



# MCB

OREGON MORTUARY & CEMETERY BOARD

Regulating Death Care Facilities & Practitioners in Oregon.

## Executive Director's Report for January 12, 2021

### ADMINISTRATIVE

*2019-2021 Biennium Budget (July 1, 2019 through June 30, 2021)*

*Budget Summary through November 2020*

Revenue	November 2020	Biennium to Date	% of Budget Received	2019-21 Biennium Total Budget
All sources (including cash reserves & reimbursements)	71,537.19	1,997,321.97	52%	3,833,953

Expenditures	November 2020	Biennium to Date	% of Budget Spent	2019-21 Biennium Total Budget
Personal Services	61,160.74	938,257.53	66%	1,431,917
Services & Supplies	63,265.19	642,663.49	27%	2,343,995
<b>Total</b>	<b>124,425.93</b>	<b>1,580,921.43</b>	<b>42%</b>	<b>3,775,912</b>

**Note on Coverage and Anticipated Revenue Distribution Cycle.** Revenue from licensing fees is billed once a year, for facilities in one year and individuals in the alternate year. This concentrates revenue around the end of the calendar year and is part of why the Board must maintain a higher than average ending balance at the end of each fiscal year and each biennium (typically 8-10 months). The Board also self-insures against unknown expenses such as costs associated with hearings. Please also note that there is a difference between limitation (authorization to spend) and cash on hand. If we anticipate exceeding our limitation total for any expense line items, we must seek that additional limitation authority from the Oregon Legislature via Emergency Board (Ways & Means) proceedings even if we have sufficient ending balance to cover those expenses.

### Background on Revenue Sources

The revenue budgeted for the biennium included monies from multiple sources, including ones that pass through the agency. The total for the biennium includes a beginning cash balance of \$1,350,827 (cash reserves carrying over from prior biennium), the total amount collected for death filing fees, which support both the Board programs and the Indigent Disposition Fund, licensing fees, estimates for miscellaneous revenue such as from civil penalties or interest, and a transfer-in reimbursement amount of \$151,377 from the other 833 boards.

The death filing fee is projected to collect approximately \$1,260,000 in total revenue for the 19-21 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 Office of Vital Statistics and population data from the State Economist's Office, or an anticipated 63,000 deaths within the biennium. In accordance with ORS 692.415, at least \$6 of every \$20 death



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filing fee is earmarked for the Indigent Disposition Program, which represents a projected total of \$378,000 (before administrative expenses). Administrative expenditures are limited to 5% of the moneys collected (\$18,900), leaving an estimated \$359,100 available for 19-21 biennium indigent claims (enough for approximately 718 claims @ \$500/reimbursement).

## *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.

## Operational Summary Statistics: Licensing

Type of License	Oct 6 2020	Jan 8 2021	Change from Oct - Jan	Trend
Death Care Consultants	0	0	0	—
EM Apprentices *	53	28	25	▼
FSP Apprentices *	73	51	22	▼
Interns	1	2	1	▲
Embalmer Only *	14	13	1	▼
FSP Only	176	172	4	▼
Combination License: EM *	384	385	1	▲
Combination License: FSP *	384	385	1	▲
Military Combination License: EM	0	0	0	—
Military Combination License: FSP	0	0	0	—
Preneed Salespeople **	131	147	16	▲
Funeral Establishments	193	194	1	▲
Immediate Disposition Companies	9	9	0	—
Crematoriums	66	66	0	—
Cemeteries, Operating	300	300	0	—
Cemeteries, Operating, Municipal	36	36	0	—
Cemeteries, Operating, County	7	7	0	—
Cemeteries, Operating, Special District	128	128	0	—
Cemeteries, Registered Non-Operating	49	49	0	—
Removal Registrations	32	32	0	—
Alternative Disposition Facilities	2	2	0	—
Combined Total of all Licenses, Registrations:	2038	2008	32	▼



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## License Examinations

For the duration of the pandemic, we have made a concerted and diligent effort to continue administering the FSP law examination. The last exam was held on December 1, 2020 at Mt. Hood Community College. The next exam is not currently scheduled.

We will continue to work with Doug Ferrin and Terri Makinson of the Funeral Service Education Program at MHCC and the MHCC testing center staff to accommodate our exams for the foreseeable future. We intend on having exam dates scheduled on a quarterly basis for 2021.

Funeral Service Practitioner Law Exam					
Exam Date	Pass Rate			Score Range	
	Passed	Failed	Pass Percentage	Highest Score	Lowest Score
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
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.



