



Preliminary Report

Regulation of Ambulatory Surgical Facilities

Legislative Auditor Conclusion:

DOH has not met its goal for how frequently it performs state licensing surveys of ASFs. It is unclear how this affects patient safety.

DOH should determine a survey frequency goal based on patient safety risks and ensure license fees are aligned with that goal.

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JLARC reviewed DOH's Ambulatory Surgical Facility regulatory program.

Study mandate in 2019-21 operating budget

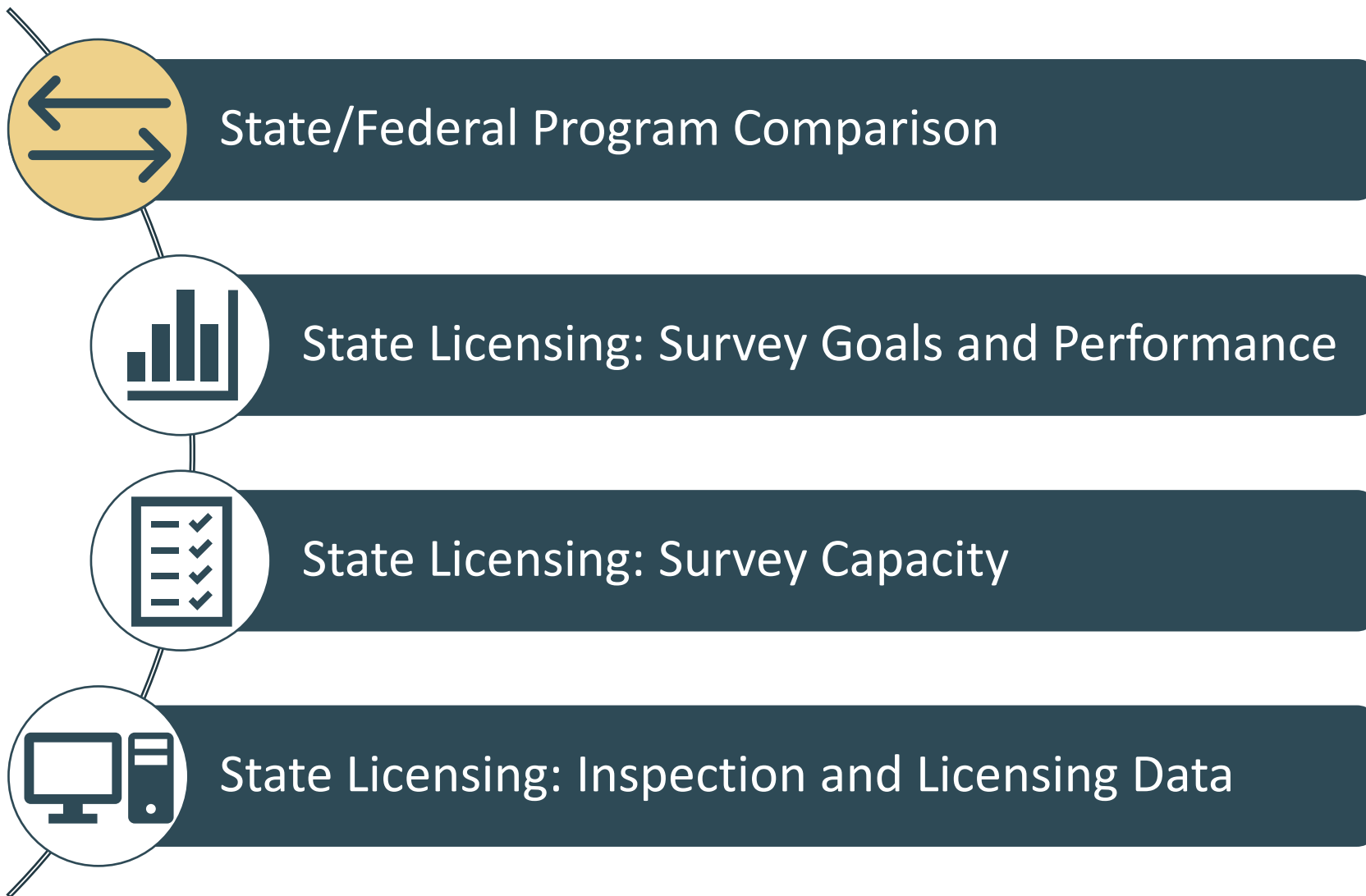
State vs. Federal

Compare survey (inspection) requirements, process, and program costs

State licensing program

Licensing
fees
\$\$\$

Costs, staffing,
capacity

Ambulatory Surgical Facilities

In 2007, the Legislature required DOH to establish a licensing and inspection program for ambulatory surgical facilities (ASFs) in WA.

