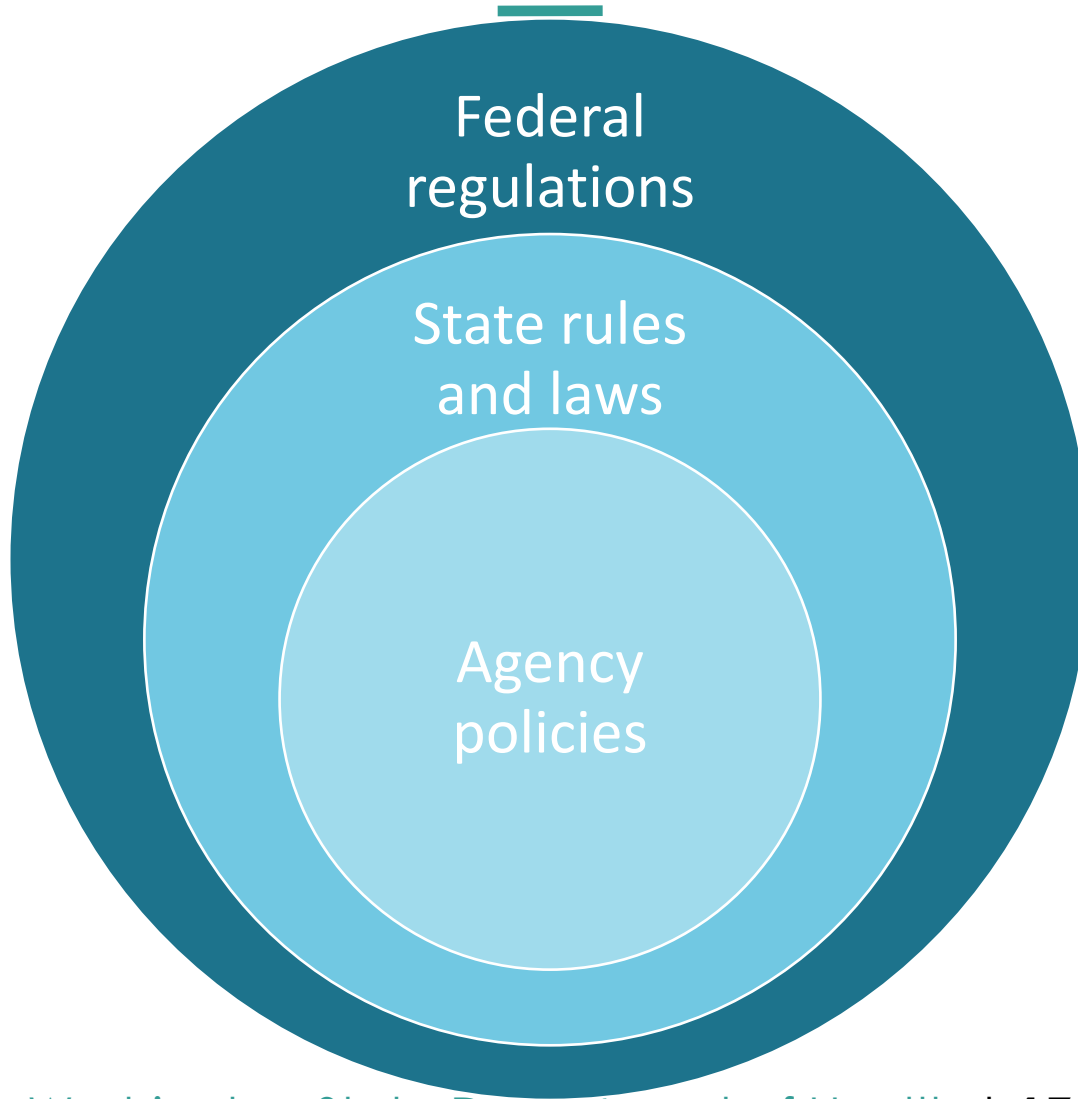
Myth #4: Department of Health is the best entity to file any report about a healthcare or counseling business.

FACT: Department of Health has jurisdiction over a credential. We review complaints related to the regulations that guide your practice with that credential.

Where Do I File?

- Suspect potential insurance fraud?
 - [Office of the Insurance Commissioner](#)
- Suspect potential Medicaid fraud?
 - [Health Care Authority](#)
- Experiencing discrimination based on a protected class?
 - [Washington Human Rights Commission](#)
- Employer not listening to your safety and/or workplace concerns?
 - [Labor and Industries](#)
- Court appointed therapist harshing your mellow?
 - [Washington State Courts \(GAL\)](#)
- Property dispute? Bad neighbor?
 - Local Law Enforcement

Where Do I File?



Myth #5: Counselors can be sanctioned for posting on social media.

FACT: Department of Health only regulates your professional conduct as a credentialed provider – not what you post on social media during your free time.

Howard Levitt: Jordan Peterson decision leaves professionals at mercy of regulatory overlords

Opinion: Regulated Canadians will not risk being offside the ever changing sensibilities of their regulators

By **Howard Levitt**
Published Aug 09, 2024 3 minute read 5 Comments

Sunday, April 23, 2006 - Page updated at 12:15 AM

Print

Mike Fancher

"License to harm" series reveals a regulatory system in disarray

By **Mike Fancher**
Seattle Times executive editor



Washington state health-care regulators surprised us when confronted with the findings in today's Seattle Times special report, "License to Harm." They thanked us.

"They were aghast. They were stunned. And they were thankful," said Michael Berens, one of two lead reporters on the investigation. "It's odd that an agency thanks you for the work that you've done and immediately takes concrete action." What Berens and reporters Julia Sommerfeld and Carol Ostrom had done was to provide the first-ever comprehensive examination of how the state deals with health-care professionals accused of sexual misconduct. The reporters found a regulatory system so riddled with flaws that it truly was a license to harm.



The Washington Post
Democracy Dies in Darkness

Well+Being Food Fitness Mind Body Life Newsletter

Your therapist is on TikTok. Will your therapy session end up there too?

Updated March 14, 2023 **More than 2 years ago**

8 min Summary

Therapist + Social Media = Mental health influencer? Considering the research focusing upon key ethical issues around the use of social media by therapists

[Ella White](#) [Terry Hanley](#)

First published: 20 August 2022 | <https://doi.org/10.1002/capr.12577> | [VIEW METRICS](#)

Contributing author: Terry Hanley (terry.hanley@manchester.ac.uk)

Is it ok for a counselor to...

- Like a controversial political post online?
- Make a post requesting donations for their agency?
- Befriend a former patient on a social media platform?
- Allow a patient to follow them on social media?
- Post reels that give mental health advice to their followers?
- Use their platform as a counselor to support a side-hustle (supplements, essential oils, real estate, etc.)?

Myth #6: High discipline rates only happen in professions with low(er) credentialing requirements.

FACT: Discipline occurs across all healthcare professions, regardless of the level of education. While some professions do have higher complaint rates than others, there is no evidence to suggest that higher education means providers are less likely to face complaints, reports, or disciplinary action.

Who does the most harm

More registered counselors were disciplined for sexual misconduct than any other health-care practitioners.

BY PROFESSION	Sexual-misconduct offenders*
Registered counselor	104
Physician	66
Nursing assistant	57
Massage	32
Chiropractor	22
Registered nurse	20
Psychologist	17
Drug counselor	13
Licensed practical nurse	11
Mental-health counselor	10
All other professions	47
Total	399

Based on the rate per 1,000 licenses, psychologists rank as the top offender by a narrow margin over chiropractors.

BY RATE	Licenses**	Rate per 1,000
Psychologist	1,695	10
Chiropractor	2,235	9.8
Registered counselor	16,103	6.5
Drug counselor	2,452	4.9
Physician	20,080	3.3
Massage	10,486	3.0
Mental-health counselor	3,882	2.6
Nursing assistant	53,233	1.1
Licensed practical nurse	14,197	0.7
Registered nurse	65,668	0.3

* 1995 through 2005

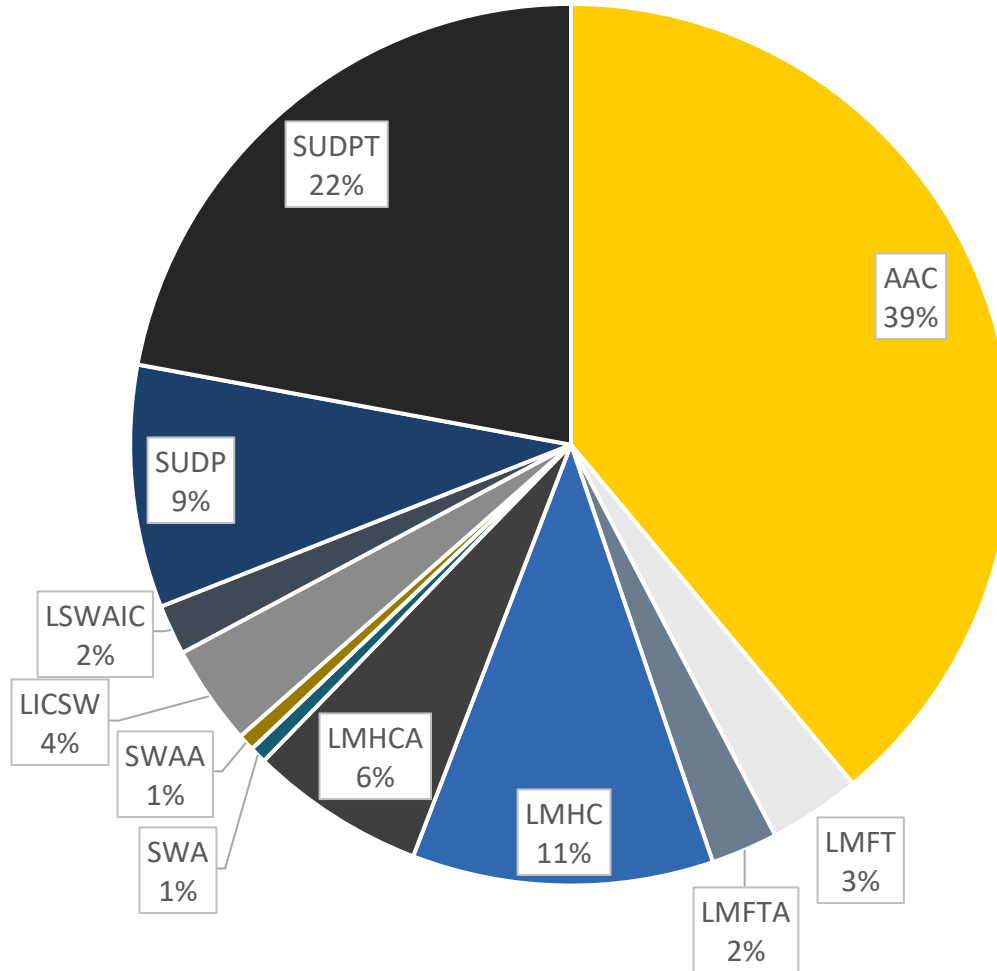
** Average number of licenses, 2001-2005

