



## 2019-21 Biennium Budget Decision Package

**Agency:** 303 - Department of Health  
**Decision Package Code-Title:** 3D - NQAC Increased AG Costs  
**Budget Session:** 2019-21 Regular  
**Budget Level:** Policy Level  
**Contact Info:** Ryan Black  
 (360) 236-4530  
 ryan.black@doh.wa.gov

### Agency Recommendation Summary

The Nursing Care Quality Care Assurance Commission (NCQAC) regulates over 122,000 nurses in Washington State. In the past four years, the number of licensed nurses increased 16.3%, and complaints against nurses increased 106%. Complaints include patient deaths, serious harm, and abuse. Performance measures and legally mandated timelines are not being met. RCW 43.70.320(5) gives NCQAC the authority to request additional spending authority when revenues exceed fifteen percent over the department's estimated six-year spending projections. This package requests the additional authority to protect the public and to meet timelines.

### Fiscal Summary

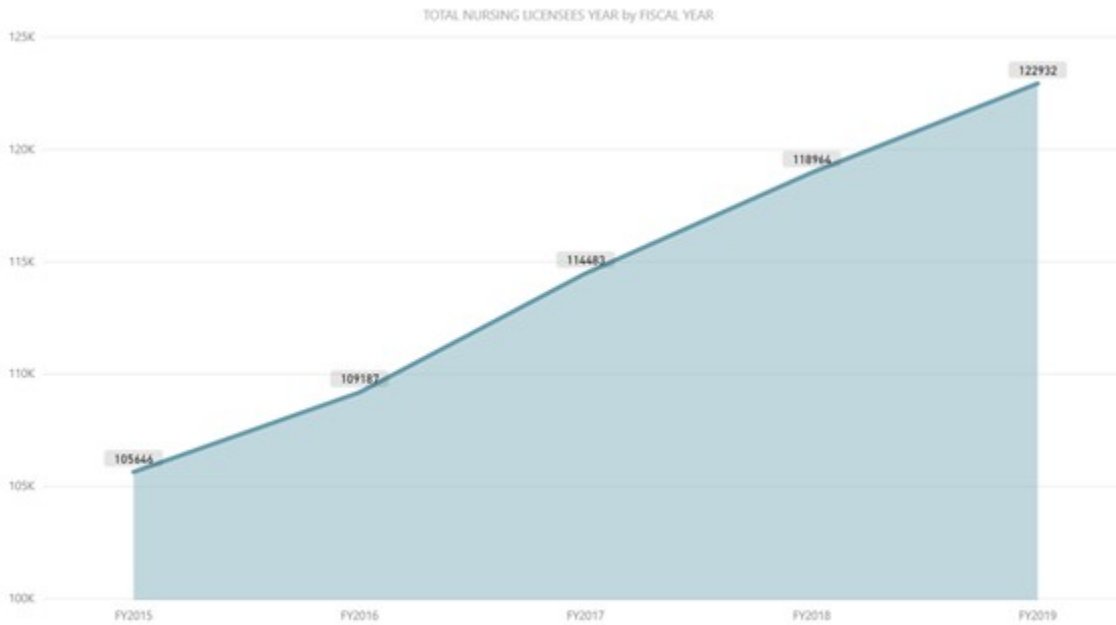
*Dollars in Thousands*

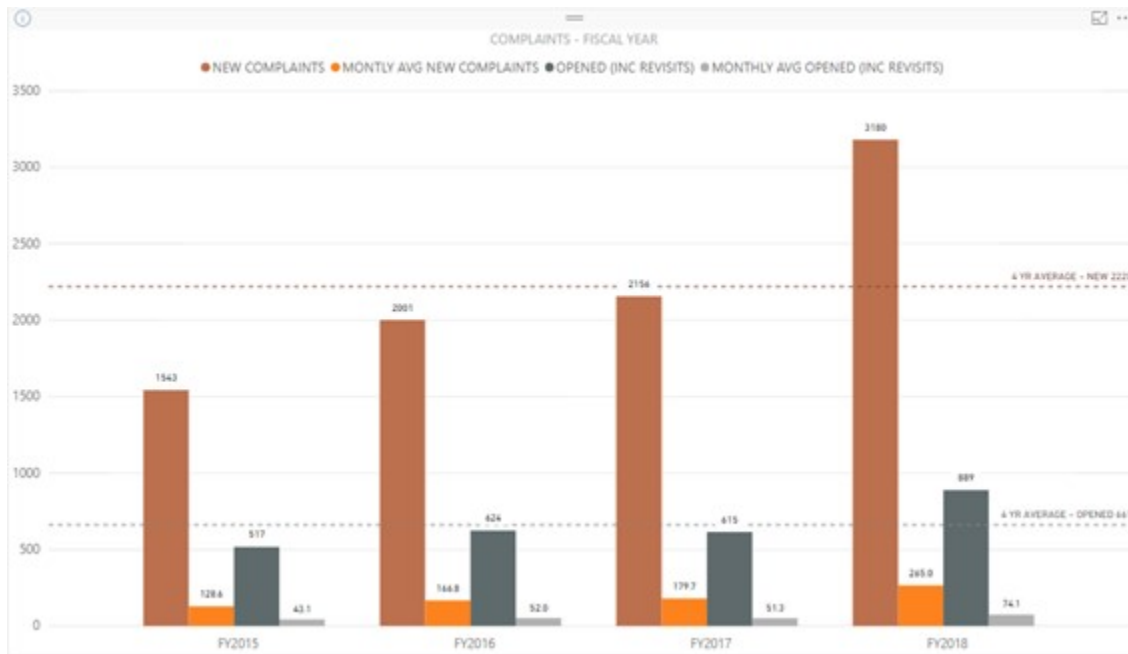
Operating Expenditures	FY 2020	FY 2021	FY 2022	FY 2023
Fund 02G - 1	\$1,605	\$1,605	\$1,605	\$1,605
<b>Total Expenditures</b>	<b>\$1,605</b>	<b>\$1,605</b>	<b>\$1,605</b>	<b>\$1,605</b>
<b>Biennial Totals</b>		<b>\$3,210</b>		<b>\$3,210</b>