ASFs defined as medical facilities whose primary purpose is to provide outpatient surgical services.

Surgical specialties include:

- orthopedics
- plastic surgery
- endoscopy
- eye surgery

DOH administers two survey programs for ambulatory surgery.

State licensing		Federal certification
Required for ASFs to operate in WA	Purpose	Required to bill Medicare/Medicaid
DOH	Health & safety standards	Centers for Medicare and Medicaid Services (CMS)
Per statute, licensing fee supported ASFs pay fees to DOH every 3 years	Program funding	Federal grant to DOH

Accreditation by an approved accrediting organization (AO).

- Optional, fees paid to AO.
- Survey by AO to determine if its standards are met.
- Reduced ASF state license fee/survey frequency.

State and federal surveys are similar in scope and process

Regulations

Similar regulatory areas such as infection control and patient rights.

Inspectors

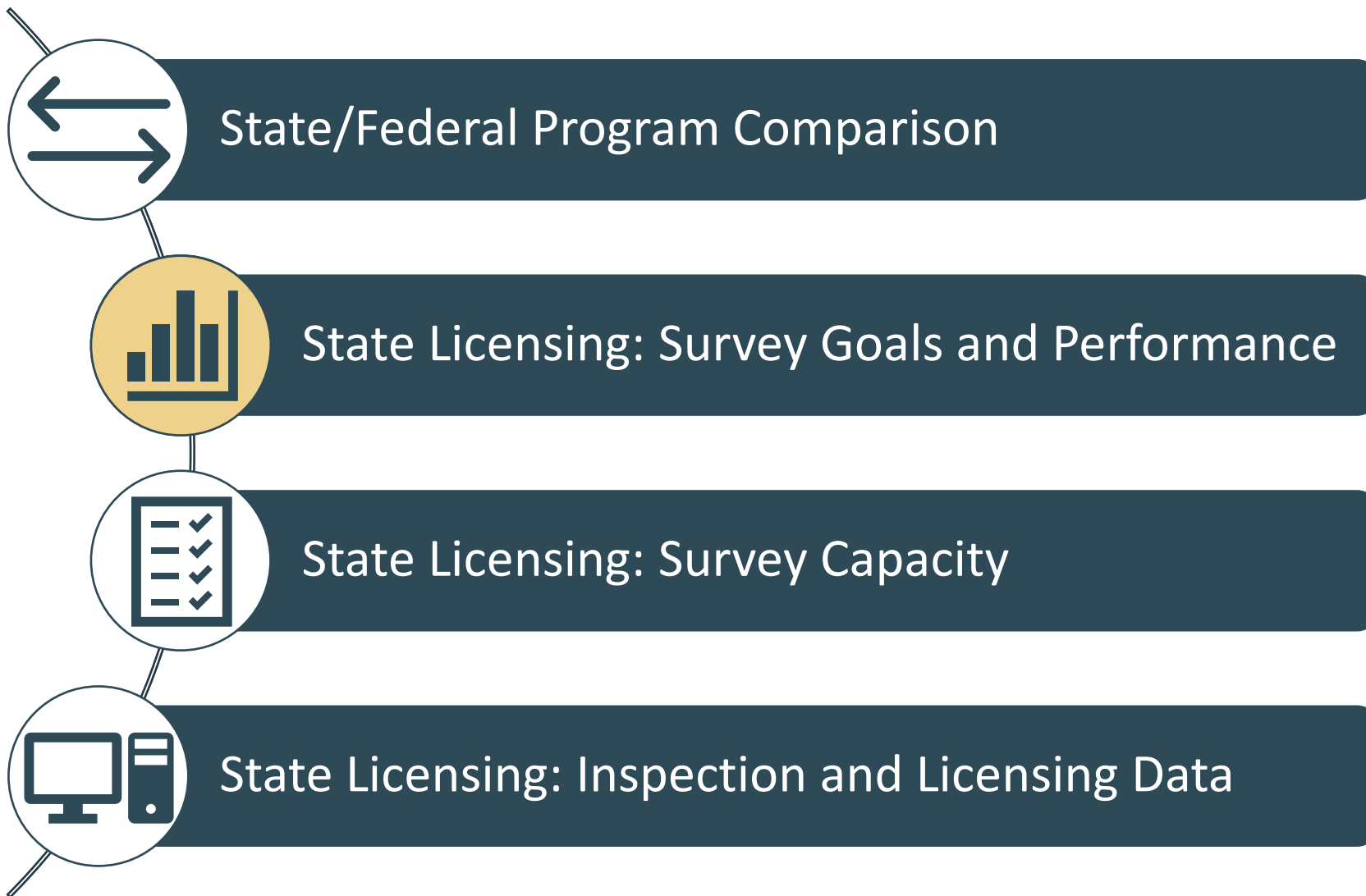
Same position title and professional qualifications.

