



2019-21 Biennium Budget Decision Package

Agency: 303 - Department of Health
Decision Package Code-Title: 3A - WMC Increased AG Costs
Budget Session: 2019-21 Regular
Budget Level: Policy Level
Contact Info: Ryan Black
 (360) 236-4530
 ryan.black@doh.wa.gov

Agency Recommendation Summary

Medical Commission has experienced and unprecedented upward trend in Attorney General (AG) billings due to increased discipline activity and increased litigation costs due to defendants retaining more counsel and outside witnesses. The Medical Commission is requesting additional appropriation to cover the increased AG billing costs.

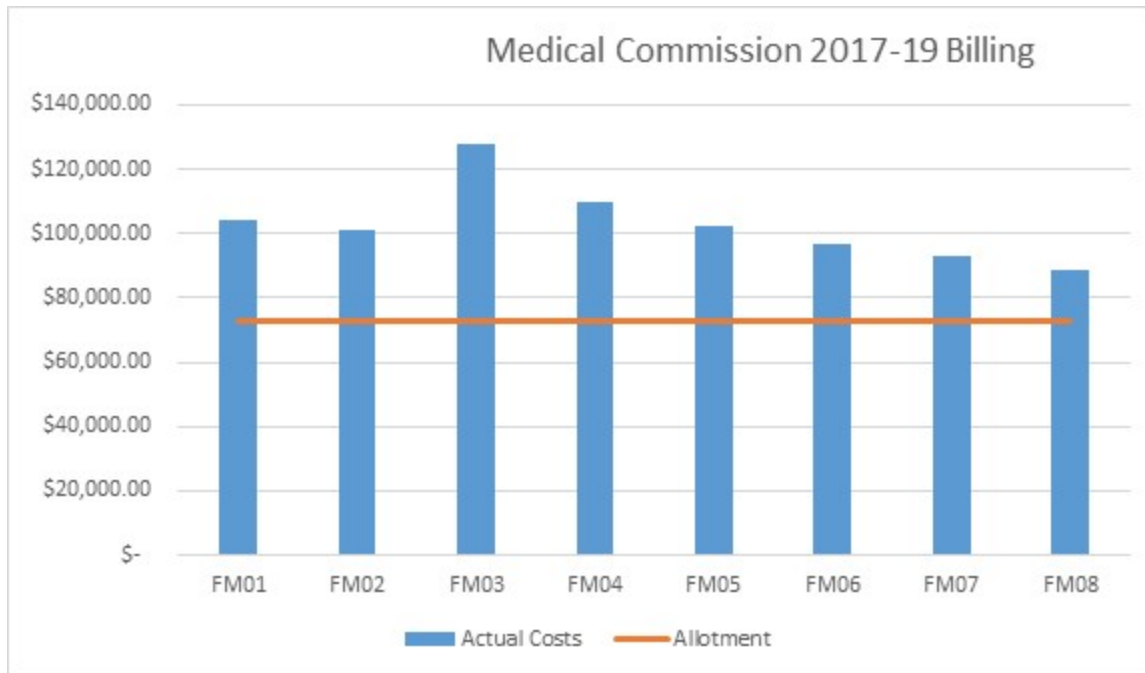
Fiscal Summary

Dollars in Thousands

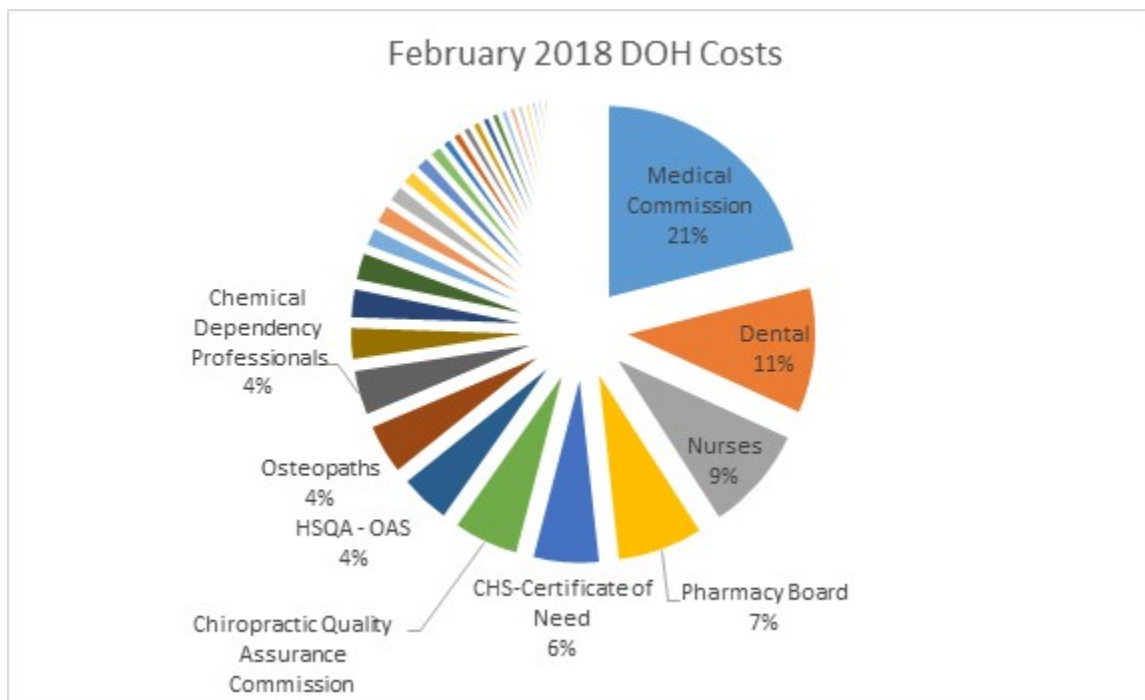
Operating Expenditures	FY 2020	FY 2021	FY 2022	FY 2023
Fund 02G - 1	\$553	\$570	\$589	\$605
Total Expenditures	\$553	\$570	\$589	\$605
Biennial Totals		\$1,123		\$1,194
Object of Expenditure	FY 2020	FY 2021	FY 2022	FY 2023
Obj. E	\$553	\$570	\$589	\$605

Package Description

The Medical Commission has allotted \$1,745,898 for the 2017-2019 biennium for Assistant Attorney General (AAG) billings. It is quickly becoming apparent that this amount will not be sufficient to examine and adjudicate the complex and high profile cases the Medical Commission has been investigating. The Medical Commission/DOH does not have FTEs that are supported by this request, rather this is a request for fee-for-service by the AGO.