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## COMPLIANCE

### Inspections (Completed in FY 2020)

#### Overview

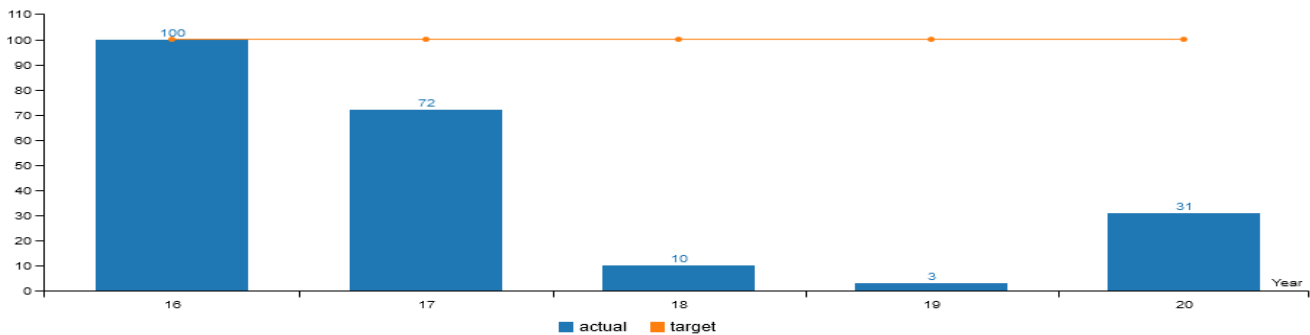
By the end of 2019, both OMCB inspector positions had been filled. In January 2020, OMCB’s Compliance Division took steps to enhance the volume, quality and efficiency of inspections. For approximately two months, inspections were running at full pace and on target to meet our statutory mandate. However, in early March the statewide restrictions related to the COVID-19 pandemic negatively and significantly impacted our agency’s operations, especially inspections. Through the summer, inspectors were still able to conduct on-site inspections of stand-alone cemeteries but were greatly limited in their ability to physically inspect other licensed facilities. Challenges were exacerbated in the fall due to area wildfires. Eventually, we were limited in all travel and in-person contact and we had to develop protocols to expand and increase virtual inspections.

We have developed a robust and streamlined virtual inspection process that will reduce the time necessary for completing inspections since travel – which can take a significant amount of time – is no longer a challenge. Inspectors have been instructed to first reach out by telephone and speak with the owner/manager of the facility and let them know they will be receiving an email later that day which includes requests for photos of certain equipment, etc. as well as decedent permanent records. The virtual inspection process was already being utilized for licensing actions (LA) when a document inspection was required to complete the licensing process, but not necessarily an onsite inspection. In response to unique challenges, we have expanded the virtual inspection process from a supplemental tool to our primary form of inspection.

#### Inspection Key Performance Measures for the Last 5 Fiscal Years (July 1 through June 30)

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

\* Upward Trend = positive result



Report Year	2016	2017	2018	2019	2020
<b>Inspections Completed</b>					
Actual	100%	72%	10%	3%	31%
Target	100%	100%	100%	100%	100%



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Inspections Completed During 2020		
Facility Type	Q1 July – September 2020	Q2 October – December 2020
Funeral Establishment	6	56
Cemetery Authority	33	13
Crematory Authority	3	21
Alternative Disposition Company	0	0
Immediate Disposition Company	0	1
<b>Total Full Biennial Facility Inspections</b>	<b>42</b>	<b>91</b>
<b>Total Licensing Action Inspections</b>	<b>5</b>	<b>3</b>

OMCB currently regulates 758 licensed facilities located throughout the state. Our agency’s statutory mandate is to inspect at least half of these (approximately 379) during each fiscal year. Due to long-term understaffing and other challenges, OMCB inspectors completed a total of 109 facility inspections for the entire 2019-2020 fiscal year. This is a rate of 31% of licensed facilities inspected not less than once per biennium. So far in the 2020-2021 biennium, we have completed 42 inspections in Q1 and 91 inspections in Q2 for a total of 127 inspections or about 35% of our target. These numbers are reflected in the chart above. During Q1, we were severely impacted by travel restrictions, the adjustment to working remotely, and the need to enhance and expand virtual inspection procedures. During Q2 we had adjusted to these challenges, and better implemented virtual inspections. This allowed us to get much closer to our targets.

