

# Vermont Secretary of State Office of Professional Regulation

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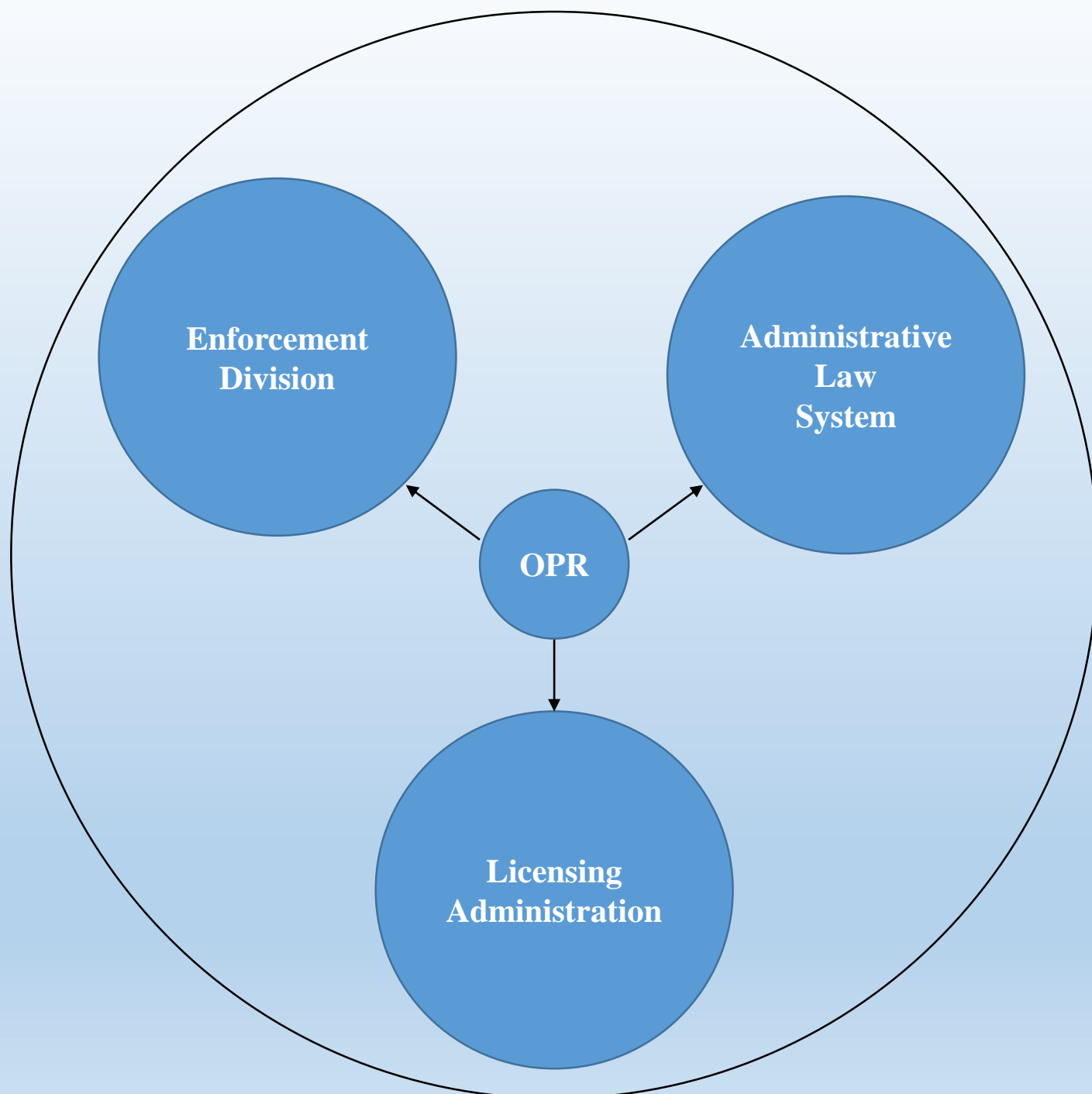
2019

# Office of Professional Regulation (OPR)

- Oversees 50 professions & 163 occupational specialties
- Maintains approximately 70,000 licensees
- Processes approximately 8,000 initial licenses annually, since 12/15/18 we have had 7,987 Notaries Public
- Renews approximately 50,000 existing licenses biennially
- Investigates approximately 800 conduct complaints annually
- Charges approximately 200 disciplinary cases annually
- Holds approximately 300 contested disciplinary hearings annually
- Appellate jurisdiction of decisions by Board or ALO
- Annual OPR bill & other related regulatory bills

# Essential Business Process of Professional Regulation:

1. Licensing: Ensure minimum competency standards to practice
2. Enforcement: Hold those that commit unprofessional conduct accountable
3. Adjudication: Afford due process when denying a license or sanctioning a licensee for unprofessional conduct



**Enforcement  
Division**

**Administrative  
Law  
System**

**OPR**

**Licensing  
Administration**

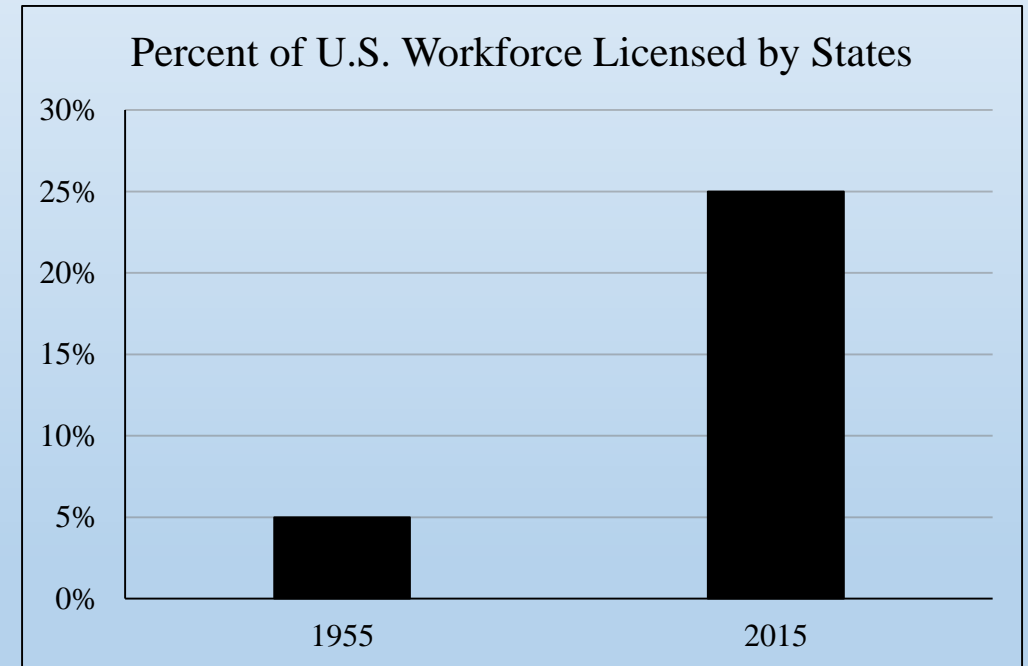
# Professional Regulation in the United States