Source: Seattle Times analysis of Washington Department of Health records from 1995-2005

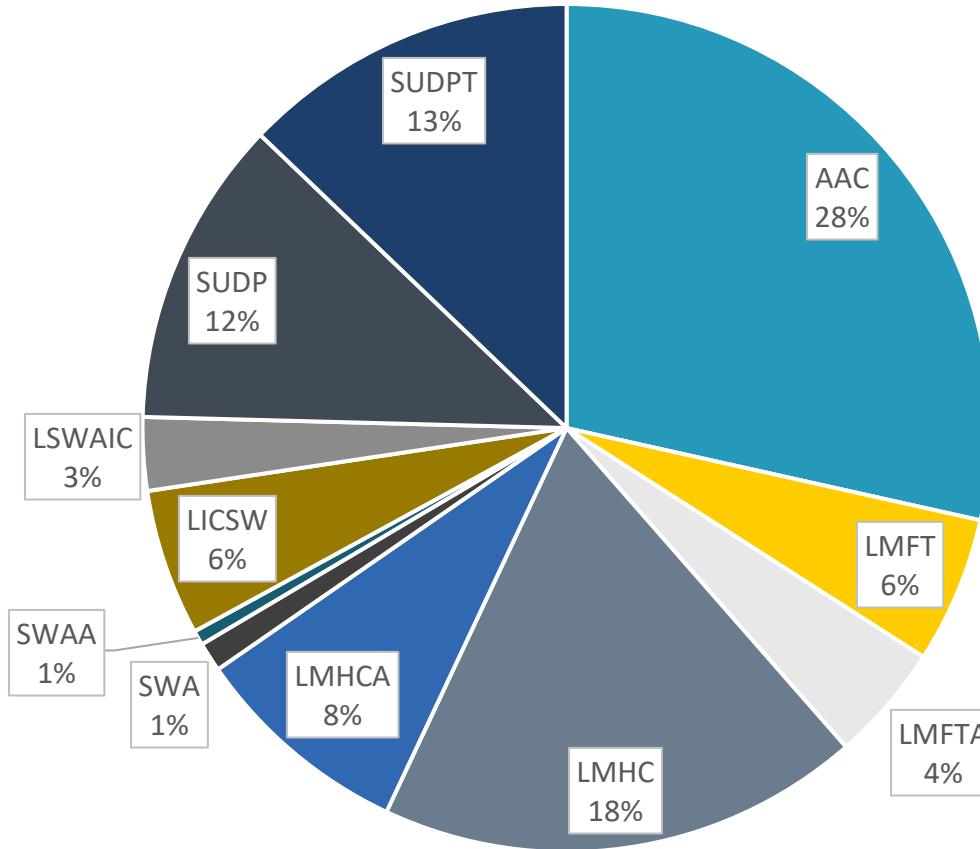
2023-2025 Rate per 1,000

Agency Affiliated Counselor	0.71
Marriage and Family Therapist	0.54
Mental Health Counselor	0.26
Social Worker	0.31
Substance Use Disorder Professional	1.05

Formal action 2023-2025



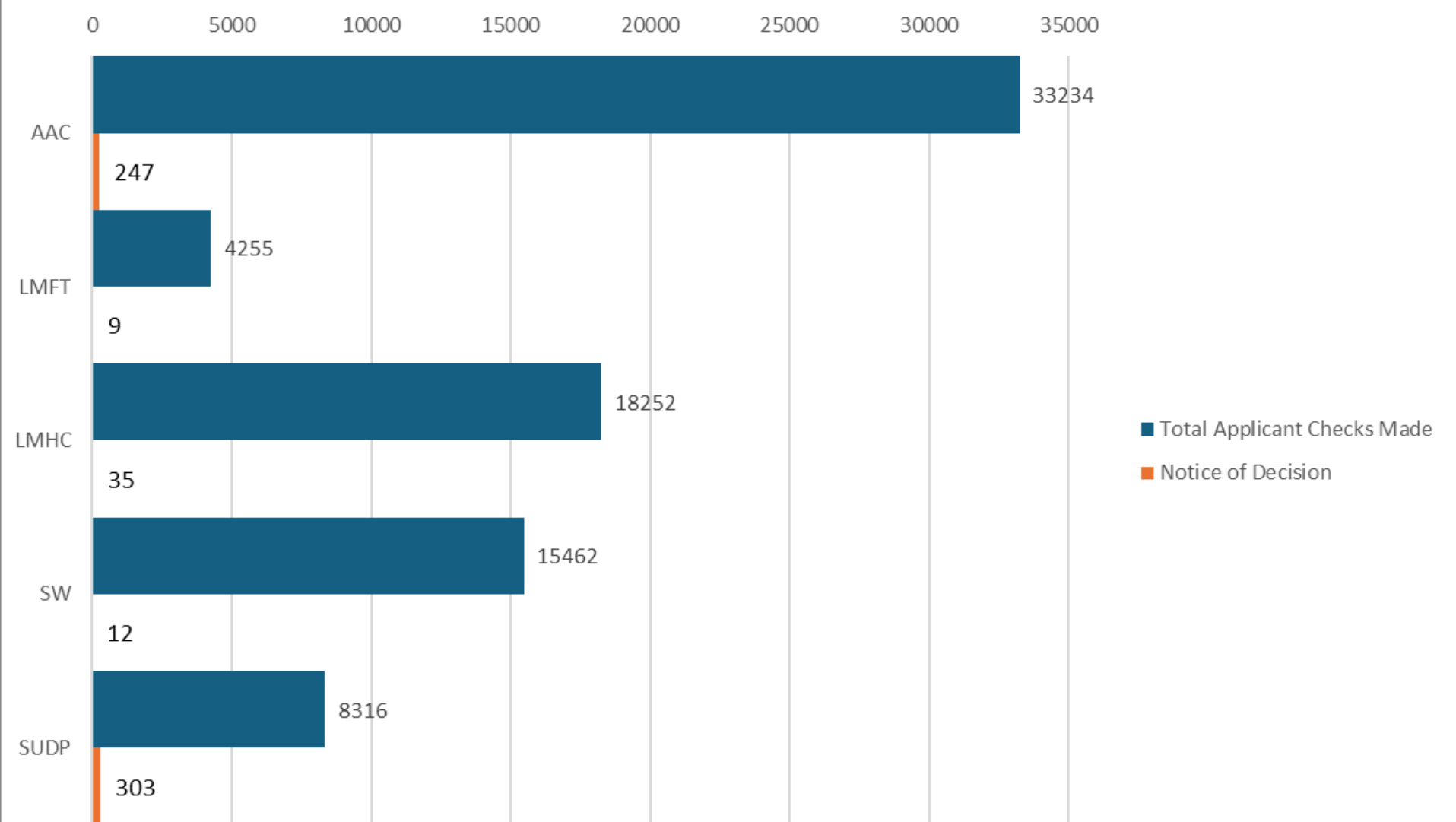
Formal Action without NOD 2023-2025



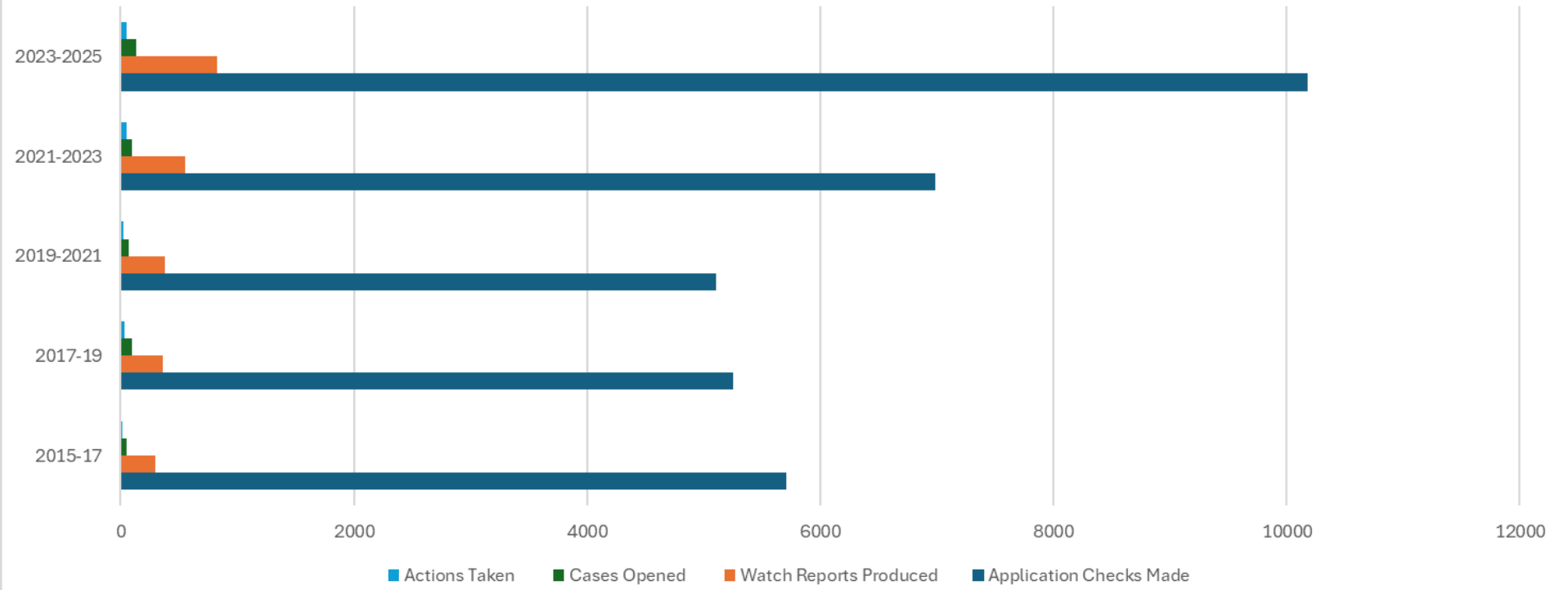
Myth #7: There is a list of convictions that prohibit someone from gaining a credential from the Department of Health.

FACT: While the Department of Social and Health Services maintains a regulatory [list of convictions](#) that prevent a person from working with vulnerable adults, the Department of Health does not have any list of convictions that systematically prevent a person from gaining a credential.