Survey process

- On-site inspection.
- Observing patient treatment: admission through discharge.
- Statement of deficiencies, plan of correction.

Hours per survey

State surveys are shorter in length than federal surveys.
Federal surveys in Washington are similar in length to other states.



DOH survey frequency goal not based on link between frequency and patient safety

Statute permits DOH to survey an ASF *no more than*:

- Once every 18 months if the ASF is state licensed only.
- Once every 36 months if it is also federally certified or accredited.

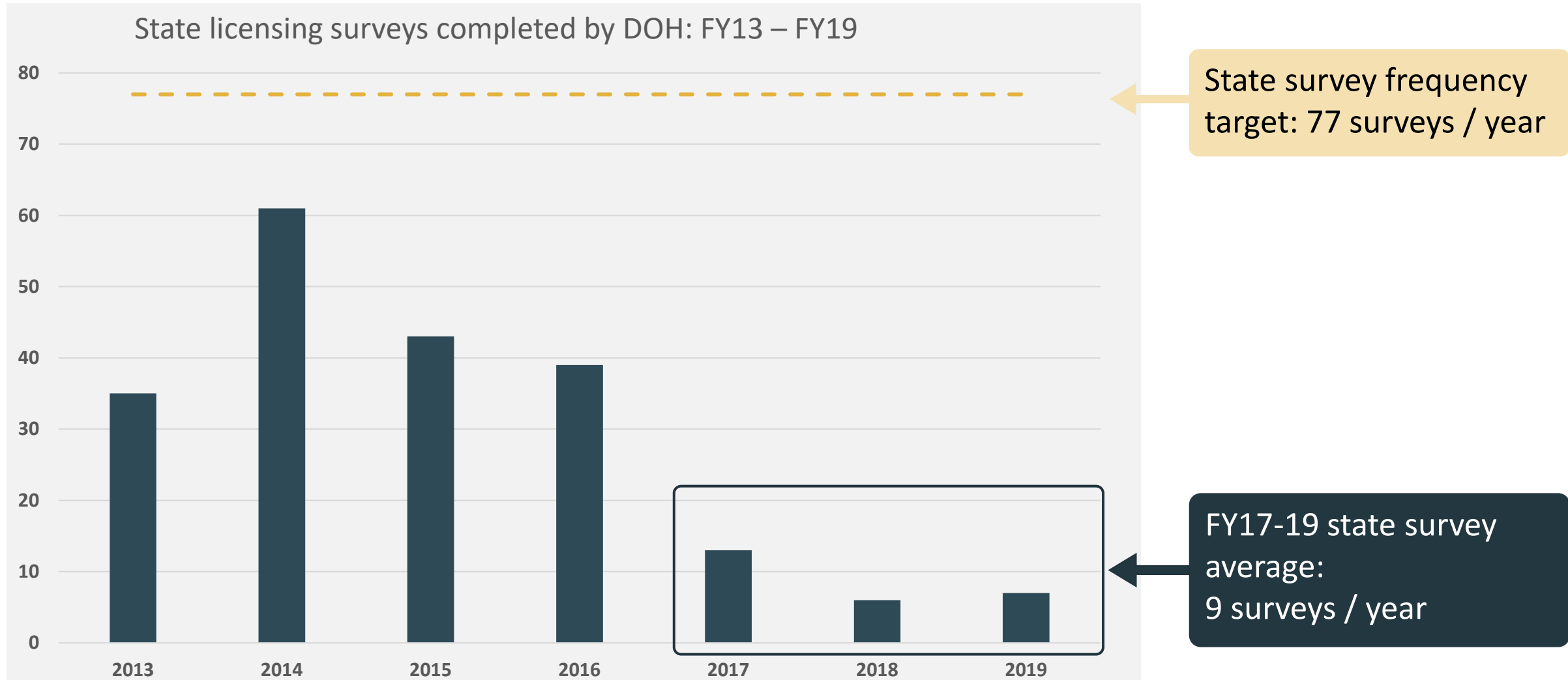
DOH's goal is to survey as often as allowed by law.

