



COURT REPORTERS BOARD OF CALIFORNIA

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MEETING OF THE COURT REPORTERS BOARD

**Tuesday, November 19, 2013
2:00 p.m.**

**Department of Consumer Affairs
1747 North Market Boulevard
1st Floor, Hearing Room
Sacramento, CA 95834**

AGENDA

**Board Members: Toni O'Neill, Chair; Davina Hurt; Rosalie Kramm; Elizabeth Lasensky;
and John Liu**

CALL TO ORDER –Toni O'Neill, Chair

ROLL CALL AND ESTABLISHMENT OF A QUORUM

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|------|--|----|
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(Nestande), AB 365 (Mullin), AB 376 (Donnelly), AB 555 (Salas), AB 566 (Wieckowski),
AB 648 (Jones-Sawyer), AB 655 (Quirk-Silva), AB 679 (Fox), AB 771 (Jones), AB 772
(Jones, AB 788 (Wagner), AB 866 (Linder), AB 868 (Ammianao), AB 894 (Mansoor),
AB 1017 (Gomez). And other bills later discovered which are relevant to the Board's mission | |

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XVII.	<u>ADJOURNMENT</u>	

Action may be taken on any item on the agenda. All times are approximate and subject to change. The meeting may be canceled or the ending time shortened without notice. For further information or verification of the meeting, call Paula Bruning at (877) 327-5272, email to paula.bruning@dca.ca.gov, write to Court Reporters Board, 2535 Capitol Oaks Drive, Suite 230, Sacramento, CA 95833, or access the Board's web site at www.courtreportersboard.ca.gov.

The meeting is accessible to the physically disabled. A person who needs disability-related accommodations or modifications in order to participate in the meeting may make a request by contacting Paula Bruning at (877) 327-5272 or emailing paula.bruning@dca.ca.gov or sending a written request to 2535 Capitol Oaks Drive, Suite 230, Sacramento, CA 95833. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation. Requests for further information should be directed to Yvonne Fenner at the same address and telephone number. If any member of the public wants to receive a copy of the supporting documents for the items on the agenda, please contact the Board within 10 days of the meeting. Otherwise, the documents, if any, will be available at the meeting.

The public can participate in the discussion of any item on this agenda. While not required, to more accurately memorialize public comments, staff requests that public commenters state their names and the name of the organization they represent, if any. Please respect time limits. Be aware, the Board CANNOT discuss any item not listed on this page.

AGENDA ITEM I – Introduction of New Board Members

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Agenda Description: New Board Members.
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Brief Summary:

Rosalie Kramm, a Certified Realtime Reporter and Registered Professional Reporter from San Diego, California, is President of Kramm Court Reporting. She has been working as a freelance deposition reporter in Southern California since September 1981, and specializes in technical, complex business, and realtime court reporting. Over the course of her career, she has been active in numerous industry associations, including being president of the Deposition Reporters Association of California, president of the Society for the Technological Advancement of Reporting, and serving on various committees for the National Shorthand Reporters Association.

Ms. Kramm was appointed by the Governor to the Court Reporters Board as a licensee member on July 3, 2013, to a term running through June 1, 2017.

John K. Liu, a member of the California Bar since 1997, was appointed by the Governor to the Court Reporters Board on October 25, 2013, to a term expiring on June 1, 2016. He practices corporate and securities law in the Silicon Valley and specializes in the representation of venture capital investors, startup companies, and other venture-backed clients in the technology area. Mr. Liu has been counsel to the corporate department at Lowenstein Sandler LLP since 2012. He was of counsel in the corporate/startup group at Fenwick & West LLP from 2008 to 2012 and managing partner of the boutique corporate and securities law firm, Charter Law Group LLP, from 2002 to 2008. Mr. Liu earned his Juris Doctor degree from the University of California at Davis School of Law, bachelor degrees in English and in Electrical Engineering from Stanford University, and a Master of Science degree in Engineering Economic Systems, also from Stanford University. In his early career, he served as a judicial extern for the Honorable Ming Chen of the United States District Court for the Northern District of California.

Before embarking on his legal career, Mr. Liu developed and customized software systems for the financial services and technology sectors. He is passionate about education and working with technology companies, and volunteers his time as a venture mentor at U.C. Berkeley's startup accelerator SkyDeck and as a mentor at the Santa Clara University School of Law Entrepreneurs' Law Clinic. He also serves as a board member of Five Branches University, California Graduate School of Traditional Chinese Medicine. Mr. Liu is a Democrat.

Mr. Liu was appointed by the Governor to the Court Reporters Board as a public member on October 25, 2013, to a term running through June 1, 2016.

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Report Originator: Yvonne Fenner, 10/29/2013
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Recommended Board Action: Informational.
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COURT REPORTERS BOARD MEETING – NOVEMBER 19, 2013

AGENDA ITEM II – Minutes of March 29, 2013 Meeting

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Agenda Description: Review and approval of minutes.
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Brief Summary:

Minutes from March 29, 2013 meeting in Los Angeles
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Support Documents:

Attachment – Draft minutes.
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Fiscal Impact: None
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Report Originator: Paula Bruning, 10/12/2013
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Recommended Board Action: Approve minutes.



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COURT REPORTERS BOARD OF CALIFORNIA MINUTES OF OPEN SESSION MARCH 29, 2013

Attachment
Agenda Item II

DRAFT

CALL TO ORDER

Ms. Toni O'Neill, Chair, called the meeting to order at 10:35.a.m. at the Westin LAX, 5400 West Century Boulevard, Lindbergh Ballroom, Los Angeles, California.

ROLL CALL

Board Members Present: Toni O'Neill, Licensee Member, Chair
Reagan Evans, Licensee Member
Davina Hurt, Public Member
Elizabeth Lasensky, Public Member

Staff Members Present: Yvonne K. Fenner, Executive Officer
Angelique Scott, Staff Counsel
Paula Bruning, Executive Analyst

A quorum was established, and the meeting continued.

I. INTRODUCTION OF NEW BOARD MEMBER, DAVINA HURT

Ms. O'Neill introduced Davina Hurt, the Board's newest member, and highlighted her background. Ms. Hurt has been practicing law since 2005 and has a general law practice, which handles both criminal and civil cases. She has participated in various projects, including drafting documents for the International Criminal Tribunal of Rwanda. Ms. Hurt comes to the Board as an Assembly appointment. Ms. O'Neill stated her gratitude for having Ms. Hurt on the Board, specifically for the attorney's viewpoint.

Ms. Hurt expressed her excitement for being part of the Board and looks forward to supporting the consumers of California.

Ms. Hurt's term runs through June 1, 2015, and her full biography can be viewed on the Board's Web site.

II. MINUTES OF THE OCTOBER 12, 2012 MEETING

Ms. Hurt suggested a revision to the title of Agenda Item V on page 5 of the minutes to state section 2475 "(b)(8)" instead of "(a)(8)". Ms. Bruning indicated that staff had included the word "sic" next to the title because the item had been incorrectly listed as (a)(8) on the

agenda for that meeting. Ms. Scott recommended that the title be kept as it had been noticed on the agenda.

Ms. Lasensky moved to approve the minutes. Second by Ms. Evans. **MOTION CARRIED.**

III. BOARD AND STAFF APPEARANCES

Ms. Lasensky shared that she had completed the ethics training online.

Ms. Evans completed the sexual harassment prevention training and fielded phone calls. She is scheduled to meet with the Governor's Office on April 1, 2013, regarding her reappointment. She also indicated that she attended the Deposition Reporters Association (DRA) convention, but not in her official capacity as a Board member.

Ms. O'Neill completed the ethics training as well and is planning to take the sexual harassment prevention training course as required by her employer and the State. She attended a few National Court Reporters Association (NCRA) functions and maintained contact with Board staff.

Ms. Fenner participated in career day for a law academy at a local high school. The appearance included a mock deposition using realtime. She mentioned that outreach is limited to those things within driving distance due to the travel restrictions.

Ms. Hurt indicated that she has had many discussions with staff working to complete her hiring package and orientation with the Board's history, policies, and upcoming decisions.

Ms. O'Neill reiterated that the Board historically made more public appearances before the stringent travel restrictions were placed. She indicated that she finds herself answering questions outside of her official capacity due to the need of the industry. She refers licensees and consumers to the Board's Web site and staff when necessary. She hopes that outreach can be resumed once the economy recovers.

IV. REPORT OF THE EXECUTIVE OFFICER

A. CRB Budget Report

Ms. Fenner referred to the Budget Report, fiscal month 7, on page 21 of the Board agenda packet. She pointed out that the Board is in the red as typical, but that adjustments would be made as the year progressed. Ms. O'Neill inquired if there were any trends being seen with the budget. Ms. Fenner responded that the numbers were typical. She shared that the hotel expenses for the exam are encumbered up front at the full contract rate of around \$20,000, but then adjustments are made when the Board is credited for sleeping rooms, bringing the actual cost down to an amount closer to \$4,000 - \$8,000.

Ms. O'Neill inquired if there were any Budget Change Proposals (BCPs) in the works. Ms. Fenner indicated that the Board has a Legislative BCP for a half-time position that has been approved by the Department of Finance. The BCP is now at the Legislature for approval. Staff attended a Senate Budget Committee pre-hearing, but were unable

to attend the Assembly hearing on the day before the Board meeting. Once the budget is signed, the BCP will become official.

Ms. Fenner reported that staff recently received a request for concept papers for the next round of BCPs. It is also time to send out the Occupational Analysis for the written examinations again.

Ms. Fenner then focused on the fund assets on the Analysis of Fund Condition report on page 22 and the TRF Fund Condition on page 23.

B. Transcript Reimbursement Fund

Ms. Bruning reported that the Transcript Reimbursement Fund (TRF) continues to be fiscally strong; however, the pro per program is again underfunded. Staff is processing applications received in 2012 with the money allocated to the fund in January 2013.

Ms. Fenner shared that staff was recently made aware that three sections of the Business and Professions (B&P) Code that governs the TRF were inadvertently repealed effective January 1, 2013. These include B&P Code sections 8030.4, 8030.6, 8030.8. The affected sections were mistakenly not included in the sunset bill, SB 1236, which was chaptered last year. These code sections contain definitions of qualified applicants, set out limits of payment, and requirements of applications. Since these items are crucial to the operation of the fund, staff has halted processing all applications received after January 1, 2013. Ms. Fenner indicated that she had been in contact with the consultant for the Senate Committee on Business Professions and Economic Development (BP&ED), as well as the Legislative Review division at the Department of Consumer Affairs. This issue requires a legislative remedy; therefore, BP&ED staff are looking at amending an emergency legislation bill to include the affected sections. Staff is preparing to notify the non-profit organizations, as well as post an advisement on the Board's Web site.

C. Exam

Ms. Fenner reported that there are 149 candidates at the examination being held concurrently with the Board meeting, 57 of which are taking the exam for the first time. Ms. Hurt had the pleasure of sitting in on one of the dictation sessions at the examination prior to the Board meeting.

Ms. Fenner referred to the historical examination pass rates included on pages 24 – 26 of the Board agenda packet. Ms. Lasensky expressed concern over the poor pass rates for first-time applicants taking the English examination. Ms. Fenner responded that students are coming into court reporting programs with increasingly poorer English base levels. The court reporting programs have much more to teach these students than they did in the past. Staff is working with the Office of Professional Exam Services (OPES), the Board's exam developer, to produce a sample test for teachers at the July examination development workshop. It is hoped that the sample exam, which will not contain actual test questions, will help to prepare the candidates. OPES has also suggested that candidates are checking answers quickly instead of taking the time to read and thoroughly analyze each question before answering.

Ms. Hurt inquired how many exam workshops are conducted annually. Ms. Fenner responded that it varies during the examination plan from two to four development workshops. For the current plan cycle there is now a large test bank, so there are two exam development workshops per exam cycle. The first workshop group of expert consultants picks the questions, and the second group takes the test and sets the passing score.

Ms. Lasensky commented that the pass rate figures in general are going down. Ms. Fenner agreed that they are slightly decreasing. She explained that a longer term timeline would be more helpful since the labor force, with its supply and demand, fluctuates. When there are a lot of licensed reporters in the field, school enrollment decreases. Of course the schools recruit more when the licensee base decreases; however, it may be a six-year delay before those students are ready for licensure. In addition, there are fewer first-time candidates; therefore, the percentages can be skewed, considering one or two students can make up the total number of candidates from any given program.

Ms. Evans commented that first-time candidates sometimes go through the process just to get over the jitters. Ms. Fenner concurred, stating that the test is only \$25.00, which is not much money to preview the test. Unfortunately, this reflects poorly on the schools' statistics, but no one can prevent the students from doing so.

D. School Updates

Ms. Fenner reported that Cerritos College notified staff that they will be closing their court reporting program. She introduced Vykki Morgan, Court Reporting Department Co-Chair at Cerritos College. Ms. Morgan has worked at Cerritos College for nearly 21 years. Previous to that she worked at South Coast College and was an official court reporter for 15 years in San Bernardino County.

Ms. Morgan shared some of the factors contributing to the closing of the court reporting program at Cerritos College. First, she mentioned the economy and the tight budgets of the schools. She stated that the lack of the ability for students to repeat classes as directed by the Chancellor's Office had impacted funding for students in the speed-building classes. Additionally, there were not enough students for a new theory class for the first time in her years at the school, which would result in a lack of full classes down the line for some time. Cerritos College has no tolerance for classes that are not full.

