

## ***Executive Director’s Report for April 11, 2023***

### ADMINISTRATIVE

#### *2021-2023 Biennium Budget (July 1, 2021 through June 30, 2023)*

#### *Budget Summary through January 2023*

Revenue	Biennium to Date	2021-23 Total Biennial Budget	% Received
All Sources (including cash reserves & reimbursements)	3,267,499.79	3,084,843	106%
Expenditures	Biennium to Date	2021-23 Total Biennial Budget	% Spent
Personal Services	1,330,969.83	1,669,630	80%
Services and Supplies	800,434.24	1,245,664	64%
<b>Total Expenditures</b>	<b>2,131,394.07</b>	<b>2,915,294</b>	<b>73%</b>

*Licensing fee revenue is received once a year – even-numbered years for individual licensees & odd-numbered years for facility licensees – which results in a significant revenue increase at the end of each calendar year and is the main reason why our agency must maintain a higher than average ending balance at the end of each fiscal year and each biennium (typically the equivalent of 8-10 months). Our agency also self-insures against unknown expenses such as costs associated with administrative hearings. It is important to note that there is a difference between the agency’s approved limitation (authorization to spend) and its cash reserve. If our agency anticipates exceeding the approved limitation total for any expense category, we must request additional limitation authority from the Oregon Legislature via an Emergency Board (Ways & Means) proceeding, even if we have a sufficient cash reserve to cover expenses.*

#### ***Agency’s Biennial Budget Revenue***

The agency’s biennial budget revenue consists of a beginning cash balance of **\$1,246,258** (cash reserves carried over from the previous biennium), the total amount collected for death filing fees – which supports both the agency’s programs and the Indigent Disposition Program (IDP) Fund – licensing fees/renewals and estimates for miscellaneous revenue such as civil penalty payments and interest.

Based upon the previous \$6 allocation until December 31, 2021 and the \$16 allocation for January 1, 2022 and beyond, the death filing fee is projected to collect approximately **\$1,092,106** in total revenue for the 21-23 biennium. The actual amount received will depend upon the number of actual deaths registered and billed within the biennium. The revenue projection is based upon the population data provided by the [State Economist’s Office](#), which is an anticipated 80,836 deaths within the biennium.

## LICENSING

### *Licensing Transactions Executed Pursuant to Delegated Authority*

1. **Permanently Lapsed Individual Licenses:** None
2. **Permanently Lapsed Facility Licenses:** None
3. **Individual or Facility Licenses Suspended:** None
4. **Licenses Revoked:** None

**AD:** Alternative Disposition Facility; **AE:** Apprentice Embalmer; **AF:** Apprentice FSP; **CE:** Cemetery; **CM:** City owned Cemetery; **CO:** Combination Embalmer and FSP; **CR:** Crematory; **CS:** Special Tax District owned Cemetery; **CY:** County owned Cemetery; **DC:** Death Care Consultant; **EM:** Embalmer; **FE:** Funeral Establishment; **FS:** Funeral Service Practitioner; **IP:** Intern Permit; **PN:** Preneed Salesperson; **RR:** Removal Registration.

### *Licensing Statistics*

License Type	Jan. 4, 2023	April 5, 2023	Change from Jan. to Apr.	Trend
Death Care Consultants	0	0	0	-
EM Apprentices	85	54	31	▼
FSP Apprentices	122	84	38	▼
Interns	12	6	6	▼
Embalmer Only	11	12	1	▲
FSP Only	178	185	7	▲
Combination FSP/ Embalmer	370	371	1	▲
Military Combination FSP/ Embalmer	0	0	0	-



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Preneed Salespeople	129	142	13	▲
Funeral Establishments	194	196	2	▲
Immediate Disposition Companies	7	7	0	-
Crematoriums	69	69	0	-
Cemeteries, Operating	303	303	0	-
Cemeteries, Operating, Municipal	36	36	0	-
Cemeteries, Operating, County	7	7	0	-
Cemeteries, Operating, Special District	125	129	4	▲
Cemeteries, Registered Non-Operating	49	49	0	-
Removal Registrations	35	36	1	▲
Alternative Disposition Facilities	3	3	0	-
<b>Combined Total of all Licenses/Registrations</b>	<b>1,735</b>	<b>1689</b>	<b>46</b>	<b>▼</b>

## License Examinations

Funeral Service Practitioner exams were administered on January 25, February 15, and March 15, 2023, at the Portland State Office Building. There is currently not a date scheduled for the next exams.