To meet this goal for the **186 state-licensed ASFs**, DOH would need to perform approximately **77 state licensing surveys per year**.

- Goal is based on past statutory requirements, which is similar to that of acute care hospitals.

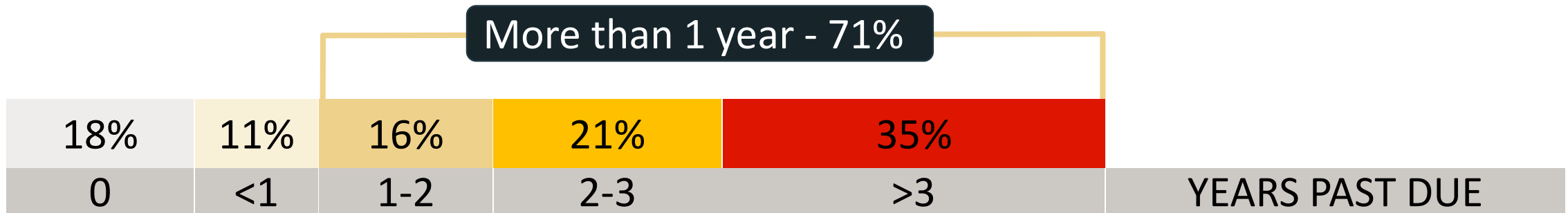
DOH has not demonstrated that this goal is optimal for protecting patient safety.

DOH has not met its state licensing survey goal



71 percent of ASFs are more than a year past due for a routine state licensing survey

Measured against its survey frequency goal, DOH has developed a backlog in inspecting the 186 state-licensed ASFs.



Unclear whether not meeting the survey goal affects patient safety.

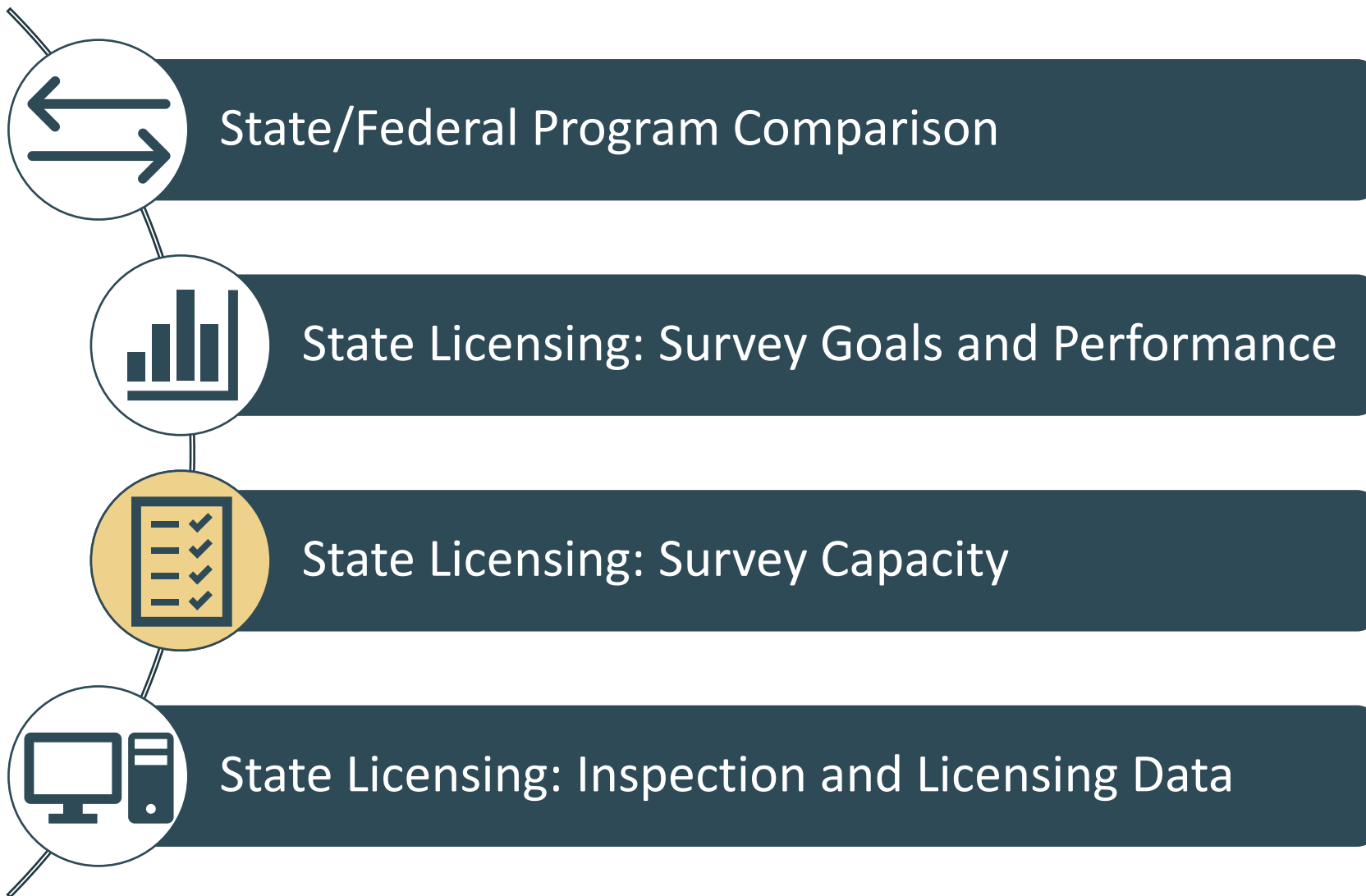
Of 186 ASFs, 170 are also subject to **federal certification** or **accreditation surveys**:

- DOH has historically met federal performance targets for certification surveys.
- Accreditation organizations typically survey once every three years.

Legislative Auditor Recommendation #1

DOH should:

- Identify how the frequency of licensing surveys is related to risks to patient safety.
- Determine a survey frequency goal based on those risks.





DOH raised fees in 2019 to increase survey capacity.

Fees are paid every three years, determined by surgery volume and federal certification or accreditation status:

- Surgery volume.
- Certification/accreditation.

Fee increases ranged from 170% to 263%.

- Fees before 2019: → **\$3,630 - \$10,068**
- Current fees: → **\$12,900 - \$27,200**

DOH 2019 fee assumptions not based on prior performance.

2019 fee setting assumptions

- 40 hour surveys
- 36 surveys / FTE / year
 - 2.1 FTE

FY13-19 average

- 48.9 hour surveys
- 24 surveys / FTE / year

2.1 FTE

75-80 surveys / year

~50 surveys / year

DOH unlikely
to meet
survey goal
with 2.1 FTE

DOH plans to increase staffing again in 2020 to meet its survey goal.

- 3 inspector FTE, 0.9 more than the 2.1 assumed when setting fees in 2019.
- DOH could meet its survey frequency goal.
- Additional staff costs mean estimated program costs exceed projected license fee revenue.

DOH risks:

- Not complying with the statutory requirement to set fees at a level that covers program costs.
- Violating its policy to maintain a reserve fund balance equal to 3 months of operating expenses.

DOH risks a revenue shortfall and a negative reserve fund balance unless it:

 **Reduces**



Survey frequency



Length of surveys

 **Increases**

 License fees

(DOH may not increase license fees before July 2021)