Staffing	FY 2020	FY 2021	FY 2022	FY 2023
FTEs	8.9	8.9	8.9	8.9
<b>Average Annual</b>		<b>8.9</b>		<b>8.9</b>
Object of Expenditure	FY 2020	FY 2021	FY 2022	FY 2023
Obj. A	\$834	\$834	\$834	\$834
Obj. B	\$264	\$264	\$264	\$264
Obj. E	\$443	\$443	\$443	\$443
Obj. T	\$64	\$64	\$64	\$64

Revenue	FY 2020	FY 2021	FY 2022	FY 2023
02G - 0258	\$1,605	\$1,605	\$1,605	\$1,605
<b>Total</b>	<b>\$1,605</b>	<b>\$1,605</b>	<b>\$1,605</b>	<b>\$1,605</b>
<b>Biennial Totals</b>		<b>\$3,210</b>		<b>\$3,210</b>

### Package Description

The NCQAC regulates over 122,000 licensed nurses in Washington State. RCW 43.70.250 requires nurse license fees to fully support the regulation of the profession. The number of licensed nurses increased from 105,646 in Fiscal Year (FY) 15 to 122,932 to start FY19, an increase of 16.3%. Although the number of licensees continues to increase, there has been an even greater increase in the number of complaints over the past four years. For several years, the number of annual complaints remained consistent at approximately 1,500 – 1,600. In the past four years, the number of complaints has more than doubled from 1,543 in FY15 to 3,180 in FY18. The most substantial increase occurred over the past fiscal year. The NCQAC received 2,156 complaints in FY17 compared to 3,180 in FY18, an increase of 47%.