## Occupational licensing has grown rapidly—yet inconsistently—in recent decades

- The proportion of workers required to have a state license has increased by 500% since the 1950s
- 60% of this growth is accounted for by the new professions regulated

## Today, professional regulation varies by State

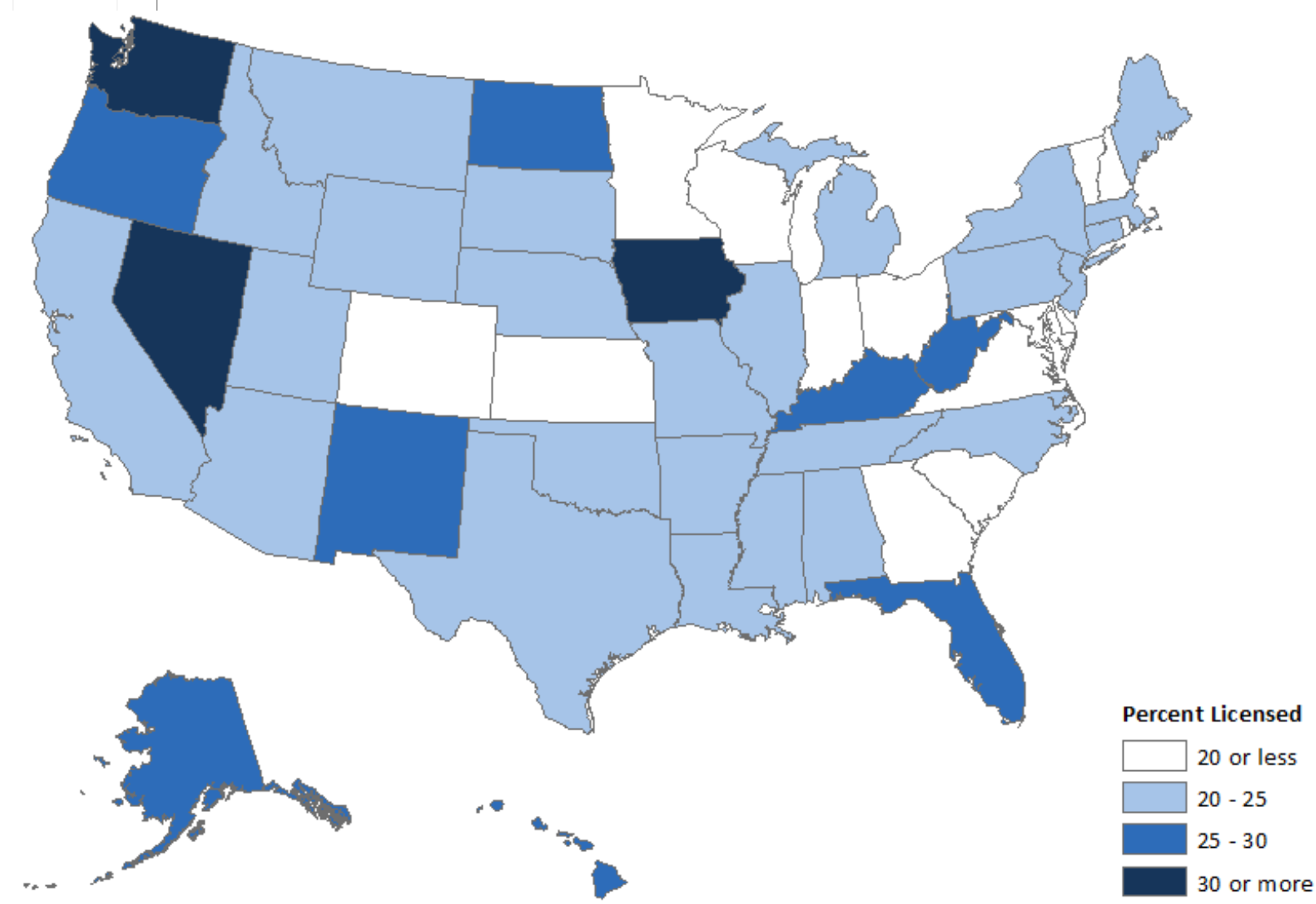
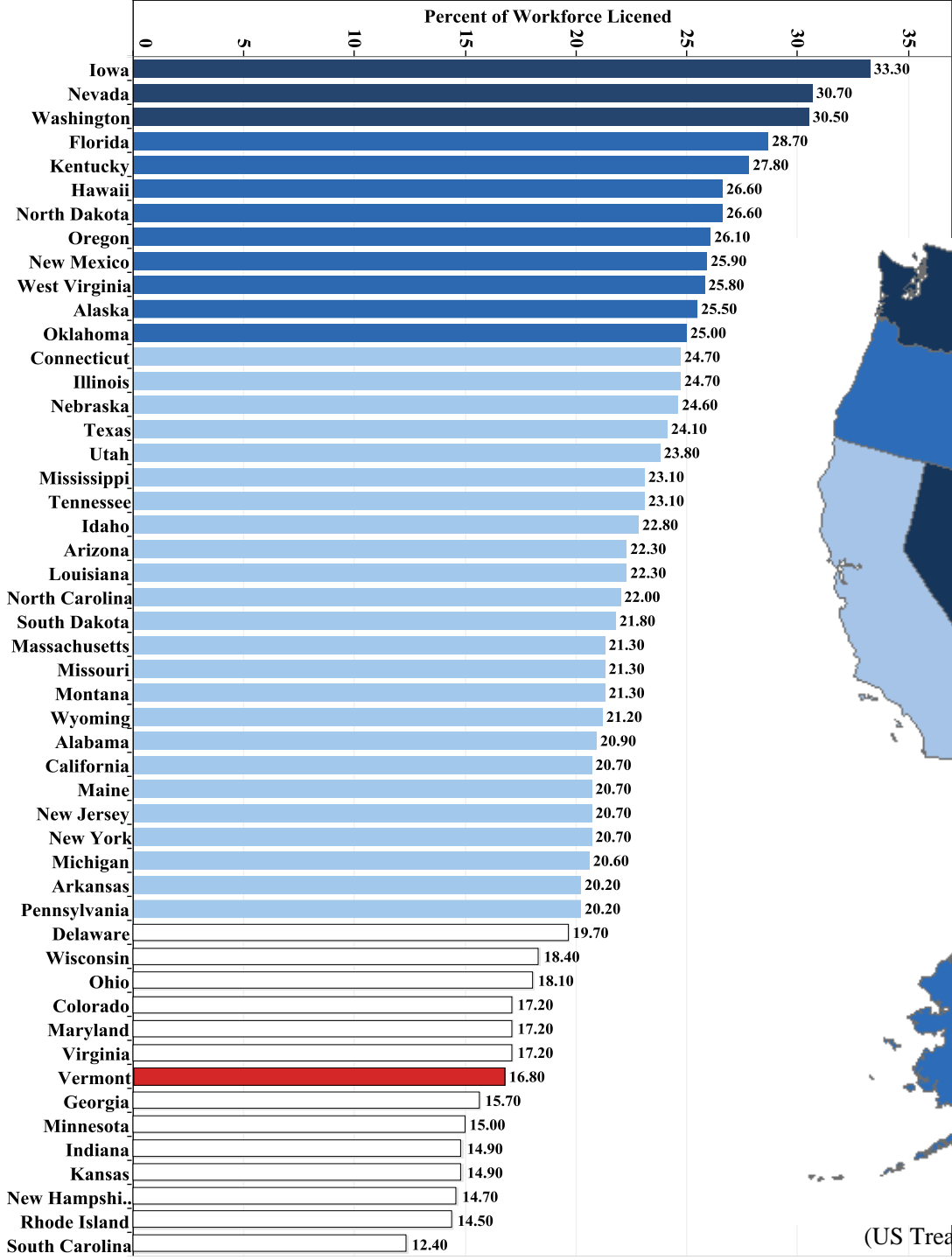
- Some States license less than 60 occupations, others more than 1,100
- States have different requirements to obtain licensure for the same profession
- States have different scopes of practice for the same profession



