



Oregon

Tina Kotek, Governor

Oregon Board of Chiropractic Examiners

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**Education Subcommittee
Joint Ways & Means Committee
February 14, 2023**

**Testimony of Cass McLeod-Skinner, J.D., Executive Director, and
Michelle Waggoner, D.C., OBCE President**

Governor's Budget – HB 5007

The Oregon Board of Chiropractic Examiners (OBCE) is an Other Funded agency responsible for the licensing and regulation of chiropractic physicians and certified chiropractic assistants. Our board consists of five chiropractic physicians and two public members, all of whom are appointed by the Governor and confirmed by the Senate. We currently have 5.1 FTE staff (6 positions), including two Administrative Specialists II (one at 1.0 FTE, one at .75 FTE), an Office Specialist I (.75 FTE) working out of class and at 1.0 FTE, an Investigator (1.0 FTE), a Health Care Investigator (.6 FTE), and Executive Director (1.0 FTE). Our assigned Assistant Attorney General is a critical part of our team. Our GRB submission is found here:

https://www.oregon.gov/obce/Documents/OBCE_Governors_Budget_23-25.pdf

Licensee Overview

Licensee Types	1/1/18	1/1/19	1/1/20	1/1/21	1/1/22	1/1/23
DC - Active	1181	1218	1211	1232	1222	1208
DC - Inactive	292	264	221	192	222	218
DC - Senior	382	398	413	423	413	435
DC - Initial	90	85	91	70	76	79
DC Total	1945	1965	1942	1917	1933	1943
CA - Initial	299	282	437	382	377	432
CA - Renewing	1043	1017	934	990	973	848
CA Total	1342	1299	1371	1372	1350	1280
TOTAL	3287	3264	3313	3289	3283	3223

Licensee Demographics

As of February 6, 2023, of the 1,904 responses from DCs who have self-reported racial or ethnic data (can report in multiple categories), 63% reported as White/Caucasian, 27% reported as Undetermined/didn't indicate/preferred not to answer, 5.5% reported as Asian, 2.7% reported as Hispanic/Latino, 0.7% reported as Black/African American, and 0.4% reported as Native American. If we assume that "Undetermined" often means White, then 90% of the DC licensee responses identified as White.

Of the 2,095 responses from CAs who have self-reported racial or ethnic data (can report in multiple categories), 68.8% reported as White/Caucasian, 19.3% reported as Hispanic/Latino, 4.6% reported as Asian, 1.8% reported as Undetermined, 1.6% reported as Black/African American, and 1.5% reported as Native American. If we assume “Undetermined” often means White, then 70.6% of the CA licensee responses identified as White.

We received an update from the President of the University of Western States (UWS), the only chiropractic college in Oregon and the alma mater of most Oregon DC applicants, after first meeting with him to discuss its recruitment and retention of both BIPOC professors and students, a few years ago. UWS created and hired a dedicated Director of Diversity, Equity, and Inclusion (DEI), who has commenced initiatives to advance their recruitment and retention work, including developing DC program coursework focused on the values of DEI. UWS’ Institutional Effectiveness and Planning Committee is also developing new learning outcomes related to DEI to align with cultural competency licensure and professional requirements. The school has also established scholarships dedicated to students from diverse and underserved communities and has a very active student chapter of the American Black Chiropractic Association.

Case Overview

Complaints opened per year:

NUMBER OF NEW COMPLAINTS RECEIVED IN PREVIOUS YEARS		RECEIVED COMPLAINTS BY TYPE	2014	2015	2016	2017	2018	2019	2020	2021	2022
		Advertising	0	3	0	0	1	4	3	1	1
		Billing Issues	13	2	9	9	3	5	7	5	8
2002	75	Chart Notes	1	7	2	5	2	2	0	0	1
2003	92	Licensing/CE	8	6	13	13	16	88	20	23	3
2004	78	Miscellaneous*	12	6	6	10	7	7	7	1	4
2005	96	Practice w/o License	5	3	1	6	6	7	1	3	7
2006	86	Records Release	3	2	2	7	4	1	0	2	1
2007	95	Sexual Misconduct/ Boundaries	4	0	6	8	3	11	6	13	7

2008	72	Treatment	10	15	7	8	16	18	13	14	18
2009	78	Treatment / Billing	11	2	1	3	2	1	0	0	0
2010	70	Unprofessional Conduct	15	9	23	10	14	14	19	16	23
2011	130										
2012	143	COVID							16	12	7
2012	125	Total Complaints	82	55	70	79	74	158	94	90	80

*Miscellaneous for 2017 includes 2 failure to pay tax, 1 IME, 6 miscellaneous, and 1 excessive treatment complaints. Miscellaneous for 2018 includes 4 IME, 1 excessive treatment, and 2 miscellaneous complaints. Miscellaneous for 2019 includes 1 failure to pay tax, 1 child support, 1 IME, 1 rec release and 4 miscellaneous. Miscellaneous for 2020 includes 2 IME, 5 miscellaneous. For 2021, Miscellaneous includes no other category of complaint. For 2022, Miscellaneous includes 2 failure to supervise, 1 fraud, and 1 x-ray.