### Inspections by Month

Inspector	Inspections Completed Per Month					
	July 20	Aug 20	Sept 20	Oct 20	Nov 20	Dec 20
Gregory	8	6	5	10	7	25
James	5	6	11	9	8	32

Inspector	Inspections Completed Per Month						
	Jan 21	Feb 21	Mar 21	Apr 21	May 21	June 21	Total
Gregory	TBD	TBD	TBD	TBD	TBD	TBD	61/190
James	TBD	TBD	TBD	TBD	TBD	TBD	71/190

The above chart reflects our current rate of inspections per month by inspector. In order to achieve our targets, inspectors must complete approximately 16 inspections per month. We have been below that mark. However, in October and November of 2020 we developed protocols to turn almost all licensing actions into full biennial physical (virtual) and document inspections. The benefits of this approach resulted in increased completed inspections in December. We anticipate achieving our targets with the adapted inspection process.

\*It should be noted that we received a significant number of ownership changes that were finalized at the end of the year, which explains why the inspection completion number was so high in December. This volume of ownership changes is unique and is not expected to be a consistent occurrence in the future.



### **Steps Inspectors are taking to achieve targets:**

The state has restricted both travel and in person contact due to the current COVID-19 pandemic, which has affected the way OMCB conducts inspections. Inspectors are now conducting full biennial inspections by virtual method for all facilities types. Inspectors have found a major challenge in the responsiveness of licensees in the virtual process. Unlike with physical inspections, licensees are less motivated to respond and provide requested documents or verifications without an in-person inspection. To improve the responses, firmer dates and language have been added to requests, as well as initial contact and follow up by telephone, to help ensure target timelines are being honored. These extra steps have still been met with delays and explanations ranging from on-going pandemic restrictions, holidays, low personnel and high volume of work. Responses have also been missing required requested information causing further communications to occur and create longer delays. Even with these challenges the inspectors have been adapting and improving the processes and performance in efforts to achieve our mandate.

### **Special Projects/Other items:**

Inspectors are tasked to respond to requests for information related to Eternal Hills, which can be a time-consuming task to gather and respond to these requests.

In addition to their required biennial inspections, inspectors are also conducting abbreviated inspections for licensing actions (name change, initial) and supporting the licensing division as need arises.

A continuing major development and challenge will be managing inspections through Thentia – our new online licensing management system. During previous board meetings, staff has reported the challenge of bringing this new system online. Currently, individual licensees and facilities have been brought online. As we have seen in the past there have been numerous successes and challenges in these portals. Inspections and Investigations will be added in the next stages. We anticipate this will be a challenging transition period as well. However, we are confident it will be a valuable step toward modernizing and enhancing the efficiency of our operations.



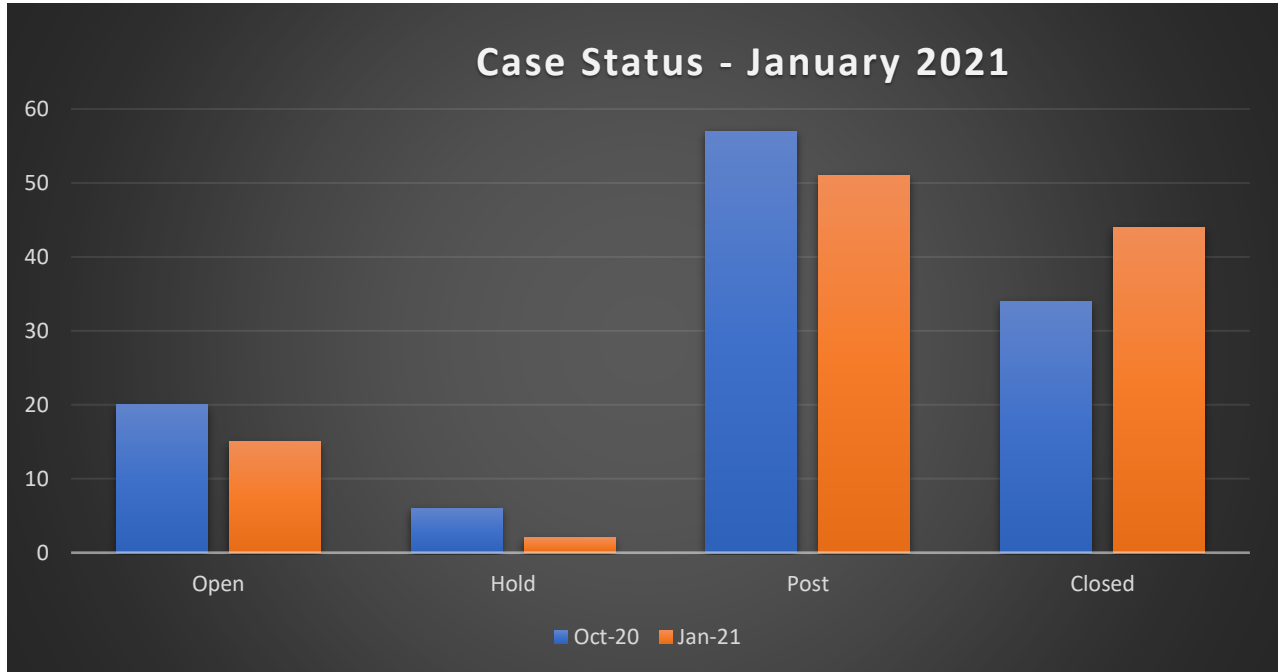
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## Investigations