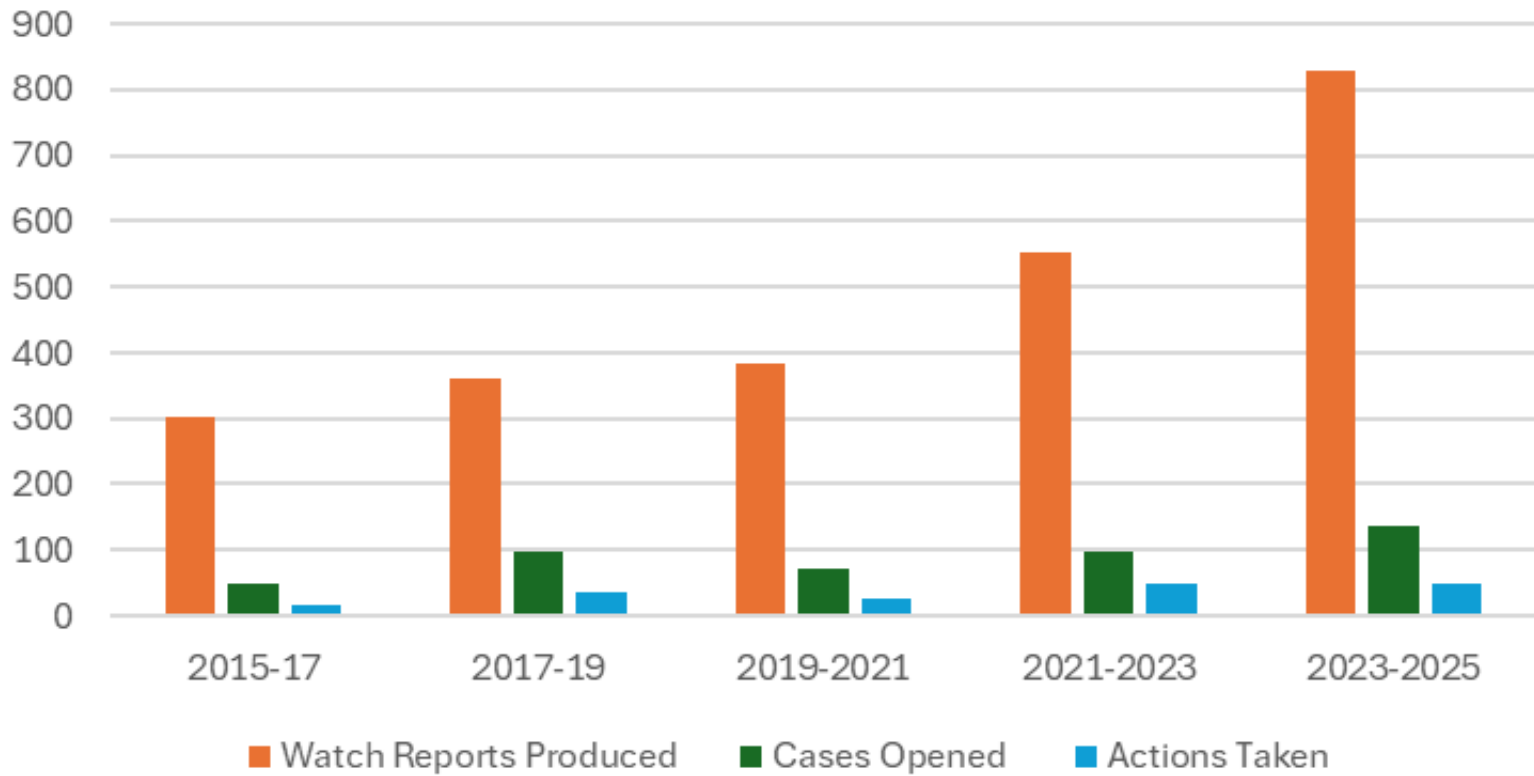
Myth #7: Applications vs. Exception Applications 2015-2025



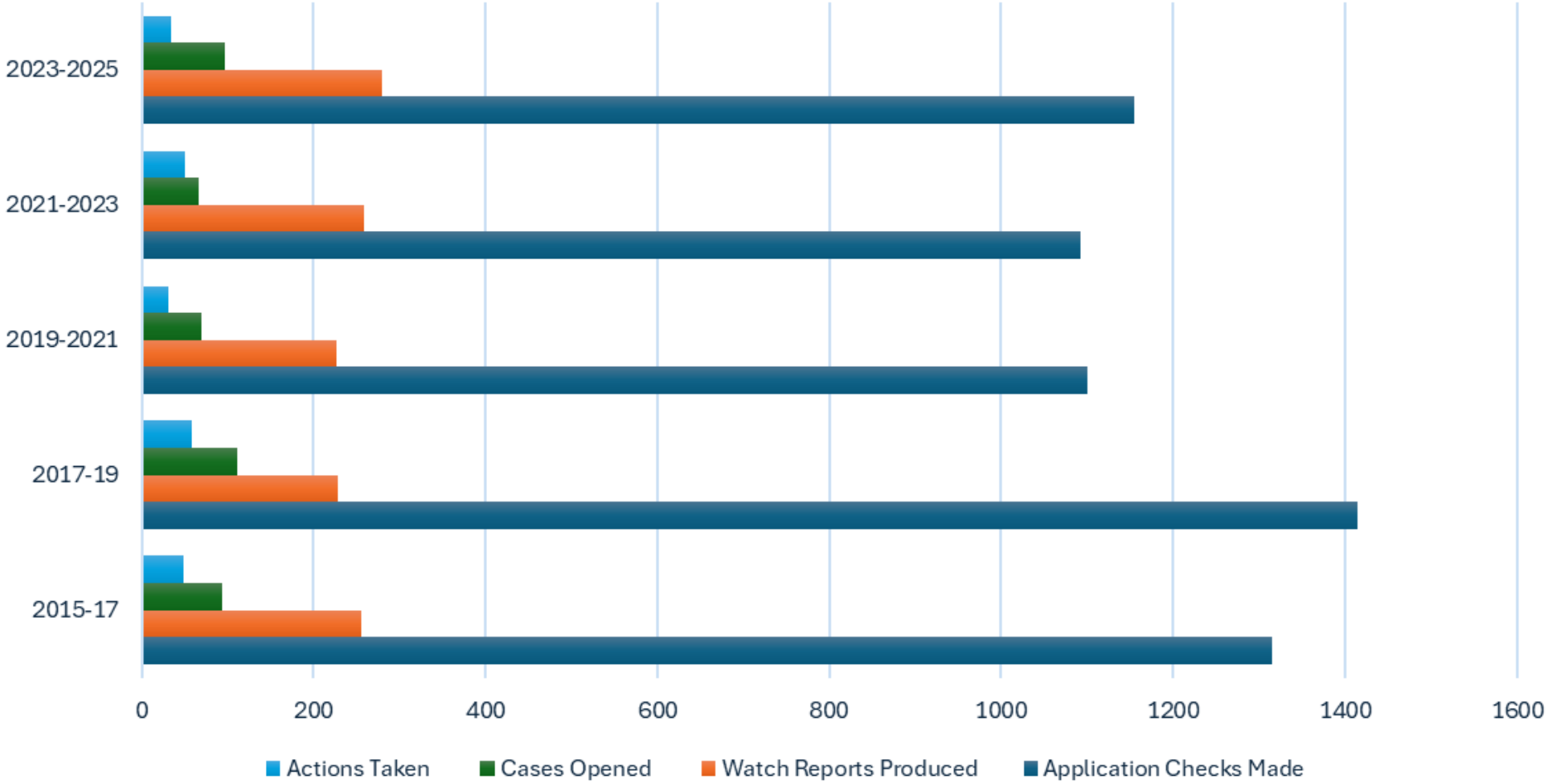
Agency Affiliated Counselor Applications



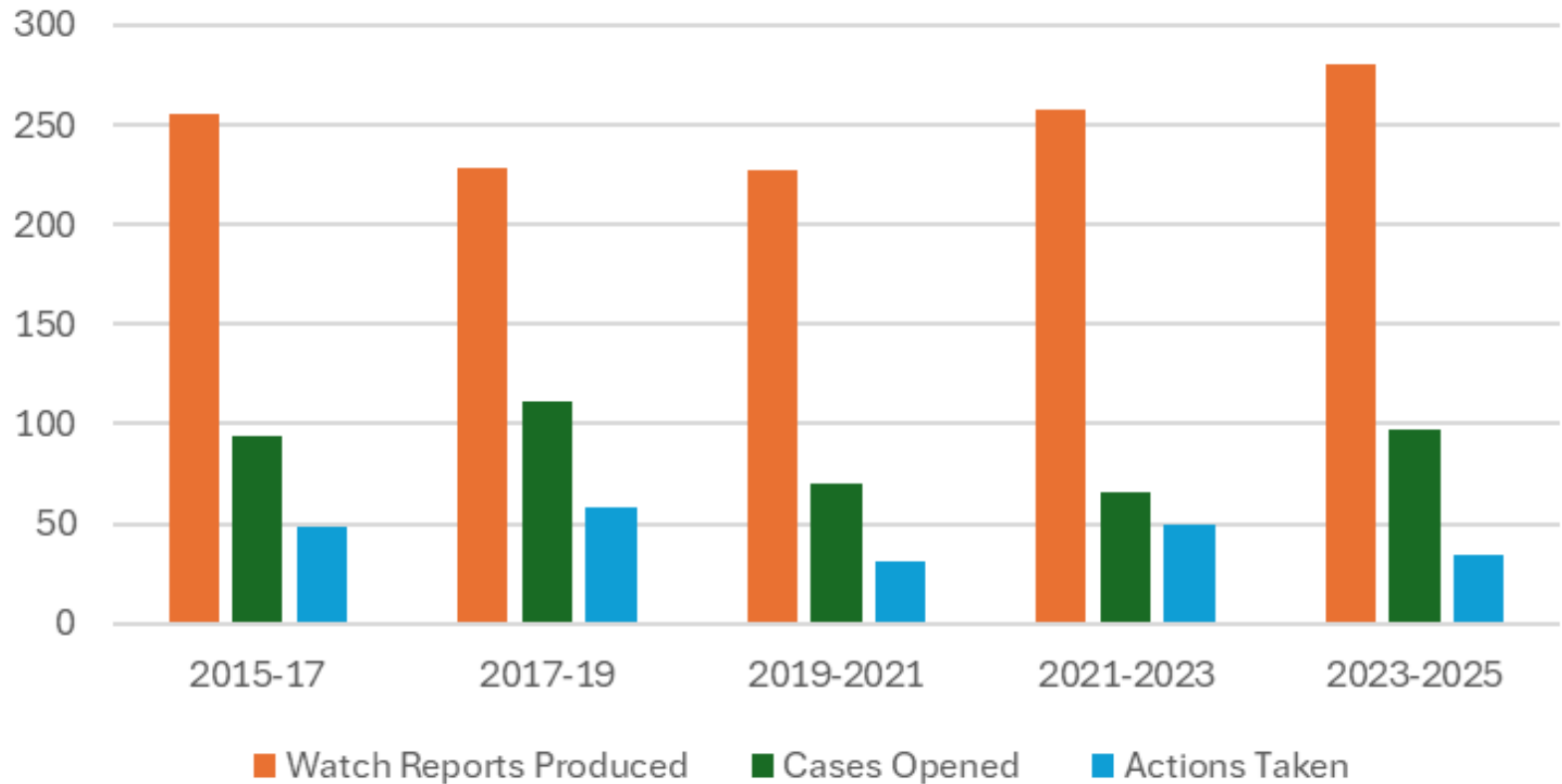
AAC Applications - Detailed



SUDPT Applications



SUDPT Applications - Detailed



Myth #8: The Department of Health arbitrarily decides licensing fees and punishes professions with high rates of discipline.

