

Oregon Mortuary & Cemetery Board (OMCB)

SB 5521 Testimony: 2021-23 Budget Request

Joint Committee on Ways and Means

Subcommittee on Education

Senator Lew Frederick, Co-Chair

Representative Susan McLain, Co-Chair

February 8, 2021

The Origins of the Oregon Mortuary & Cemetery Board (OMCB)

- In 1921, the **Funeral Directors and Embalmers Board** was created.
- The name of the agency changed in 1983 to the **State Mortuary Board**.
- The Board's name was changed again in 1985 (after a significant incident in Lincoln City) to the **State Mortuary and Cemetery Board**.
- The Lincoln City incident had a profound impact on the community, the death care industry, the State of Oregon and this agency.
- As a result of this incident, the agency's focus became **Consumer Protection**.
- During the 1985 legislative session, the **Death Laws Task Force** (comprised of Lincoln City residents, industry representatives & legislators) was formed and most of the laws relating to death care were rewritten.

OMCB's Mission Statement

The mission of the Board is to protect public health, safety and welfare by fairly and efficiently performing its licensing, inspection and enforcement duties; by promoting professional behavior and standards in all facets of the Oregon death care industry; and, by maintaining constructive relationships with licensees, those they serve and others with an interest in the Board's activities.

Summary of OMCB's Programs

The Board's programs affect those who have suffered a loss, those who make final arrangements and those who provide death care merchandise and services. It is the Board's responsibility to license and regulate the practice of individuals and facilities engaged in the care, preparation, processing, transportation and final disposition of human remains. The Board's licensees include funeral service practitioners (funeral directors), embalmers, apprentices, interns, death care consultants, funeral establishments, crematoriums, cemeteries and other facilities for final disposition of human remains.

The Board protects the public and the industry by promoting and enforcing compliance with statutes and rules established for that purpose primarily through education.

Education as a Means of Enforcement

The Board serves as an informational resource for the public relating to death care options, other agencies, organizations, the media, as well as licensees. Education is also one of the principal aims of the Board's inspection process. Inspectors invite questions and provide on-site technical assistance, as well as explaining the regulatory basis for any noted deficiencies. Finally, the Board provides registration for prospective funeral service practitioners and embalmers, and also provides the examinations for licensure for funeral service practitioners and death care consultants.

Licensing

The Board licenses both death care professionals and facilities. Individual licenses include funeral service practitioners (funeral directors), embalmers, apprentices, interns, preneed salespeople & death care consultants. Facilities include funeral establishments (funeral homes), crematories, cemeteries & immediate disposition companies. The Board also administers a funeral service practitioner (FSP) and death care consultant (DCC) exams at least twice each year.

License Types Issued per Biennium

License Types Issued	2007 - 2009	2009 - 2011	2011 - 2013	2013 - 2015	2015 - 2017	2017 - 2019	2019 - 2021 (as of Dec. 2020)
Initial Individual Licenses: Apprentice/Trainee, Combination, Death Care Consultant, Embalmer, Funeral Service Practitioner, Intern & Preneed Salesperson	432	417	435	476	375	349	290
Initial Facility Licenses: Alternative Disposition Company, Cemetery Authority, Crematory Authority, Funeral Establishment, Immediate Disposition Company & Removal Company (Washington)	112	216	80	65	65	39	30
Individual Renewals: Apprentice/Trainee, Combination, Death Care Consultant, Embalmer, Funeral Service Practitioner & Preneed Salesperson	1,352	1,264	1,289	1,260	1,101	1,121	801
Facility Renewals: Alternative Disposition Company, Cemetery Authority, Crematory Authority, Funeral Establishment, Immediate Disposition Company	707	717	711	726	753	748	197
<i>Total Licenses Issued</i>	<i>2,603</i>	<i>2,614</i>	<i>2,515</i>	<i>2,527</i>	<i>2,294</i>	<i>2,257</i>	<i>1,318</i>

Investigations

- The Board inspects all death care facilities at least once each biennium. The Board takes a preventative approach to investigations, preferring to educate licensees when in the field in order to prevent violations. With the exception of egregious or continual violations, deficiencies are noted during routine inspections rarely lead to formal disciplinary action.
- ORS 676.165 requires the Board to conduct an investigation upon receipt of a complaint by any person against a licensee or applicant. The Board may also initiate an investigation upon its own motion. Though complaint investigations are mandatory, the Board's sanctioning authority is discretionary.

Proposed Change to the Agency

As stated in the **2021-23 Governor's Budget** (Page 214):

The Governor's Budget for the Oregon Mortuary and Cemetery Board is \$1.4 million total funds. The budget is reflective of the board receiving its first year of funding under the current structure of the Health Related Licensing Board and the second year of funding operating under the structure of the Oregon Health Authority's Health Licensing Office. The Board will retain its current authority, oversight, and structure; however, it will administratively operate in the Health Licensing Office. This budget funds seven positions, which represents no change from the 2019-21 Legislatively Approved Budget. Additionally, the budget supports travel resources for investigators.