Funeral Service Practitioner Law Exam					
Exam Date	Pass Rate			Score Range	
	Passed	Failed	Pass Percentage	Highest Score	Lowest Score
March 15, 2023	10	1	91%	93%	72%
February 15, 2023	1	1	50%	90%	72%
January 25, 2023	0	1	0%	58%	58%



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December 14, 2022	5	0	100%	92%	77%
November 16, 2022	1	0	100%	85%	85%
September 28, 2022	1	0	100%	82%	82%
September 1, 2022	2	1	66%	80%	73.3%
July 28, 2022	9	1	90%	91.6%	60%
April 21, 2022	4	0	100%	92%	77%
January 28, 2022	3	0	100%	87%	77%
October 27, 2021	7	1	87.5%	97%	68%
July 22, 2021	11	0	100%	93%	78%
March 16, 2021	12	1	92.3	98%	73%
December 1, 2020	3	0	100%	87%	82%
August 25, 2020	5	0	100%	97%	78%
June 23, 2020	8	1	88.8%	96%	70%
April 7, 2020	3	0	100%	93.3%	76.6%
March 23, 2020	6	0	100%	96.6%	80%
December 30, 2019	2	0	100%	90%	80%
December 20, 2019	2	0	100%	98.3%	95%
November 25, 2019	5	0	100%	98.3%	76.6%

Death Care Consultant Law Exam					
Exam Date	Pass Rate			Score Range	
	Passed	Failed	Pass Percentage	Highest Score	Lowest Score
November 16, 2022	0	1	0%	65%	65%
September 1, 2022	0	1	0%	60%	60%
April 21, 2022	0	1	0%	68%	68%
March 16, 2021	0	1	0%	66%	66%
December 1, 2020	0	1	0%	56%	56%
July 11, 2019	0	1	0%	68%	68%
June 18, 2019	0	1	0%	65%	65%
September 25, 2015	0	1	0%	60%	60%
September 15, 2014	0	2	0%	67%	57%
October 18, 2013	0	1	0%	53%	53%
January 25, 2013	0	1	0%	63%	63%
July 23, 2012	0	2	0%	54.5%	52%
*October 20, 2010	1	0	100%	76%	76%

\*First Death Care Consultant Exam offered.

## COMPLIANCE

### Overview of Inspections Completed During FY 2021-2022

OMCB's Compliance Division has again maintained the pace and quality of our inspections throughout the current reporting quarter to once again meet the goal of our agency's Key Performance Measure #1: *Percent of licensed facilities inspected not less than once per biennium.*

Our agency has reached 102% of the annual target at the close of the fourth quarter of FY 2021-2022. We have

continued this pace into Q1 and Q2 of FY 2022-2023. Compliance is on target to achieve 100% for the biennium – which would be the first time in the modern era!

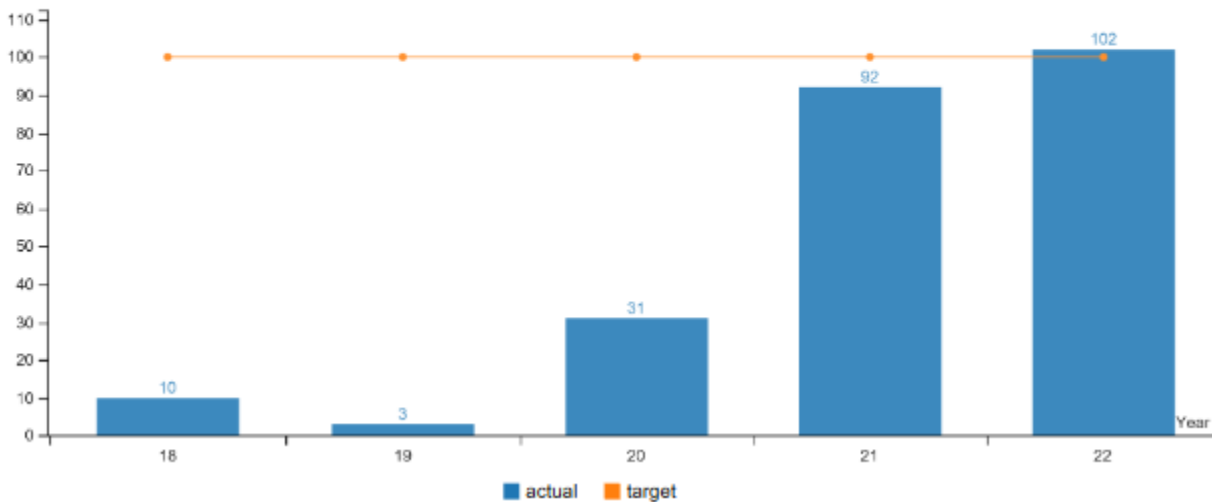
Our Inspectors returned to in-person, on-site inspections in June 2022. They have expanded these throughout the current quarter and continue to rely on virtual inspections when appropriate – mostly to support licensing actions.