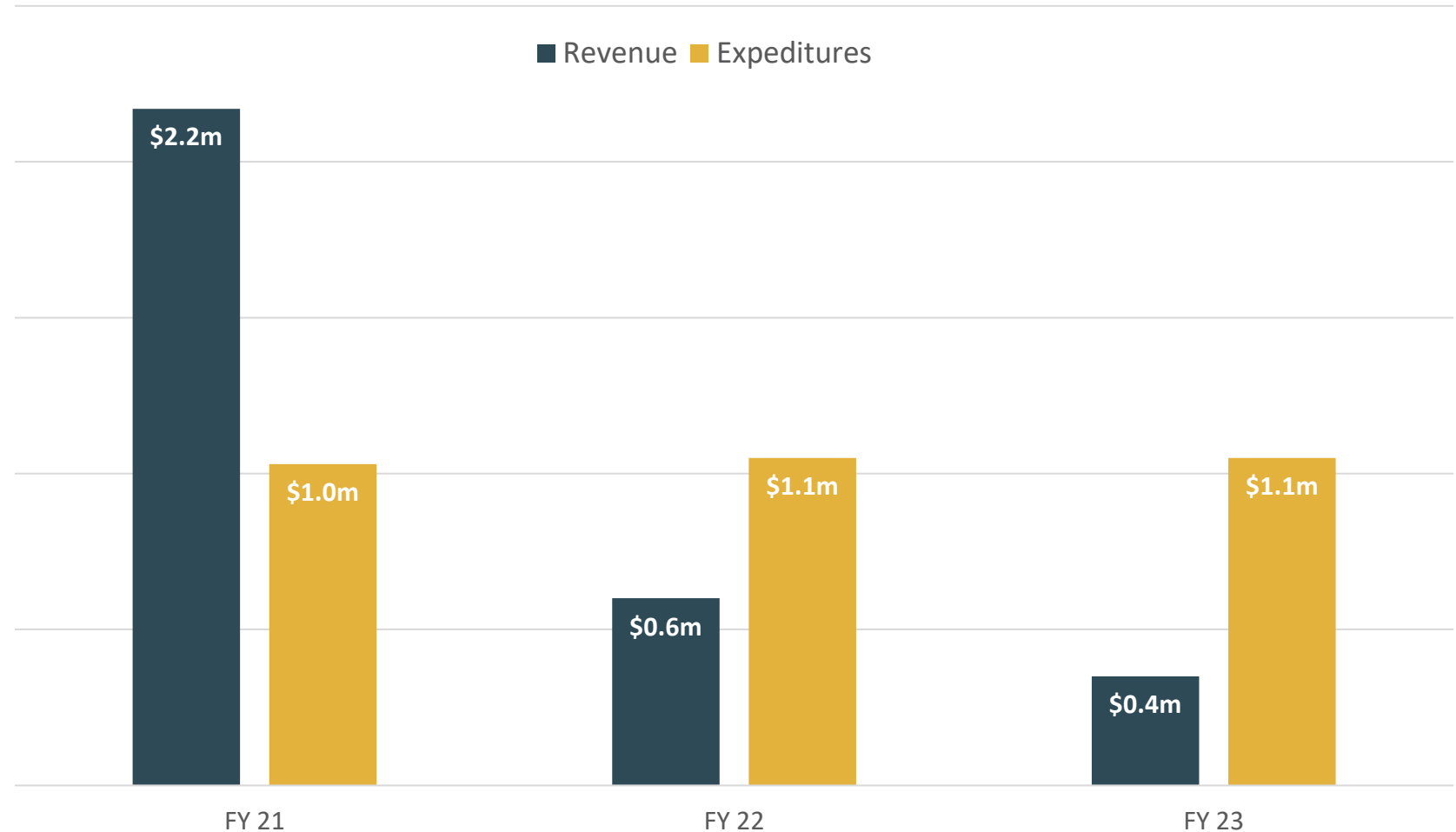
Legislative Auditor Recommendation #2

DOH should follow its cost recovery policy and best practices by maintaining its reserve fund balance.

