

ANALYSIS

Item 44: Board of Medical Imaging Investigation and Other Cost Increases

Analyst: Haylee Morse-Miller

Request: Increase Other Funds expenditure limitation by \$202,000 and increase one position by 0.25 FTE to address an increase in investigations related to enforcement issues and an increase in stipends for board members resulting from HB 2992 (2021).

Analysis: The Oregon Board of Medical Imaging (OBMI) requests an additional \$202,000 Other Funds expenditure limitation and an increase in position authority of 0.25 FTE. OBMI's request for increased expenditure limitation includes:

- \$110,000 for increased Department of Justice billings due to an increased caseload and a change in billing methodology, from a flat rate model to billing by the hour.
- \$32,000 to permanently increase the agency's Investigator 2 position from 0.50 to 0.75 FTE due to an increased caseload.
- \$40,000 for increased Board member stipends stemming from HB 2992 (2021).
- \$10,000 for increased costs of travel for investigations and Board meetings.
- \$10,000 for office furniture and IT upgrades related to remote work.

OBMI can support this increased expenditure limitation with unanticipated revenues, which are projected to exceed the revenue projections included in the agency's 2021-23 legislatively adopted budget by \$250,000. The 2021-23 budget assumed licensee growth would continue at a rate of 9%, but a number of new licensees have come into Oregon on a short-term basis due to the COVID-19 pandemic, resulting in growth of around 12%. Additionally, the Board recently came under new leadership and began enforcing a rule that was not previously prioritized, which holds facilities responsible for employing individuals to practice medical imaging without a current Oregon license or permit. This infraction carries a daily fine, which has increased revenues but also increased the agency's need for legal and investigatory services. OBMI's overall caseload has pointed to the need for increased investigatory staffing since early 2020, but uncertainty around revenues has kept the Board from requesting additional FTE for this work.

Because OBMI's 2021-23 budget included a reduction of \$200,859 from current service level, OBMI is unable to absorb these cost increases within their current expenditure limitation; reductions were primarily made to ensure a sufficient level of operating reserves. The actual and projected increase in revenue is sufficient to support the Board's request for increased expenditure limitation, as well as allow the agency to maintain a sufficient ending balance; if the expenditure limitation increase is approved, the Board is projected to end the biennium with an estimated 8.2 months of operating reserves.

Recommendation: The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means recommend including an increase of \$202,000 in the Other Funds expenditure limitation and authorizing an increase of 0.25 FTE on an existing part-time position for the Oregon Board of Medical Imaging in a budget reconciliation bill during the 2022 legislative session to address increasing investigatory workload, increased board stipends, and other miscellaneous costs.

44
Oregon Board of Medical Imaging
Brickman

Request: Increase Other Funds expenditure limitation by \$202,000 and increase one position by 0.25 FTE to address an increase in investigations related to enforcement issues and an increase in stipends for board members resulting from House Bill 2992 (2021).

Recommendation: Approve the request in the February 2022 Legislative Session.

Discussion: The Oregon Board of Medical Imaging (Board), responsible for the regulation of various medical imaging modalities in Oregon, is requesting additional Other Funds expenditure limitation and an increase in FTE due to an increase in the number of and costs related to the enforcement of a Board rule previously not fully enforced. A new Executive Director, hired in 2019, conducted a thorough review of the Board's rules and recommended the more systematic enforcement of a rule relating to facilities employing unlicensed individuals. Additionally, board member stipends increased in HB 2992 (2021) are impacting the Board's current expenditure limitation. Lastly, the Board updated and expanded the drug testing program for licensees that are on probation.

In early 2019, the Board was working toward raising licensure fees, which had not been raised in more than 10 years. In conversation with both the Legislative Fiscal and Chief Financial Offices, the increase in fees was delayed even further, so the Board could review its needs and propose a fee increase necessary to cover costs. The over 10-year delay in raising fees caused a diminishing ending balance upon which the Board relies on for operational expenses in between fee collection periods. The Board proposed a fee increase during the February 2020 Legislative Session, but the session ended prior to the issue being heard in Ways and Means. Subsequently, the Board raised fees administratively, seeking and receiving ratification in Senate Bill 5522 (2021). The fee became effective January 1, 2021; however, due to the timing and lack of actual knowledge of how much revenue the fee increase would generate, the Legislature, out of a sense of caution, included a revenue reduction package in the Board's 2021-23 Legislatively Approved Budget (LAB).