Our Inspectors are well-trained and experienced with the inspection process. They continue to meet or exceed their quarterly targets. We have streamlined our initial and follow-up communications with facilities, developed a long-term scheduling plan, and anticipate that our agency will continue to meet the inspection goals for FY 2022-2023.

### Inspection Key Performance Measure

<b>KPM #1</b>	Facility Inspection - Percent of licensed facilities inspected not less than once per biennium.
	Data Collection Period: Jul 01 - Jun 30

*\* Upward Trend = positive result*



OMCB regulates 756 licensed facilities located throughout the state. Our agency’s statutory mandate is to inspect at least half of these (approximately 378) during each fiscal year. To achieve our inspection targets, each Inspector must complete approximately 16 inspections per month or 48 per quarter on average, or 96 combined. For the past two years, Inspectors have met or exceeded those averages. Inspection details by quarter are in the chart below.



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Total Inspections Completed During the Past Four Quarters				
FACILITY TYPE	April – June 2022 (Q4)	July – September 2022 (Q1)	October – December 2022 (Q2)	January – March 2023 (Q3)
Funeral Establishment	11	46	45	18
Cemetery Authority	79	34	34	73
Crematory Authority	5	14	18	4
Alternative Disposition Facility	0	1	0	0
Immediate Disposition Company	0	0	0	1
Biennial Inspections Completed per Quarter	95	95	95	96
Total Inspections Completed per Quarter	98	96	97	105
Total Biennial Inspections for FY	385 (102% complete)	95 (25% complete)	190 (50% complete)	286 (75% complete)

**Special Projects/Other Items:**

Inspectors are assisting with Licensing projects as needed. This currently includes licensing renewal support, contact and communications with licensees and facilities, etc.

**Investigations**

The following table shows the total number of cases by phase to April 2023.

Please note that in order to be consistent with case counts, related cases are counted individually. For example, a case with multiple respondents – separated by individual investigations, like 22-0000ABC – will be counted individually (A, B and C) and tracked/reported as three different cases. These cases are often investigated together and are presented simultaneously to the Board. However, they often close at different stages, so it is more practical to count them as individual cases. We have applied that count change to the numbers below and the following illustrates the status of cases from quarter to quarter.

<b>Case Status by the Numbers: January 2023 to April 2023 (YTD)</b>				
<b>Case Status</b>	<b>July 2022</b>	<b>October 2022</b>	<b>January 2023</b>	<b>April 2023 (YTD)</b>
<b>Open</b>	17	19	28	17
<b>Hold</b>	11	11	11	11
<b>Post</b>	4	5	1	3
<b>Closed</b>	11	22	17	18

**Case Phases:**

**“Open”:** All cases not yet reported to the Board and are in various stages of review or investigation – such as intake, investigation, writing investigative report, or presenting to Board.

**“Hold”:** Cases that have been presented to the Board but require some other activity or action by another entity before the Board completes deliberation on a case. This may include cases awaiting determination by another agency, or findings in civil or criminal proceedings. In some cases, it can also mean additional investigation is required for clarification before returning to the Board for review/discussion.