Ms. Morgan indicated that she is coordinating a "teach out" with two more semesters and two summer sessions. They will be working with students with a goal to get as many to graduation as possible. Additionally, the staff will be helping students to transfer to other programs. Ms. Morgan had developed a questionnaire that will be distributed to all the Board-recognized schools. The questionnaire will include topics such as financial aid, speed level requirements, acceptable transfer credits, type of instruction (online or on campus), and class times. Cerritos will hold a mini school fair in January 2014 to allow students to interact with the various schools for questions, since the court reporting program at Cerritos currently has 225 students, 90 of which are on campus. It is her goal to serve these students to the best of her ability.

Ms. Fenner addressed the lack of enrollment for the theory class at Cerritos. She asserted that layoffs in civil courtrooms do not mean the work has disappeared. There may not be state or county employment jobs; however, the services of court reporters are still needed, just in a different manner. Ms. Morgan added that the school administration did not understand that the needs of the industry have changed, but not vanished. Ms. O'Neill stated that the court reporters discharged from her court have been busier than ever due to the skills they acquired and used in court. Ms. Morgan indicated that more press is needed regarding the opportunities that are available.

Ms. Hurt suggested that the Board include an area on its Web site to dispel myths. Ms. Morgan indicated that statistics are not available for the court reporting profession, making it difficult to track trends, which school administrators rely on.

Ms. Fenner wrapped up the school report by acknowledging the Board had reached the end of Phase I of the school review process, having received responses from nearly all the schools.

E. CRB Today Newsletter, Spring 2013

Ms. Fenner referred to the latest edition of the CRB Today newsletter, which was made available at the meeting. She recently learned that the enforcement matters had not previously been compliant with the Americans with Disabilities Act with regards to font size. The publication was then revised to be in compliance, making it appear as if there are many more cases than in past issues. The publication has been sent to the internet team for electronic distribution.

Ms. Evans enjoyed the Student Spotlight, stating that the article was brilliant.

F. BreEZe

Ms. Fenner stated that the BreEZe implementation is slightly behind the original schedule. Fortunately, this project is set up so that there is no payment until it is functioning. The first group is scheduled to go live mid-May of this year; however, it will be close to the end of 2014 before the CRB will be switched from the current database system to the new BreEZe system.

V. ENFORCEMENT REPORT

Ms. Fenner referred to the statistics in the Board agenda packet, stating that there was nothing noteworthy.

VI. STRATEGIC PLAN UPDATE

Ms. Fenner referred the Board to the 2012- 2014 Action Plan Timeline on pages 31 and 32 in the Board agenda packet. She indicated that some items were moved out a year from the original target date. Staff initially guessed as to the target dates; however, workload demands have changed the allowable time to work on those items. She reassured the Board that staff still has the goal of completing these items; it will just be later than originally planned.

Ms. Fenner requested feedback from the Board on the two items with asterisks on the timeline. She believes these to be important, but it may take a year to do a good job on them. The problem lies with the limited staff and lack of budget. She requested the Board tell her which items to prioritize.

Ms. O'Neill reminded the audience they could provide public comment if they desired, but to do so they need to approach the designated table and speak clearly so as to be heard by all in attendance as well as by those viewing the meeting by webcast.

Ms. O'Neill inquired about the action item, "Establish an electronic records task force and identify legality of electronic signatures." She asked what the current position of staff is regarding this matter. Ms. Fenner indicated that staff responds to questions of signatures by referring to the current law wherein an original transcript requires an original or "wet" signature. As the transition to electronic records and signatures is made, the Board may propose the use of technology that contains encryption codes that will invalidate the signature if the content of the transcript is changed. Digital signatures, which are merely copies of signatures, are not recommended because they do not protect the product. These are just guidelines, and an official position has not yet been taken. As with the creation of the Best Practices for Backup Audio Media, a taskforce is needed to decide the Board's official position, create best practices, or initiate regulations. Ms. O'Neill asked if court reporters can create and send certified copies by merely typing their name on the transcript, for which Ms. Fenner responded that they could.

Ms. O'Neill noted that more scrutiny and development can be given to this matter; however, based on the budget issues and the fact that staff has guidelines for electronic transcripts and signatures that should suit what is needed in the world of officials, it doesn't appear to be vital that it be addressed immediately versus down the line when the budget improves. She confirmed that her court is already working with electronic filings; however, original copies of deposition transcripts are used at trial. Ms. Evans indicated that not many reporters or agencies require electronic originals so she doesn't see it as a hot issue in the freelance arena.

Ms. Evans asked if staff felt that completing one task over another would assist in making the office more efficient. Ms. Fenner indicated that having put the list together, staff is comfortable with the order; however, anything that interests the Board can be rearranged to the top.

Ms. Hurt inquired about the action item, "Research pledges from other professional licensing groups." Ms. Fenner responded that currently individuals receive their license and then just go to work. The pledge would mirror other professions with a pledge or oath to swear reporters in a more official manner, similar to what they do at the State Bar. This would be on a voluntary basis, but would start to be a practice that would be accepted and implemented within the industry. Ms. O'Neill stated that she was recently notified that there is a code that requires all reporters working in court to be sworn in when they first become officials, but nobody has been doing this.

Ms. Fenner reiterated that the Board could request to move the order of any items they thought were more urgent than others. Ms. Evans believed whatever tasks are taken on will cost money, which the Board doesn't have. Ms. Fenner noted that it may be difficult, but staff would have to be creative and take advantage of technology to accomplish the

mission-critical tasks. She indicated that the Board reinstated the Technology Task Force and Continuing Competency Task Force at its April 2012 Board meeting. Although both task forces have chairs, members have not been appointed to them because of the difficulty in meeting when faced with budget issues. However, if there is a need, staff will find a way to make it happen. She welcomed input at any time, noting that she did not need immediate direction. Ms. Evans stated that she felt good that progress was being made on the strategic plan items, even if it was a little at a time.

VII. CONSIDERATION OF RECOGNITION OF TAFT COLLEGE AT WESTEC COURT REPORTING PROGRAM

Ms. Fenner introduced Gary Shaw from the Taft College at WESTEC court reporting program. Ms. Evans recognized the accomplishments Taft College had completed and recommended the recognition of the college.

Ms. Lasensky moved to grant full recognition to Taft College at WESTEC Court Reporting Program. Second by Ms. Evans. **MOTION CARRIED.**

The Board congratulated Mr. Shaw and Taft College on their recognition.

VIII. REPORT ON LEGISLATION

Ms. Fenner apologized for the volume of legislative bills in the Board agenda packet; however, it is the beginning of the two-year legislative cycle. Due to the turbulent times in the court reporting industry, many bills pertain to the Board. Ms. Fenner indicated that she is tracking some bills because they affect all boards or bureaus, but may not require any action. She then proceeded to provide the background and status of some bills that require the Board's attention. The Board may take a position on the bills, including support, oppose, remain neutral, or watch.

Ms. Fenner reported that the full language of SB 705 (Block) – Electronic Court Reporting, is included in the agenda packet starting at page 41. The language has already been amended since it was introduced.

Ms. O'Neill called for comments from the public. Ms. Evans reiterated that this bill is calling for the allowance of a court to use the existing equipment for judicial notetaking. Ms. O'Neill added that transcripts made from these recordings are not the official record. Ms. Hurt indicated that she is not opposed if it is unofficial. The Board decided to take a "watch" position on SB 705. Ms. Fenner confirmed she would keep the Board up to date on any changes.

Ms. Fenner referred to the language on page 56 of the agenda packet regarding AB 251 (Wagner) – Electronic Court Reporting. Ms. O'Neill noted that the language was amended. She also stated that she is against electronic recording in courts. She called for comments or questions and then asked the Board to take a position. Ms. Lasensky requested comments from the public.

Ed Howard, representing DRA, stated that it was his understanding that all the trade organizations would be taking an oppose position on this bill. He suggested that if the

Board wanted to take an oppose position they do it today since the bill is up for hearing in the Assembly Judiciary Committee on April 9, 2013.

Ms. O'Neill supported her opposition to the bill by stating that she sees the installation of electronic recording in court in lieu of a court reporter as harmful to the consumer.

Ms. Evans moved to oppose AB 251. Second by Ms. Hurt. **MOTION CARRIED.**

Ms. Fenner will work with Ms. O'Neill on language for a letter of opposition.

Ms. Fenner referred to AB 365 (Mullin) – Court Reporting. Mr. Howard stated the bill is under revision and distributed copies of the newly proposed language (see Attachment 1). He stated that the original intent of the bill was to reinforce the connection between a transcript to be used in a judicial proceeding and a licensed court reporter. He indicated that the original draft of the bill drew concern from DRA's sister organizations that it could be perceived that DRA was agreeing with electronic reporting. After considering the concerns of the valued organizations, the bill was redrafted as presented today. The bill would modestly amend Section 273 of the Code of Civil Procedures (CCP), which sets out the standard by which a transcript that is done by an official or an official pro tem is prima facie evidence. He indicated that his research revealed no definition of official or official pro tem in the CCP. The closest thing to a definition is found in the Government Code 69942. Therefore, this bill would bring the Government Code language into alignment with the CCP language.

Mr. Howard indicated that the language is currently under review by DRA's sister organizations and SEIU. Ms. O'Neill thanked Mr. Howard for his work on this language. Since the language is not yet final, the Board decided to take a "watch" position on AB 365.

Ms. Fenner referred to AB 566 (Wieckowski) – Courts: Personal Services Contracting, on page 47. She indicated that the bill would place a limit on what amount of contracts can be done for personal services without specific, measurable performance standards and audits. Ms. Lasensky expressed concerns over not knowing who would providing the performance standards and audits. The Board decided to take a "watch" position on AB 566.

Ms. Fenner turned the attention of the Board to AB 648 (Jones-Sawyer) – Court Reporters. This bill would require each party to pay the required fee for court reporters for each separate proceeding, with the funds to be deposited in the Trial Court Trust Fund.

Mr. Howard stated that he believed both AB 566 and AB 648 were supported by SEIU. With AB 566, SEIU would hope that courts would have a consistent method of contracting out services if the official reporters were released. He added that AB 648 may be modeled after the program in Los Angeles County whereby the collected fees would be used to support official reporters. Ms. O'Neill said she was curious as to who administers the Trial Court Trust Fund.

The Board also considered AB 655 (Quirk-Silva) – Court Reporters: Salary Fund, and AB 679 (Fox) – Fees: Official Court Reporters. Ms. O'Neill indicated that Los Angeles County has in place a process for some of the funds collected from the reporter fees to go into a

reporters salary fund. Although Riverside County is diligent in collecting reporter fees, the funds get sent to the Administrative Office of the Courts, who in turn decides who receives the fees. Having a portion of those fees immediately go into the reporters salary fund would enable the court to have better use of the funds that they are diligently collecting.

Ms. Evans wondered about the difference between AB 648 and AB 655. Ms. O'Neill indicated that it is common to have two or three bills addressing the same issue with slight differences. Ms. Fenner said the Board would probably have stronger positions on bills as amendments are made.

The Board decided to take a "watch" position on AB 648, AB 655, and AB 679.

Ms. Fenner referred to AB 788 (Wagner) – Court Transcripts. Ms. O'Neill indicated that she needs more information regarding this bill before making a decision on it. The Board decided to take a "watch" position on AB 788.

The remainder of the bills pertain to boards in general, the Department of Consumer Affairs, or internal functions that do not require Board action.

The Board took a break at 12:00 p.m., returning to open session at 12:15 p.m.

IX. UPDATE ON GIFT GIVING REGULATIONS

California Code of Regulations, Title 16, Section 2475 (a)(8) (sic)

Ms. Fenner provided a brief history of the regulatory change. Based on public comments received and direction given to her by the Board at the meeting on October 12, 2012, she worked with the industry associations to develop language everyone could agree on. The language was presented to the Board on pages 54 and 55 of the Board agenda packet.

Mr. Howard thanked the Board and staff for their work on this language. The Board showed appreciation to Ms. Fenner for her work in providing the full picture and history of the language modifications.

Ms. Fenner indicated that once the language is approved, it will go for a 15-day public comment period before moving on in the regulatory process.

Ms. Evans moved to approve the proposed modified text for a 15-day comment period and delegate to the executive officer the authority to adopt the proposed regulatory changes as modified if there are no adverse comments received during the public comment period and also delegate to the executive officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. Second by Ms. Lasensky. **MOTION CARRIED.**

X. SCOPE OF PRACTICE REGULATION

Ms. Fenner reminded the Board that this proposed regulatory change is as a result of a discussion from the October 12, 2012, Board meeting regarding the difficulties with certain corporations asserting that the Board did not have jurisdiction over their actions. It is hoped that the proposed language will clarify the scope of practice.

Ms. Hurt inquired where the proposed scope of practice originated. Ms. Fenner indicated that the language is an attempt to make clear the original scope of practice found in Business and Professions Code 8017. Staff and counsel worked together to pull the additional duties that are a part of preparing and delivering the transcript to the consumer, some of which came from the CCP.

Mr. Howard indicated that DRA supports the Board voting to move forward with the regulatory package as proposed by staff. He pointed out, as noted on page 11 of the minutes from the October 12, 2012, Board meeting, that the court finding that a non-licensee owned firm could be a renderer of shorthand reporting services. The issue of how and to what extent does the control of a licensee by non-licensees potentially flow into the scope of practice of a licensee is not addressed in the proposed regulatory language. Mr. Howard indicated that additional detail and written comment would be made during the regulatory comment period.

Ms. Evans moved to approve the proposed or modified text for a 45-day comment period and delegate to the executive officer the authority to adopt the proposed regulatory changes as modified if there are no adverse comments received during the public comment period and also delegate to the executive officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file. Second by Ms. Hurt. **MOTION CARRIED.**

XI. PUBLIC COMMENT

No comments were offered.