FACT: Each profession is required by law to be self-sustaining, [RCW 43.70.250](#). This means that fees from a profession must cover all the costs of regulating that profession.

27 (26) Within existing resources, the department must submit a
28 report by September 30, 2026, to the governor and legislature
29 regarding an equitable alternative fee structure for the health
30 professions licensing program. The department must:

31 (a) Review the department's current health professions licensing
32 and regulatory costs and the department's methodology for setting
33 fees;

34 (b) Consider relevant fees and methods from other states with
35 comparable licensing and regulatory programs;

36 (c) Include analysis and recommendations on alternative methods,
37 including recommendations to distribute the fee burden more equitably
38 across professions; and

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1 (d) Provide estimated costs associated with any recommended
2 alternative methods.

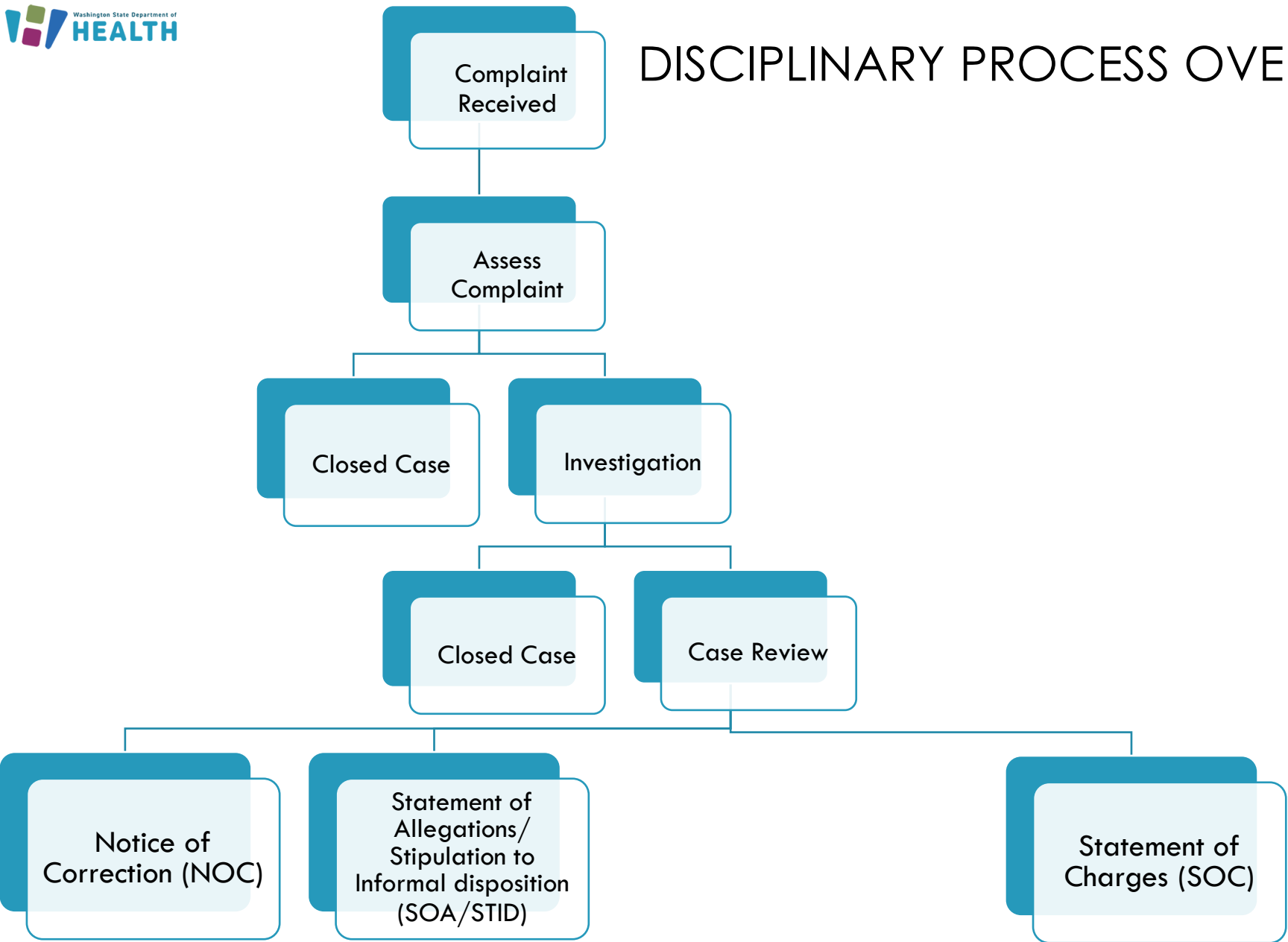
2026 Fee Study

- The 2026 Budget Bill (SB 5998) asks the department to complete a report on equitable fee structure by September 30, 2026. Listening sessions were held the last week of April.

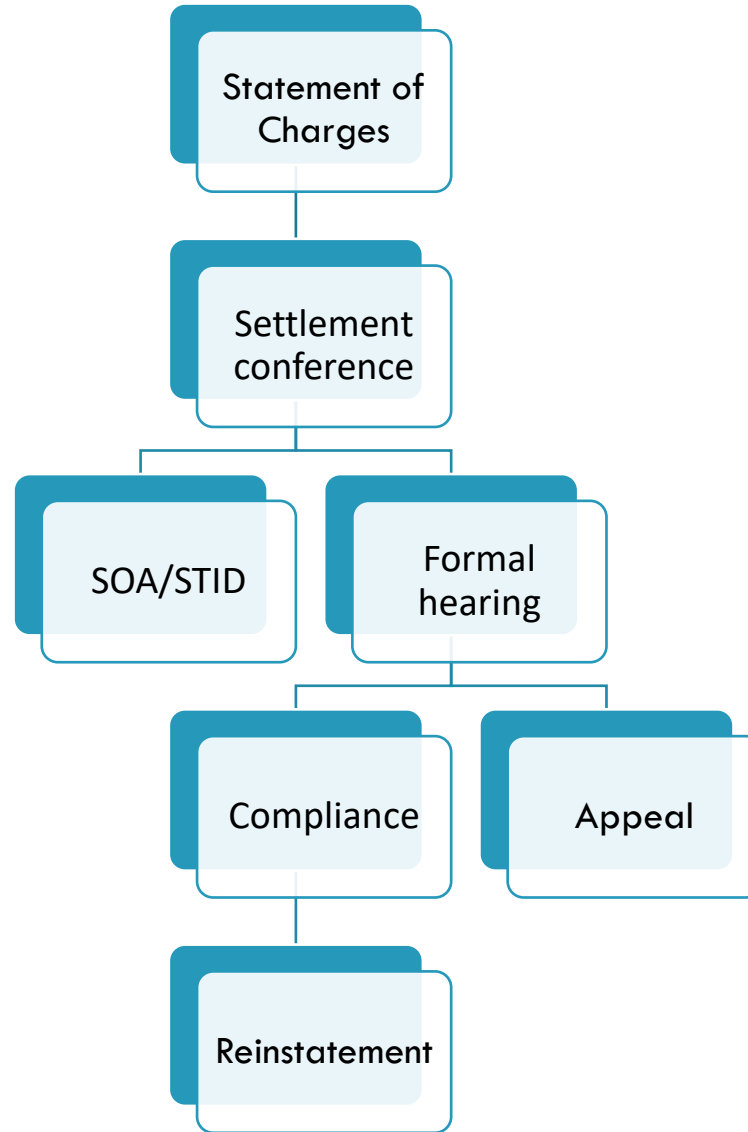
Part Two

PULLING BACK THE CURTAIN ON THE DISCIPLINE PROCESS

DISCIPLINARY PROCESS OVERVIEW



FORMAL ACTION



What we look for in a complaint

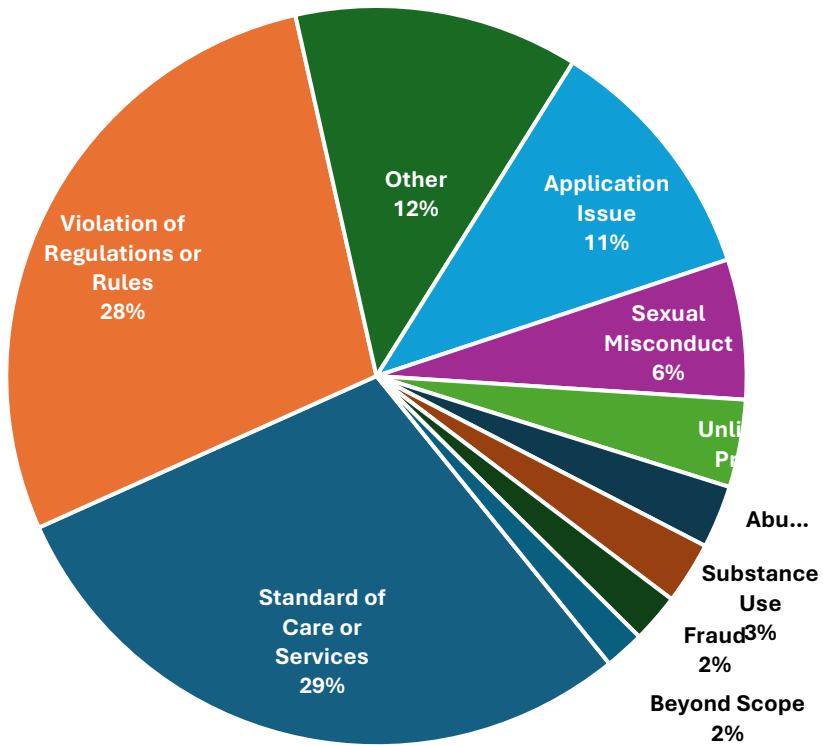
- Did the alleged behavior break the law?
- Does the department have the authority to investigate the allegations?
- Is enough information included in the complaint to justify opening an investigation?