**“Post”:** Cases that have been presented since the last Board meeting, but there is post-meeting activity still required before closure. This includes closing out cases resulting in no action, as well as all activity relating to cases where action is being taken, through the course of any

negotiations, appeals, or related activity. This process has the potential of taking years before a case can be closed.

**“Closed”:** Cases that have been moved completely through the Post phase and have been closed out since the last board meeting. This may include closed cases requiring some form of monitoring or follow-up, such as in the case of a negotiated consent period, when there are relevant consent order terms to be monitored.

### *Case Status from the January 10, 2023 Board Meeting*

There were 30 cases presented to the Board during the January 10, 2023, Board Meeting – Fifteen of those have been closed; Twelve cases were tabled, and two will be presented during the April 2023 Board Meeting. Three cases have requested hearings.

<b>Cases Presented During Last Board Meeting (January 10, 2023)</b>			
<b>Case Number</b>	<b>Case Action/No Action</b>	<b>Current Case Status</b>	<b>Note/Comment</b>
<b>22-1020A Addendum</b>	Action: Civil Penalty	Hearing requested	
<b>22-1020B Addendum</b>	Action: Civil Penalty	Hearing requested	
<b>22-1022A</b>	No Action	Closed	
<b>22-1022B</b>	No Action	Closed	
<b>22-1025</b>	Tabled, January meeting	Open investigation	
<b>22-1026</b>	No Action	Closed	
<b>22-1027</b>	Tabled, January meeting	Open investigation	
<b>22-1028</b>	Tabled, January meeting	Open investigation	
<b>22-1029A</b>	Tabled, January meeting	Presenting at April meeting	
<b>22-1029B</b>	Tabled, January meeting	Presenting at April meeting	
<b>22-1031</b>	Tabled, January meeting	Open investigation	
<b>22-1032A</b>	Action: Civil Penalty	Hearing Requested	
<b>22-1032B</b>	Action: Civil Penalty	Closed	
<b>22-1033</b>	Action: Civil Penalty	Closed	
<b>22-1034</b>	No Action	Closed	
<b>22-1035</b>	No Action	Closed	
<b>22-1036</b>	Tabled, January meeting	Open investigation	
<b>22-1037</b>	Tabled, January meeting	Open investigation	
<b>22-1038</b>	No Action	Closed	



<b>22-1039</b>	No Action	Closed	
<b>22-1040</b>	Tabled, January meeting	Open investigation	
<b>22-1041</b>	Tabled, January meeting	Open investigation	
<b>22-1042A</b>	No Action	Closed	
<b>22-1042B</b>	No Action	Closed	
<b>22-1043</b>	Tabled, January meeting	Open investigation	
<b>22-1044</b>	Tabled, January meeting	Open investigation	
<b>22-1045A</b>	Action: Civil Penalty	Closed	
<b>22-1045B</b>	Action: Civil Penalty	Closed	
<b>22-1046</b>	No Action	Closed	
<b>23-1001</b>	No Action	Closed	

### **Case Aging**

There are currently zero cases that have gone over 180 days. Approval of the Executive Director’s Report authorizes up to an additional 60 days for case reporting to the Board under ORS 676.165 to cover any cases where aging will exceed the aging limits based on the date of the next available scheduled meeting. All aging will continue to accrue and any case reports exceeding aging limits will be reported both here as well as on legislative key performance measures.

### **Indigent Disposition Program (IDP) Fund**

#### **Historical Background**

The purpose of the Indigent Disposition Program (IDP) is to provide licensed Oregon funeral establishments with reimbursement for costs incurred while providing services for the disposition of unclaimed indigent decedents. The Indigent Disposition Program has been in existence since the Oregon State Legislature originally assigned administrative responsibility for reimbursement to the Public Health Division of the Oregon Health Authority in 1993. Prior to that legislation, each county was responsible for covering all indigent disposition expenses. In 2015, the Oregon State Legislature revised certain elements of the program, transferred management to the Oregon Mortuary & Cemetery Board (OMCB) and amended the required process that a funeral establishment must complete prior to performing final disposition of an indigent decedent. These changes went into effect on January 1, 2016.

Not every state has established a program like Oregon’s Indigent Disposition Program. In the states surrounding Oregon, payment for the care of unclaimed decedents falls to the county – which may or may not have sufficient funds – and may or may not have requirements regarding the decedent’s residency in the county. Overall, fewer than half of all state governments have established funds similar to this one.