XII. FUTURE MEETING DATES

Ms. Fenner indicated that there are not currently any future meetings scheduled; however, the Board usually meets in conjunction with the dictation examination. The next Northern California examination is scheduled for November 15, 2013. If there is a need to meet prior to that, a meeting can be scheduled. The Board agreed they would wait to hear from Ms. Fenner as to the urgency of any matters that may arise.

XIII. CLOSED SESSION

The Board convened in to closed session pursuant to Government Code sections 11126(a) and 11126(e)(2)(A) at 12:29 p.m.

Upon returning to open session at 12:54 p.m., Ms. O'Neill indicated that there was nothing to report from closed session.

XIV. ADJOURNMENT

Ms. O'Neill adjourned the meeting at 12:55 p.m.

TONI O'NEILL, Board Chair

DATE

YVONNE K. FENNER, Executive Officer

DATE

AGENDA ITEM III – Report of the Executive Officer

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Agenda Description: Report on:

- A. CRB Budget Report
- B. Transcript Reimbursement Fund
- C. Exam
- D. School Updates
- E. CRB Today Newsletter, Fall 2013
- F. BreEZe

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Support Documents:

- Attachment 1, Item A – Budget Report, Fiscal Month 13 Final (2012/13)
- Attachment 2, Item A – Budget Report, Fiscal Month 3 Projection (2013/14)
- Attachment 3, Item A – Fund Condition Analysis for Fund 0771, CRB
- Attachment 4, Item B – Fund Condition Analysis for Fund 0410, TRF
- Attachment 5, Item C – Historical Examination Pass Rates

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Fiscal Impact: None.

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Report Originator: Yvonne Fenner, 10/29/2013

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Recommended Board Action: (Informational)

14-Aug-2013

COURT REPORTERS OF CALIFORNIA - 0771
BUDGET REPORT
FY 2012-13 EXPENDITURE PROJECTION
Jun-2013

FISCAL MONTH 13

OBJECT DESCRIPTION	FY 2011-12		FY 2012-13				
	ACTUAL EXPENDITURES	PRIOR YEAR EXPENDITURES	BUDGET STONE	CURRENT YEAR EXPENDITURES	PERCENT	PROJECTIONS	UNENCUMBERED
	(MONTH 13)	(MONTH 13)	2012-13	(MONTH 13)	SPENT	TO YEAR END	BALANCE
PERSONNEL SERVICES							
003 Salary & Wages (Staff)	193,529	193,529	187,209	190,985	102%	190,985	(3,776)
063 Statutory Exempt (EO)	80,473	80,473	81,732	77,956	95%	77,956	3,776
033.04 Temp Help Reg (Seasonals)	13,309	13,309		1,342		1,342	(1,342)
063.01 Board Member Per Diem	2,200	2,200	7,310	1,700	23%	1,700	5,610
083.00 Overtime	4,905	4,905	500	6,293	1259%	6,293	(5,793)
103-137 Staff Benefits	134,926	134,926	116,553	140,651	121%	140,651	(24,098)
TOTALS, PERSONNEL SVC	429,342	429,342	393,304	418,927	107%	418,927	(25,623)
OPERATING EXPENSE AND EQUIPMENT							
201.00 General Expense	2,737	2,737	2,014	5	0%	5	2,009
213.04 Fingerprint Reports	500	500	9,449	294	3%	294	9,155
226.00 Minor Equipment	368	368				0	0
241.00 Printing (General)	5,160	5,160	916	4,157	454%	4,157	(3,241)
251.00 Communication	5,150	5,150	160	6,312	3945%	6,312	(6,152)
261.00 Postage (General)	9,821	9,821	5,516	9,959	181%	9,959	(4,443)
291.00 Travel In State	14,010	14,010	45,584	14,562	32%	14,562	31,022
311.00 Travel, Out-of-State						0	0
332.00 Training			2,517		0%	0	2,517
343.00 Facilities Operations (rent only)	34,802	34,802	28,745	34,558	120%	34,558	(5,813)
361.00 Utilities						0	0
382.00 C & P Services - Interdept.			1,883		0%	0	1,883
402.00 C & P Services - External (General)	1,243	1,243	27,042	649	2%	649	26,393
DEPARTMENTAL SERVICES:							
424.03 Departmental Pro Rata	64,288	64,288	57,042	45,302	79%	45,302	11,740
427.00 Admin/Exec	36,648	36,648	39,646	30,664	77%	30,664	8,982
427.01 Interagency Services			83		0%	0	83
427.30 DOI-ProRata Internal	1,236	1,236	1,607	1,607	100%	1,607	0
427.34 Public Affairs Office	2,468	2,468	2,279	1,999	88%	1,999	280
427.35 CCED	2,590	2,590	2,752	2,425	88%	2,425	327
INTERAGENCY SERVICES:							
428.00 Consolidated Data Center (TEALE)	105	105	3,251	56	2%	56	3,195
32.00-449.00 DP Maintenance & Supply	2,015	2,015	1,578		0%	0	1,578
438.00 Central Admin Svc-ProRata	36,740	36,740	28,888	28,888	100%	28,888	0
EXAM EXPENSES:							
206.20 Exam Supplies			751		0%	0	751
207.20 Exam Freight						0	0
343.20 Exam Site Rental	8,757	8,757	7,680	46,147		46,147	(38,467)
						0	0
404.00 C/P Svcs-External Expert Adm (see below)	11,604	11,604				0	0
404.00 C/P Svcs-External (PSI Servcs LLC)						0	0
404.01 C/P Svcs-External Expert Examiners	10,562	10,562	30,479		0%	0	30,479
404.03 C/P Svcs-External Subject Matter	5,927	5,927				0	0
ENFORCEMENT:							
394.00 Legal fees (excluding AG)	0		25,793		0%	0	25,793
396.00 Attorney General	46,000	46,000	47,172	49,930	106%	49,930	(2,758)
397.00 Office Admin. Hearings	1,068	1,068	15,573	6,138	39%	6,138	9,435
418.97 Court Reporters	786	786		810		810	(810)
414.31/33/34 Evidence/Witness Fees	1,952	1,952		11,229		11,229	(11,229)
427.31-.32 DOI - Investigations						0	0
452-472 Major Equipment	8,883	8,883				0	0
545.00 Special Items of Expense						0	0
501.00 Other Items of Expense			1,125		0%	0	1,125
609.00 Tort Payments				876		876	(876)
TOTALS, OE&E	346,138	346,138	389,525	296,567	76%	296,567	92,958
TOTAL EXPENSE	775,480	775,480	782,829	715,494	183%	715,494	67,335
991937 00 Sched. Reimb. - External/Private	(940)	(940)				0	0
991937 01 Sched. Reimb. - Fingerprints	(500)	(500)	(1,000)	(1,215)		(1,215)	215
991937 02 Sched. Reimb. - Other						0	0
995988 01 Unsched. Reimb. - Other	(3,525)	(3,525)	(17,000)	(1,945)		(1,945)	(15,055)
NET APPROPRIATION	770,515	770,515	764,829	712,334	93%	712,334	52,495
SURPLUS/(DEFICIT):							6.9%

11/5/2013

COURT REPORTERS OF CALIFORNIA - 0771
BUDGET REPORT
FY 2013-14 EXPENDITURE PROJECTION
Sep-2013

OBJECT DESCRIPTION	FY 2012-13			FY 2013-14		
	ACTUAL	PRIOR YEAR	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES (MONTH 13)	EXPENDITURES (MONTH 3)	EXPENDITURES (MONTH 3)	SPENT	TO YEAR END	BALANCE
PERSONNEL SERVICES						
003 Salary & Wages (Staff)	190,985	46,040	51,596	23%	225,084	(375)
063 Statutory Exempt (EO)	77,956	19,489	21,045	26%	84,180	(2,448)
033.04 Temp Help Reg (Seasonals)	1,342	7,651	555		2,100	(2,100)
063.01 Board Member Per Diem	1,700			0%	2,200	5,110
083.00 Overtime	6,293		3,099	620%	9,450	(8,950)
103-137 Staff Benefits	140,651	34,053	37,831	28%	161,063	(26,336)
TOTALS, PERSONNEL SVC	418,927	107,233	114,126	25%	484,077	(35,099)
OPERATING EXPENSE AND EQUIPMENT						
201.00 General Expense	5	167	1,700	71%	3,000	(610)
213.04 Fingerprint Reports	294		147	2%	200	9,249
226.00 Minor Equipment					3,000	5,000
241.00 Printing (General)	4,157	346	0	0%	5,000	(4,084)
244.00 Printing (Sharp Electronics REQ0078-07)			300		600	(600)
251.00 Communication	6,312		533	46%	3,000	(1,840)
261.00 Postage (General)	9,959		2,447	44%	9,788	(4,272)
271.00 Insurance					0	43,350
291.00 Travel In State	14,562	1,678	6,925		20,000	(20,000)
311.00 Travel, Out-of-State					0	0
331.00 Training				0%	0	2,517
343.00 Facilities Operations (rent only)	34,558	33,930	42,804		42,804	(14,059)
41.00-347.00 Facilities Operations (lease surcharge & other)					0	0
361.00 Utilities					0	0
382.00 C & P Services - Interdept.				0%	0	1,883
402.00 C & P Services - External (General)	649			0%	0	42,042
DEPARTMENTAL SERVICES:						
424.03 Departmental Pro Rata	45,302	9,185	23,038	25%	92,152	1
427.00 Admin/Exec	30,664		11,340	25%	45,360	1
427.01 Interagency Services				0%	0	83
427.10 C & P Services (OPES IACs #77178-79)					33,900	(33,900)
427.30 DOI-ProRata Internal	1,607		363	25%	1,453	0
427.34 Public Affairs Office	1,999		511	25%	2,044	0
427.35 CCED	2,425		435	25%	1,739	0
INTERAGENCY SERVICES:						
428.00 Consolidated Data Center (TEALE)	56		10	0%	100	3,151
32.00-449.00 DP Maintenance & Supply				0%	0	1,578
438.00 Central Admin Svc-ProRata	28,888		7,205	25%	28,819	0
EXAM EXPENSES:						
206.20 Exam Supplies			0	0%	0	751
207.20 Exam Freight					0	0
343.20 Exam Site Rental	14,367	29,840	49,852	649%	36,500	(28,820)
404.00 C/P Svcs-External (PSI Svcs LLC)	12,860	18,025	14,160		18,000	(18,000)
404.01 C/P Svcs-External Expert Examiners	18,920	4,156	9,039	30%	20,000	10,479
404.03 C/P Svcs-External Subject Matter		4,021			0	0
ENFORCEMENT:						
394.00 Legal fees (excluding AG)				0%	0	25,793
396.00 Attorney General	49,930	3,370	9,245	20%	90,000	(42,828)
397.00 Office Admin. Hearings	6,138		1,406	9%	8,000	7,573
418.97 Court Reporters	810				1,000	(1,000)
1414.31/33/34 Evidence/Witness Fees	11,229				12,000	(12,000)
427.31-32 DOI - Investigations					0	0
452-472 Major Equipment					0	8,000
545.00 Special Items of Expense					0	0
501.00 Other Items of Expense				0%	0	1,125
609.00 Tort Payments	876				0	0
TOTALS, OE&E	296,567	107,189	181,555	40%	478,459	(19,437)
TOTAL EXPENSE	715,494	214,422	295,681	65%	962,536	(54,536)
991937 00 Sched. Reimb. - External/Private		(235)				0
991937 01 Sched. Reimb. - Fingerprints	(1,215)	(102)	(854)		(3,000)	(14,000)
991937 02 Sched. Reimb. - Other						(1,000)
995988 01 Unsched. Reimb. - Other	(1,945)	(1,053)				0
NET APPROPRIATION	712,334	213,032	294,827	33%	959,536	(69,536)
					SURPLUS/(DEFICIT):	-7.8%

**0771 - Court Reporters Board
Analysis of Fund Condition**

10/30/2013

(Dollars in Thousands)

	ACTUAL 2012-13	CY 2013-14	BY 2014-15
BEGINNING BALANCE			
Prior Year Adjustment	\$ 1,344	\$ 1,372	\$ 1,169
Adjusted Beginning Balance	\$ 2	\$ -	\$ -
	\$ 1,346	\$ 1,372	\$ 1,169
REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	\$ 27	\$ 27	\$ 27
125700 Other regulatory licenses and permits	\$ 43	\$ 39	\$ 39
125800 Renewal fees	\$ 899	\$ 899	\$ 899
125900 Delinquent fees	\$ 18	\$ 18	\$ 18
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 5	\$ 4	\$ 4
150500 Interest Income From Interfund Loans	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ -	\$ -	\$ -
Totals, Revenues	\$ 992	\$ 987	\$ 987
Transfers to Other Funds			
T00410 TRF per B&P Code Section 8030.2	\$ -250	\$ -300	\$ -300
Totals, Revenues and Transfers	\$ 742	\$ 687	\$ 687
Totals, Resources	\$ 2,088	\$ 2,059	\$ 1,856
EXPENDITURES			
Disbursements:			
1110 Program Expenditures (State Operations)	\$ 712	\$ 890	\$ 890
8880 Financial Information System for California (State Operations)	\$ 4	\$ -	\$ -
Total Disbursements	\$ 716	\$ 890	\$ 890
FUND BALANCE			
Reserve for economic uncertainties	\$ 1,372	\$ 1,169	\$ 966
Months in Reserve	18.5	15.8	12.8