On July 1, 2017, the NCQAC implemented a fee increase related to increased expenses. The process to increase fees took almost two years. While the NCQAC confirmed the increase in nursing population, the increase in complaints far exceeded the population growth. It is now the opportune time to request this additional authority as the NCQAC has ample revenues to support this request now and well into future years. RCW 43.70.320(5) allows the NCQAC to request the Secretary of the Department of Health (DOH) to seek out additional spending authority to meet unanticipated costs of that commission when revenues exceed more than fifteen percent over the estimated spending projections for the NCQAC. The purpose of this package is to attain the additional spending authority for the NCQAC to support the unprecedented increase in complaints this past year without the need to increase fees.

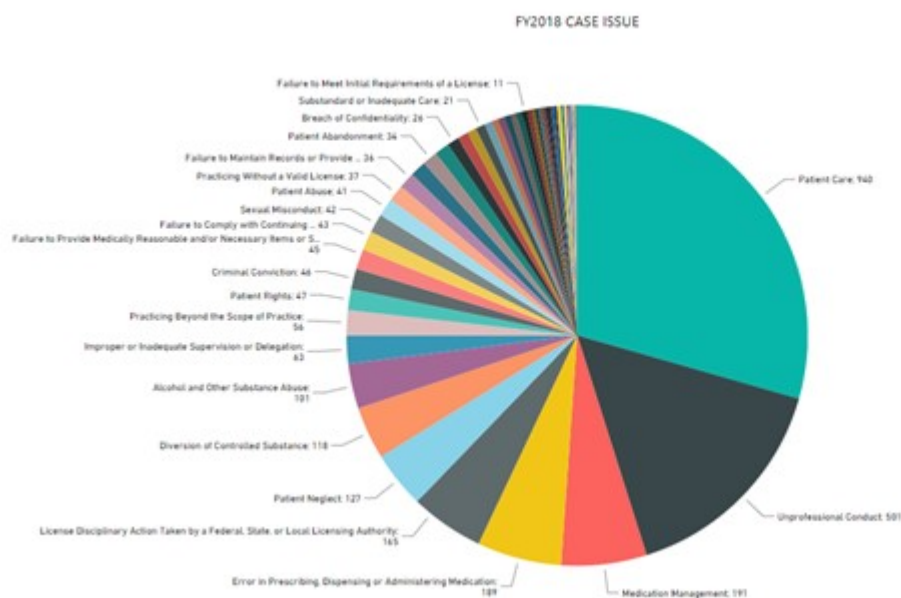
In 2008 HB 1103 created a five-year pilot project for the NCQAC and the Medical Quality Assurance Commission (MQAC). It granted the two Commission additional authority over their budget and spending. The NCQAC, MQAC, and Health Systems Quality Assurance (HSQA) created performance measures to evaluate changes in performance during the project. The positive outcomes made by the NCQAC demonstrated success. In 2013 the legislature passed and governor signed HB 1518 into law, making the project and authority permanent.

Since the initiation of the pilot project, the NCQAC implemented changes in regulation of their licensees by continually improving their disciplinary processes, applying LEAN concepts and new, innovative ways of doing business. In November 2014, a portion of the staff that had been part of the division centralized legal unit moved to the NCQAC. This change allowed for better coordination of disciplinary work among investigators, legal staff, and NCQAC members.

In 2008, the legislature approved a decision package increasing the NCQAC staff dedicated to discipline of

nurses. Due to overall state hiring freezes, delays in hiring into those positions occurred. In the 11-13 biennium, another decision package was approved to help offset the continued increase in complaints from FY08 to FY10, and to assist in the backlog of cases occurring during the hiring freeze. That package was well received and approved. This decision package for the 19-21 biennium is the first that the NCQAC has requested since that time, recognizing the continued increase in licensees, complaints, and disciplinary work to protect the public.

The NCQAC uses a formal, legal process in its disciplinary actions. The NCQAC receives and assesses complaints to determine necessity to investigate. The chart below captures the types of complaints received in FY18.