# Specialization & The Division of Labor

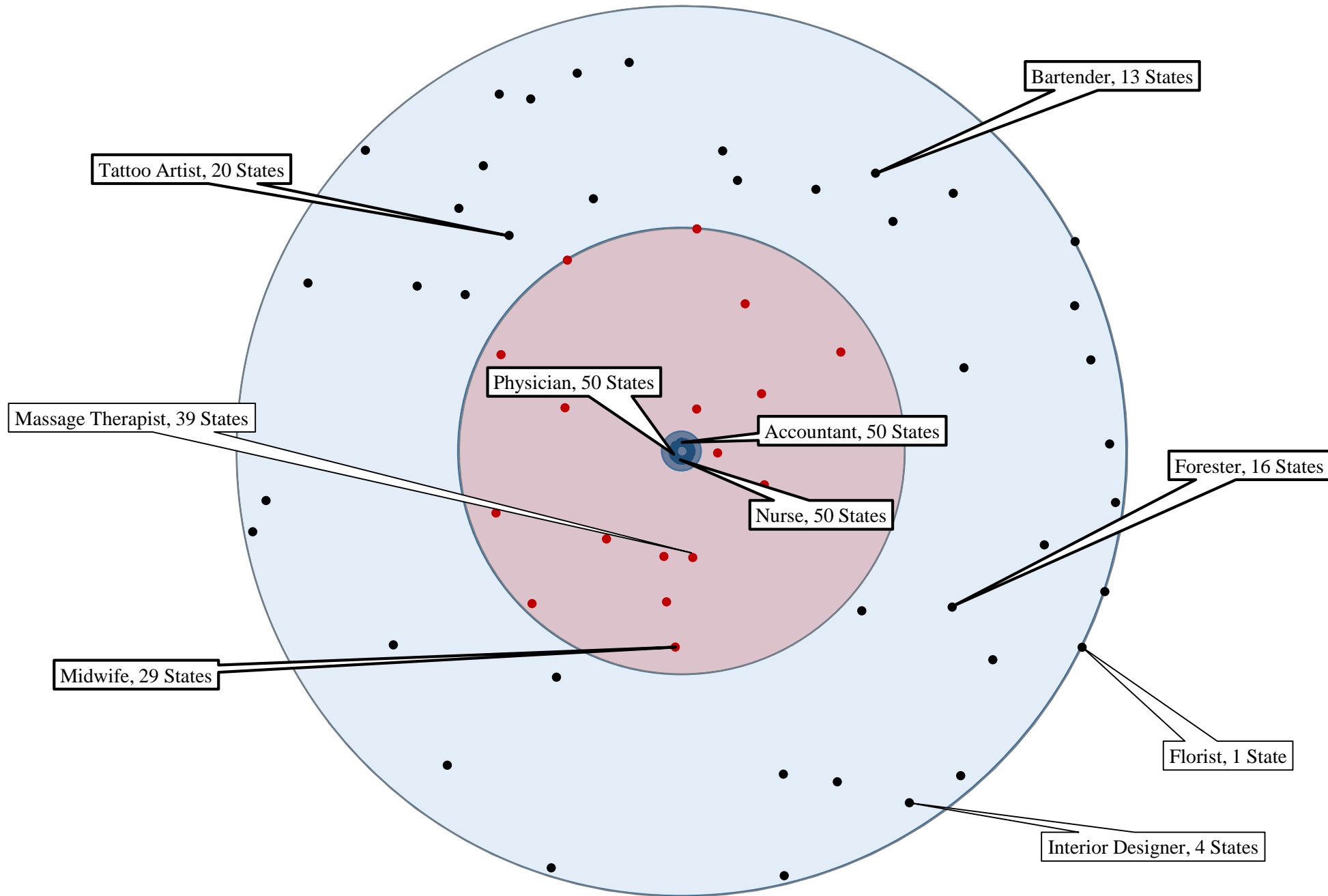
- A particular division of labor in the marketplace will produce within itself further divisions over time.
- Each occupation represents a different form of work specialization across the labor force.
- By 1990 the US DOL's *Dictionary of Occupational Titles* included nearly 13,000 different occupational variants.
- Vermont is a low regulation state and is considered a model nationwide

# How Vermont Fits In



(US Treasury, CEA & DOL, 2015; Kleiner and Vorotnikov, 2015)

# How Many States Require a License to Practice?





# V.S.A. Title 26

## Professions and Occupations

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Chapter 53: Polygraph Examiners

(§§ 2901 - 2910)

Chapter 55: Psychologists

(§§ 3001 - 3018)

**Chapter 57: Review Of Licensing Statutes, Boards, And Commissions**

**(§§ 3101 - 3107)**

Chapter 59: Private Investigative And Security Services

(§§ 3151 - 3183)

Chapter 61: Social Workers

(§§ 3201 - 3213)

Chapter 62: Alcohol And Drug Abuse Counselors

(§§ 3231 - 3242)

...