- Complaints resolved per year:

2018	2019	2020	2021	2022
76	157	84	43	10

- 2019 was a unique, high volume, year as it was the first year of utilizing our citation authority for lower level violations - 157 cases were resolved which included 6 suspensions. For 2020, 84 cases were resolved, with 3 suspensions, 3 revocations, and 1 license surrender. This was also the first year of violations of the rules implemented for COVID precautions. Total COVID rule violation cases: 16. Through 2020 and into 2021, 3 of our long-term employees (half of the agency staff) retired or resigned, leaving the agency greatly understaffed, especially in our investigation program, creating a backlog that we are still working our way out of.
- For 2021, 43 cases were resolved, that included 2 denials of licensure, 2 emergency suspensions, and 3 revocations.
- As of mid-2022, the agency has been fully staffed, with investigation staff in training and addressing the case backlog. 10 cases were resolved, which included 1 denial of licensure and 1 suspension.

Key Performance Measures (KPMs)

KPM	Target
KPM 1: Days between complaint receipt and investigation report finalized for Board	60% of investigation reports written within 120 days from complaint receipt to final report

KPM 2: Days between investigation report finalized and presentation to the Board	90% of cases presented to the Board within 60 days of investigation report completion
KPM 3: Summary of investigative steps	75% of new complaints that are assessed, investigated, and presented to the Board for initial action within 120 days
KPM 4: Days between Board review/initial action and case closure (investigative step 3)	75% of cases closed within 90 days of Board review/initial action.
KPM 5: Summary of investigative steps: Average number of days to resolve a complaint	Case closure/resolution within 180 days
KPM 6: Percentage of sexual misconduct/boundary complaints resolved in 180 days	50% of cases resolved within 180 days
KPM 7: Percentage of chiropractic physicians meeting the annual continuing education requirements	95% of licensees to have completed their annual CE requirements
KPM 8: Percentage of licenses issued within 5 days once complete application received	100%
KPM 9: Customer Service Questionnaire - Percent of customers rating satisfaction as “good” or “excellent”	90% for each aspect of the questionnaire
KPM 10: Board Best Practices – Percent of total best practices met by Board	100%

Our 10 KPMs were reworded, reorganized, and renumbered during the 2021 legislative session, which included some changes to our targets that became effective immediately and some effective as of 2022. For 2022, we fully met 4 KPMS (KPMs 2, 3, 4, and 10), almost met KPM 8 (at 98.6% rather than the target of 100%), and are working to improve upon KPMS 1, 5, 6, 7, and 9. Because we were short-staffed for almost 2 years, especially in our investigation program, it comes as no surprise that the KPMs needing the most focus are within those processes.

COVID-19 Response and Present Day

In March 2020, in addition to the agency’s office going almost fully virtual with some in-office staff, the OBCE implemented temporary rules to allow for payment plans for licensee renewals and postponement of certain CE requirements for first year DC renewals. Additionally, during that beginning time of COVID, the Board suspended background checks for those who were experiencing hardship in obtaining the checks from local processing offices that had been closed. The Board allowed the 180 day temporary rules to lapse in due course and background checks resumed once those businesses were able to reopen.

In July 2020, the OBCE implemented another 180 day temporary rule requiring facial coverings to be worn in office settings by licensees and patients and to abide by Executive Orders and OHA guidance. The Board allowed the temporary rule to lapse in due course and, as of January 21, 2021, implemented a permanent rule requiring facial coverings to be worn and abiding by relevant Executive Orders and OHA guidance. In May, 2022, in-person board meetings resumed for 2-day meetings while keeping 1 day meetings virtual.

Governor’s Budget and Policy Option Packages Requested

The Governor’s Budget and the Agency Request Budget are aligned except for the Governor’s Budget having a \$34,577 negative difference mainly attributed to adjustments made to the DAS State Government and Service Charges and DOJ/Assistant Attorney General rates.

Policy Option Packages	Positions	FTE	Other Funds
090 – Analyst Adj – Revenue (Fee Increase)			257,848
092 – Statewide AG Adjustments			(14,515)
093 – Statewide DAS Adjustments			(20,062)
100 – Database (inLumon) Implementation and Maintenance			50,000
101 – Healthcare Investigator to 1.0 FTE		.40	112,349
102 – Reclass AS2 to Program Analyst			26,514
103 – Reclass OS1 to OS2 and 1.0 FTE		.25	34,210
104 – Transition to DAS IT support			50,000
105 – Board member per diem			40,000
Total 2023-25 Governor’s Budget	6	5.75	2,569,716

POP 090 – Analyst Adjustment – Revenue (Fee Increase)

In early 2020, since the last fee increase occurred approximately a decade prior, it had been recommended to increase our fees for the 2021-23 biennium to accommodate inflation and general increases in business operating expenses. But with the onset of COVID and all of its difficulties, the Board opted to postpone discussion and implementation of increases for a future time. In January 2021, it became clear that fee increases would be necessary and the Board was made aware of that need. At its July, 2021, board meeting, these increases were raised as part of the public agenda through the Executive Director’s Report and was then reiterated at the public board meeting in September, 2021, with different increase proposals to be brought to the Board for consideration at a future meeting and for public input.