The most recent information for revenue, including actuals through October 2021, projects the Board receiving 6% more in licensing fees than anticipated during the 2021 Legislative Session, and an additional 373% increase in fines (due to the enforcement of the rule on facilities). Those numbers equate to \$81,218 and \$164,153 more in revenue, respectively. The projected expenses of the Board, based on more recent data (actuals through October 2021), have also been updated due to the increased enforcement of the rule requiring facilities to have licensed imaging specialists. The costs include the need for a more sophisticated database and increased consultations with the Board's Attorney General. Of the request for \$202,000 in additional Other Funds expenditure limitation, \$162,000 (including funding for an additional 0.25 FTE) is related to the increased enforcement activities and \$40,000 is related to the increase in Board members stipends (the costs of which were not considered in the LAB). Based on the increase in revenue and expenditures, the Board will have an ending balance allowing for five months of operating expenses.

Legal Reference: Increase the Other Funds expenditure limitation established by chapter 504, section 4, Oregon Laws 2021, for the Oregon Board of Medical Imaging, by \$202,000 for the 2021-23 biennium



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December 6, 2021

Senator Elizabeth Steiner Hayward, Co-Chair
Representative Dan Rayfield, Co-Chair
Interim Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

RE: Request for an Increase in Other Funds Expenditure Limitation and Update Revenue Forecast

Dear Co-Chairpersons:

Nature of Request

The Oregon Board of Medical Imaging (OBMI), a 12- member Board, completely funded by Other Fund revenue generated from board-issued license and permit fees for the practice of various medical imaging modalities and from fines generated through Board disciplinary action, respectfully requests an increase of \$202,000 Other Funds expenditure limitation for: increased investigation activity, including authorization to increase an existing Investigator position from 0.50 FTE to 0.75 FTE; Board member stipends; and increased Telecom expenses.

Due to some unfortunate events relating to the COVID-19 Pandemic and completing the 2020 Session, the Board's effective date for a licensure fee increase was delayed and subsequently caused a revenue shortfall. That revenue shortfall created a need for the Board to reduce expenditures for the 2021-23 Budget build. During the 2021 Legislative Session, the Legislature restored some of the shortfall due to more favorable revenue projections.

More recent (subsequent to session), revenue projections show that the Board will have adequate revenue to provide for these additional expenditures in addition to ensure an adequate ending balance of at least three months of expenditures.

Agency Action

In early 2019, the Board was working on raising licensure fees, which had not been raised in over 10 years. The delay in raising fees for that length of time caused a dwindling ending balance. During that same time there was a change in Executive Director, and I was appointed. With the advice from Legislative Fiscal Office (LFO), Chief Financial Office (CFO) and guidance from the Department of Administrative Services (DAS) Shared Financial Services, we realized that the fee increase proposed by the previous Executive Director would not be sufficient to sustain the Board's expenditures and provide an adequate ending balance for the next two to three biennia. As such, the Board proposed a larger, 80% increase to make up for the many years that the Board absorbed inflationary costs. Additionally,



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the Board saw a need for increased Investigation Staff FTE to support the rising disciplinary caseload. However, LFO recommended that instead of raising fees administratively, the Board request a fee increase and increased FTE in the 2020 Session.

The Board was initially on track to implement a fee increase Legislatively during the 2020 session with an effective date of July 1, 2020. However, the 2020 Session ended early, and the Board's requests were not able to be heard. Consequently, the Board sought to increase fees administratively and ask for ratification in the 2021 Session which was granted by SB 5522 (2021). During this process, and in consideration of the COVID-19 Pandemic, the Board instead opted to delay the effective date of the fee increase to January 1, 2021, due to perceived financial burden to licensees resulting from the COVID-19 Pandemic. As a result, and due to the forecasted revenue shortfall, during the 2021-23 budget build process, a revenue reduction package reduced expenditures by \$297,000 including (0.25 FTE) to ensure the Board had sufficient funds and ending balance in the 2021-23 biennium. However, with more favorable revenue projections during session and current funds at that time, the legislature restored \$129,000 to the 2021-23 Legislatively Approved Budget (LAB) from the \$297,000 reduced expenditures, including (0.25 FTE). With the latest projections, this leaves the expenditure limitation short by \$167,000.

While the 2021-23 LAB includes the revenue projections and restored a portion of the Other Fund Expenditures reductions, a portion of expenditure limitation was not restored due to not yet known results of the fee increase, and the unknown potential transfer of the Health-Related Licensing Boards, of which Oregon Board of Medical Imaging (OBMI) is one of six Boards, to the OHA-Health Licensing Office.