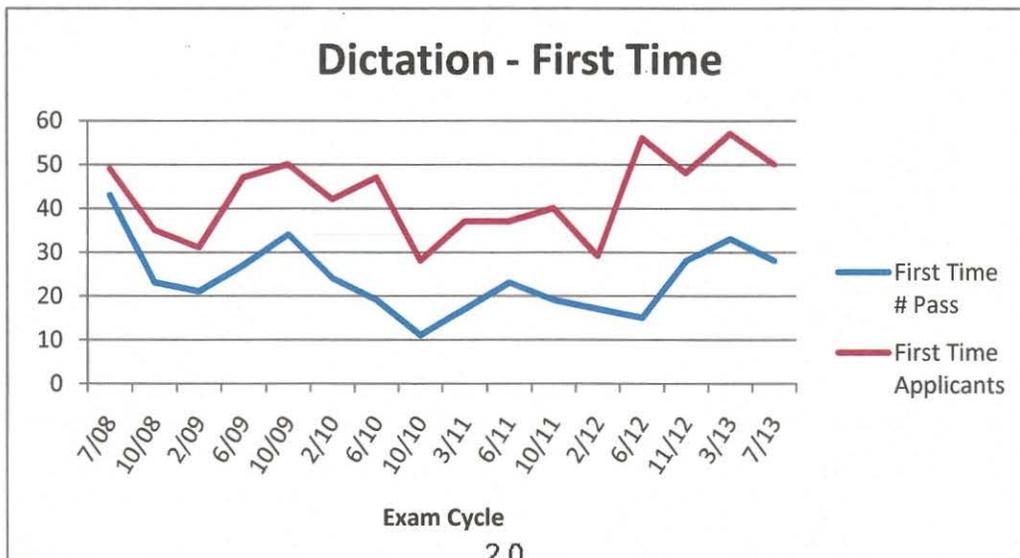
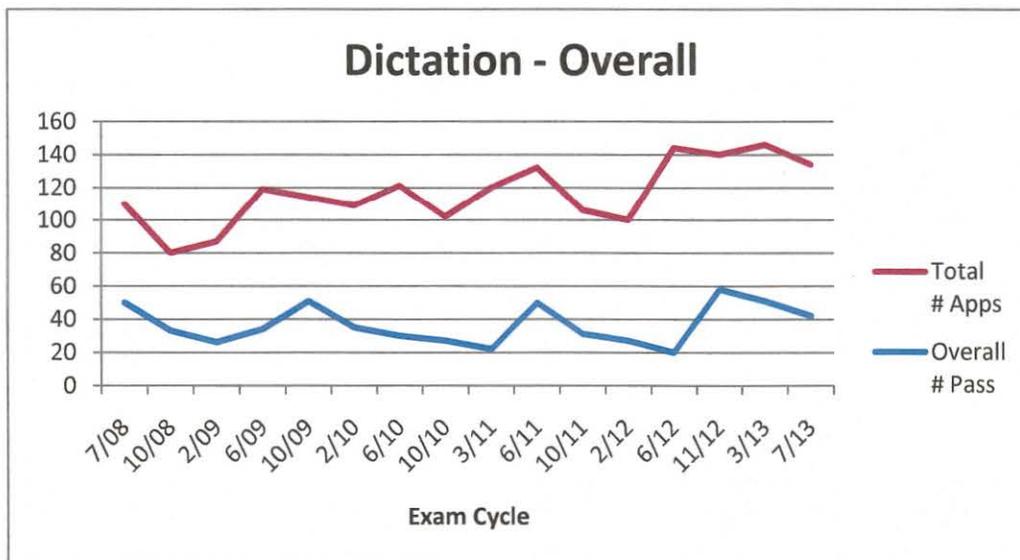
0410 - Transcript Reimbursement Fund
Analysis of Fund Condition

11/5/2013

(Dollars in Thousands)

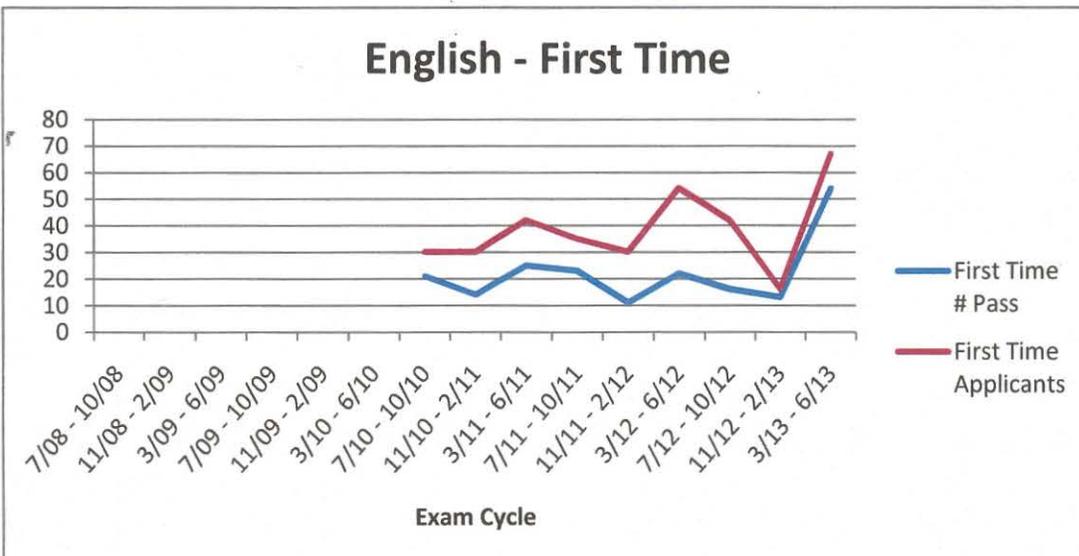
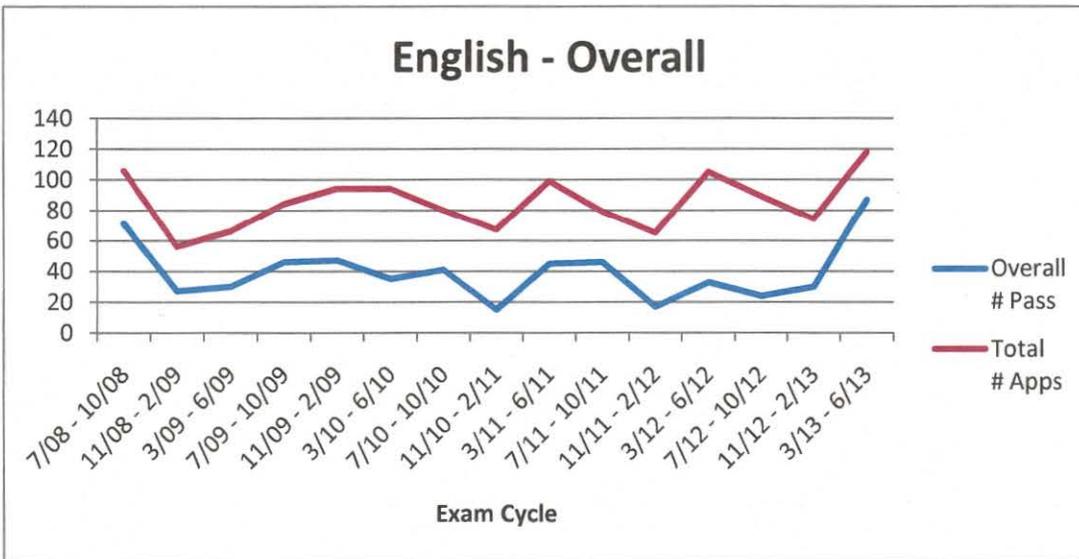
	ACTUAL	CY	BY
	2012-13	2013-14	2014-15
BEGINNING BALANCE	\$ 283	\$ 319	\$ 306
Prior Year Adjustment	\$ -2	\$ -	\$ -
Adjusted Beginning Balance	<u>\$ 281</u>	<u>\$ 319</u>	<u>\$ 306</u>
 REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	\$ -	\$ -	\$ -
125700 Other regulatory licenses and permits	\$ -	\$ -	\$ -
125800 Renewal fees	\$ -	\$ -	\$ -
125900 Delinquent fees	\$ -	\$ -	\$ -
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 1	\$ 1	\$ 1
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ -	\$ -	\$ -
Totals, Revenues	<u>\$ 1</u>	<u>\$ 1</u>	<u>\$ 1</u>
Transfers from Other Funds			
F00771 Court Reporters Fund per B&P Code Section 8030.2	\$ 250	\$ 300	\$ 300
Totals, Revenues and Transfers	<u>\$ 251</u>	<u>\$ 301</u>	<u>\$ 301</u>
Totals, Resources	<u>\$ 532</u>	<u>\$ 620</u>	<u>\$ 607</u>
 EXPENDITURES			
Disbursements:			
0840 State Controller (State Operations)	\$ 1	\$ -	\$ -
1110 Program Expenditures (State Operations)	\$ 210	\$ 314	\$ 313
8880 Financial Information System for California (State Operations)	\$ 2	\$ -	\$ -
Total Disbursements	<u>\$ 213</u>	<u>\$ 314</u>	<u>\$ 313</u>
 FUND BALANCE			
Reserve for economic uncertainties	\$ 319	\$ 306	\$ 294
 Months in Reserve	12.2	11.7	11.1

Exam Cycle	Total # Apps	Overall # Pass	Overall % Pass	First Time Applicants	First Time # Pass	First Time % Pass
Jul 2008	110	50	45.45%	49	43	87.76%
Oct 2008	80	33	41.25%	35	23	65.71%
Feb 2009	87	26	29.89%	31	21	67.74%
Jun 2009	119	34	28.57%	47	27	57.45%
Oct 2009	114	51	44.74%	50	34	68.00%
Feb 2010	109	35	32.11%	42	24	57.14%
Jun 2010	121	30	24.79%	47	19	40.43%
Oct 2010	102	27	26.47%	28	11	39.29%
Mar 2011	120	22	18.33%	37	17	45.95%
Jun 2011	132	50	37.88%	37	23	62.16%
Oct 2011	106	31	29.25%	40	19	47.50%
Feb 2012	100	27	27.00%	29	17	58.62%
Jun 2012	144	20	13.89%	56	15	26.79%
Nov 2012	140	58	41.43%	48	28	58.33%
Mar 2013	146	51	34.90%	57	33	57.90%
Jul 2013	134	42	31.30%	50	28	56.00%



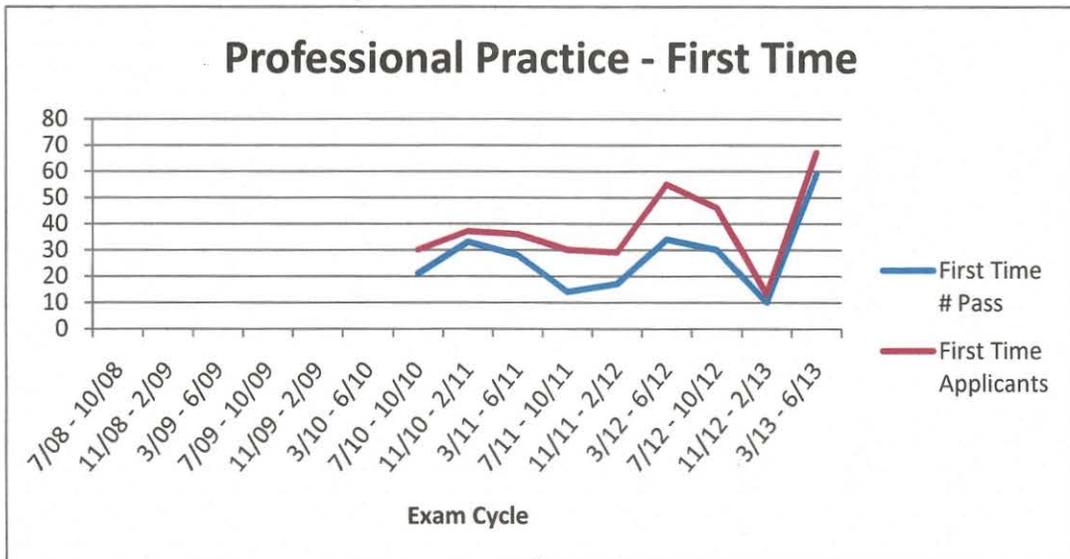
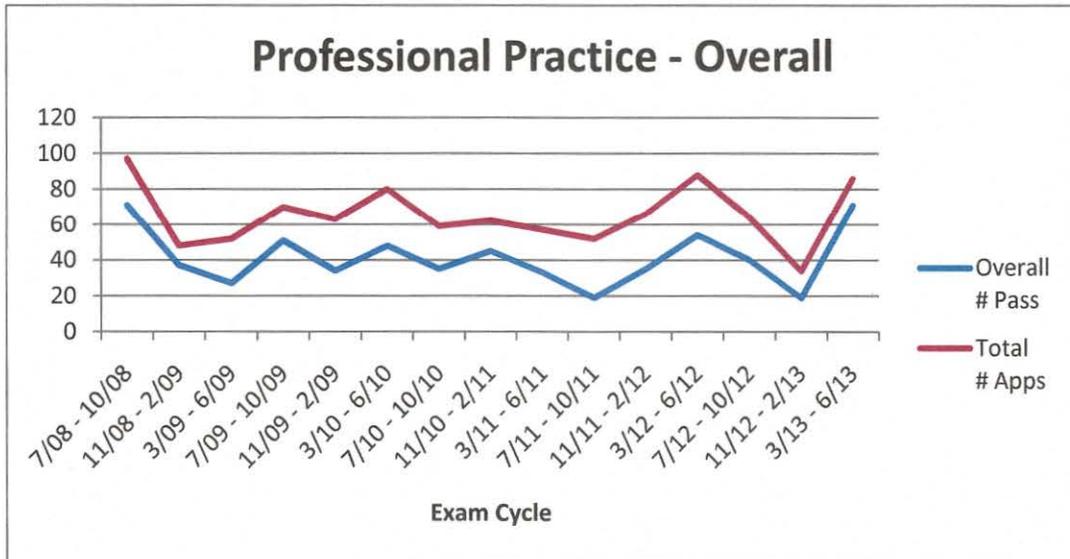
English Exam