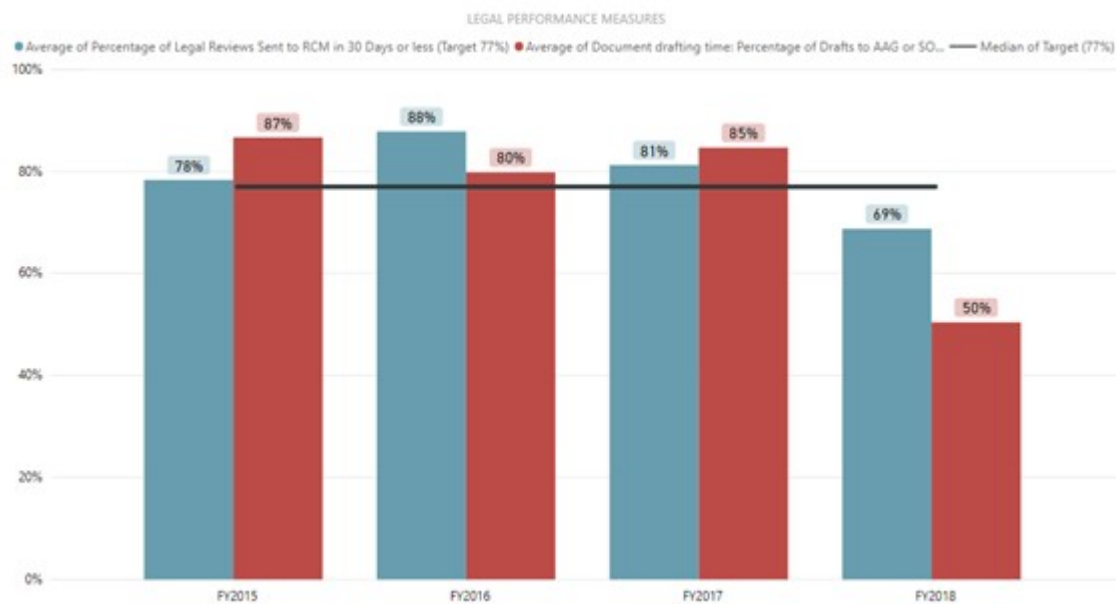
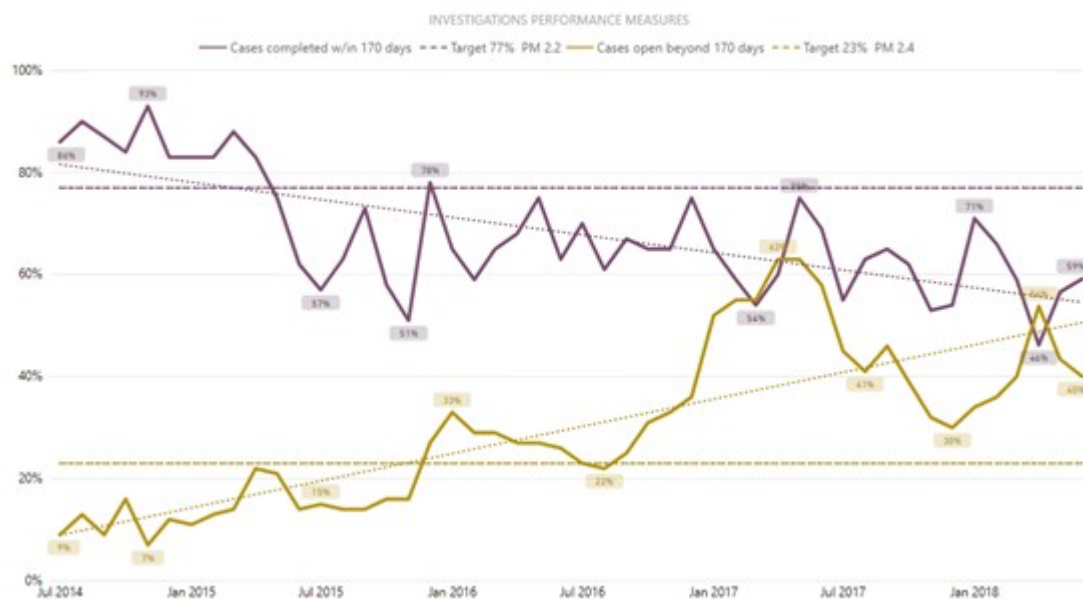


