

Executive Director’s Report for October 11, 2022

ADMINISTRATIVE

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

Budget Summary through August 2022

Revenue	Biennium to Date	2021-23 Total Biennial Budget	% Received
All Sources (including cash reserves & reimbursements)	2,257,983.95	3,084,843	73%
Expenditures	Biennium to Date	2021-23 Total Biennial Budget	% Spent
Personal Services	969,879.92	1,669,630	58%
Services and Supplies	576,664.80	1,245,664	46%
Total Expenditures	1,546,544.72	2,915,294	53%

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:**
 - a. **Aubry, Jean-Christophe:** FS-0522, 3-month suspension, ending 11/23/2022
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	July 6, 2022	October 5, 2022	Change from July to October	Trend
Death Care Consultants	0	0	0	-
EM Apprentices	63	71	8	▲
FSP Apprentices	86	101	15	▲
Interns	7	9	4	▼
Embalmer Only	10	10	0	-
FSP Only	172	175	1	▲
Combination FSP/ Embalmer	363	367	5	▲
Military Combination FSP/ Embalmer	0	0	0	-



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Preneed Salespeople	113	118	87	▼
Funeral Establishments	197	194	3	▼
Immediate Disposition Companies	7	7	0	-
Crematoriums	69	69	0	-
Cemeteries, Operating	302	303	1	▲
Cemeteries, Operating, Municipal	36	36	0	-
Cemeteries, Operating, County	7	7	0	-
Cemeteries, Operating, Special District	125	125	0	-
Cemeteries, Registered Non-Operating	49	49	0	-
Removal Registrations	34	35	1	▲
Alternative Disposition Facilities	2	3	1	▲
Combined Total of all Licenses/Registrations	1,642	1,679	37	▲

License Examinations

The Funeral Service Practitioner & Death Care Consultant Exams were administered on July 28, 2022 at Restlawn Funeral Home and at the Portland State Office Building on September 1, 2022 & September 28, 2022. There is currently not a date scheduled for the next exam.

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



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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
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 maintained the pace and quality of our inspections through the current reporting quarter.

The continued success of inspections is reflected in our agency's Key Performance Measure #1: *Percent of licensed facilities inspected not less than once per biennium.*

OMCB is currently at 102% of our yearly target at the close of the fourth quarter of FY 2021-2022. We have continued this pace into Q1 of FY 2022-2023.

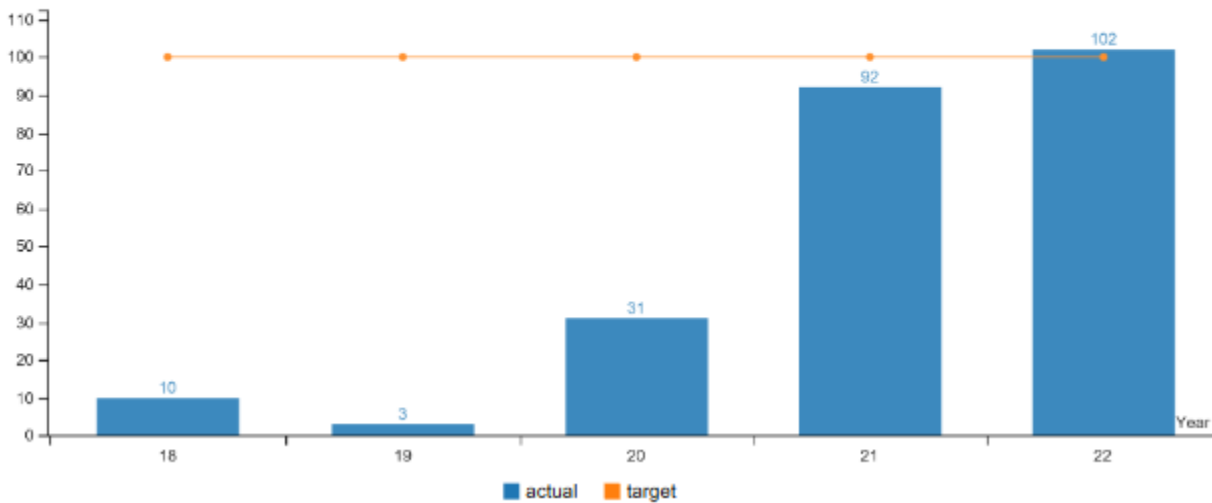
Our Inspectors began returning to in-person, on-site inspections in June 2022. They have expanded these throughout this current quarter and continue to rely on virtual inspections when appropriate.