The 2015-17 Medical Commission billing percentage for AG services was 18 percent of the entire DOH AG bill. For the first fiscal year of the 2017-19 biennium the Medical Commission billing percentage for AG services of the entire DOH AG bill is 23 percent. As of March of FY 2018, the Medical Commission has seen an increase in the average length of respondent hearings and Health Law judge billing time by 50% from FY17. These factors result in an indirect increase in the amount of hours that we are billed from the AAG.



The DP will go toward funding attorney general costs and there is no alternative because the AGO is required to adjudicate Medical Commission cases. The funds will go toward funding FTEs in the AGO, including attorneys and paralegals. There are no alternatives and therefore:

- No options at lower cost
- No other agency can fulfill these duties

We do not have control over the severity or type of complaint the Medical Commission receives and so the Commission is unable to predict the status quo, much less maintain it.

Assumptions and Calculations

Expansion or alteration of a current program or service:

This is not an expansion since we are not requesting additional services from the AGO, however we have increased their workload. In FY2016 our total AGO costs were \$859,503 and in FY2017 AGO costs increased 2.7% to \$883,190. In FY2018 we have spent \$1,261,839. This is a 42.8% increase from FY2017.

Detailed assumptions and calculations:

The average hearing lasted 2 days in FY15-17, however in FY17-19 the average hearing is over a week's worth of billable time for the AGO. Changes in workload cannot be anticipated based on this funding request since the workload are complaint driven and the Commission cannot anticipate the types of complaints that will make up the 1800+ reports we receive every year.