The Indigent Disposition Program’s maximum reimbursement rate is set annually by OMCB’s Board – the current rate is \$500 per approved claim. This rate is posted on OMCB’s website and notification of any rate changes are publicized.

In accordance with OAR 830-040-0090(1), only a licensed funeral establishment (including an immediate disposition company or persons acting as funeral service practitioners) may apply for indigent disposition reimbursement.

### ***Circumstances Causing Legislation During the 2021 Session:***

Early in 2020, our agency determined that the IDP Fund was running at a deficit – due to an unforeseen increase of IDP reimbursement claims paid during 2020 – and would not be sustainable unless additional funds were immediately contributed, or the claim reimbursement amount was significantly reduced.

Once we made this determination, our Board, Policy Advisor and CFO worked collaboratively to address the situation immediately and to ensure that this wouldn't happen again in the future.

Based on the immediate situation, unfortunately, the Board had to make the difficult decision to reduce the reimbursement amount from \$500 to \$20 for the month of June.

However, after carefully and thoughtfully considering many options, the Board made the decision to allocate a portion of its reserve account to temporarily fund the IDP reimbursements for the remainder of 2020 – and we were able to restore the \$500 reimbursement amount beginning in July.

To address this issue longer-term, the Board collaborated with Governor Brown's Office to sponsor a bill – [HB 2120](#) – which proposed to increase the death filing fee from \$20 to \$30. The additional \$10 would be entirely allocated to the IDP Fund.

Given the current projections, the \$10 fee increase should ensure that the IDP Fund is sustainable through 2026 – at that time, the Board will need to review the current financial situation of the IDP Fund and make appropriate changes, if necessary.

### ***How the IDP Fund was Funded Prior to HB 2120:***

Prior to the implementation of HB 2120, the IDP Fund received its revenue from the death filing fee as follows:

*(1) The State Mortuary and Cemetery Board shall impose and collect a filing fee of \$20 for each report of death and shall deposit the total amount of the fee collected to the credit of the State Mortuary and Cemetery Board Account established under ORS 692.375. Of the fee, at least \$6 must be used by the board to carry out the purposes of ORS 97.170 (5). The board shall use the remainder of the fee in the same manner as other funds credited to the account under ORS 692.375.*

*(2) The board shall adopt rules regarding the use of the fee described in subsection (1) of this section and shall consider historical data related to expenditures made for the purposes of carrying out ORS 97.170 (5) and 692.375. Expenditures relating to the administration of the fee may not exceed five percent of the money collected.*

Therefore, OMCB previously received \$20 (death filing fee) for each death and allocated the amount as follows:

- \$6 was paid to the IDP Fund, and
- \$14 was paid to OMCB's agency budget account – this is the primary source of our agency's revenue.



***How the IDP Fund is Currently Funded with the Implementation of HB 2120:***

With the implementation of HB 2120 that became effective on January 1, 2022 – now included in **ORS 692.415** – the \$30 death filing fee is allocated as follows:

- \$16 to be used to carry out the management/administration of the IDP Fund, and
- \$14 is to be used for OMCB’s agency budget account – still the primary source of our agency’s revenue.

***Reimbursement Rate Recommendation:***

The IDP revenue from the death filing fee for 2022 was **\$681,210** & the IDP reimbursement claim payments for 2022 totaled **\$259,000**.

DAS Shared Financial Services has confirmed the IDP Fund has a healthy reserve/balance and based upon this information, it is recommended that the Board increase the IDP reimbursement rate from \$500 to \$550 for the upcoming year (July 1, 2023 to June 30, 2024).

IDP Claims Received Per Year		IDP Claims Paid Per Year		% of IDP Claims Paid Per Year
<b>2018</b>	422	<b>2018</b>	394	93.4%
<b>2019</b>	528	<b>2019</b>	487	92.2%
<b>2020</b>	526	<b>2020</b>	476	90.5%
<b>2021</b>	464	<b>2021</b>	371	80%
<b>2022</b>	594	<b>2022</b>	518	87.21%
<b>Average Per Year</b>	<b>507</b>	<b>Average Per Year</b>	<b>449</b>	<b>88.57%</b>