Our Inspectors are well-trained and experienced with the inspection process. They continue to meet or exceed their 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

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



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 eight quarters, 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	October – December 2021 (Q2)	January – March 2022 (Q3)	April – June 2022 (Q4)	July-September 2022 (Q1)
Funeral Establishment	4	26	11	46
Cemetery Authority	78	65	79	34
Crematory Authority	14	4	5	14
Alternative Disposition Facility	0	1	0	1
Immediate Disposition Company	0	0	0	0
Biennial Inspections Completed per Quarter	96	96	95	95
Total Inspections Completed per Quarter	96	101	98	96
Total Biennial Inspections for FY	194	290	385	95

Special Projects/Other Items:

Inspectors are assisting with Licensing projects as needed. This may include renewal support, contact and communications with licensees and facilities, etc.

Inspectors are currently being cross-trained on the investigative process, as they may be required to conduct an investigation based upon the results of an inspection.

Inspectors will be participating in and supporting the Ten-Day Hold Notification Advisory Committee Meetings.

Approximately 63% (or 457 of our 730 licensees) are cemeteries. A significant number of these are inactive or perform only a few interments a year and may qualify for certain exemptions in accordance with rules – potentially exemption from full biennial inspections. OMCB’s Compliance Division is currently working with the agency’s AAG to identify which and how many cemeteries may qualify for exemptions and how that will impact future inspection practices. We anticipate having more information to present to the Board during the October board meeting.

Investigations

The following table shows the total number of cases by phase through September 2022. Cases that were opened in prior years but did not close during the prior calendar year are included until closed.

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.

Case Status by the Numbers: January 2022 to October 2022				
Case Status	January 2022	April 2022	July 2022	October 2022
Open	15	24	17	19
Hold	11	11	11	11
Post	9	1	4	5

Closed	4	12	11	22
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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, 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. 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 April 12, 2022 Board Meeting

There were 15 cases presented to the Board during the July 2022 Board Meeting and the September 2022 Special Board Meeting. Twelve of those have been closed. One case was tabled and is being presented during the current October 2022 Board Meeting. One case has received a request for hearing, and OMCB Staff is in discussions with AAG for this. One case is awaiting deadline for hearing request, at which time OMCB Staff will send a Final Order by Default.

Cases Presented During Last Board Meetings (July 12, 2022 and September 13, 2022 Special)			
Case Number	Case Action/No Action	Current Case Status	Note/Comment
21-1006ABC	Action: Civil Penalty	Closed	
21-1010ABD	Action: Civil Penalty	Closed	
21-1013A	Action: Civil Penalty	NPDA Sent	Negotiating Consent Order
21-1036	No Action	Closed	
22-1002	No Action	Closed	



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22-1003	Action: Civil Penalty	Tabled	To be reviewed at this Board Meeting
22-1005	Action: Civil Penalty	NPDA Sent	Hearing Requested, Consulting with DOJ – Reviewing at this Board Meeting
22-1006	No Action	Closed	
22-1009	No Action	Closed	
22-1010	No Action	Closed	
22-1011	No Action	Closed	
22-1012	No Action	Closed	
22-1014	No Action	Closed	
22-1018	Approve License	Closed	
22-1030	Approve License	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

The Indigent Disposition Program (IDP) Fund is funded by a portion of the death filing fee. The death filing fee is \$30 per death report filed, billed to funeral homes monthly.



[ORS 692.415](#) specifies the following allocation for the increased death filing fee of \$30:

- 1) \$14 shall be deposited into OMCB's agency account (no change)
- 2) \$16 shall be deposited into the IDP Fund (an increase of \$10)

It is important to note that the death filing fee is only collected for the initial report of a death and is not associated with the cost for certified copies of a record of death (formerly called death certificates). With the updated fee amount, \$16 from each \$30 received will be allocated to support the IDP Fund and its administration.

Indigent Disposition Program (IDP) Fund Background

In January of 2016, the death filing fee management and IDP Fund administration was transferred from the Public Health Division to OMCB via legislative action. Additionally, changes to ORS 97.170 took effect, which established additional requirements that a funeral establishment or immediate disposition company must complete prior to performing final disposition for an indigent person and applying for reimbursement.

During the four years prior to OMCB taking over administration of the IDP Fund, the fund paid indigent claims for 0.9% to 1.3% of deaths in the state, depending upon 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 administration, the law changed to provide funeral establishments and immediate disposition companies 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 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 IDP Fund solvency.