Common complaints: Unprofessional Conduct

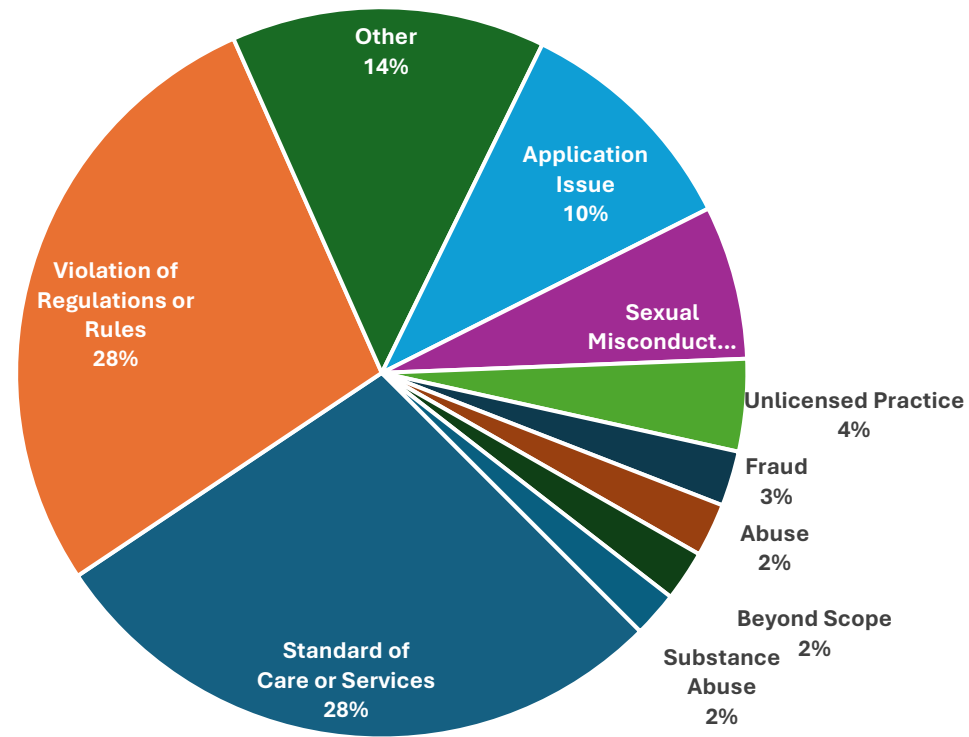
[RCW 18.130.180](#) lists 25 different descriptions of unprofessional conduct. Some examples include:

- Acceptance of more than a nominal gratuity (e.g., overcharging, or accepting gifts)
- Misuse of alcohol or controlled substances
- Misrepresentation or fraud (including lying on an application)
- Practice beyond scope of practice
- Incompetence, negligence, or malpractice
- Moral turpitude, dishonesty, or corruption
- Sexual misconduct, including any relationships with former patients

Top 10 Complaint Case Natures FY2015-FY2025



Top 10 Complaint Case Natures 2023-2025 Biennium



What goes into a complaint

Who? Name and credential number of the provider, if known

What? What regulations did they allegedly violate? Be as specific as you can. Was a patient involved?

When? Please provide the dates of the alleged misconduct.

Where? Did these allegations occur within an agency? Private practice? Personal time?

SECTION 1 – Healthcare Provider Information:

If you are filing a complaint against a healthcare facility, please proceed to section 2. If the facility is a [doctor's office, providers office or clinic](#), please complete section 1 (this section) and provide the name of the healthcare provider.

What is the name of the individual healthcare provider you are filing a complaint about (if applicable)?		
First: John	Middle:	Last: Doe
What type of healthcare provider is this? Substance Use Disorder Professional		
Other (please specify):		
Address: 2286 Raccoon Run		
City: Seattle	State: WA	ZIP Code: 98133

SECTION 2 – Facility Information:

We only regulate the facility types listed in the dropdown list. If the facility type is not listed, please call 360-236-2620. We may be able to assist you in determining whether the complaint is on an individual provider or if the complaint needs to be reported to another agency. If you want to file a complaint against an assisted living facility, adult family home, nursing home, or skilled nursing facility, and not against an individual provider working at one of these facilities, please contact the [Department of Social and Health Services](#) at 800-562-6078

What is the name and address of the facility you are filing a complaint about (if applicable)? Please include the facility's physical address, not a mailing address or post office box.		
Name: John Doe SUD counseling facility		
Type of Facility : Behavioral Health Agency		
Address: 2286 Raccoon Run		
<input type="checkbox"/> Address same as section 1		
City: Seattle	State: WA	ZIP Code: 98133
What is your employee status with this facility? Mark selection below. (This information to be used for internal administrative purposes only)		
<input checked="" type="checkbox"/> Never an Employee	<input type="checkbox"/> Former Employee	<input type="checkbox"/> Current Employee

DOH 630-106 June 2020

Complaint examples

Complaint #1: There is a counselor in our town, I think his name is Joel Zimmerman, that is making vulgar and extremist political remarks on their Facebook page. They've talked about how they agree with the president's agenda and how they don't care if people have homes to go to. I don't think that represents the counseling profession in a way that is safe or welcoming for clients.

Complaint examples

Complaint #2: I am a counselor at The Really Obvious Behavioral Health Agency and I have several coworkers who are making disparaging remarks about our clients. The clinical supervisor Matthew Tractor isn't providing the right amount of supervision either. My coworkers names are Sarah Haybale, Joshua Combine, and Lucy Harvester. Last week I overheard Sarah, Josh, and Lucy, making fun of one of our patients. The client is currently unhoused and hasn't had the ability to take a shower in a while, and they were talking about how bad he smelled. I think I even heard Josh say that he stops paying attention halfway through the session because of how tired he is of listening to the client complain.

Complaint examples

Complaint #3: I have requested copies of my records from my old therapist John Doe, LMHC.12345678, over 4 months ago and they still haven't been given to me. He responded to my initial request but has been delaying them ever since. I've included the email chain that shows the date of initial request, and the responses. According to Chapter 70.02 RCW, they should have been given to me by now. I need these records for a court hearing, and his delay is impacting my case progress.

Complainant experience



FILE ONLINE

[Profession Home |
WA HELMS](#)



FILE OVER THE
PHONE

360-236-4700

Ask to file a
complaint



FILE BY EMAIL

[HSQAComplaintIntake@doh.
wa.gov](mailto:HSQAComplaintIntake@doh.wa.gov)

I'm scared to share my name.
Can I file a complaint
anonymously?

I changed my mind. Can I
withdraw my complaint?

Respondent experience



NOTIFICATION

You will be notified if a complaint has been filed and an investigation has been opened.



BE RESPONSIVE

Keep your contact information up to date.
Respond to DOH staff promptly.

Be honest, forthcoming, and accountable.



DON'T LOSE SLEEP

The investigation will take time. Don't let it impact your daily life or quality of work.

Respondent Notification



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

<DATE SPELLED>

<RESPONDENTCOMPLETEADDRESS>

Subject: Report No: <CASENUMBER>

Dear <RESPONDENTFIRSTNAME> <RESPONDENTLASTNAME>:

The disciplining authority for your <UMF Receiving Profession> credential has received and reviewed a report alleging you committed unprofessional conduct. The report was closed without an investigation or disciplinary action. This report will not appear on our provider credential search webpage because no action was taken against your credential. This report is releasable to the public if someone makes a written request for a copy of the record. The closure reason for report # <CASENUMBER> is:

- <CASERESOLUTIONDESC> <RESOLUTIONDESC>

The person who filed the report has been notified of this decision. Pursuant to RCW 43.70.075, we may not be able to release information about the person who filed the report. We cannot release details of the report via telephone or email. We may reconsider this decision if we receive new information or identify a pattern of similar concerns.

Witness Experience

Be honest, forthcoming, and accountable.

Don't feel responsible for investigation outcomes.

Respect the privacy of those involved in the complaint.



Investigations – allegations vs violations



Major Allegations

Abuse

Application Issue

Sexual Misconduct

Standard of Care or
Services

Substance Use

Unlicensed Practice

Violation of Regulations
or Rules



Major Found Violations

Abuse

Criminal Convictions

Fraud

Sexual Misconduct

Substance Use

Unlicensed Practice

Violation of Regulations or
Rules

Negligence

Unprofessional Conduct

Closing an Investigation



No Evidence

Cases with no evidence to support a violation are closed. These investigations are not publicly accessible through provider search.



Evidence of a Non-DOH violation

These cases might be closed by the DOH and referred to the appropriate oversight.



Evidence to Support Allegations

These cases may be resolved through formal or informal action.

Enforcement

Sanctions for provider misconduct are determined by the Case Management Team, based on the ranges established in [WAC 246-16-800](#). Sanctions are designed to rehabilitate providers and ensure that they can safely practice. These could include:

- WRAMP – if less than one year in recovery
- Conditions to include reprimand, training, monitoring, probation, supervision, evaluation, etc.
- Oversight
- Credential Suspension
- Credential Revocation

Sanction Schedules

- Practice Below Standard of Care – [WAC 246-16-810](#)
- Sexual Misconduct or Contact – [WAC 246-16-820](#)
- Abuse – Physical and Emotional – [WAC 246-16-830](#)
- Diversion of controlled substances or legend drugs – [WAC 246-16-840](#)
- Substance Abuse – [WAC 246-16-850](#)
- Criminal Convictions – [WAC 246-16-860](#)
- Aggravating and mitigating factors [WAC 246-16-890](#)

Aggravating and Mitigating Factors

General Factors

- License holder's knowledge, intent, and degree of responsibility
- Presence or pattern of other violations
- Present moral fitness of the license holder
- Potential for successful rehabilitation
- Present competence to practice
- Dishonest or selfish motives
- Illegal conduct
- Heinousness of the unprofessional conduct
- Ill repute upon the profession
- Isolated incident unlikely to reoccur

Aggravating and Mitigating Factors

Factors related to the unprofessional conduct:

- Gravity of the unprofessional conduct;
- Age, capacity and/or vulnerability of the patient, client or victim;
- Number or frequency of the acts of unprofessional conduct;
- Injury caused by the unprofessional conduct;
- Potential for injury to be caused by the unprofessional conduct;
- Degree of responsibility for the outcome;
- Abuse of trust;
- Intentional or inadvertent act(s);
- Motivation is criminal, immoral, dishonest or for personal gain;
- Length of time since the unprofessional conduct occurred.

Aggravating and Mitigating Factors

Factors related to the license holder:

- Experience in practice;
- Past disciplinary record;
- Previous character;
- Mental and/or physical health;
- Personal circumstances;
- Personal problems having a nexus with the unprofessional conduct.
- Impact on the patient, client, or victim.

Aggravating and Mitigating Factors

Factors related to the disciplinary process:

- Admission of key facts;
- Full and free disclosure to the disciplining authority;
- Voluntary restitution or other remedial action;
- Bad faith obstruction of the investigation or discipline process or proceedings;
- False evidence, statements or deceptive practices during the investigation or discipline process or proceedings;
- Remorse or awareness that the conduct was wrong;
- Impact on the patient, client, or victim.

What happens after enforcement action?

- A public announcement: [State disciplines health care providers \(03-26-2026\) | Washington State Department of Health](#)
- [State revokes, suspends licenses, certifications, registrations of health care providers \(03-26-2026\) | Washington State Department of Health](#)
- Fines could include cost recovery ([18.130.160](#), [RCW 18.130.172](#))

Loss of License

SUSPENSION

Suspension or revocation will be imposed when the license holder cannot practice with reasonable skill or safety.

SURRENDER

Surrender of a credential may be imposed when the license holder is at the end of his or her effective practice and surrender alone is enough to protect the public. The license holder must agree to retire and not resume practice.