Exam Cycle	Total # Apps	Overall # Pass	Overall % Pass	First Time Applicants	First Time # Pass	First Time % Pass
Jul 2008 - Oct 2008	106	71	65.7%			
Nov 2008 - Feb 2009	56	27	48.2%			
Mar 2009 - Jun 2009	66	30	45.5%			
Jul 2009 - Oct 2009	84	46	54.8%			
Nov 2009 - Feb 2010	94	47	50.0%			
Mar 2010 - Jun 2010	94	35	37.2%			
Jul 2010 - Oct 2010	80	41	51.3%	30	21	70.0%
Nov 2010 - Feb 2011	67	15	22.4%	30	14	46.7%
Mar 2011 - Jun 2011	99	45	45.5%	42	25	59.5%
Jul 2011 - Oct 2011	79	46	58.2%	35	23	65.7%
Nov 2011 - Feb 2012	65	17	26.2%	30	11	36.7%
Mar 2012 - Jun 2012	105	33	31.4%	54	22	40.7%
Jul 2012 - Oct 2012	89	24	27.0%	42	16	38.1%
Nov 2012 - Feb 2013	74	30	40.5%	16	13	81.3%
Mar 2013 - Jun 2013	118	87	73.7%	67	54	80.6%



Professional Practice Exam

Exam Cycle	Total # Apps	Overall # Pass	Overall % Pass	First Time Applicants	First Time # Pass	First Time % Pass
Jul 2008 - Oct 2008	97	71	73.2%			
Nov 2008 - Feb 2009	48	37	77.1%			
Mar 2009 - Jun 2009	52	27	51.9%			
Jul 2009 - Oct 2009	70	51	72.9%			
Nov 2009 - Feb 2010	63	34	54.0%			
Mar 2010 - Jun 2010	80	48	60.0%			
Jul 2010 - Oct 2010	59	35	59.3%	30	21	70.0%
Nov 2010 - Feb 2011	62	45	72.6%	37	33	89.2%
Mar 2011 - Jun 2011	57	33	57.9%	36	28	77.8%
Jul 2011 - Oct 2011	52	19	36.5%	30	14	46.7%
Nov 2011 - Feb 2012	66	35	53.0%	29	17	58.6%
Mar 2012 - Jun 2012	88	54	61.4%	55	34	61.8%
Jul 2012 - Oct 2012	64	40	62.5%	46	30	65.2%
Nov 2012 - Feb 2013	34	19	55.9%	13	10	76.9%
Mar 2013 - Jun 2013	86	71	82.6%	67	59	88.1%



COURT REPORTERS BOARD MEETING – NOVEMBER 19, 2013

AGENDA ITEM IV – Enforcement Report

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Agenda Description: Update of Enforcement Activity.
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Brief Summary:

Enforcement Reports – Monthly reports indicating complaint, investigation and enforcement action statistics.
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Support Documents:

Attachment 1 – Final FY 2012/13 Enforcement Report
Attachment 2 – First Quarter FY 2013/14 Enforcement Report
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Fiscal Impact: None
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Report Originator: Connie Conkle, 11/4/2013
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Recommended Board Action: Informational.

Consumer Protection Enforcement Initiative Fiscal Year 2012-2013 Enforcement Report Final

Complaint Intake

Complaints	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Received	17	12	15	10	4	7	4	12	17	14	9	12	133
Closed without Assignment for Investigation	0	0	0	0	0	0	0	0	0	0	0	0	0
Assigned for Investigation	17	12	15	10	4	7	4	12	17	14	9	12	133
Average Days to Close or Assign for Investigation	1	1	1	1	1	1	1	1	1	1	1	1	1
Pending	0	0	0	0	0	0	0	0	0	0	0	0	0*

Convictions/Arrests Reports	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Received	0	0	1	1	0	0	0	0	0	0	0	0	2
Closed	0	0	1	0	0	0	0	0	0	0	0	0	1
Average Days to Close	0	0	27	0	0	0	0	0	0	0	0	0	27
Pending	0	0	0	1	1	1	1	1	1	1	1	1	1*

Investigation

Desk Investigation	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Initial Assignment for Desk Investigation	17	12	15	10	4	7	4	12	17	14	9	12	133
Closed	2	15	14	14	18	11	10	12	16	11	12	4	139
Average Days to Close	95	54	89	92	133	92	138	59	22	31	31	65	75
Pending	42	39	40	36	22	18	12	12	13	16	13	21	24*

Field Investigation (Sworn)	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Assignment for Sworn Field Investigation	0	0	0	0	0	0	0	0	0	0	0	0	0
Closed	0	0	0	0	0	0	0	0	0	0	0	0	0
Average Days to Close	0	0	0	0	0	0	0	0	0	0	0	0	0
Pending	0	0	0	0	0	0	0	0	0	0	0	0	0

All Investigation	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Closed	2	15	14	14	18	11	10	12	16	11	12	4	139
Average Days to Close	95	54	89	92	133	92	138	59	22	31	31	65	75
Pending	42	39	40	36	22	18	12	12	13	16	13	21	24*

*Average number of cases pending per month

24

Enforcement Actions

AG Cases	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
AG Cases Initiated	0	1	0	0	2	0	5	2	1	0	0	0	11
AG Cases Pending	8	8	7	7	5	7	5	10	12	13	13	13	9*

SOIs/Accusations	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
SOIs Filed	1	0	0	0	0	0	0	0	0	0	0	0	1
SOIs Withdrawn	0	0	0	0	0	0	0	0	0	0	0	0	0
SOIs Dismissed	0	0	0	0	0	0	0	0	0	0	0	0	0
SOIs Declined	0	0	0	0	0	0	0	0	0	0	0	0	0
Average Days to Complete SOIs	168	0	0	0	0	0	0	0	0	0	0	0	168
Accusations Filed	3	0	0	0	0	0	1	1	1	0	0	0	6
Accusations Withdrawn	0	0	0	0	0	0	0	0	0	0	0	0	0
Accusations Dismissed	0	0	0	0	0	0	0	0	0	0	0	0	0
Accusations Declined	0	0	0	0	0	0	0	0	0	0	0	0	0
Average Days to Complete Accusations	237	0	0	0	0	0	53	448	47	0	0	0	196

Decisions/Stipulations	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Proposed/Default Decisions	0	1	0	1	0	1	0	0	0	0	0	0	3
Stipulations	0	1	0	1	0	1	0	0	0	0	0	0	3

Disciplinary Orders	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Final Orders (Proposed Decisions Adopted, Default Decisions, Stipulations)	0	0	2	0	2	0	2	0	0	0	0	0	6
Average Days to Complete	0	0	497	0	518	0	244	0	0	0	0	0	420
Interim Suspension Orders	0	0	0	0	0	0	0	0	0	0	0	0	0

Citations	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Final Citations	0	3	5	8	6	2	0	0	1	1	2	2	30
Average Days to Complete	0	49	57	72	77	90	0	0	41	29	38	68	58

*Average number of cases pending per month

Performance Measures

Annual Report (2012 – 2013 Fiscal Year)

To ensure stakeholders can review the Board's progress in meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures are posted publicly on a quarterly basis.

Volume

Number of complaints and convictions received.

The Board had an annual total of 135 this fiscal year.



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

The Board has set a target of 5 days for this measure.



Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

The Board has set a target of 60 days for this measure.



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

The Board has set a target of 540 days for this measure.



Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board has set a target of 10 days for this measure.



Consumer Protection Enforcement Initiative Fiscal Year 2013-2014 Enforcement Report First Quarter

Complaint Intake

Complaints	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Received	14	4	10										28
Closed without Assignment for Investigation	0	0	0										0
Assigned for Investigation	14	4	10										28
Average Days to Close or Assign for Investigation	1	1	1										1
Pending	0	0	0	0	0	0	0	0	0	0	0	0	0*

Convictions/Arrests Reports	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Received	0	1	1										2
Closed	0	2	0										2
Average Days to Close	0	157	0										157
Pending	1	0	1										1*

Investigation

Desk Investigation	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Initial Assignment for Desk Investigation	14	4	10										28
Closed	10	13	5										28
Average Days to Close	35	47	61										48
Pending	25	16	21										21*

Field Investigation (Sworn)	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Assignment for Sworn Field Investigation	0	0	0										0
Closed	0	0	0										0
Average Days to Close	0	0	0										0
Pending	0	0	0										0

All Investigation	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Closed	10	13	5										28
Average Days to Close	35	47	61										48
Pending	25	16	21										21*

*Average number of cases pending per month

Enforcement Actions

AG Cases	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
AG Cases Initiated	0	5	0										5
AG Cases Pending	13	12	17										14 *

SOIs/Accusations	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
SOIs Filed	0	0	1										1
SOIs Withdrawn	0	0	0										0
SOIs Dismissed	0	0	0										0
SOIs Declined	0	0	0										0
Average Days to Complete SOIs	0	0	38										38
Accusations Filed	1	0	3										4
Accusations Withdrawn	0	0	0										0
Accusations Dismissed	0	0	0										0
Accusations Declined	0	0	0										0
Average Days to Complete Accusations	225	0	159										192

Decisions/Stipulations	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Proposed/Default Decisions	0	0	0										0
Stipulations	1	0	0										1

Disciplinary Orders	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Final Orders (Proposed Decisions Adopted, Default Decisions, Stipulations)	0	1	0										1
Average Days to Complete	0	1028	0										1028
Interim Suspension Orders	0	0	0										0

Citations	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Final Citations	3	2	1										6
Average Days to Complete	26	48	27										34

*Average number of cases pending per month

AGENDA ITEM V – Strategic Plan Update

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Agenda Description: Status updates on the Board’s Strategic Plan objectives

- A. Disciplinary Guidelines
- B. Professional Oath
- C. Electronic Signatures

Support Document: Attachment 1 – Action Plan Timeline

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A. Disciplinary Guidelines

Agenda Description: Possible Action

Brief Summary:

The Court Reporters Board (Board) is responsible for the enforcement of statutes and regulations related to the practice of court reporting. To foster uniformity of penalties and to ensure that licensees understand the consequences of violating laws or regulations pertaining to court reporting, the Board has established disciplinary guidelines. These guidelines are intended for everyone involved in and affected by the disciplinary process, namely, the general public, attorneys, courts, administrative law judges, licensees, Board staff and Board members who review and vote on proposed decisions and stipulations.

Goal 3.2 under the Practice Standards portion of the 2012-2014 Strategic Plan calls for the Board to update our Disciplinary Standards. The document is correctly titled “Disciplinary Guidelines” and was adopted by the Board in February of 1989.

Support Document: Attachment 2 – Disciplinary Guidelines

Fiscal Impact: None

Recommended Board Action: Staff recommends the Board move to approve the amended Disciplinary Guidelines.

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B. Professional Oath

Agenda Description: Possible Action

Brief Summary:

One of the unfinished goals developed in the 2009-2011 Strategic Plan was to develop a professional oath for CSRs. It remained important to the Board and was carried forward as Goal 5.2 under the Consumer Information & Outreach portion of the 2012-2014 Strategic. The development of a professional oath helps

protect the consumer by reinforcing the core ethical duties set out in statute and regulation to which the Board holds each licensee.

Research conducted by staff resulted in two professional oaths, one for attorneys and one for doctors.

Support Document: Attachment 3 – Professional Oaths

Fiscal Impact: Board staff would work within existing budget appropriation to distribute the oath to licensees retroactively as well as to new licensees. It is anticipated that the trade associations will become very active in distribution and administration of the CSR oath.

Recommended Board Action: Staff recommends the Board adopt language for a voluntary professional CSR oath.

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C. Electronic Signatures

Agenda Description: Possible Action

Brief Summary:

Goal 3.2 under the Practice Standards portion of the 2012-2014 Strategic Plan also calls for the Board to investigate and develop standards for preserving the integrity of electronic records, including the use of digital signatures.

Recommended Board Action: Staff recommends the Board appoint a task force to develop best practices.

Fiscal Impact: Assuming the task force were comprised of volunteers, staff would work with resources available through DCA to use teleconferencing to facilitate task force meetings. Support for this task force can be absorbed within current budget appropriation.

Recommended Board Action: Staff recommends the Board appoint a chairperson to appoint and oversee an Electronic Record/Signature Task Force.