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

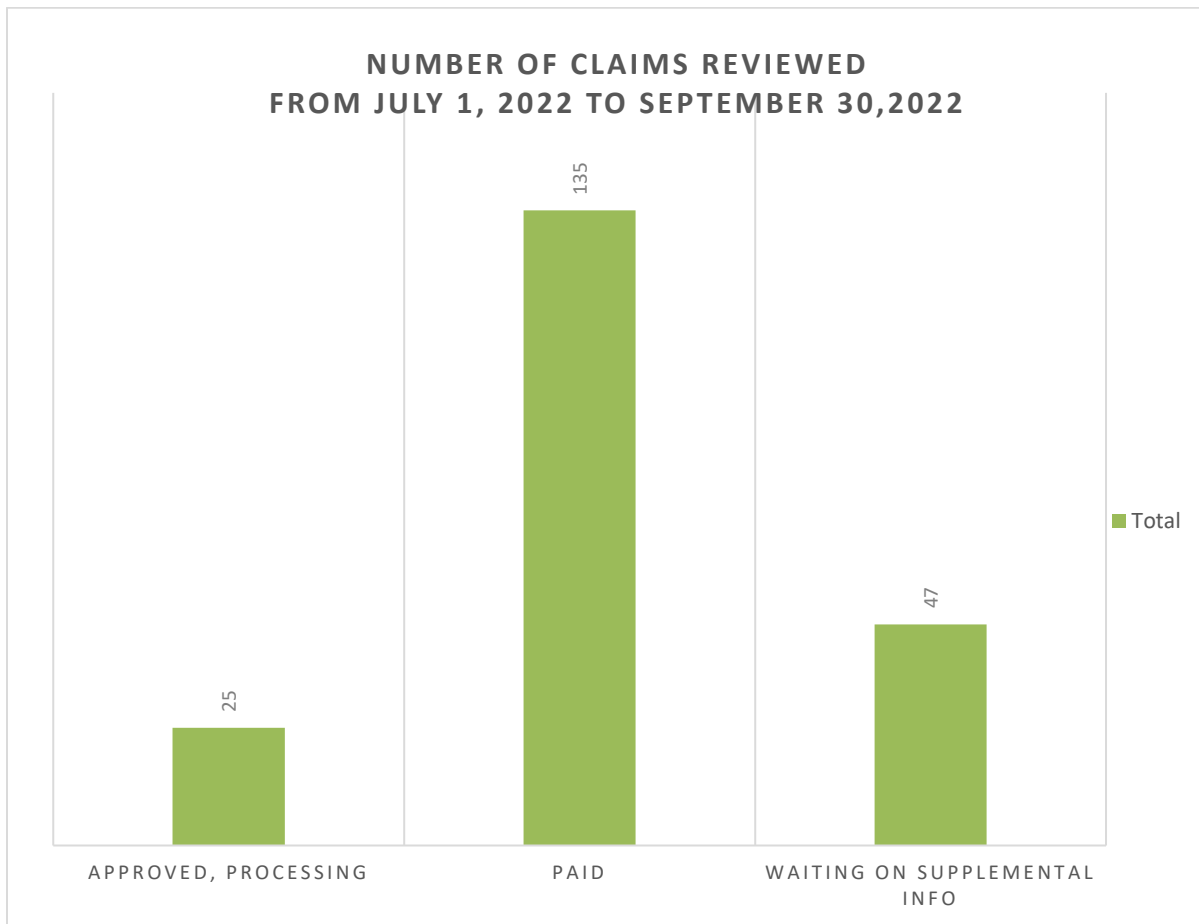


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Current Status of IDP Claims	Number of Claims Reviewed from June 1, 2022 to September 30, 2022
Approved, Processing	25
Paid	135
Waiting for Supplemental Information	47
Grand Total	207



IDP Fund Numbers (Calendar Year 2019 through YTD):

Indigent Claims Received	CY 2019	CY 2020	CY 2021	CY 2022 (YTD: Oct)
Total Number of Claims Reviewed	398	475	455	514
Number of Claims paid	324	304	477	324
Approved, Processing	49	111	164	108
Currently Open Claims (Waiting on additional information, researching, etc.)	4	39	72	114
Withdrawn/Denied	21	18	14	9

Indigent Claims Reimbursed	CY 2019	CY2020	CY 2021	CY 2022 (YTD: August)
Average Amount Reimbursed per <i>Qualifying Claim*</i>	\$497	\$485	\$500	\$500
Total Amount Reimbursed	\$212,612	\$248,536	\$150,148	\$233,460
Average Number of <i>Total</i> Claims received per Month	44.2	39.5	38	42
Average Number of <i>Qualifying</i> Claims received per Month	41.4	34.5	39.8	_*

*Some claims are still in process this quarter.

Solvency:

Indigent Claims Reimbursed	FY 2021	FY 2022 (End: July 2022)	FY 2023 (YTD: August 2022)
Death Filing Fee Total	\$691,180	\$1,149,130	\$172,070
Amount Allocated to IDP Fund	\$207,354	\$490,222.55	\$91,764.93
Net Cash By FY	\$57,205.84	\$256,762.55	\$77,079.93
Ending Cash Balance	\$125,829.10	\$355,012.02	\$459,671.58