The following chart shows the total number of cases by phase, including cases **closed** within the 2020 calendar year. Cases that were opened in prior years but did not close during the prior calendar year are included until closed. As reported in October, we have prioritized all post status cases so they can be closed. This number has slightly decreased and will continue as a priority. Since the last Board meeting, we have closed 10 additional cases and are working diligently to resolve/close older and current cases.



Case Status by the Numbers Oct 2020 - Jan 2021		
Case Status	October 2020	January 2021
Open	20	15
Hold	6	2
Post	57	51
Closed	34	44

### Case Phases:

**“Open”** cases are all cases not yet reported to the Board and are in various stages of review or investigation. This includes Intake, Investigation, Writing Investigative Report, and Presenting to Board.

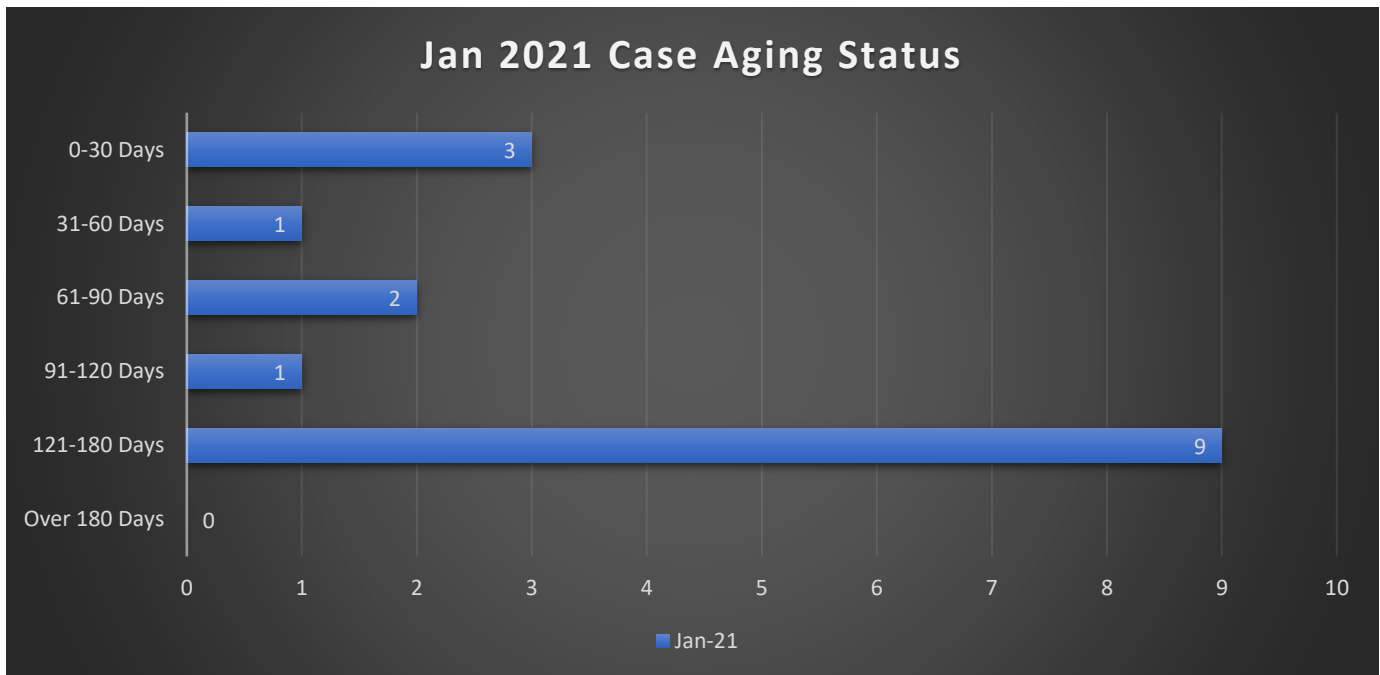
**“Hold”** cases are ones that have been presented to the Board, but which require some other activity or action by another entity before the Board completes deliberation on a case. This may include cases awaiting determination by another agency, or findings in civil or criminal proceedings. In some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