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Report Originator: Yvonne Fenner, 10/30/2013

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**Court Reporters Board of California
2012-2014 Action Plan Timeline**

Action Items	Target Date	Status
Appoint a technology task force, with consideration for travel restrictions, or through teleconferencing.	Apr-2012	Initiated 4/27/12 Brd Mtg
Submit Budget Change Proposal.	Apr-2012	Submitted; Denied
Create Board Task Force to explore continuing competency and find pathways for delivering information to the administration.	Apr-2012	Initiated 4/27/12 Brd Mtg
Research economic impact and job trends for newsletter article.	Apr-2012	Spring '12 Newsletter
Establish a method to capture phone complaints in a call log.	Jun-2013	
Research pledges from other professional licensing groups.	Jun-2013	Presented at 11/2013 meeting
Develop content for the Best Practices Pointers.	Sep-2013	
Contact the Outreach Unit Manager (John Brooks) to research which services they provide.	Oct-2013	
Deliver Best Practices Pointers to the Publications & Design team.	Oct-2013	
Discuss Facebook and Twitter options with OPA.	Oct-2013	
Post Best Practices Pointers the Web-site and send inserts with renewal notices.	Nov-2013	
Categorize complaint types through excel sheets, until BreEZe is released.	Dec-2013	
Establish an electronic records task force and identify legality of electronic signatures.	Jun-2013	11/2013 meeting
Work with OPA to create web-based vignettes to be posted to the Board's Web site	Jul-2013	
Review and update current disciplinary standards.	Aug-2013	11/20/13 meeting
Receive Board approval on new disciplinary standards.	Oct-2013	11/20/13 meeting
Educate consumers on the updated standards through the association meetings, newsletters, web site vignettes, etc.	Dec-2013	
Educate licensees regarding changes which will occur to the guidelines, newsletter, web vignettes, industry associations, etc.	Dec-2013	

**Court Reporters Board of California
2012-2014 Action Plan Timeline**

Action Items (cont.)	Target Date	Status
Develop a task force to establish partnerships and create materials for best practices.	Feb-2014	
Develop staff task force to work with industry associations in regards to continuing education.	Jun-2014	
Develop standards for the integrity of an electronic record, including privacy issues.	Jun-2014	11/2013 meeting
Work with SOLID to discuss developing webinars for attorneys and litigants.	Jun-2014	
Develop an online test regarding CRB statutes and regulations.	Dec-2014	
Examine the feasibility of National Court Reporters Association (NCRA) credits for webinars.	Dec-2014	
Submit rulemaking calendar.	Complete	
Continue conducting information sessions in conjunction with industry events when travel restrictions allow.	Ongoing	
Develop a strategy as needed for supporting oversight regulation of court reporting firms as approved by the Board in 2008.	Ongoing	
Develop reports as needed.	Ongoing	
Go through rulemaking process to change enforcement regulations as needed.	Ongoing	
Monitor claims for trends for Transcript Reimbursement Fund.	Ongoing	
Network with schools when travel restrictions allow.	Ongoing	
Review and monitor the action item list at every board meeting.	Ongoing	
Continue to meet with BreEZe team personnel in preparation for release in Fall 2013.	Ongoing until 2013	
Append FAQ information from the newsletter onto end of the web FAQ's.	Semi-Annually	

Disciplinary Guidelines of the _____



COURT REPORTERS BOARD --- **OF CALIFORNIA**

Adopted February 1989
Revised November 2013



**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS**

Denise Brown, Director

COURT REPORTERS BOARD

Toni O'Neill, Chairperson
Davina Hurt
Rosalie Kramm
Elizabeth Lasensky
John K. Liu

Yvonne Fenner, Executive Officer



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Additional copies of these disciplinary guidelines
may be downloaded from the Board's Web site

**COURT REPORTERS BOARD
DISCIPLINARY GUIDELINES**

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Introduction

The Court Reporters Board (Board) is responsible for the enforcement of statutes and regulations related to the practice of shorthand reporting, more commonly known as court reporting. The Board serves the consumers of California by:

- ❖ Developing and administering the license exam, ensuring that newly-licensed court reporters possess the basic skills needed for the job;
- ❖ Oversight of curriculum of court reporting schools;
- ❖ Disciplining licensees in the case of a violation of law or regulation;
- ❖ Administration of the Transcript Reimbursement Fund, which provides reimbursement for transcripts to qualified indigent litigants.

The integrity of our legal system rests on accurate records. Court reporters play an essential role by ensuring that there is a verbatim record of judicial proceedings. The Board recognizes the importance of ensuring a verbatim transcript produced by a neutral third party and diligently enforces all applicable statutes and regulations.

To foster uniformity of penalties and to ensure that licensees understand the consequences of violating laws or regulations pertaining to court reporting, the Board has established disciplinary guidelines. These guidelines are intended for everyone involved in and affected by the disciplinary process, namely, the general public, attorneys, courts, administrative law judges, licensees, Board staff and Board members who review and vote on proposed decisions and stipulations.

The offenses for which the Board may take disciplinary action are specified within the Board laws and regulations. These guidelines provide a range of penalties for each section of law which is found to be violated.

The Board recognizes that there are often extenuating, mitigating or aggravating factors in a matter which may necessitate variation. The Board respectfully requests that the administrative law judge take into account these factors, that they be fully considered and noted in the proposed decision when deciding the severity of the penalty within the range. However, when such factors are found to exist, they should be detailed in the "Findings of Fact." Of utmost importance is the effect the licensee's conduct had or can have on the consumer. In determining appropriate discipline, the administrative law judge should note the Board's determination of severity of various offenses as outlined in the Citation and Fine regulations, per Title 16, California Code of Regulations, section 2480.

The Board seeks recovery of all investigative and prosecution costs up to the hearing in all disciplinary cases in accordance with Business & Professions Code section 125.3. This includes all charges of the Office of the Attorney General, including, but not limited to, those for legal services and includes charges by expert consultants. The Board believes that the burden of paying for disciplinary cases should fall on those whose conduct requires prosecution, not upon the profession as a whole.

Should a probationary period be part of a proposed decision, the Board requests that the administrative law judge impose the appropriate conditions of probation as outlined in these Disciplinary Guidelines. These conditions are intended to protect the public from the probationer without being unduly burdensome or anti-competitive.

If an order of probation is issued staying a revocation or suspension and the order of the probation is proven at hearing to have been violated, then following 10 days' notice to the licensee, the Board shall lift the stay, and the revocation and/or suspension shall go into effect immediately.

Whenever a revocation is ordered, the licensee shall be required to return the original and any duplicate (wall) licenses which the Board issued, to the Board office, within 15 days of the effective date of the revocation order.



Factors to be Considered in Determining Penalties

Business & Professions Code 8025 provides that the Board may take disciplinary action against the holder of, and suspend or revoke, a license certificate issued by the Board.

Denial of a License

When considering the denial of a court reporter's certificate under section 480 of the Business & Professions Code, the Board, in evaluating the rehabilitation of the applicant and his present eligibility for certification, shall consider the following criteria:

1. Nature and severity of the act(s), offense(s) or crime(s) under consideration
2. Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial
3. Time elapsed since commission of the act(s) or offense(s)
4. Extent of compliance with any terms of parole, probation, restitution or other sanctions lawfully imposed
5. Evidence, if any, of rehabilitation

Suspension or Revocation of a License

When considering the suspension or revocation of the certificate of a court reporter on the grounds that the person certified has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his present eligibility for certification, shall consider the preceding factors 1 through 5 as well as the following:

6. Total criminal record

Additional Factors

In determining whether the minimum, intermediate or maximum penalty is to be imposed in a given case, the following factors should also be considered:

7. Actual or potential harm to the consumer
8. Actual or potential harm to the public
9. Prior disciplinary record
10. Number and/or variety of current violations
11. Aggravating evidence
12. Mitigating evidence
13. Overall criminal record
14. Whether the conduct was intentional or negligent, demonstrated incompetence
15. Acceptance of the Board's suggested resolution to consumer complaint
16. Attempts to intimidate consumer
17. Evidence that the unlawful act was part of a pattern of practice
18. Financial benefit to Respondent from the misconduct
19. If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code



Penalty Guidelines for Violations

The following minimum and maximum penalties shall apply to the appropriate violation of the code:

1. Business & Professions Code section 8016: Necessity of Certificate

This section would generally apply to licensees who are practicing with expired licenses (see section 8024). It may also apply to exam applicants (see 8020 and 8025(a)(b)(c)).

Maximum: Revocation of license or denial of admittance to exam. In the case of licensees who practice without a license, the maximum penalty would be imposed in cases where the licensee had been notified by the Board of an expired license and had failed to renew the license. In the case of the exam applicant, in addition to the refusal to admit the applicant, he/she cannot reapply to take the exam for a minimum of one year from the date of the decision, and the appropriate fine should be part of the order.

Minimum: Revocation – stayed and probation for four years.

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

2. Business & Professions Code section 8018: Title and Abbreviation

This section would generally apply to violators of 8024 through 8024.5, as well as unlicensed practice.

Maximum: Revocation. This would apply to people who have failed to comply with previous notices from the Board.

Minimum: Suspension – stayed and probation for four years.

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

3. Business & Professions Code section 8019: Aiding or abetting

Maximum: Revocation

Minimum: Suspension – stayed and probation for four years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

4. Business & Professions Code section 8025(a): Conviction of a crime substantially related to the qualifications, functions and duties of a CSR.

Maximum: Revocation

Minimum: Suspension – stayed and probation for three years or the same period as given for conviction, whichever is longer

Conditions of probation: A, B, C, D

5. Business & Professions Code section 8025(b): Failure to notify the Board of a conviction described in subdivision (a), in accordance with Business & Professions Code section 8024 or 8024.2

Maximum: Revocation

Minimum: Suspension – stayed and probation for three years or the same period as given for conviction, whichever is longer

Conditions of probation: A, B, C, D

6. Business & Professions Code section 8025(c): Fraud or misrepresentation resorted to in obtaining a certificate hereunder

Maximum: See 8016 above. Denial of application for (entrance to) exam. Applicant prohibited from applying for the exam for one year from date of

decision and fine. In the case where a license has already been issued:
Revocation

Minimum: Revocation

Conditions for probation: None

7. Business & Professions Code section 8025(d): Fraud, dishonesty, corruption, willful violation of duty

Maximum: Revocation

Minimum: Suspension – stayed and probation for four years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

8. Business & Professions Code section 8025(d): Gross negligence or incompetence in practice

Maximum: Revocation

Minimum: Suspension – stayed and probation for four years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

9. Business & Professions Code section 8025(d): Unprofessional conduct

Maximum: Revocation

Minimum: Suspension – stayed and probation for four years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

10. Business & Professions section 8025(e): Failure to transcribe or file notes

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

11. Business & Professions section 8025(f): Loss or destruction of steno notes

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

12. Business & Professions section 8025(g): Failure to comply with or to pay a monetary sanction imposed by any court for failure to provide timely transcripts

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

13. Business & Professions section 8025(h): Failure to pay a civil penalty relating to the provision of court reporting services or products

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

14. Business & Professions section 8025(i): Revocation of, suspension of or other disciplinary action against a license to act as a certified shorthand reporter by another state

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D



Probation

Probation conditions are divided into two categories: **(A) STANDARD CONDITIONS**, which are those conditions of probation which will generally appear in all cases involving probation as a standard term and condition; and **(B) OPTIONAL CONDITIONS**, which vary according to the nature and circumstances of the particular case.

A. Standard Conditions of Probation

During the period of probation, Respondent shall:

1. **OBEY ALL LAWS** – Respondent shall obey all laws and regulations governing shorthand reporters.
2. **COMPLY WITH THE BOARD'S PROBATION PROGRAM** – Respondent shall fully comply with the conditions of the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the Board's

probation program. Respondent shall provide Board representative's unrestricted access to inspect shorthand reporting records, transcriptions and notes required to be maintained by the licensee. Respondent shall inform the Board in writing within fifteen (15) days of any address change and claim all certified mail issued by the Board. Respondent shall timely respond to all notices of reasonable requests, and submit reports, remedial education documentation, verification of employment, or other similar reports, as requested and directed by the Board or its representative(s). Failure to appear for any scheduled meeting or cooperate with the requirements of the probation program, including timely submission of requested information, shall constitute a violation of probation.

3. **QUARTERLY REPORTS OF COMPLIANCE** – Respondent shall submit Quarterly Reports of Compliance to the Board's designee in accordance with a specified schedule. Quarterly Reports must be completed and signed under penalty of perjury regarding compliance with all conditions of probation. Omission or falsification in any manner of any information on these reports shall constitute a violation of probation. Quarterly reports are due for each year of probation and the entire length of probation as follows:
 - For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 10th.
 - For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 10th.
 - For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 10th.
 - For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 10th.
4. **MAINTAIN VALID LICENSE** – Respondent shall maintain a current, active and valid license for the length of the probation period. Failure to pay all fees prior to the license expiration date shall constitute a violation of probation.
5. **RESIDENCY OUTSIDE OF THE STATE** – Respondent shall immediately notify the Board's designee of any and all address changes. If Respondent should travel outside California for a period greater than sixty (60) days, Respondent must notify the Board's designee, in writing, of the dates of departure and return. Periods of residence outside the State of California shall not apply toward a reduction of this probation time period.

Respondent's license shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California totals three years. However, Respondent's license shall not be cancelled as long as Respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that

state, in which case the three-year period shall begin on the date probation is completed or terminated in that state.

6. **FAILURE TO PRACTICE- CALIFORNIA RESIDENT** – In the event Respondent resides in the State of California and for any reason Respondent stops practicing in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation.
7. **CRIMINAL PROBATION** – If Respondent is on criminal probation for the acts upon which disciplinary action is based; Respondent shall submit reports from the criminal court probation officer regarding Respondent's progress during criminal probation to the Board's designated representative. Reports shall be filed quarterly and continue until Respondent is no longer on criminal probation or the Board's probation is terminated, whichever occurs first. Quarterly reporting shall be consistent with the guidelines set forth in the Standard Conditions, to comply with the conditions of the probation program.
8. **RESTITUTION** – Respondent shall make restitution to each identified victim when the evidence has demonstrated that there are uncompensated victims.
9. **COST RECOVERY** – Respondent shall pay the Board its costs and charges of investigating and enforcing this matter in the amount of \$ _____ in _____ (#) equal, consecutive quarterly payments of \$ _____ per month. The first payment shall be due within 30 calendar days of the effective date of this decision and order. The following _____ (#) quarterly payments shall be due by the first of the following month. Any payment that is not received by the tenth day of the month shall be considered late. Any late payments shall be a violation of probation.
10. **VIOLATION OF PROBATION** – If Respondent violates the conditions of his/her probation, the Board, after giving Respondent notice and the opportunity to be heard, may set aside the Order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

11. **NOTICE OF FINANCIAL INTEREST** – (This condition only applies to licensees who operate reporting firms) Report to the Board, in writing within

30 days of the effective date of this decision, any financial interest which Respondent has in any corporation required to be registered pursuant to section 8040 of the Business & Professions Code. Respondent shall notify the Board 30 days prior to changing their financial interest in any such corporation.