# 26 V.S.A. Chapter 57, § 3101

## Policy and Purpose

(a) It is the policy of the State of Vermont that regulation be imposed upon a profession or occupation **solely for the purpose of protecting the public**. The General Assembly believes that all individuals should be permitted to enter into a profession or occupation unless there is **a demonstrated need for the State to protect the interests of the public** by restricting entry into the profession or occupation.

(b) If such a need is identified, the form of regulation adopted by the State shall be the **least restrictive form of regulation necessary** to protect the public interest. If regulation is imposed, the profession or occupation may be subject to review by the Office of Professional Regulation and the General Assembly **to ensure the continuing need for and appropriateness of such regulation**.

# 26 V.S.A. Chapter 57, § 3105 (Sunrise)

(a) A profession or occupation shall be regulated by the State only when:

- (1) It can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is recognizable and not remote or speculative;
- (2) The public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and
- (3) The public cannot be effectively protected by other means.

# 26 V.S.A. Chapter 57, § 3104 (Sunset)

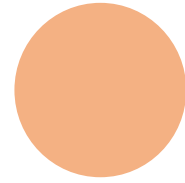
## Regulatory Review

The review includes, among others, the following inquiries in the discretion of the Office or in response to a Committee request:

- the extent to which a regulatory entity's actions have been in the public interest and consistent with legislative intent
- the extent to which the profession's historical performance, including the actual history of complaints and disciplinary actions in Vermont, indicates that the costs of regulation are justified by the realized benefits to the public
- the extent to which the scope of the existing regulatory scheme for the profession is commensurate to the risk of harm to the public
- the extent to which the profession's education, training, and examination requirements for a license or certification are consistent with the public interest

# OPR Fighting Regulatory Burdens Over Time

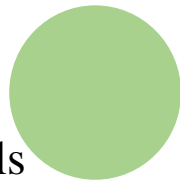
Professional Development



License Requirements

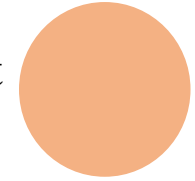


Policy Imperatives



Aspirational Goals

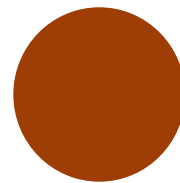
Professional Development



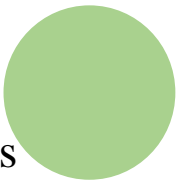
Ch. 57



OPR's License Requirements



Policy Imperatives



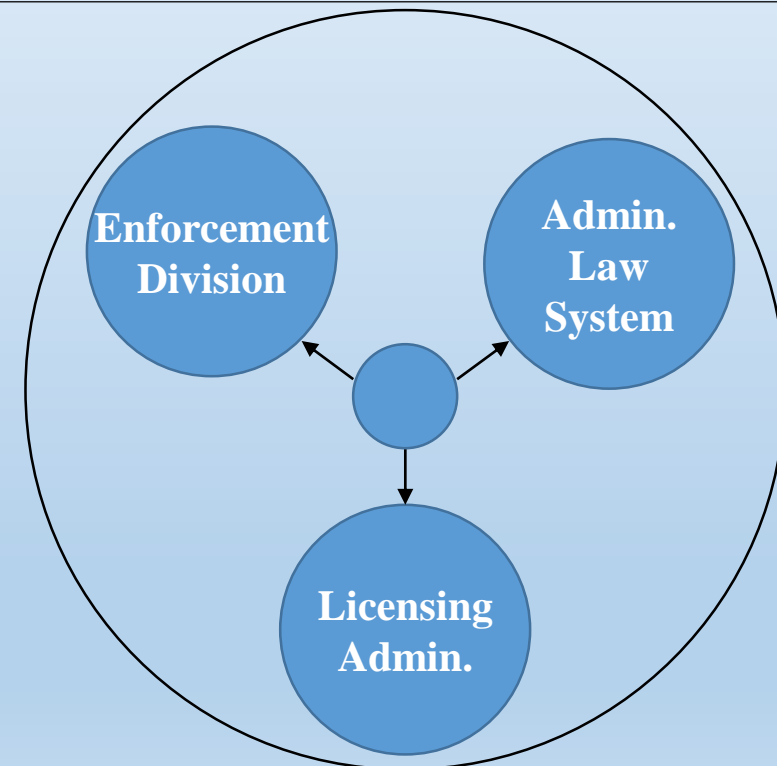
Aspirational Goals

# Policymaking vs. Implementation

## Standards

- Ensuring minimum competency standards to practice
- Holding those that commit unprofessional conduct accountable

## Operation



# “Occupational Licensing: A Framework For Policymakers”



July, 2015

## Recommendations:

1. Ensure that regulation aims to protect public health and safety;
2. Carefully consider licensure's costs and benefits;
3. Vest responsibility for licensing in a single “umbrella agency” that also conducts sunrise and regulatory reviews; and
4. Reduce barriers to mobility.