- No discrete funding proposals
- No FTEs requested
- Costs are ongoing, not a one-time expenditure

	Allotment	Expenditures	CGR	Shortfall
FY18	\$873,912	\$1,261,839		(\$387,927)
FY19	\$875,586	\$1,299,746	3.0%	(\$424,160)
FY20		\$1,338,791	3.0%	(\$436,902)
FY21		\$1,379,010	3.0%	(\$450,027)
FY22		\$1,420,436	3.0%	(\$463,546)
FY23		\$1,463,107	3.0%	(\$477,471)
FY24		\$1,507,060	3.0%	(\$491,815)
FY25		\$1,552,333	3.0%	(\$506,590)

Workforce Assumptions:

Not applicable

Strategic and Performance Outcomes

Strategic framework:

- Governor’s Results Washington goal 5: 1.2
- Agency’s strategic plan: Public Safety “Resolve health care provider and facility complaints and allegations of misconduct or unsafe care”
- Medical Commission Strategic Plan, Goal 1: Promote Patient Safety.

Performance outcomes:

The Medical Commission is expected to meet our mandate to protect patient safety in a timely manner. Because this is fee-for-service billing, we cannot control the performance outcomes of the AGO. However, the Medical Commission does not have the spending authorization to continue at the current rate and therefore the Commission must consider the possibility of delaying discipline to comply with the spending allotment. Without additional funding in this biennium the Medical Commission will not be able to adequately fund the discipline activity necessary to enforce the Uniform Disciplinary Act (UDA). If this funding request is not granted we will have to delay all judgements, disciplinary orders, and other adjudicative actions performed by the AGO by 37.5% per month.

As of Jun 28 of FY18 the Medical Commission has served 120 orders. The Medical Commission has exceeded the number of total orders served in FY17 in the first nine months of FY18. For FY18 the Medical Commission is expected to exceed the total number of orders served by 30% and the average length to serve by 50%. **NOTE:** these increases are not a result of Medical Commission Performance, but are a result in outside, fee-for-service, entities such as the Attorney General’s office and the Adjudicative Clerks office completing the necessary paperwork and motions to discipline a licensee.

Performance Measure # of orders / average length to serve		FY16	FY17	FY18 (thru FM9)*
Orders Served	This measure tracks the number of orders served for a profession and the number of days that it has taken to serve the order.	86 orders/ 5.3 days	93 orders / 9.38 days	120 orders/ 14 days

- Reflects 9 of 12 fiscal months

Delaying actions due to an inability to pay for AGO services will impact all Washington residents that utilize the health care system. The health and safety of every community is put into risk if the Medical Commission and the Attorney General cannot remove licensees that pose a threat to those seeking treatment and health care services.

If not funded the Medical Commission will have to cut back on the billable hours from the AGO to comply with spending authority. If we are granted additional funding to meet the litigation demand and the increased billing rate by the AGO the Assistant Attorney General’s office will not see a reduction of 37% in their workload per month. Anticipated support from AGO.

Other Collateral Connections

Intergovernmental:

Not applicable

Stakeholder response:

The Medical Commission receives 1,800+ complaints per fiscal year from practitioners and the public. The ability to discipline those providers who pose a threat to the safety of our communities will be harmed if we cannot solicit the help of the AGO when needed for immediate and non-immediate issues. This benefits not just complainants, but all Washington residents seeking quality healthcare. No opposition anticipated.

Legal or administrative mandates:

The Medical Commission is tasked with protecting patient safety, to do so we much charge MD/PA respondents as they are deemed to be a danger to themselves and the general public. Without the AGO, we cannot charge and discipline disruptive and harmful licensees.

Changes from current law:

None

State workforce impacts:

None

State facilities impacts:

None

Puget Sound recovery:

None

Agency Questions

Did you include cost models and backup assumptions?

See attached

Reference Documents

- 3A-FNCal 20.1 FY19-21 (WMC AG DP)-ver2-FINAL.xlsm
- 3A-WMC AG Costs FY17-19 AG Billing-backup.xlsx

IT Addendum

Does this Decision Package include funding for any IT-related costs, including hardware, software, (including cloud-based services), contracts or IT staff?

No