REVOCACTION

Permanent revocation may be imposed when the disciplining authority finds the license holder can never be rehabilitated or can never regain the ability to practice safely.

Trauma Informed Discipline

The discipline process is person-centered: central goals are **patient safety** and **provider rehabilitation**.

But, it's difficult to measure the widespread impact and harm that can occur due to provider misconduct. Patient trust and vulnerability cannot be measured, charted, or graphed in a way that truly accounts for the person(s) at the heart of these reports.

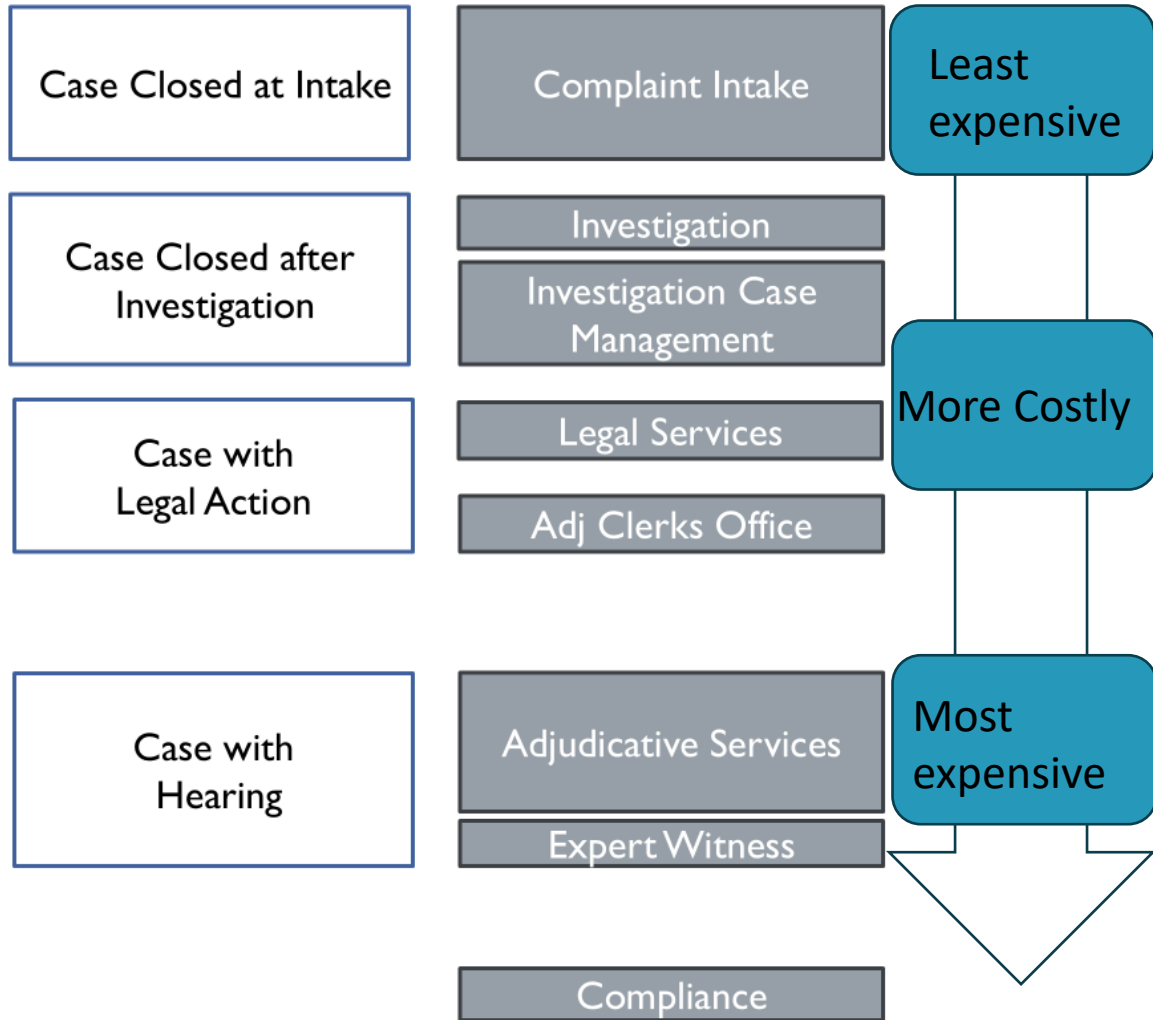
Our intention is to acknowledge this harm as a central emotional, social, and personal cost of misconduct.

Part Three

LET'S TALK ABOUT COST

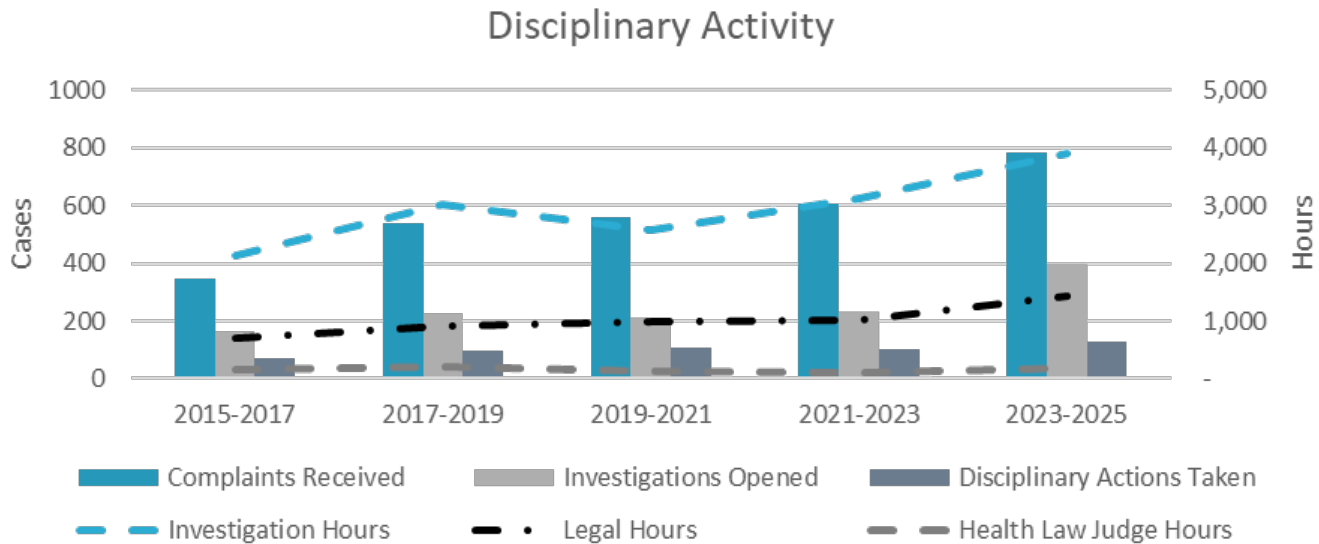
DISCIPLINARY PROCESS

How much does a disciplinary case cost in FY2024-2025?



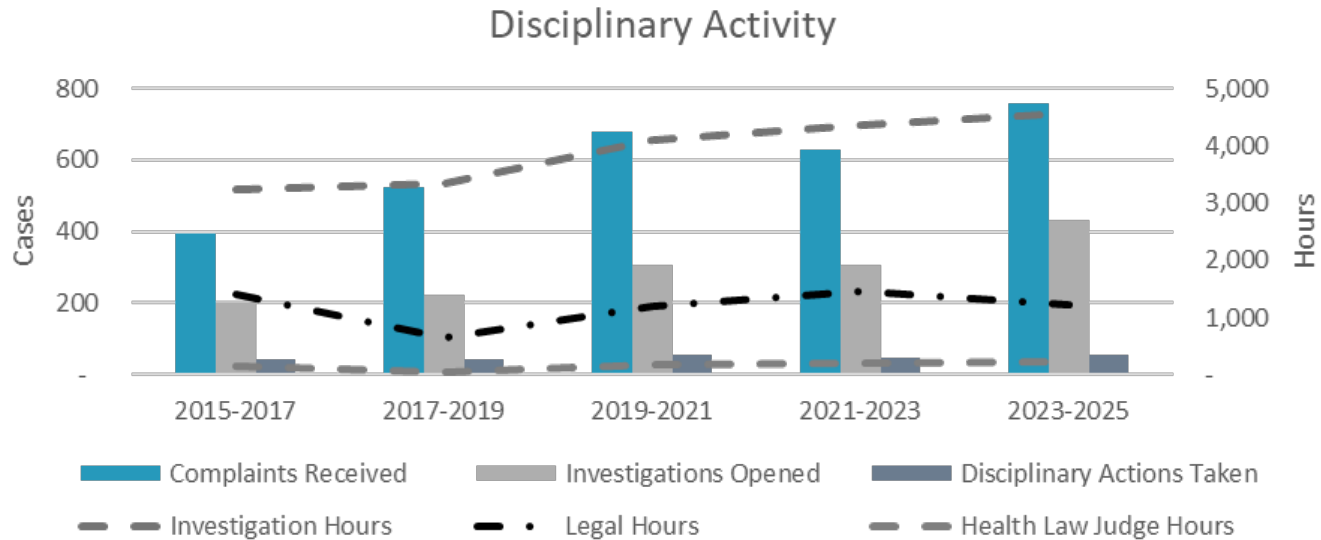
Disciplinary Trends – Agency Affiliated Counselor

	2015-2017	2017-2019	2019-2021	2021-2023	2023-2025
Complaints Received	347	540	558	605	781
Investigations Opened	165	225	208	231	400
Investigations Closed	160	199	237	227	359
Investigation Hours	2,138	3,010	2,570	3,115	3,889
Disciplinary Actions Taken	68	96	106	101	127
Legal Hours	707	908	977	1,014	1,421
Health Law Judge Hours	164	214	131	108	188