# ADVISOR/BOARD MODELS

## Advisors

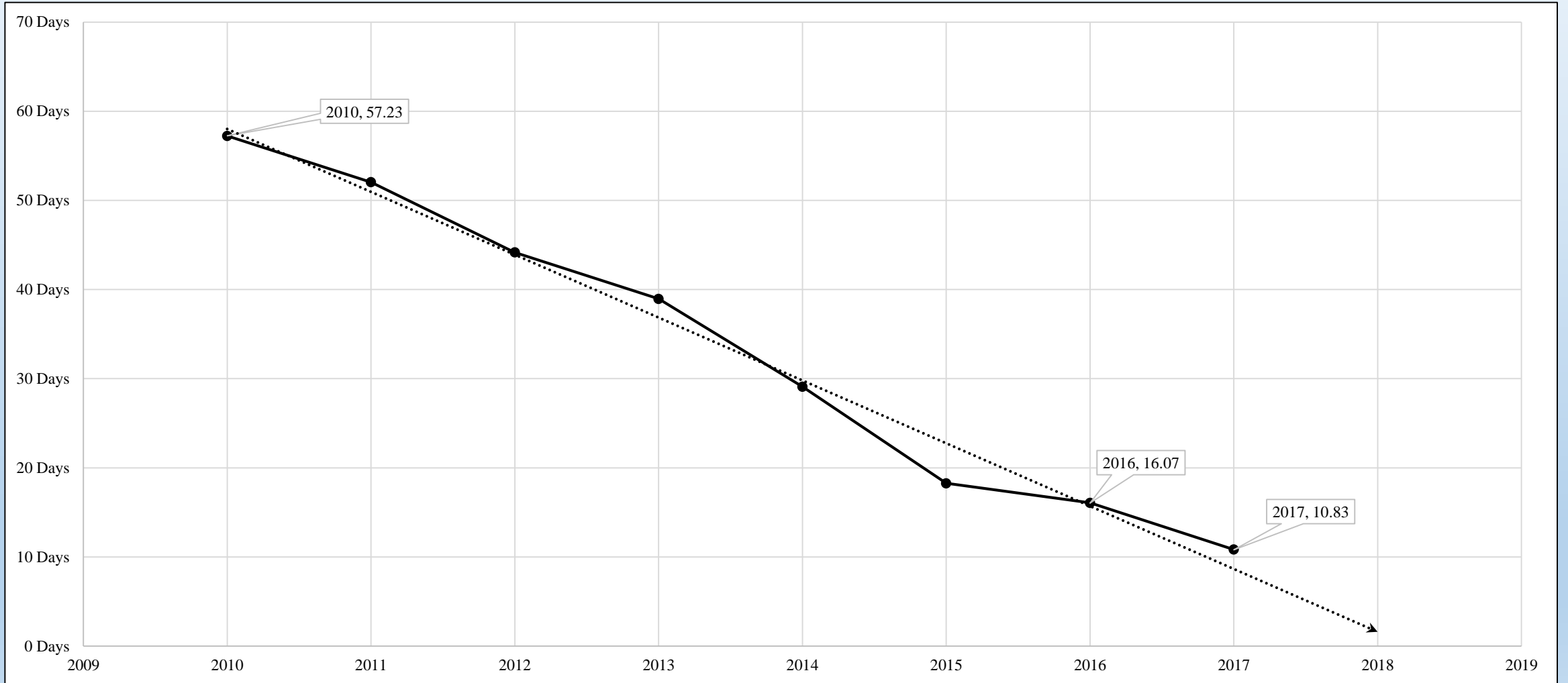
- Recently regulated professions
- Appointed by Secretary of State
- Licensing fees standardized
- Required Director consultation
- Disciplinary hearings go to ALO
- I-Team Enforcement participation
- License application review

## Board Members

- Historically regulated professions
- Appointed by Governor
- Licensing fees not standardized
- Required Director supervision
- Decide disciplinary cases
- I-Team Enforcement participation
- License application review



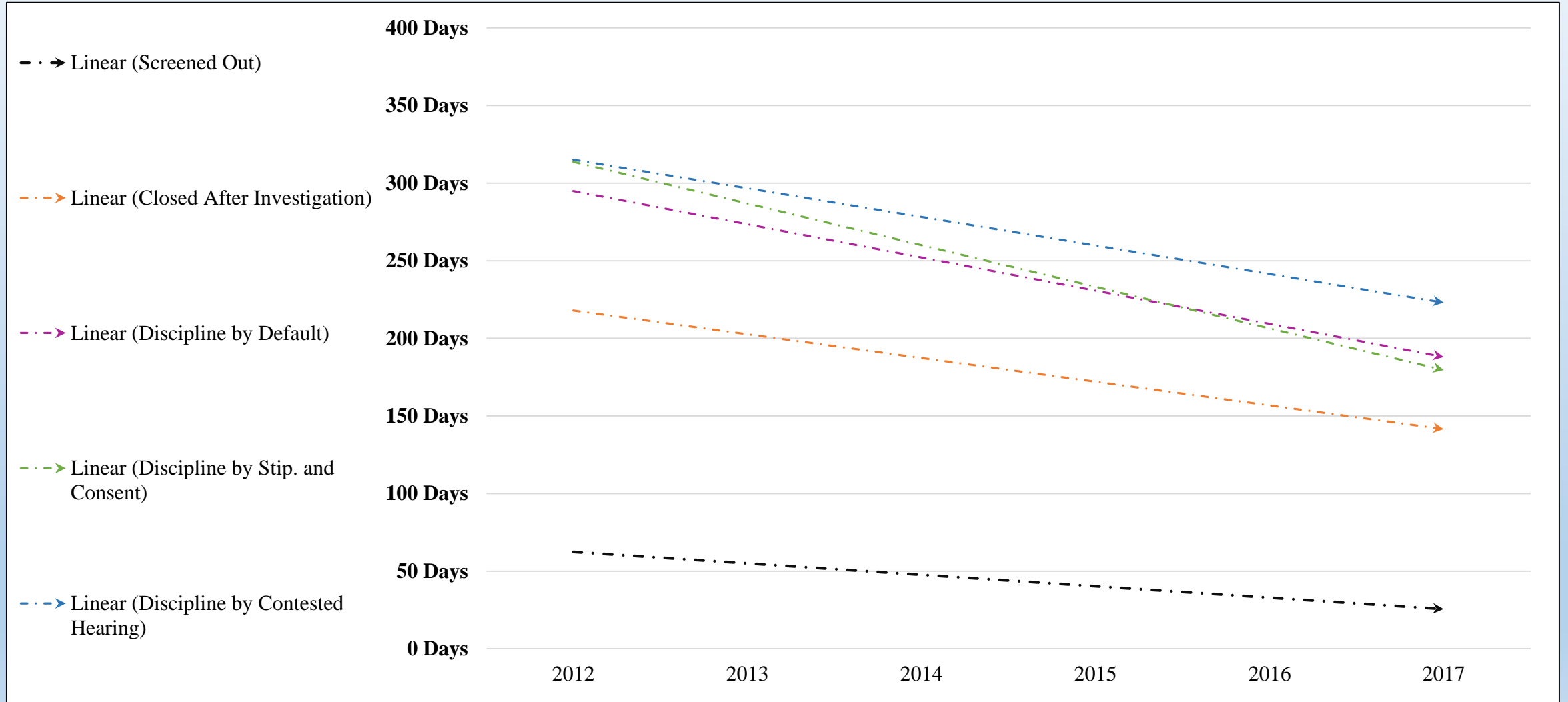
# OPR Average Initial License Application Processing Duration