The most egregious cases from July 1, 2014 through June 30, 2018 include:

1. Permanent revocation – convicted of attempted murder in the second degree
2. Permanent revocation – sexual contact for two years with a four-year-old child
3. Permanent revocation – related to manslaughter conviction
4. Permanent revocation – smothering grandmother with a pillow
5. Permanent revocation – diverting drugs to use on his own children and stepchildren to produce internet child pornography
6. Permanent revocation – nurse diverted drugs to use in double suicide attempt of self and child, nurse lived and child died

Actions require collection of evidence by investigators to support discipline actions on the license to practice

nursing. Investigations drive resource demands for the disciplinary process. As investigations are completed, they proceed to a NCQAC member. The NCQAC member presents recommendations to a group of NCQAC members based on the evidence. The group decides to take legal action on the license or close the case. If the group recommends legal action on the license, staff attorneys draft charges. Staff attorneys present draft charges and evidence to the Assistant Attorney General for prosecution. The charges could lead to settlement of the case or a request for a hearing. Disciplinary actions range from probation to permanent revocation of a license. The sudden and sustained increase in the number of complaints requires additional staff and commission member time. There is a growing backlog of cases. The NCQAC needs additional staff to meet legally mandated timelines and customer expectations for resolution of cases. Although the NCQAC has, and continues to look for continued process improvements, it cannot manage the unprecedented increase in complaints.



The growing inability to investigate and take legal actions on cases in a timely manner does not protect the public. The public expects nurses act within safety standards or disciplined by the NCQAC. If the allegations of unsafe conduct are true and the nurse continues to practice, the nurse may repeat the unsafe actions with multiple patients. While the employer may terminate the nurse for unsafe actions, the nurse may move on to multiple employers increasing the risk to patients. Substantiated actions on licenses prevent the nurses from patient contact and interrupts cycles of harm.

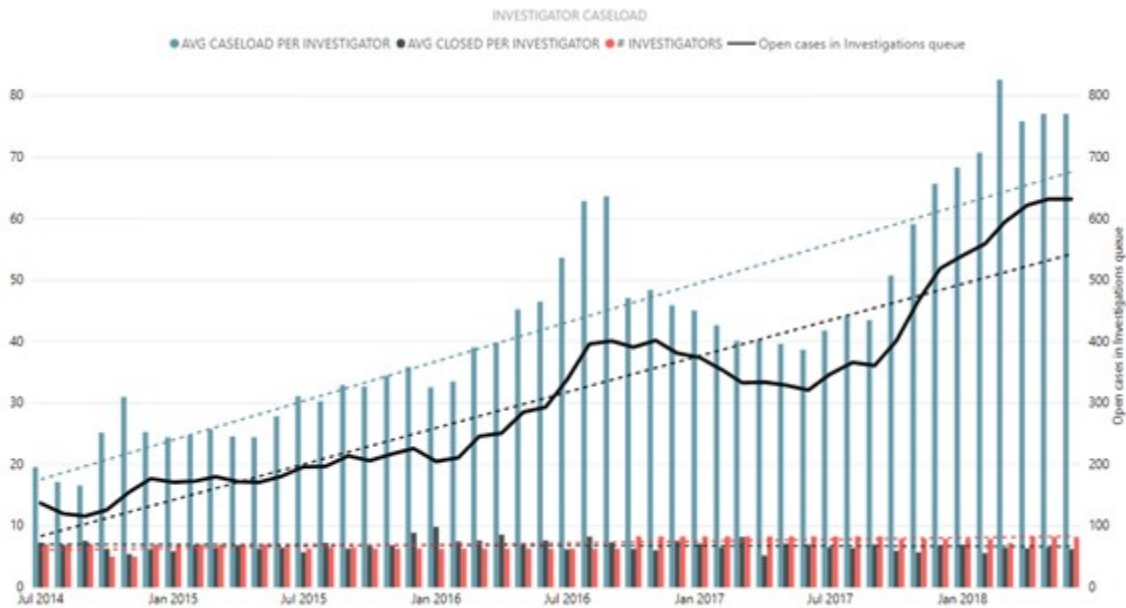
Increased calls further the delay in disciplinary work. Due to delayed investigations and legal actions, phone calls from media, the nurse, the complainant and family members, interested parties, and health care facilities increase. Answering calls takes time creating further delays. This also creates increased dissatisfaction from employers, nurses, and employees the longer the investigation remains open. Employers and the public lose confidence in the NCQAC the longer it takes to complete actions on licenses. Nurses under investigation are dissatisfied due to the length of time between complaint and action. Having an investigation open and unresolved may unnecessarily affect their employment and livelihood if the complaint does not meet the criteria for disciplinary action after the investigation is completed.