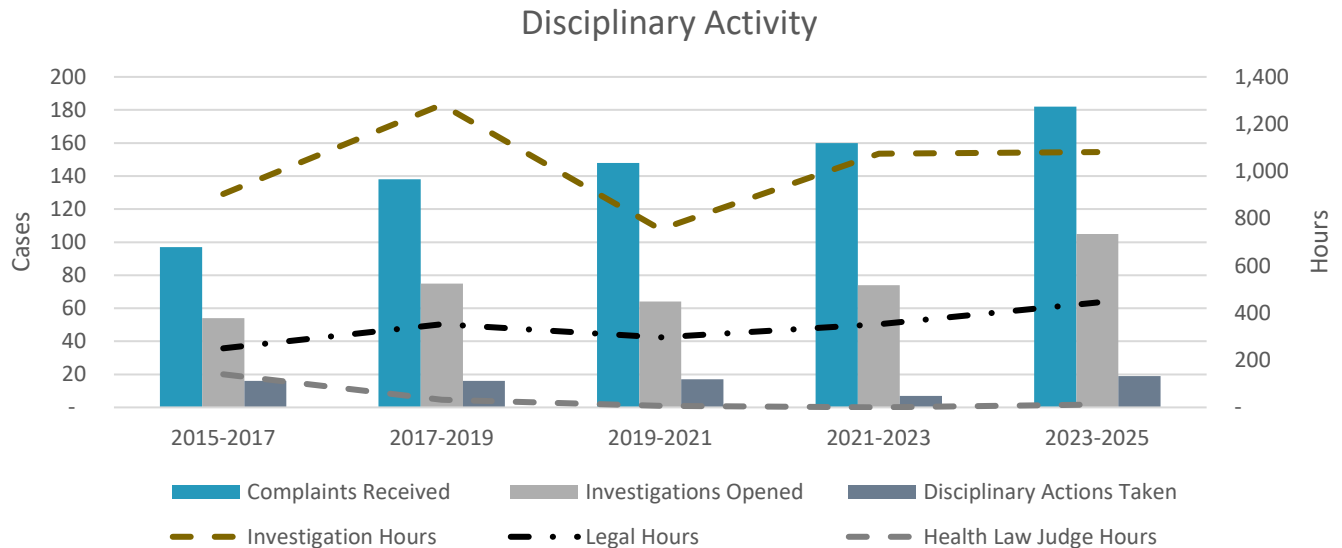
Disciplinary Trends – Mental Health Counselor

	2015-2017	2017-2019	2019-2021	2021-2023	2023-2025
Complaints Received	394	525	678	629	758
Investigations Opened	201	223	307	307	431
Investigations Closed	226	205	315	303	340
Investigation Hours	3,226	3,343	4,095	4,367	4,576
Disciplinary Actions Taken	43	43	55	47	57
Legal Hours	1,420	657	1,194	1,464	1,219
Health Law Judge Hours	152	49	170	199	233



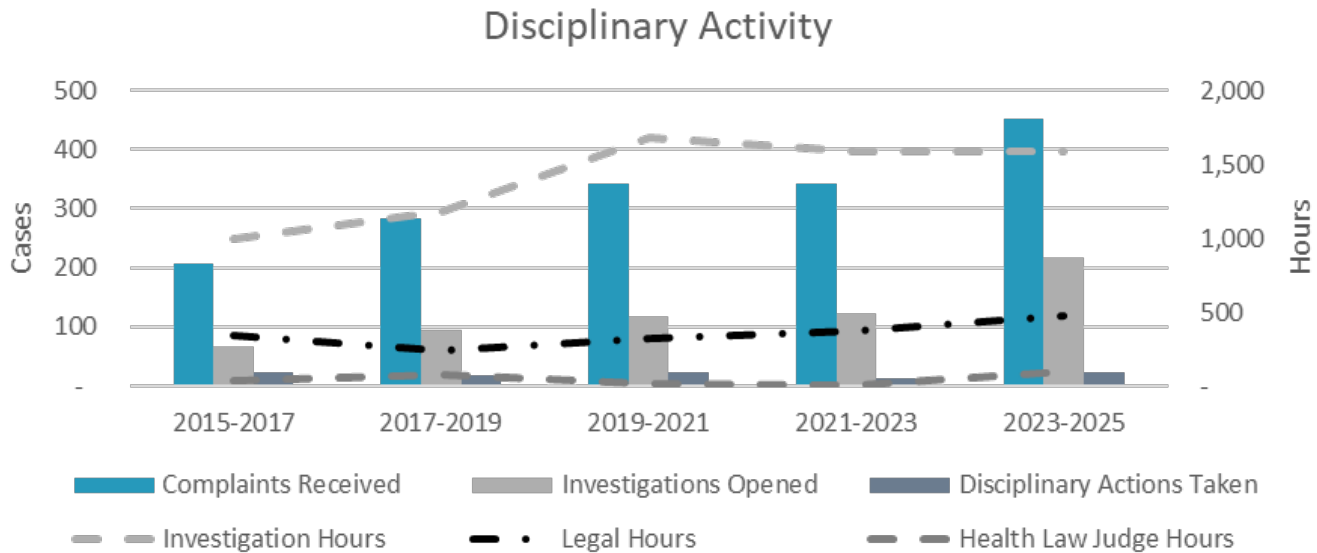
Disciplinary Trends – Marriage and Family Therapist

	2015-2017	2017-2019	2019-2021	2021-2023	2023-2025
Complaints Received	97	138	148	160	182
Investigations Opened	54	75	64	74	105
Investigations Closed	59	71	62	79	83
Investigation Hours	904	1,282	754	1,075	1,082
Disciplinary Actions Taken	16	16	17	7	19
Legal Hours	250	352	297	352	444
Health Law Judge Hours	140	33	6	0	13



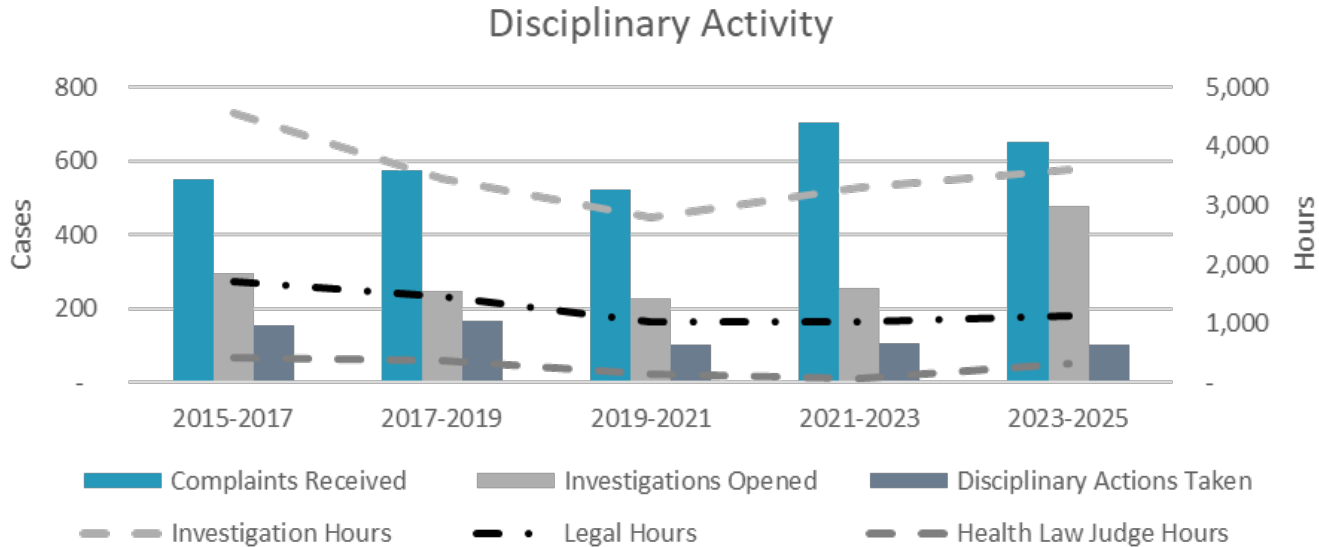
Disciplinary Trends – Social Work

	2015-2017	2017-2019	2019-2021	2021-2023	2023-2025
Complaints Received	206	284	341	341	451
Investigations Opened	67	95	117	122	216
Investigations Closed	79	80	134	119	175
Investigation Hours	998	1,179	1,681	1,583	1,583
Disciplinary Actions Taken	24	17	23	14	22
Legal Hours	347	238	317	371	473
Health Law Judge Hours	33	78	15	1	101

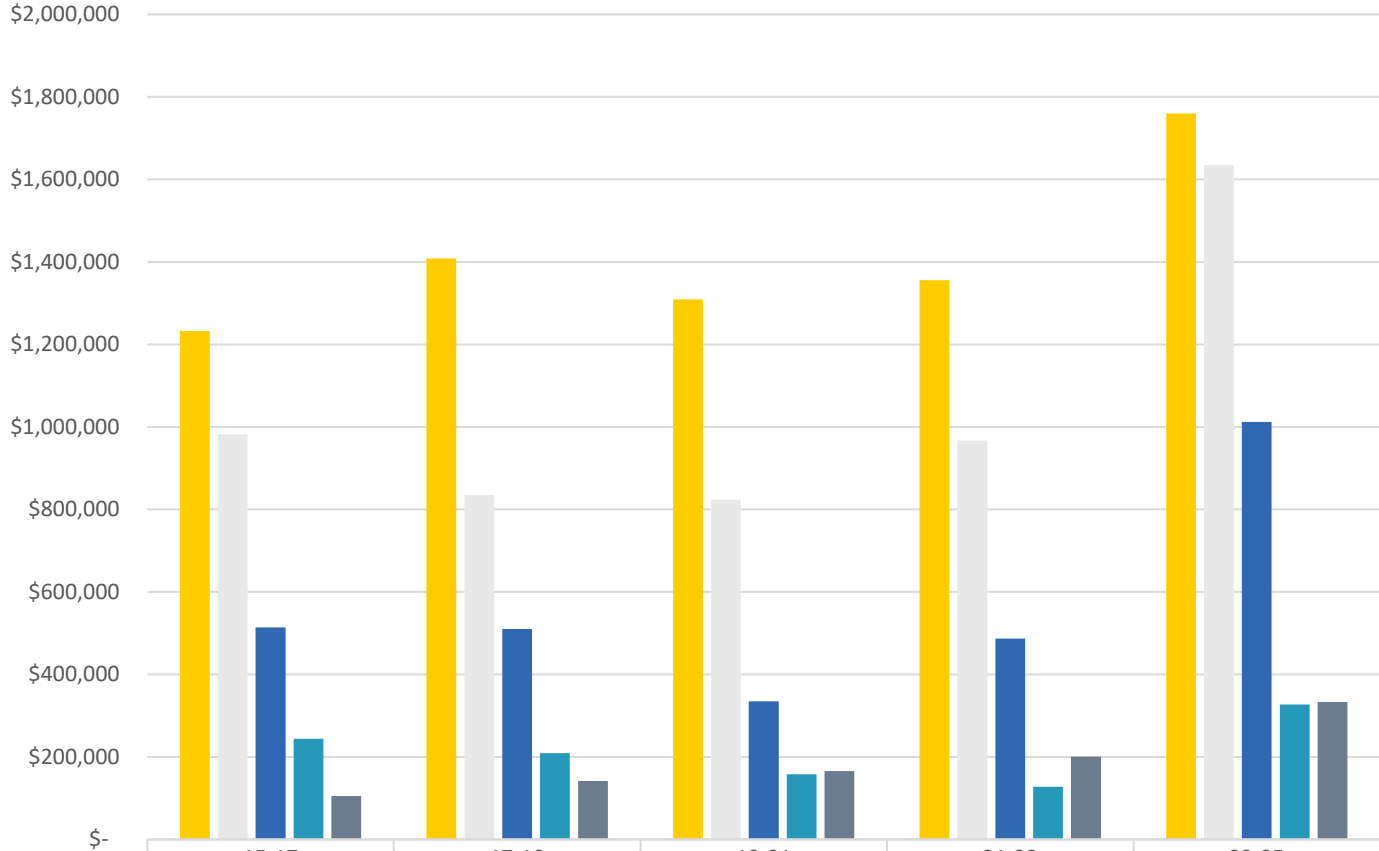


Disciplinary Trends – Substance Use Disorder

	2015-2017	2017-2019	2019-2021	2021-2023	2023-2025
Complaints Received	552	573	520	703	651
Investigations Opened	297	249	228	256	478
Investigations Closed	334	252	252	259	341
Investigation Hours	4,567	3,446	2,794	3,302	3,610
Disciplinary Actions Taken	154	167	101	107	101
Legal Hours	1,721	1,459	1,029	1,039	1,132
Health Law Judge Hours	433	366	144	81	327