At its March 2021 board meeting, during public session and part of the noticed agenda, the Board considered 3 fee increase proposals: 10%, 25%, or 30% and voted to increase fees on all license types and applications by 20%, effective January 1, 2023. These board meeting minutes were posted on the Board’s website. No public comment was received on these proposals or on

the Board’s vote until staff received an email from the Executive Director of the Oregon Chiropractic Association, on July 15, 2022, expressing concern over “such extreme increases.” The Board has not implemented the fee increase, awaiting legislative review and approval. The 20% increase translates to an approximate increase in revenue of \$257,848.

Fee Type	Current Fees	20% Increase
DC Regular Active	\$425	\$510
DC Senior License	\$315	\$378
DC Initial License	\$150	\$180
DC Inactive	\$225	\$270
DC Application	\$146.25	\$166.25 (20% increase on \$100 as \$46.25 is background check fee)
CA Certificate/License	\$50	\$60
CA Renewal	\$75	\$90
CA Application	\$126.25	\$142.25 (20% increase on \$80 as \$46.25 is background check fee)

POP 100 – Database (inLumon) Licensing Management System – Implementation and Maintenance

During the 2019-21 biennium, we were granted a \$40,000 POP to initiate implementation of transitioning from our legacy 1990s Microsoft Access licensing database to the inLumon Software as a Service solution. Due to COVID and our, as well as inLumon’s, staffing changes, the database management system is close to but not fully implemented. We are able to utilize the Board Member Portal for sharing confidential materials for board meetings and are working on full implementation by the end of the 2023 biennium. This POP would allow for full implementation along with necessary KPM and ad hoc reporting functionality and continued maintenance. Total expenditure request: \$50,000.

POP 101 – Healthcare Investigator to 1.0 FTE

This position was originally budgeted as a limited duration position, at .60 FTE that went to a permanent position in 2017. Ever since then, the case and workload has been such to fulfill a 1.0 FTE with the original position holder often working over the allotted .60 FTE hours. The need has only increased with the current case backlog. Additionally, the licensed DC who holds this position also holds a Master’s degree in Education and we are pursuing creating a Continuing Education program through the OBCE. This POP would allow for our budget to more accurately reflect our work needs. Total expenditure request: \$112,349.

POP 102 – Reclass AS2 to Program Analyst

We are requesting an additional \$26,514 expenditure to reclassify an AS2 position to Program Analyst. The current person holding this position is working out of class to accomplish all of the duties required of the position. We are looking to possibly split the position into two: an OS1 position to handle the CA program and a separate Program Analyst or Operations & Policy Analyst for the IT management, DAS reporting, and all other duties currently being done by the AS2 outside the CA Program.

POP 103 – Reclass OS1 to OS2 and 1.0 FTE

We are requesting an additional \$34,210 expenditure to reclassify our OS1 position to OS2 at 1.0 FTE. This position was recently reviewed and approved through DAS Class and Compensation to be filled at the OS2 level and we appointed the person who held the temporary OS2 position into the previously vacant OS1 position, working out of class at 1.0 FTE until legislative approval of the reclassification.

POP 104 – Transition to DAS IT Desktop Support

We are requesting an additional \$50,000 expenditure to transition from private, stand along, desktop support IT services through a third part vendor to DAS IT Desktop Support. Because we are transitioning to the inLumon SaaS cloud service for our licensing, compliance, and investigation programs and to the DAS Data Center for our administrative server, it would be greater efficiency to also have DAS IT Desktop Support assist with our other IT needs, especially considering implementation of M365, enterprise-wide multi-factor authentication implementation, and consistent security requirements. This transition is planned to occur after inLumon is implemented.

POP 105 – Board member per diem

POP added to account for increased board member per diem, for a total expenditure of \$40,000.

Ending Cash Balance

Taking into consideration the above POPs, the OBCE will have an estimated ending cash balance available for expenditure for 2025 of \$267,375, approximately 3.3 months of operating expenditure in reserve (\$80,798/mth).

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michelle Waggoner".

Dr. Michelle Waggoner
OBCE President

A handwritten signature in cursive script, appearing to read "Cassandra C. McLeod-Skinner".

Cassandra C. McLeod-Skinner, J.D.
OBCE Executive Director