**“Post”** cases are ones that have been presented, but where 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 all appeals, and related activity. This process can take years before being completed, and before a case can be closed.

“Closed” cases are ones that have been moved completely through the Post phase and have been closed out. This may include closed cases requiring some form of monitoring or follow-up for a period of time, such as in the case of a probationary period, or where there are relevant consent order terms to be monitored.

### Case Aging

The following chart identifies the specific aging for all open cases. The chart below shows a comparison of numbers reported at the previous board meeting and current numbers. These show the totals by age period, **including** the cases before the Board at the current meeting. Note that total case number reflects related cases A, B, C, etc. as separate cases. Whereas we often review them as linked or a single case.



**NOTE:** Approval of the Executive Director’s Report will also authorize 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

The Indigent Disposition Fund is funded by a portion of the death record filing fee. The death record filing fee is \$20 per death record filed, billed to funeral homes monthly. This fee is only based on the initial filing of a death and is not assessed on certified copies of a record of death (formerly called death certificates). \$6 from each \$20 fee goes to support the fund and its administration. Because of this, the amount available in the Indigent Disposition Fund directly correlates to the death rate.

In January of 2016, management of both death record filing fees and the IDF program transferred from the Public Health Division to OMCB via legislative action. Additionally, changes to ORS 97.170 took effect, adding additional requirements to the process that a funeral establishment must complete prior to burying or cremating an indigent person or applying for reimbursement for that disposition.





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During the four years prior to OMCB taking over management of the IDF program, the fund paid indigent claims for 0.9% to 1.3% of deaths in the state, depending on the year. Although the maximum reimbursement rate was set at \$650, the fund was rarely able to pay the maximum amount. Over the five years prior to the transfer of the fund's management, the average amount paid was \$492, with monthly averages varying widely – while the fund was able to reimburse nearly the maximum during some months, reimbursements averaged only \$262 during others.

When OMCB took over management, the law changed to provide funeral homes with a more predictable, fixed rate – the initial amount was \$461. The reimbursement rate was set in mid-2015 as a calculation of the maximum amount that the fund could provide given a 100% payment rate by funeral establishments for death record filing fees and the anticipated death rate for 2015 and 2016.

In July of 2018, the Board voted to increase the reimbursement rate from \$461 to \$500, based upon death rate projections and IDF solvency.

During the April 9, 2019 meeting, the Board voted to keep the reimbursement amount at \$500.

## ***IDP Fund Advisory Committee***

An advisory committee has been established to review the Indigent Disposition Program. The committee's goals include:

- Reviewing all rules and policies related to IDP from top to bottom
- Reviewing fiscal and budgetary data
- Developing necessary legislation
- Defining how the program will be used going forward
- Recommending changes to rules related to IDP

The committee is co-chaired by Brain Norris and Wally Ordeman. Members include Kevin Loveland, Mark Musgrove, Dwight Terry, and Lyn Stanger. Angela McKenzie-Tucker and Nancy Felton act in an advisory capacity. Chad Dresselhaus, Pete Burns, and Kate Robertson act as facilitators and OMCB liaisons.

Current discussions include making revisions to ORS 97.170; mainly, the definition of an indigent person versus an abandoned person. There is also an interest in reducing the ten day waiting period to five days, and adding domestic partners to the list of those with a right to control disposition in ORS 97.130. We are also moving toward facilitating communication with hospice organizations and the Oregon Health Authority, defining what is a reasonable attempt to contact NOK, and creating a standardized method for reaching out to the Department of State Lands and Veterans Affairs.

The committee has met a total of seven times since July 24th and is scheduled to meet every Thursday via Zoom until the identified goals have been addressed.

**\*Additional updated information will be provided separately.**