12. **NOTIFY EMPLOYEES** – (This condition only applies to licensees who operate reporting firms) Post and circulate to all employees a notice which accurately recites the terms and conditions of probation. “Employees” as used in this provision includes all full-time, part-time, temporary and relief employees and independent contractors employed or hired at any time during probation.
13. **NOTIFY OWNERS, OFFICERS** – (This condition only applies to licensees who operate reporting firms) Within 30 days after the effective date of this decision, submit proof of notification of probationary status to the owners, officers, or any owner or holder of 10% or more of the interest in Respondent or Respondent’s stock.
14. **ADVERTISING APPROVAL** – (This condition only applies to licensees who operate reporting firms) Submit any proposed advertising copy, whether revised or new, to the Board at least 30 days prior to its intended use. Any such copy must be approved by the board prior to being used.

B. Optional Conditions of Probation

During the period of probation, Respondent shall:

1. **NOTIFY EMPLOYER/FIRM** – Notify employer or owner of court reporting firm with which Respondent is associated or subcontracted of the decision in case number _____ and the terms, conditions, and restrictions imposed on Respondent by said decision.

Within 30 days of the effective date of this decision and within 15 days of Respondent undertaking new employment or associating with a different court reporting agency, Respondent shall submit written proof to the Board that he/she has provided notice of his/her probationary status to his/her employer or court reporting agency with which he/she is associated or subcontracted.

2. **REHABILITATION PROGRAM** – Submit to the Board for its prior approval, within 30 days of the effective date of this decision, the name, address, phone number, and description of a rehabilitation program for the abuse of chemical substances and/or alcohol which Respondent shall successfully participate in and complete. Respondent shall provide the Board or its designee with a copy of Certification of successful completion of the rehabilitation program. The costs for such rehabilitation program shall be borne by Respondent.

3. **MEDICAL EVALUATION/TREATMENT** – Respondent shall within 30 days of the effective date of this decision and on a periodic basis thereafter, no less than quarterly, but as may be required by the Board or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician who shall furnish a medical report to the Board or its designee. If Respondent is required by the Board or its designee to undergo physical or mental treatment, Respondent shall within 30 days of written notice from the Board submit to the Board for its prior approval the name and qualifications of a physician or psychotherapist of Respondent's choice. Upon the Board's approval of the treating physician or psychotherapist, Respondent shall undergo and continue medical treatment until further notice from the Board. Respondent shall have the treating physician submit quarterly reports to the Board. Failure to timely submit to, or schedule physical or mental treatment shall result in violation of probation.
4. **PSYCHOLOGICAL EVALUATION** – (To be used in cases involving a sexual offense, pattern of chemical substance/drug/alcohol abuse or violence.) Within 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo psychological evaluation by licensed psychologists and/or psychiatrists as are approved by the Board. Such evaluator shall furnish a written report to the Board or its designee regarding Respondent's judgment and ability to function independently, safely and or pose a threat to the public. The cost of such evaluation shall be borne by Respondent. Respondent shall execute a Release of Information authorizing the evaluator to release all information to the Board. The evaluation shall be treated as confidential by the Board. Failure to timely submit to or schedule a mental examination shall result in violation of probation.
5. **PSYCHOTHERAPY** – (To be used in cases involving a sexual offense, pattern of chemical substance/drug/alcohol abuse or violence.) Within 30 days of the effective date of this decision, Respondent shall submit to the Board or its designee for its prior approval, the name and qualifications of one or more therapists of Respondent's choice. Such therapist shall possess valid California license and shall have had no prior business, professional or personal relationship with Respondent. Upon approval by the Board, Respondent shall undergo and continue treatment until the Board determines that no further psychotherapy is necessary. Respondent shall have the treating therapist submit quarterly reports to the Board and notify the Board immediately if the therapist believes Respondent poses a threat to the public or Respondent's clients. All costs of therapy shall be borne by Respondent. Respondent shall execute a release of Information authorizing the therapist to divulge information to the Board.
6. **ABSTAIN FROM PRACTICE** – If recommended by the physician and approved by the Board or its designee, Respondent shall be barred from practicing shorthand reporting until the treating physician recommends, in writing and stating the basis therefore, that Respondent is physically and/or

mentally fit to practice shorthand reporting and the Board approves said recommendation.

7. **ATTEND COURSES** – Respondent shall attend a recognized court reporting school and successfully complete a final examination in one or more specified courses.
8. **RETAKE LICENSE EXAM** – Respondent shall pass the (name of examination section(s)) portion(s) of the next regularly scheduled license examination after the effective date of this decision. Should Respondent fail said examination, Respondent shall be suspended, upon written notice of failure, until he/she takes and passes the same (name of examination sections(s)) portion(s) at a subsequent examination.
9. **PROOF OF ADVERTISING CORRECTION** – Respondent must correct misleading advertisement within 30 days of Decision. Respondent shall not practice until proof of correction has been submitted to the Board or its designee.
10. **REIMBURSEMENT OF PROBATION PROGRAM** – Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be \$ _____ per year/\$ _____ per month.
11. **ABSTAIN FROM CONTROLLED SUBSTANCES / SUBMIT TO BIOLOGICAL FLUID TESTING** – Respondent shall completely abstain from the use or possession of controlled or illegal substances during the period of probation unless lawfully prescribed by a medical practitioner for a bona fide illness. Respondent shall immediately submit to biological fluid testing and/or other required drug screening, at Respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. Respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding shall constitute a violation of probation.
12. **ABSTAIN FROM USE OF ALCOHOL / SUBMIT TO BIOLOGICAL FLUID TESTING** – Respondent shall completely abstain from the use of alcoholic beverages during the period of probation. Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. Respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding shall constitute a violation of probation.
13. **PROVISION OF RECORDS** – Respondent shall provide specific records for Board inspection as required.

14. **ADMINISTRATIVE CITATION** – The Board is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to Sections 125.9 or 148 of the Business and Professions Code against a licensee or an unlicensed person who has committed any acts or omissions which are in violation of the Act or regulations.

C. Probation Violation

Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

D. Probation Completion

Upon successful completion of probation, Respondent's license will be fully restored.



Terms of Suspension

It is the position of the Board that the minimum period of suspension should be 30 days and that item A should apply in most instances.

During the period of suspension, Respondent shall:

- A. Attend a recognized court reporting school and successfully complete the specified number of hours and final examination(s) in specified course(s), in accordance with Board regulations.
- B. Pass the (name of examination section(s)) portion(s) of the next regularly scheduled license examination after the effective date of this decision. Should Respondent fail said portion(s) of the examination, the period of suspension shall be extended until Respondent successfully passes said (name of examination section(s)) portion(s) of the examination.
- C. Notify employer(s) or reporting firm owners(s) of the decision in case number _____ and the terms, conditions, and restrictions imposed on Respondent by said decision.

Within 30 days of the effective date of this decision and within 15 days of Respondent undertaking new employment or associating with a different reporting agency, Respondent shall cause his/her employer or firm owner to report to the Board in writing, acknowledging the employer has read the decision in case number _____.

Attorney's Oath

I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of an attorney and counselor at law to the best of my knowledge and ability.

--o0o--

Hippocratic Oath (Modern version)

I swear to fulfill, to the best of my ability and judgment, this covenant:

I will respect the hard-won scientific gains of those physicians in whose steps I walk, and gladly share such knowledge as is mine with those who are to follow.

I will apply, for the benefit of the sick, all measures which are required, avoiding those twin traps of overtreatment and therapeutic nihilism.

I will remember that there is art to medicine as well as science, and that warmth, sympathy, and understanding may outweigh the surgeon's knife or the chemist's drug.

I will not be ashamed to say "I know not," nor will I fail to call in my colleagues when the skills of another are needed for a patient's recovery.

I will respect the privacy of my patients, for their problems are not disclosed to me that the world may know. Most especially must I tread with care in matters of life and death. If it is given me to save a life, all thanks. But it may also be within my power to take a life; this awesome responsibility must be faced with great humbleness and awareness of my own frailty. Above all, I must not play at God.

I will remember that I do not treat a fever chart, a cancerous growth, but a sick human being, whose illness may affect the person's family and economic stability. My responsibility includes these related problems, if I am to care adequately for the sick.

I will prevent disease whenever I can, for prevention is preferable to cure.

I will remember that I remain a member of society, with special obligations to all my fellow human beings, those sound of mind and body as well as the infirm.

If I do not violate this oath, may I enjoy life and art, respected while I live and remembered with affection thereafter. May I always act so as to preserve the finest traditions of my calling and may I long experience the joy of healing those who seek my help.

--o0o—

Proposed Court Reporter's Oath (version 1)

I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of California and that I will faithfully discharge the duties of a court reporter, acting always as a neutral third party to protect the accuracy of the record of the proceeding I report, to the best of my knowledge and ability.

Proposed Court Reporter's Oath (version 2)

I swear to fulfill, to the best of my ability and judgment, the following:

I will act without bias toward, or prejudice against, any parties and/or their attorneys.

I will not enter into, arrange or participate in a relationship that compromises my impartiality, including, but not limited to, a relationship in which compensation for reporting services is based upon the outcome of the proceeding.

I will always make truthful and accurate public statements when advertising professional qualifications and competence and/or services offered to the public.

I will perform professional services within the scope of my competence, including promptly notifying the parties present or the presiding officer upon determining that I am not competent to complete an assignment.

I will maintain the confidentiality of information deemed confidential as a result of a rule, regulation, statute, court order or deposition proceeding.

I will comply with legal and/or agreed-to delivery dates or provide prompt notification of delays.

AGENDA ITEM VI – Report on Legislation

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Agenda Description:

Briefing on current legislation related to the court reporting industry and/or the Court Reporters Board with discussion and possible action.

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Brief Summary:

SB 46 (Corbett) – Personal information: privacy. (Chaptered)

Existing law requires any agency, person or business conducting business in California that owns or licenses computerized data that includes personal information to disclose in specified ways, any breach of the security of the system or data following discovery or notification of the security breach to any California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. This bill would revise certain data elements included within the definition of personal information, by adding certain information relating to an account other than a financial account.

SB 123 (Corbett) – Environmental and Land-Use Court. (Senate Appropriations)

This bill would require the presiding judge of each superior court to establish an environmental and land-use division within the court to process civil proceedings brought pursuant to the California Environmental Quality Act or in specified subject areas, including air quality, biological resources, climate change, hazards and hazardous materials, land use planning, and water quality. This bill would increase the fees for the issuance, renewal, retention, duplication, and transfer of environmental license plates by \$10. The bill would create the Environmental and Land Use Court Support Account within the California Environmental License Plate Fund. The bill would, notwithstanding the above-described provisions pertaining to the annual appropriation to the Judicial Council or any other law, authorize the Controller to transfer \$10 of each fee collected for an environmental license plate on or after January 1, 2014, to the Environmental and Land Use Court Support Account for the exclusive use, upon appropriation by the Legislature, of the Judicial Council to supplement funding for the operation of the environmental and land use court division. The bill would also make conforming changes.

SB 176 (Galgiani) – Administrative procedures. (Assembly Appropriations)

Existing law governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. This bill would, in order to increase public participation and improve the quality of regulations, require state agencies, boards, and commissions to publish a notice prior to any meeting date or report, provided the meeting or report is seeking public input, as described.

SB 315 (Lieu) – Civil actions: telephonic appearances. (Assembly Judiciary)

Existing law provides that courts should, to the extent feasible, permit parties to appear by telephone at appropriate conferences, hearings, and proceedings in civil cases to improve access to the courts and reduce litigation costs. This bill would make a non-substantive change to that provision.

SB 417 (Berryhill) – Department of Consumer Affairs: unlicensed activity enforcement.
***Spot bill (Senate Business, Professions and Economic Development)

SB 705 (Block) – Electronic Court Reporting (changed to Community Colleges)

****SB 823 (Lieu) – Professions and Vocations (Chaptered)**
(reinstatement of three TRF statutes)

AB 186 (Maienschein) – Professions and vocations: military spouses: temporary licenses. (Senate Business, Professions and Economic Development)

Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. This bill would authorize a board within the department to issue a provisional license to an applicant who qualifies for an expedited license pursuant to the above-described provision. The bill would require the provisional license to expire after 18 months.

****AB 251 (Wagner) – Electronic court reporting. (Assembly Judiciary)**

Existing law authorizes a court to use electronic recording equipment in a limited civil case, a misdemeanor or infraction case, or for the internal purpose of monitoring judicial officer performance. Existing law requires a court to obtain advance approval from the Judicial Council prior to purchasing equipment. Existing law also requires each superior court to report semiannually to the Judicial Council, and the Judicial Council to report semiannually to the Legislature, regarding all purchases and leases of electronic recording equipment that will be used to record superior court proceedings. This bill would instead require the Judicial Council, by July 1, 2014, to implement electronic court reporting in 20% of all superior court courtrooms, and to implement electronic reporting in at least an additional 20% of all superior court courtrooms annually thereafter. This bill would also require the Judicial Council to report to the Governor and the Legislature on the efforts undertaken to implement electronic court reporting, as provided, by January 1, 2016. The provisions of the bill would not apply to felony cases.

AB 258 (Chavez) – State agencies: veterans. (Chaptered)

Existing law provides for the governance and regulation of state agencies, as defined. Existing law provides certain benefits and protections for members of the Armed Forces of the United States. This bill would require every state agency that requests on any written form or written publication, or through its Internet Web site, whether a person is a veteran, to request that information in a specified manner.