Summary of Proposed Legislation: Historical Background of the Indigent Disposition Program (IDP) Fund

Historical Background of the IDP Fund:

The purpose of the Indigent Disposition Program is to provide funeral establishments and immediate disposition companies with reimbursement for costs incurred while providing services for the disposition of indigent decedents. The Indigent Disposition Program has been in existence since the Oregon State Legislature assigned responsibility for reimbursement to the Public Health Division of the Oregon Health Authority in 1993. Prior to that legislation, the responsibility for paying for indigent disposition fell solely to the appropriate county. In 2015, the Oregon Legislature reworked the requirements of the program, moving management to the Oregon Mortuary & Cemetery Board (OMCB) and amending the required process that a funeral establishment or immediate disposition company must complete prior to performing final disposition of an indigent decedent. These changes went into effect on January 1, 2016.

Not every state has implemented a program like the Indigent Disposition Program. In every state adjacent to Oregon, the respective county is responsible for payment of each indigent decedent's disposition, which may or may not have funds, and may or may not have requirements regarding the decedent's residency in the county. Overall, fewer than half of state governments manage funds similar to this one.

The maximum reimbursement rate for Indigent Disposition Program reimbursement 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.

Only a funeral establishment or immediate disposition company may apply for reimbursement from the IDP Fund. Individuals acting as funeral service practitioners for the purposes of home burial are not eligible to receive funds.

Summary of Proposed Legislation: How the IDP Fund is Currently Funded

The IDP Fund receives its revenue from the death filing fee, which is described in **ORS 692.415**:

(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 moneys collected.

Therefore, OMCB receives \$20 (death filing fee) for each death and allocates the amount as follows:

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

Summary of Proposed Legislation: Circumstances Requiring Legislation

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 submitted a legislative concept – now **HB 2120** – which proposes to increase the death filing fee from \$20 to \$30. The addition \$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.

Indigent Disposition Program (IDP) Fund: 2019-20 IDP Claims by Region

Indigent Claims by Region	Claims Received in 2019	% of Total Claims in 2019	Claims Received in 2020	% of Total Claims in 2020	Total Received for Both Years	Avg. % of Total For Both Years	Pop. Of Region (Census est. 2020)	Region % of Total Oregon Pop.	Deaths By Region (2020)	Claims as % of Deaths (2020)
Region 1: Portland Metro (Clackamas, Hood River, Multnomah and Washington Counties)	224	43%	224	44%	447	43%	1,901,795	45%	12,726	1.75%
Region 2: Willamette Valley, North and Mid- Coast (Clatsop, Columbia, Tillamook, Yamhill, Polk, Marion, Lincoln, Linn, Benton and Lane Counties)	196	37%	192	37%	388	37%	1,312,450	31%	11,817	1.58%
Region 3: Southern Oregon and South Coast (Douglas, Curry, Coos, Josephine and Jackson Counties)	90	17%	82	16%	171	17%	508,650	12%	6,332	1.27%
Region 4: Central Oregon (Wasco, Sherman, Gilliam, Jefferson, Wheeler, Crook, Deschutes, Lake and Klamath Counties)	10	1%	10	2%	20	2%	353,230	8%	3,216	0.3%
Region 5: Eastern Oregon (Morrow, Umatilla, Union, Wallowa, Baker, Grant, Harney and Malheur Counties)	7	2%	3	1%	10	1%	191,930	4%	1,916	0.15%
<i>Oregon Total</i>	<i>527</i>	<i>100%</i>	<i>511</i>	<i>100%</i>	<i>1,031</i>	<i>100%</i>	<i>4,268,055</i>	<i>100%</i>	<i>36,007</i>	<i>1.4%</i>

Indigent Disposition Program (IDP) Fund: IDP Claim Reimbursement Status

IDP Claim Reimbursement Status (as of 1/25/2021)	Claims Received in 2020	Percentage of Total 2020	Claims Received in 2019	Percentage of Total
Paid	302	59.33%	494	93.74%
Approved and Processing	155	30.06%	0	0
Application Incomplete: Additional information requested, but not yet received	27	6.08%	0	0
Application Incomplete, Funeral Home Unresponsive to Request for Additional Information	1	0.2%	1	0.19%
Withdrawn	21	4.13%	23	4.36%
Denied	5	0.20%	9	1.71%
<i>Grand Total</i>	<i>511</i>	<i>100%</i>	<i>527</i>	<i>100%</i>

The End

"A little consideration, a little thought for others, makes all the difference."

- Eeyore/A.A. Milne