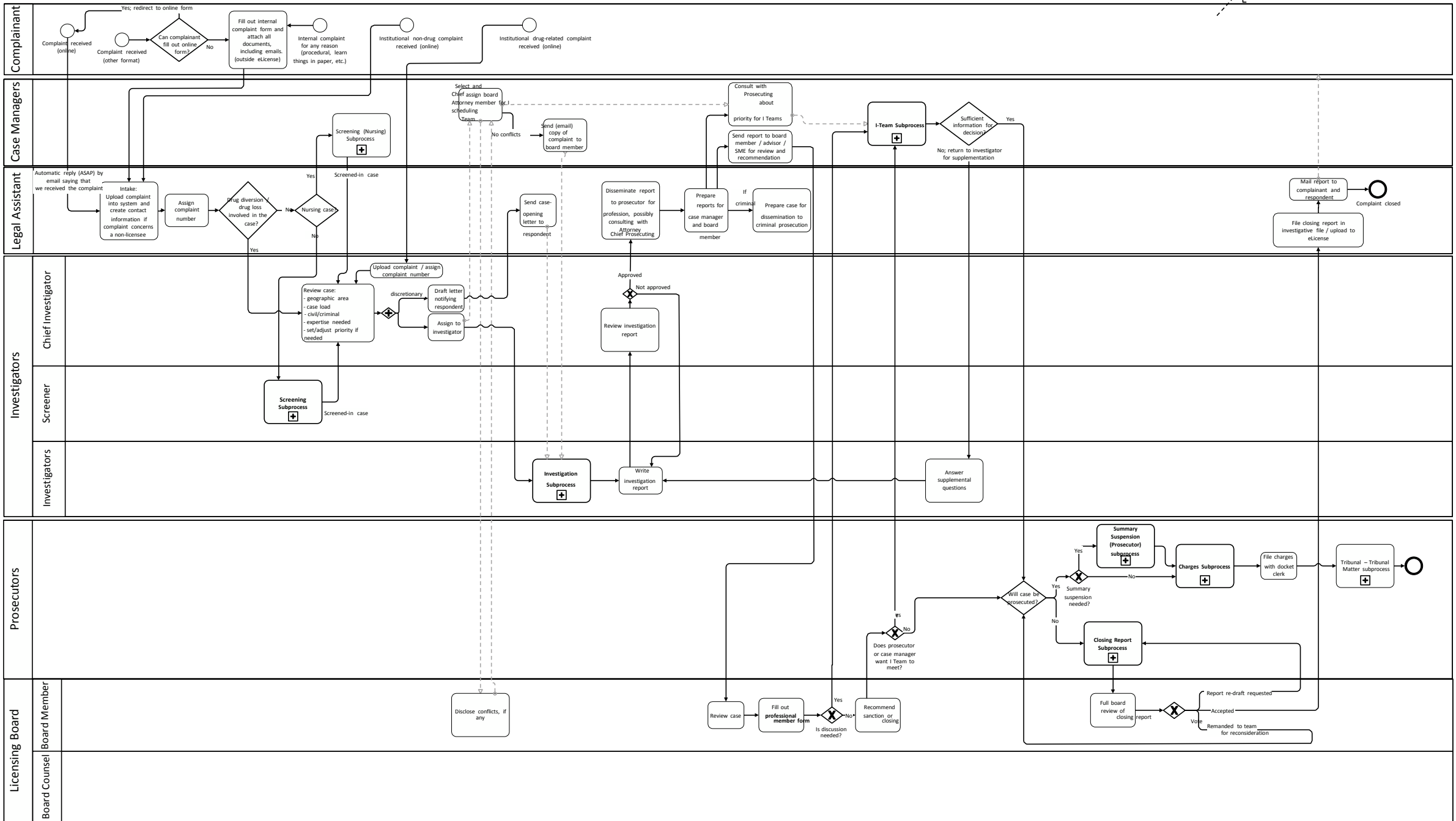


# Licensing Staff Ratios:

- 7 Non-Nursing Licensing Administrators; each responsible for approximately 7,500 licensees without consideration of Notaries Public
- 2 Nursing Licensing Administrators; jointly responsible for approximately 25,000 nurses.

# Complaint Processing Duration Trends by Resolution Outcome





# Federal Department of Labor Grant 450,000 over 3 years:

- Scope of work:
  - Focus on professions that do not require a baccalaureate degree
  - Attention to operationalizing outcomes: cost of entry, diversity of entrants, mobility, military, people with criminal background conduct, competition, consumer-side price and access
  - Priority given to programs ripe for substantial modernization
- Activities facilitated by grant resources:
  - Consulting and operational support
  - Hearings and fact finding
  - Study of other jurisdictions
  - Rulemaking
  - Implementation

# Programs Selected

- Barbering & Cosmetology
  - Rulemaking based on OPR Bill reforms
  - Hearings and public input particularly necessary to ensure stakeholder support and resolve unsettled policy issues
  - Development and implementation of a structured apprenticeship program enabling entrants to the field to avoid student loan debt
  - *The most urgent reform project, because schools and accreditors need time to plan and restructure.*
- Private Investigative & Security Services
  - Rulemaking based on draft already prepared in consultation with Ashley and the Board
  - Implementation and outreach so firms and licensees understand licensing reforms
  - Enhanced study of workforce-development integration, for example, with career and technical centers
  - *The fastest reform project—plug-n'-play—because we already have consensus and a rule draft. Challenge is outreach.*

# Programs Selected II

- Pharmacy Technicians

- Part of a larger strike-and-rewrite of pharmacy rules
- Challenge of finding a flexible oversight model that recognizes heterogeneity in technician work
- Correcting cross-subsidization of licensed institutions by licensed labor
- Single credential without grandfathering
- Multi-path model accepting of employer-based training

- Funeral Directors

- Capitalizes on recent legislative liberalization of licensing paths
- Particularly timely, as national training and exam model is failing
- Vermont-grown program to allow younger Vermonters and mid-career switchers to train without undue debt or leaving the State
- Important illustration of the flexibility gained from board → advisor conversion
- High potential to improve access and market function

# Programs Selected III

- Registered Nurses

- Oriented toward legislatively-mandated study of costs and benefits of participation in the Nurse Licensure Compact
- Must consider effects on costs and wages, licensing revenue, interstate mobility, behavioral incentives, legal rights of compact licensees, effect on disciplinary system, capacity to run backgrounds
- If General Assembly supports participation, grant funds will support implementation in years 2 and 3.