The NCQAC redirected resources from other areas due to vacancies to assist in the disciplinary process, but it is not a long-term solution. The NCQAC continues to provide nurse education on safe practice. The NCQAC is developing a jurisprudence module to assist nurses in learning and understanding the nursing law to prevent possible disciplinary action.

Continued process improvements are currently being implemented that include assigning a staff attorney and a reviewing commission member sooner in the process to determine if a complaint is found to be actionable rather than later in the investigation. This saves investigation time and resources and will result in quicker closure of cases that do not require disciplinary action.

The NCQAC is conducting a review of their disciplinary thresholds for the types of complaints requiring investigation. Staff attorneys continue to work toward settling cases prior to hearings, as settlements are often more successful in protecting the public, less costly and more timely than hearings.

Even with the options listed above, it will be impossible to address the current backlog and ongoing increase in complaints without additional spending authority to obtain the required level of staffing needed to meet timelines and protect the public.



## Assumptions and Calculations

### Expansion or alteration of a current program or service:

NCQAC	Object	15-17	17-19
Salaries	A	\$7,351,278	\$8,456,677
Benefits	B	\$2,406,362	\$2,770,503
Contracts	C	\$126,332	\$126,503
Goods/Supplies	E	\$2,095,576	\$1,647,626
Travel	G	\$329,762	\$402,250
Equipment	J	\$105,775	\$52,526
Inter-Agency/Fund Transfer	M	\$9,096	\$0
Goods/Services	T	\$2,491,716	\$3,196,822
Indirect		\$3,731,415	\$4,202,322
<b>Totals</b>		<b>\$18,647,312</b>	<b>\$20,855,229</b>

### Detailed assumptions and calculations:

The 2007 performance audit of the DOH Health Systems Quality Assurance program recognized the need for adequate staffing for health professions. A study completed in September 2007 by Sterling Associates LLP, developed a disciplinary workload staffing formula. Ongoing use of the formula to determine staff levels resulted in the elimination of the case backlog and provided accurate, predictable staff growth rates based on workload indicators. The Joint Legislative Audit and Review committee approved the staffing model in December 2009. The DOH continues to use the model to determine adequate disciplinary staffing levels based on complaints received.

To address the increase in workload from FY15 to FY17, the NCQAC implemented a fee increase in FY18, various process improvements, and reassignment of staff. However, data analysis indicated additional measures are necessary due to the dramatic increase in complaints from FY17 to FY18. For the purposes of this decision package, the disciplinary workload model used the increase of 1,024 complaints over the past year only.