Top Disciplinary Spending Categories Compiled



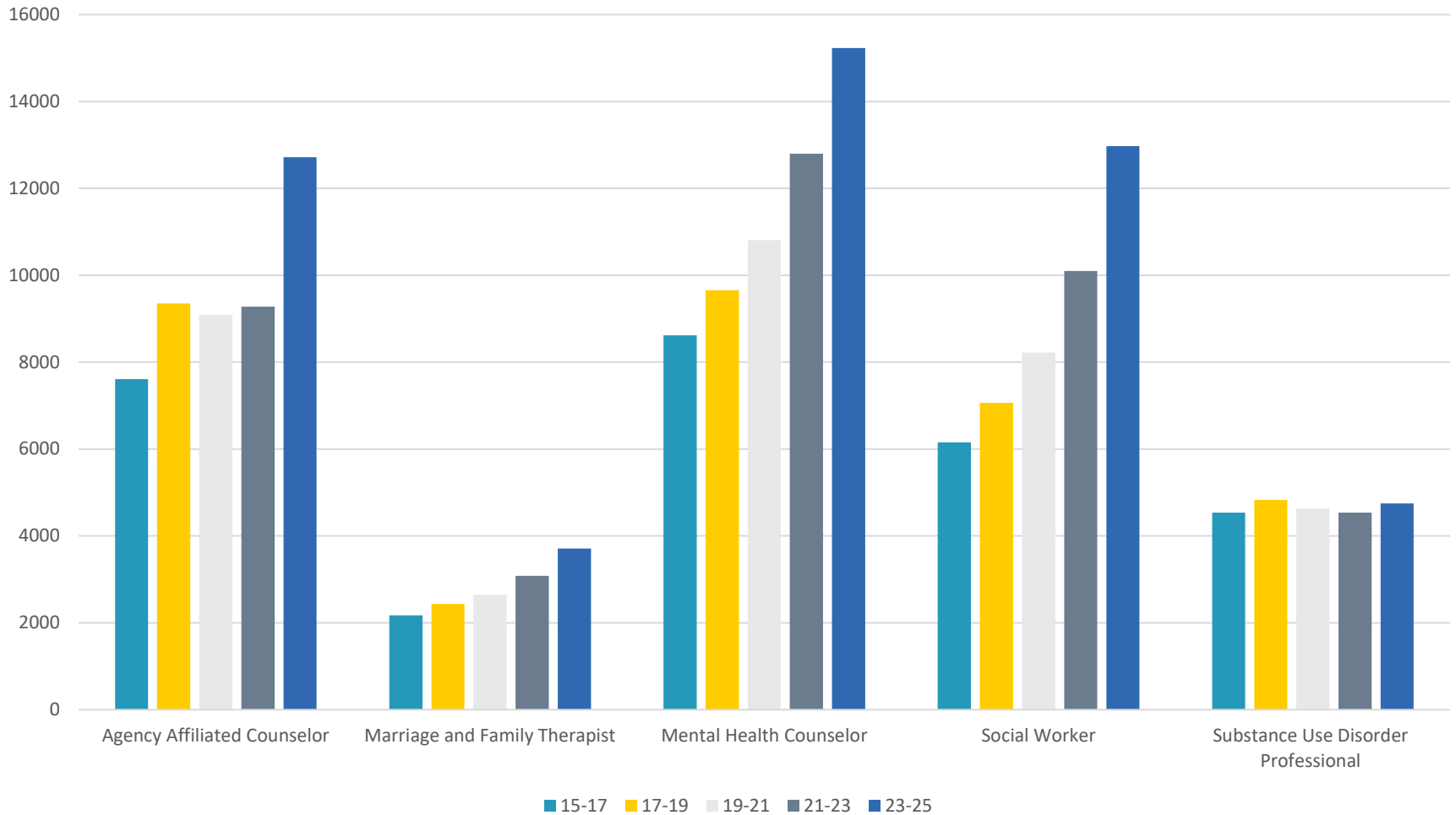
	15-17	17-19	19-21	21-23	23-25
■ HP Investigations (TA100/TA6116)	\$1,232,742	\$1,408,213	\$1,309,088	\$1,355,550	\$1,760,057
■ Legal Services (TA150/TA6122)	\$981,575	\$835,100	\$823,680	\$967,277	\$1,634,651
■ Attorney General (EM/EM1111)	\$513,711	\$510,336	\$334,904	\$487,066	\$1,012,024
■ Adjudicative Services Unit (ASU) (TA020/TA6112)	\$244,437	\$209,443	\$158,393	\$127,589	\$327,304
■ Investigation Case Management (TA070/TA6140)	\$105,646	\$141,996	\$165,945	\$200,336	\$333,213

Total Enforcement Spending 2015-2025

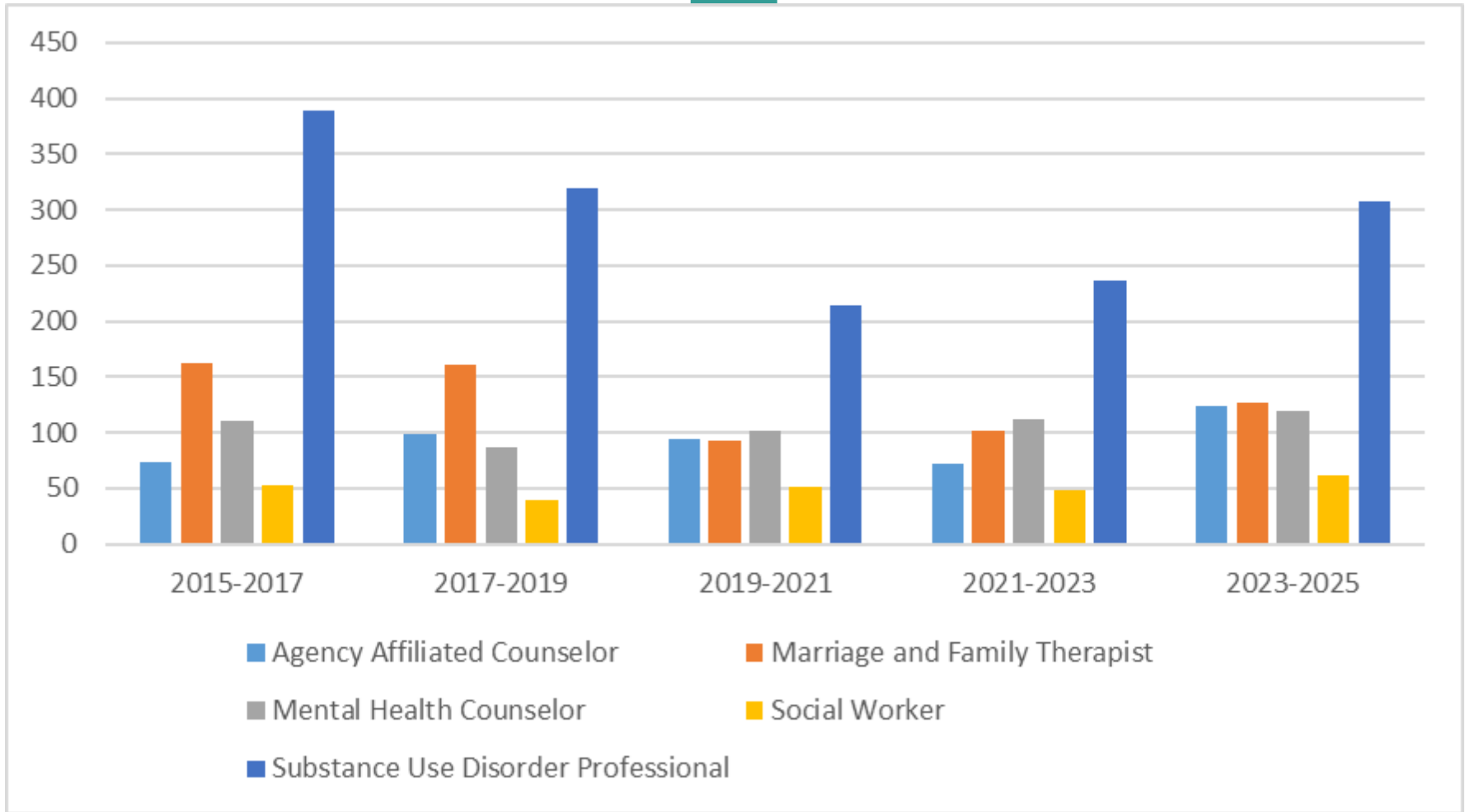


Discipline					
	15-17	17-19	19-21	21-23	23-25
Agency Affiliated Counselor	\$ 684,818	\$ 899,886	\$ 869,545	\$ 771,626	\$ 1,578,976
Mental Health Counselor	\$ 948,442	\$ 833,713	\$ 1,107,214	\$ 1,429,918	\$ 1,834,959
Marriage Family Therapist	\$ 352,847	\$ 390,918	\$ 246,178	\$ 310,215	\$ 468,262
Social Worker	\$ 323,735	\$ 279,120	\$ 421,602	\$ 486,465	\$ 798,879
Substance Use Disorder Professional	\$ 1,766,488	\$ 1,554,444	\$ 989,886	\$ 1,069,869	\$ 1,464,594
Total	\$ 4,076,329	\$ 3,958,080	\$ 3,634,426	\$ 4,068,092	\$ 6,145,670

Licensee Count over Biennium



Cost per credential holder



Part Four

WHAT ACTIONS CAN WE TAKE?



Know what regulations you must follow and have them easily accessible.



Remember that ignorance is not a legal defense.



AI might not be your friend in navigating regulations – do not rely on AI as a legal defense.

File a complaint about a provider or facility



Report Early

- It is easier to correct behavior early on.
- Providers in positions of power (supervisors, agency owners) can have direct and indirect effects on dozens of providers.

Keep a list of trusted people to consult

Compliance
or legal
officer

Mentor or
supervisor

Personal
counselor or
therapist

Keep your contact information updated

DOH will use this information to contact you about any filed complaints. If we cannot reach you, your credential may be suspended.

Don't forget to renew on time.

Stay aware of regulatory changes

1

Follow your
legislators

2

Participate in
committee
meetings

3

Subscribe to DOH
updates through
Granicus News

4

Participate in an
association



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