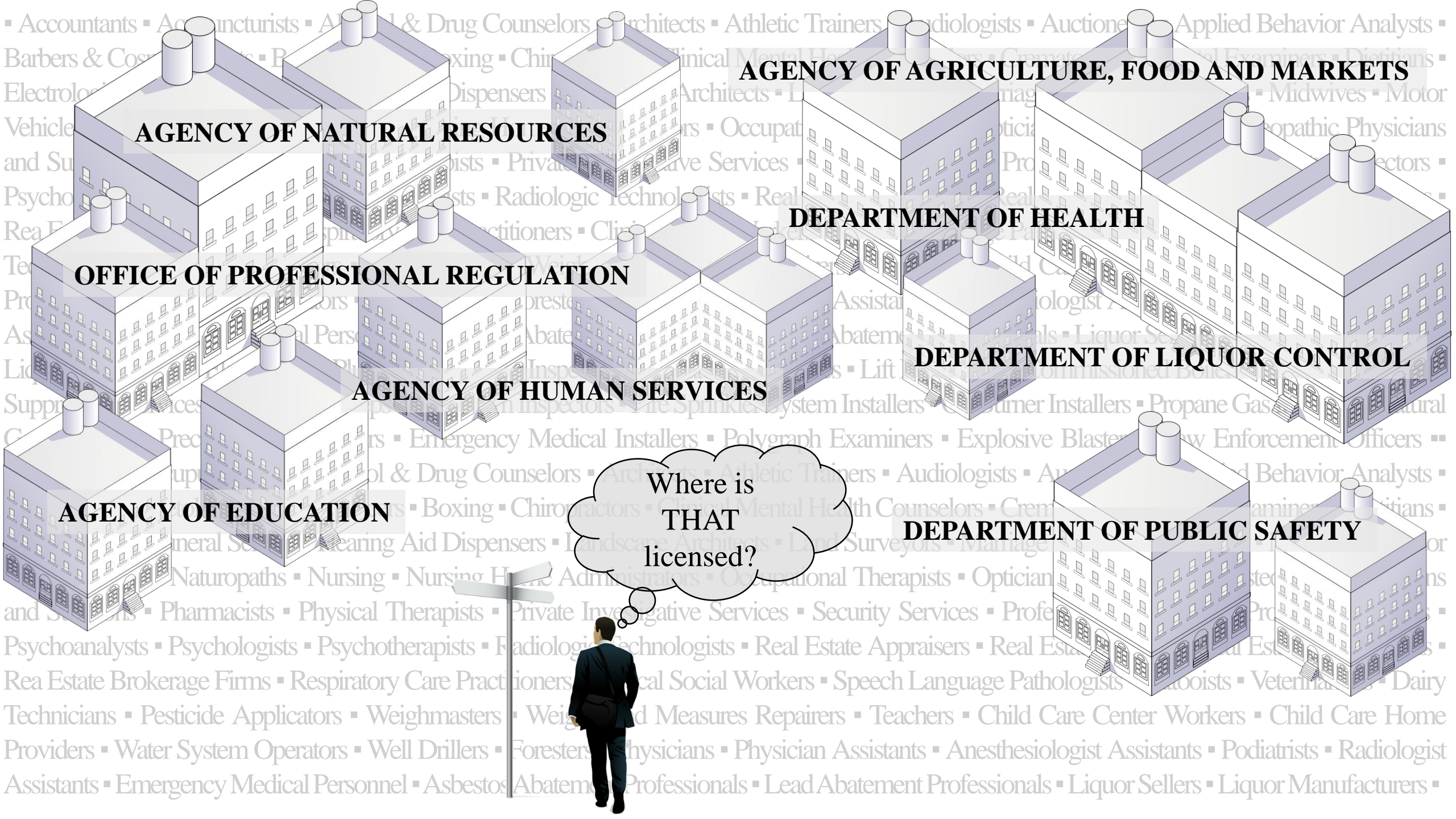
- Real Estate Brokerage

- OPR's will do a chapter-57 review of an operating program
- Will require significant research, empirical analysis, cross-jurisdiction study, and inter-governmental communication
- Top-to-bottom review will examine utility of testing, continuing education, broker/salesperson distinction, firm regulation
- Firm regulation should incentivize compliance with fiduciary obligations while promoting price competition



# Act 156 - Professional Regulation Review

- Legislature conducted a survey of the regulatory practices of six other state agencies, totaling 39 regulated professions, outside OPR
- Purpose:
  - Determine if the makeup and supervision of professional regulation in all State agencies complies with antitrust law
  - Determine if certain regulated professions should be transferred to OPR
- Survey targets 68 specific variables (e.g., professions regulated, number of licensees, budgeting, enforcement procedures, etc.)
- All responses were due 12/15/2016
- Does not include regulation by DMV, DFR, AOE or Judiciary.