The disciplinary process involves a variety of administrative, investigative, legal, adjudicative staff, as well as commission member and attorney general time. The additional resources required to address the increased workload starting in FY20 include staffing and associated expenses, pro tem commission member time and attorney general costs. RCW 18.79.110 (7) allows the NCQAC to request pro tem members when workload exceeds commission member capacity.

RCW 43.70.250 requires each health care profession to be fully self-supporting. Sufficient revenues in the NCQAC account currently exist to support this package without a need for a fee increase. This request is ongoing to address the continued increase in complaints and growth of the nursing population. The NCQAC anticipates these additional resources will reduce the backlog and address the increasing complaint volume.

**Workforce Assumptions:**

See attached Fiscal Note Calculator (FNCaI)

## Strategic and Performance Outcomes

**Strategic framework:**

Results Washington

This work supports Goal 4: Healthy & Safe Communities by providing access to good health care to improve people's lives by assuring only safe, competent nurses are practicing.

This work supports Goal 5: Efficient, Effective and Accountable Government by increasing customer service by meeting timelines in the disciplinary process. It also supports making DOH an employee of choice through Goal 5.1.a: by increasing the number of employees that are satisfied with their job, and 5.1.d: that employees believe we are increasing customer value by adding the necessary resources for them to do their jobs within the performance measures established.

Agency Strategic Plan

This package supports Goal 1: Resolve healthcare provider and facility complaints and allegations of misconduct or unsafe care. Promptly and consistently respond to and resolve allegations of misconduct



or unsafe care.

This package supports Goal 3: Ensure health equity and improve population health by assuring the quality of our health providers. People in Washington enjoy longer and healthier lives because they have access to safe, quality health care by the NCQAC assuring patient safety through regulation and education.

A015 Patient and Consumer Safety

	FY20	FY21	FY22	FY23
Fund 02G	\$1,605,000	\$1,605,000	\$1,605,000	\$1,605,000

**Performance outcomes:**

Appropriate staffing for the increased disciplinary workload helps protect the citizens of Washington from unsafe nurses. Additional staff and changes in processes will allow the NCQAC to process disciplinary cases within timelines. WAC 246-14-050 requires investigations completed within 170 days. Performance measure 2.2 demonstrates the NCQAC’s inability to meet this mandated timeline for the past three years. The trend line shows a steep decline of cases completed within timelines from 83% in FY14 to 55% in FY18. Once investigation completed, the case proceeds to the legal unit. The legal unit measures their performance in the number of documents drafted and forwarded to the state attorney general office. The legal performance measure is 77% for drafts served within 30 days. The legal unit met or exceeded their performance measures until FY18, when performance fell by over 30%.

The NCQAC anticipates a number of benefits by FY23 with the increased spending authority:

1. reduction of case backlog,
2. exceed targeted performance measures,
3. reasonable caseloads for investigators and staff attorneys,
4. improved customer satisfaction,
5. improved employee satisfaction, and
6. **increased public protection.**

**Other Collateral Connections**

**Intergovernmental:**

Nursing impacts all levels of government, including tribal government. Nursing homes on tribal lands employ nurses who must be well qualified and safe to provide patient care. Nurses also provide the

stable family income impacting students in our schools, family and loved ones, and people of the state of Washington.

**Stakeholder response:**

Nursing organizations support a fair, just, evidence based disciplinary process to regulate the profession. This package requests additional spending authority without raising fees. The NCQAC anticipates no opposition.

**Legal or administrative mandates:**

Not applicable

**Changes from current law:**

Not applicable

**State workforce impacts:**

Not applicable

**State facilities impacts:**

Not applicable

**Puget Sound recovery:**

Not applicable

## Agency Questions

**Did you include cost models and backup assumptions?**

See attached fiscal note calculator (FNCal)

## Reference Documents

- 3D-FNCal 20.1 19-21 NCQAC DP 1024 Complaints-FINAL.xlsm

## IT Addendum

**Does this Decision Package include funding for any IT-related costs, including hardware, software, (including cloud-based services), contracts or IT staff?**

No