Collecting fees annually may help stabilize revenue

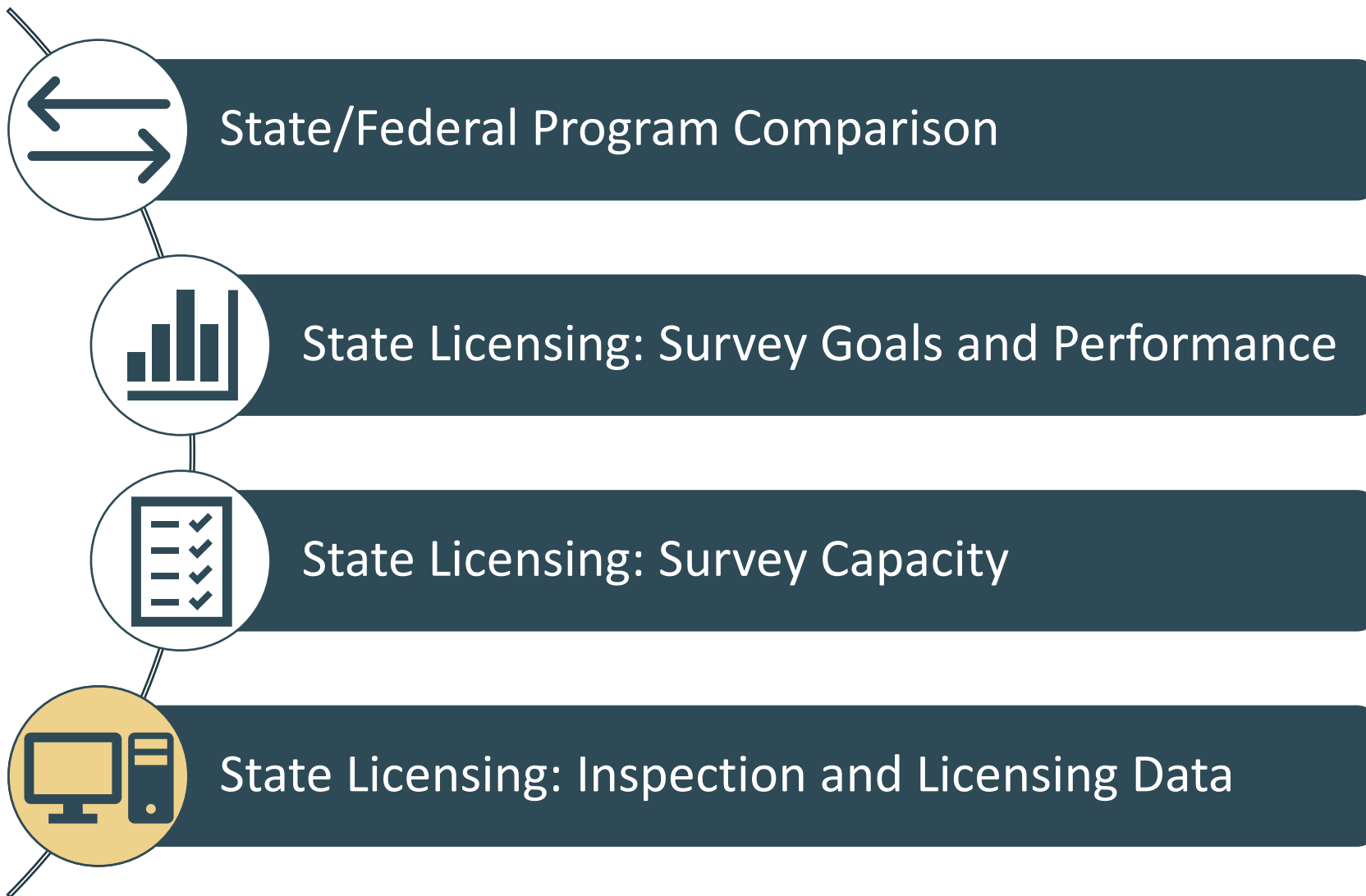
ASF fees paid on 3-year cycle:

- Bulk of revenue paid in one year.
- Complicates calculating reserve fund balance.
- Three years to fully realize fee changes.

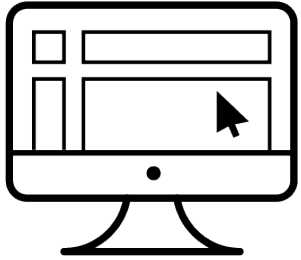


Legislative Auditor Recommendation #3

The Legislature should amend statute to permit DOH to collect ASF license fees annually.



Improving data quality could help DOH prioritize ASFs most overdue for state licensing surveys.



Review of licensing and regulatory system data identified missing and inaccurate survey records.

DOH relies on these records to prioritize facility surveys.

Legislative Auditor Recommendation #4

DOH should improve the procedures and data systems it uses to collect state licensing and survey data.

Legislative Auditor's Conclusion

- DOH has not met its goal for how frequently it performs state licensing surveys of ASFs. It is unclear how this affects patient safety.
- DOH should determine a survey frequency goal based on patient safety risks and ensure license fees are aligned with that goal.

| Legislative Auditor's Recommendations

- 1 DOH should **identify how the frequency of licensing surveys is related to risks to patient safety and determine a survey frequency goal** based on those risks.
- 2 DOH should follow its cost recovery policy and best practices to **maintain a reserve fund balance**.
- 3 The Legislature should amend statute to permit DOH to **collect ASF license fees annually**.
- 4 DOH should **improve the procedures and data systems** it uses to collect state licensing and survey data.



Next Steps

Proposed Final Report | January 2021



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