**AGENCY OF NATURAL RESOURCES**

**AGENCY OF AGRICULTURE, FOOD AND MARKETS**

**OFFICE OF PROFESSIONAL REGULATION**

**DEPARTMENT OF HEALTH**

**DEPARTMENT OF LIQUOR CONTROL**

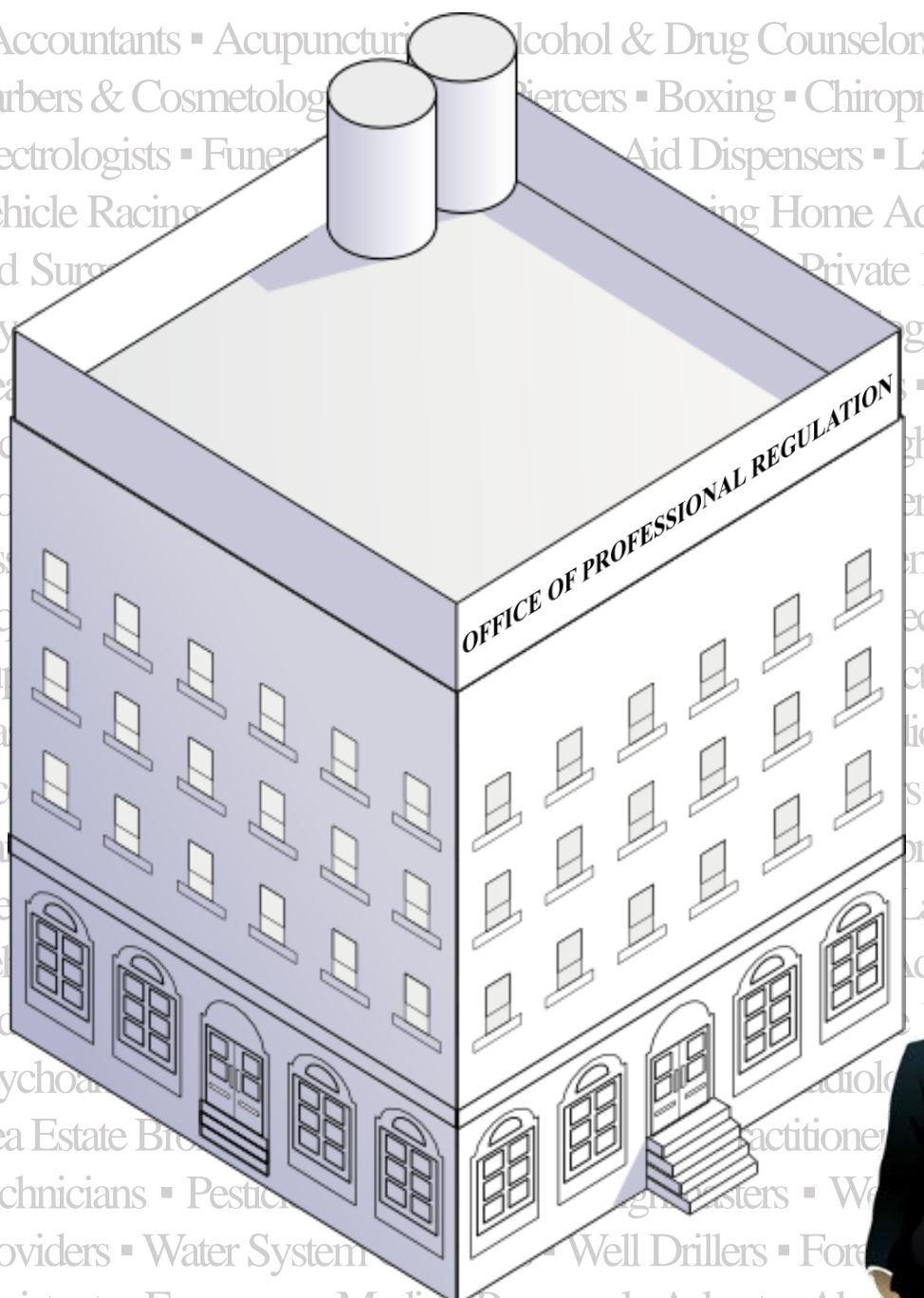
**AGENCY OF HUMAN SERVICES**

**AGENCY OF EDUCATION**

**DEPARTMENT OF PUBLIC SAFETY**

Where is  
**THAT**  
licensed?

▪ Accountants ▪ Acupuncturists ▪ Alcohol & Drug Counselors ▪ Architects ▪ Athletic Trainers ▪ Audiologists ▪ Auctioneers ▪ Applied Behavior Analysts ▪  
Barbers & Cosmetologists ▪ Barbers ▪ Barbershopbers ▪ Boxers ▪ Chiropractors ▪ Clinical Mental Health Counselors ▪ Crematoriums ▪ Dental Examiners ▪ Dietitians ▪  
Electrologists ▪ Funeral Home Administrators ▪ Home Health Aides ▪ Landscaping Home Administrators ▪ Occupational Therapists ▪ Opticians ▪ Optometrists ▪ Osteopathic Physicians  
and Surgeons ▪ Private Investigative Services ▪ Security Services ▪ Professional Engineers ▪ Property Inspectors ▪  
Psychologists ▪ Real Estate Appraisers ▪ Real Estate Brokers ▪ Real Estate Salespersons ▪  
Real Estate Technicians ▪ Real Estate Technicians ▪ Clinical Social Workers ▪ Speech Language Pathologists ▪ Tattooists ▪ Veterinarians ▪ Dairy  
Technicians ▪ Weights and Measures Repairers ▪ Teachers ▪ Child Care Center Workers ▪ Child Care Home  
Providers ▪ Physicians ▪ Physician Assistants ▪ Anesthesiologist Assistants ▪ Podiatrists ▪ Radiologist  
Assistants ▪ Instrumentation Professionals ▪ Lead Abatement Professionals ▪ Liquor Sellers ▪ Liquor Manufacturers ▪  
Liquor Manufacturers ▪ Elevators Mechanics ▪ Lift Mechanics ▪ Commissioned Boiler Inspectors ▪ Chemical  
Installers ▪ Fire Sprinkler System Installers ▪ Oil Burner Installers ▪ Propane Gas Installers ▪ Natural  
Gas Installers ▪ Polygraph Examiners ▪ Explosives Detectors ▪ Law Enforcement Officers ▪  
Architects ▪ Athletic Trainers ▪ Audiologists ▪ Auctioneers ▪ Applied Behavior Analysts ▪  
Chiropractors ▪ Clinical Mental Health Counselors ▪ Crematoriums ▪ Dental Examiners ▪ Dietitians ▪  
Landscape Architects ▪ Land Surveyors ▪ Marriage & Family Therapists ▪ Midwives ▪ Motor  
Vehicle Administrators ▪ Occupational Therapists ▪ Opticians ▪ Optometrists ▪ Osteopathic Physicians  
and Surgeons ▪ Private Investigative Services ▪ Security Services ▪ Professional Engineers ▪ Property Inspectors ▪  
Psychologists ▪ Real Estate Appraisers ▪ Real Estate Brokers ▪ Real Estate Salespersons ▪  
Real Estate Technicians ▪ Real Estate Technicians ▪ Clinical Social Workers ▪ Speech Language Pathologists ▪ Tattooists ▪ Veterinarians ▪ Dairy  
Technicians ▪ Weights and Measures Repairers ▪ Teachers ▪ Child Care Center Workers ▪ Child Care Home  
Providers ▪ Physicians ▪ Physician Assistants ▪ Anesthesiologist Assistants ▪ Podiatrists ▪ Radiologist  
Assistants ▪ Instrumentation Professionals ▪ Lead Abatement Professionals ▪ Liquor Sellers ▪ Liquor Manufacturers ▪



**OPR – unify, streamline, and focus**