The current revenue projections show that the 80% fee increase effective January 1, 2021 (SB 5522), a three percent increase in licensure applications over previous projections and an increase in fines change the revenue forecast included in the 2021-23 LAB. Increased applications (3% more than a typical annual increase) from out of state, traveling technologists, for new licenses due to COVID-19 and the decision of the Board to more strongly enforce established rules have necessitated a revenue forecast update. Revenues are expected to be approximately \$250,000 over projections in the LAB:

LAB:

Total Revenue for 2021-23: \$1,472,524 Total expenses: \$1,206,467 (5.3 months of cash reserves)

New Projections & Increased Expenditure request:

Total Revenue for 2021-23: \$1,722,794 Total expenses: \$1,432,663 (5.8 months of cash reserves)

In 2019, as the new Director, I conducted a thorough rule revision and as a result found that a long-established statute and rule that hold facilities responsible for employing unlicensed individuals had not been enforced by previous Boards. The Board also updated and expanded the drug testing program for licensees that are on probation. With the advent of the improved probation program, licensees that were not being detected with the previous program were in fact detected and discipline was imposed. These programs, statutes and rules provide safety for Oregonians undergoing medical imaging procedures. As a result, the number and complexity of cases, related investigations including AAG costs were underestimated in the 2019-2021 Budget.

Although a permanent 0.50 Investigator was added to the 2019-2021 budget, the adjustments made for investigatory staff in the 2019-2021 budget were underestimated. In early 2020 the Board had a workload to support a 0.75 FTE Investigator. Current staff provided the extra administrative support for



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the increased caseload; however, the increased disciplinary caseload caused undue strain on the current staff comprised of 4 people with a total 3.5 FTE.

The need for a more sophisticated database and legal advice followed the rise in complicated disciplinary cases and those packages were included in the 2019-21 budget; however, Department of Justice (DOJ) costs for AAG have recently changed. The DOJ no longer offers a flat rate fee for Assistant Attorney Generals; rather the fees are calculated based upon actual hours and this has caused an unexpected increase in costs for OBMI.

With the passage of HB 2992 (2021), and in consideration of the current Board statutes that require the Board to compensate members based upon ORS 292.495 regardless of their eligibility status, it is necessary for the Board to increase Board member stipends for all 12 Board members for 4 Quarterly Meetings per year and for 6 members for an additional 4 committee meetings per year. The stipend compensation amount increased from \$30 per diem to \$151 per diem and required preparatory time that was not previously compensated. For the current biennium, there are 7 Quarterly Board meetings (1 actual and 6 projected) and 7 Committee meetings (1 actual and 6 projected). For the 2021-23 biennium, Board compensations increase by a total of \$34,242 from 2021-2023 LAB projections. This results in an increase in needed expenditure limitation (there is a net increase of \$15,246 for the meetings and an additional \$19,026 for preparatory time). The request for \$40,000 of increased expenditure limitation provides for the occasional extra emergency Board meeting which occurs once or twice a biennium. Six Board members have declined compensation; however, three of those members are near the end of their terms and will be replaced with members that have unknown compensation choices. The increase in expenditure limitation was calculated based upon the full Board requiring compensation.

Upgraded office furniture needs refurbishment to allow for better ergonomics and remote IT equipment is needed to support Investigative staff workload. Purchases for planned upgrades were delayed due to revenue shortages that are now possible with increased revenue (\$7,000). Purchased for equipment that is at end-of-life or new equipment needed to augment efficient remote work (\$3,000) is also now supported by increased revenue.

The increased limitation request for Travel is needed for both Board member travel (one in person meeting per year) and for increased travel for the Board Investigator for increased activity regarding on-site interviews and investigations throughout Oregon.

This request is intended to restore the expenditure limitation that resulted from the 2021-23 LAB reduction.

Action Requested

The Oregon Board of Medical Imaging respectfully requests an increase of \$202,000 Other Funds expenditure limitation for the 2021-23 biennium comprised of \$72,000 in Personal Services and \$130,000 in Services and Supplies. This includes:

- \$110,000 for AAG;
- \$32,000 for Investigative staff FTE increased by 0.25 FTE (for a total of 0.75 FTE);
- \$40,000 for Board member stipends;
- \$10,000 for Travel;



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- and \$10,000 for IT upgrades.

The increase in Other Funds expenditure limitation is supported by updated revenue projections; this is needed for the 2021-23 biennium and anticipated to continue for 2023-25 biennium.

Legislation Affected

Increase the Other Funds expenditure limitation established by chapter 504, section 4, Oregon Laws 2021, for the Oregon Board of Medical Imaging, by \$202,000 for the 2021-23 biennium.

Sincerely,

Stacy Katler, DVM

Executive Director