AB 291 (Nestande) – California Sunset Review Commission. (Assembly Accountability and Administrative Review)

Existing law establishes the Joint Sunset Review Committee, a legislative committee comprised of 10 Members of the Legislature, to identify and eliminate waste, duplication, and inefficiency in government agencies and to conduct a comprehensive analysis of every "eligible agency" for which a date for repeal has been established, to determine if the agency is still necessary and cost effective. The bill would require the commission to meet regularly and to work with each agency subject to review to evaluate the need for the agency to exist, identify required statutory, regulatory, or management changes, and develop legislative proposals to enact those changes. The bill would require the commission to prepare a report, containing legislative recommendations based on its agency review, to be submitted to the Legislature and would also require the commission to meet certain cost-savings standards within 5 years. This bill contains other related provisions.

AB 365 (Mullin) – Court reporting. (Assembly Inactive)

AB 376 (Donnelly) – Regulations: notice. Assembly Accountability and Administrative Review)

This bill would require a state agency enforcing a regulation promulgated on or after January 1, 2014, to notify a business that is required to comply with that regulation of the existence of the regulation 30 days before its effective date, and to cooperate with the Secretary of State to access business records to obtain the business contact information necessary to provide that notice.

AB 393 (Cooley) – Office of Business and Economic Development: Internet Web site. (Chaptered)

Existing law requires the Director of the Governor's Office of Business and Economic Development to ensure that the office's Internet Web site contains information to assist an individual with the licensing, permitting, and registration requirements necessary to start a business. Existing law also requires a state agency that the Governor determines has licensing authority to provide accurate updated information about its licensing requirements, as provided. This bill would require the Director of the Governor's Office of Business and Economic Development to ensure that the office's Internet Web site contains information on the fee requirements and fee schedules of state agencies and would also require a state agency that the Governor determines has licensing authority to provide accurate updated information about its fee schedule, as provided.

~~AB 555 (Salas) – Professions and vocations: military and veterans. (Changed to Social Security Numbers and Chaptered)~~

****AB 566 (Wieckowski) – Courts: personal services contracting. (Vetoed)**

****AB 648 (Jones-Sawyer) – Court reporters. (Chaptered)**

Existing law requires the charge of an official court reporter fee, in addition to any other fee required in civil actions or cases. For each proceeding lasting less than one hour, a fee of \$30 is required to be charged for the reasonable cost of the services of an official court reporter. Fees collected pursuant to this provision may be used only to pay for services of an official court reporter in civil proceedings. This bill would require the charge of a fee of \$30 for each proceeding lasting one hour or less in a civil action or case to offset the costs of the services of official court reporters in civil proceedings. The bill would require each party that files papers that require the scheduling of a proceeding lasting less than one hour to pay the fee, regardless of whether the party requests the presence of a court reporter. The bill would require the fee to be paid for each separate proceeding, regardless of whether the proceedings are scheduled at the same time on the same calendar. The bill would provide for the deposit of the fees collected into the Trial Court Trust Fund and would provide for the distribution of those fees, upon appropriation by the Legislature, back to the courts in which the fees were collected.

****AB 655 (Quirk-Silva) – Court reporters: salary fund. (Senate Appropriations)**

Existing law requires the charge of an official court reporter fee, in addition to any other fee required in civil actions or cases, for the services of an official court reporter on the first and each succeeding judicial day those services are provided, as specified. Fees collected pursuant to this provision may be used only to pay for services of an official court reporter in civil proceedings. This bill would authorize each trial court to establish a Reporters' Salary Fund for the payment of the salaries and benefits of official reporters, as specified. This bill contains other existing laws.

****AB 679 (Fox) – Fees: official court reporters. (Assembly Judiciary)**

Existing law requires an official court reporter fee of \$30 to be charged for each proceeding lasting less than one hour. Existing law requires the charge of an official court reporter fee, in addition to any other fee required in civil actions or cases, for each proceeding lasting more than one hour, in an amount equal to the actual cost of providing that service per 1/2 day of services to the parties, on a pro rata basis, for the services of an official court reporter on the first and each succeeding judicial day those services are provided, as specified. Existing law further requires the Judicial Council to adopt specified rules to, among other things, ensure the availability of an official court reporter, or in the absence of an official court reporter, authorize a party to arrange for the presence of a certified shorthand reporter, as specified. This bill would further require the Judicial Council to adopt rules to ensure that a party arranging for a certified shorthand reporter notifies the other parties of that fact, and that attempts to share costs for the certified shorthand reporter are made to provide better access to justice for all parties involved in the proceeding.

~~AB 771 (Jones) – Department of Consumer Affairs. (Changed to Public Health)~~

~~AB 772 (Jones) – Consumer affairs: intervention in state agency or court proceedings. (Changed to Intervention in state agency or court proceedings)~~

****AB 788 (Wagner) – Court transcripts. (Senate Judiciary)**

Existing law requires that transcripts prepared by a reporter using computer assistance and delivered on a medium other than paper be compensated at the same rate set for paper transcripts, except as specified. Existing law establishes certain fees for second copies of transcripts, as specified, including transcripts in computer-readable format. This bill would limit the reproduction provisions described above to computer-readable transcripts. This bill contains other existing laws.

AB 866 (Linder) – Regulations. (Assembly Accountability and Administrative Review)

The Administrative Procedure Act generally sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies, and for review of those regulatory actions by the Office of Administrative Law. This bill would modify the requirements that an adopting agency must meet when preparing the economic impact analysis and the standardized regulatory impact analysis.

AB 868 (Ammianao) – Courts: training programs: gender identity and sexual orientation. (Chaptered)

Existing law requires the Judicial Council to perform various duties designed to assist the judiciary, including establishing judicial training programs for judges, referees, commissioners, mediators, and others who perform duties in family law matters. Existing law requires this training to include instruction in all aspects of family law, including the effects of gender on family law proceedings. This bill would require that training to also include the effects of gender identity and sexual orientation on family law proceedings. This bill contains other related provisions and other existing laws.

AB 894 (Mansoor) – Consumer affairs. *Spot bill (Assembly – pending referral)**

Under existing law, the Department of Consumer Affairs is comprised of boards that license and regulate various professions and vocations. This bill would make a technical, non-substantive change to that provision.

AB 1013 (Gomez) – Consumer affairs. (Assembly Business, Professions and Consumer Protection)

Existing law authorizes the director or the Attorney General to intervene in a matter or proceeding pending before any state commission, regulatory agency, department, or agency, or any court, which the director finds may affect substantially the interests of consumers within California, in any appropriate manner to represent the interests of consumers. Existing law also authorizes the director, or any officer or employee designated by the director for that purpose, or the Attorney General to thereafter present evidence and argument to the agency, court of department, as specified, for the effective protection of the interests of consumers. This bill would additionally authorize any employee designated by the Attorney General to make those presentations.

AB 1017 (Gomez) – Incoming telephone calls: messages. (Assembly Business, Professions and Consumer Protection)

Existing law requires each state agency to establish a procedure pursuant to which incoming telephone calls on any public line are answered within 10 rings during regular business hours, except as specified. For purposes of this provision, "state agency" includes every state office, officer, department, division, bureau, board, and commission. This bill would require, in addition, that the procedure established by the state agency enable a caller to leave a message, as specified, and that the message be returned within 3 business days, or 72 hours, whichever is earlier.

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Support Documents:

- Attachment 1 – Letter of Opposition to AB 251 (Wagner)
- Attachment 2 – Letter of Support for SB 823 (Lieu)
- Attachment 3 – Letter of Support for SB 823 (Lieu) to Governor

Report Originator: Yvonne Fenner, 10/30/2013

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COURT REPORTERS BOARD
OF CALIFORNIA



2535 Capitol Oaks Drive, Suite 230, Sacramento, CA 95833
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April 2, 2013

Honorable Bob Wieckowski (Chair)
P.O. Box 942849, Room 4016
Sacramento, CA 94249-0025

Re: Opposition of Assembly Bill 251

Dear Assemblyman Wieckowski:

The Court Reporters Board of California opposes Assembly Bill 251. While electronic recording may serve a purpose in a misdemeanor or infraction case or for the internal purpose of monitoring judicial officer performance, allowing it in limited civil would allow it in family law matters. To allow an inferior record to be kept when the child custody and spousal support issues are at stake is a grave disservice to the consumer. In addition to the importance of child custody, the average dissolution matter contains sensitive information regarding bank accounts, assets, as well as health information, all of which is best left in the hands of licensed court reporters who are held responsible to applicable laws regarding confidentiality. The litigant or consumer has absolutely no recourse with an inaccurate transcript from an audio recording, nor does he or she have any warning that the machine has malfunctioned until being informed after the fact that there is no recording available, at which point all appeal rights are lost.

On behalf of the consumers of California, we respectfully request a no vote on Assembly Bill 251.

Sincerely,

A handwritten signature in cursive script that reads "Toni O'Neill".

Toni O'Neill, Chairperson
Court Reporters Board

CC: Assembly Judiciary Committee Members
Department of Consumer Affairs Legislative Unit



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June 5, 2013

Honorable Richard Gordon, Chair
Assembly Business, Professions and Consumer Protection Committee
Legislative Office Building, Room 383
Sacramento, CA 95814

Re: Support of Senate Bill 823

Dear Chairman Gordon:

The Court Reporters Board of California (Board) is in support of Senate Bill 823. The Board is charged with administering the self-supporting Transcript Reimbursement Fund, a program that provides transcript reimbursement costs in civil cases where an indigent litigant needs a copy of a transcript. This program has proven vital in many cases for more than 30 years by allowing access to justice to thousands of California consumers.

Thank you for your help in ensuring California's most vulnerable consumers continue to be aided.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Toni O'Neill'.

Toni O'Neill, Chair
Court Reporters Board

cc: Members, Assembly Business, Professions and Consumer Protection Committee
Members, Court Reporters Board of California
Department of Consumer Affairs Legislative Unit
Senate Business, Professions & Economic Development Committee



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Attachment 3
Agenda Item VI

September 12, 2013

The Honorable Jerry Brown
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

Bill: SB 823 (Lieu)
Position: SUPPORT

Dear Governor Brown:

On behalf of the Court Reporters Board of California (Board), we respectfully request your signature on SB 823 by Senator Ted Lieu. This bill includes language that will allow the Board to resume processing of applications to the Transcript Reimbursement Fund.

Since its inception in 1981, the Transcript Reimbursement Fund has provided more than \$7.6 million for reimbursement for transcripts to qualified indigent litigants on civil cases. The fund is financed through court reporters' annual license renewal fees. For more than 30 years the fund has increased access to justice for California's most vulnerable consumers.

To ensure protection of the consumer, we urge your signature on SB 823 (Lieu).

Sincerely,

YVONNE K. FENNER,
Executive Officer

cc: The Honorable Ted Lieu, Chairman, Senate Business, Professions and Economic Development Committee.

COURT REPORTERS BOARD MEETING – NOVEMBER 19, 2013

AGENDA ITEM VII – Update on Gift Giving Regulations

California Code of Regulations, Title 16, Section 2475(a)(8)

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Agenda Description: Informational
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Brief Summary:

At the October 27, 2011 Board meeting a petition from the Deposition Reporters Association (DRA) to clarify section 2475(a)(8) was granted, specifically sub (A), giving or receiving items that do not exceed \$100 (in the aggregate for any combination of items given and/or received) per above-described person or entity per calendar year.

The regulatory process was initiated and the public comment period ended at 5:00 p.m. on Monday, October 1, 2012. The Board received additional comments from DRA at the October 12, 2012 Board meeting, and staff was directed to bring back proposed amendments to the next Board meeting. The Board approved amended language at the March 29, 2013 Board meeting. After a 15-day comment period, the regulatory package was finalized and submitted to the Office of Administrative Law (OAL) for review. OAL approved the regulation on September 30, 2013. The regulation will become effective January 1, 2014.

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Report Originator: Yvonne Fenner, 10/30/2013
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AGENDA ITEM VIII – Scope of Practice Regulation – California Code of Regulations (CCR) Title 16, section 2403

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Agenda Description: Possible Action

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Brief Summary:

At the March 29, 2013 meeting, the Board approved the text of and addition to CCR Title 16. The regulatory process was initiated, and the public comment period ended at 5:00 p.m. on September 16, 2013, and included a public hearing.

The California Court Reporters Association (CCRA) submitted written comments as well as oral comments at the public hearing. Their complete written comments are included as Attachment 1, but they are requesting the following changes to which staff has noted recommendations:

1. Amend (a) to read: In superior court, including services performed by an entity rendering court reporting services on behalf of and authorized by the licensee

Recommendation: It is the position of staff that this language adds no clarification and is not needed, but it would be acceptable to add it. An additional consideration, the Office of Administrative Law (OAL) frowns on the use of “including” language in regulation.

2. Addition of new subdivision under (a): (8) Retention of original stenographic notes for the statutorily-required period, or delivery thereof to the court when required by local rule.

Recommendation: Staff agrees with this addition as it adds consistency with the freelance duties. The basis for this addition is Government Code section 69955(e).

3. Amend (b) to read: For a deposition, including services performed by an entity rendering court reporting services on behalf of and authorized by the licensee

Recommendation: It is the position of staff that this language adds no clarification and is not needed, but it would be acceptable to add it. An additional consideration, the Office of Administrative Law frowns on the use of “including” language in regulation.

4. Deletion of (b) (10): ~~Making audio or video recording of a deposition testimony available to any person requesting a copy on payment of a reasonable charge.~~

Recommendation: Rather than be deleted, the language should be modified to be consistent with California Code of Civil Procedure 2025.570: “Making transcription of deposition testimony available to any person requesting a copy, on payment of a reasonable charge

The Deposition Reporters Association (DRA) submitted written comments as well as oral comments at the public hearing. Their complete written comments are included as Attachment 2. They are requesting the following changes to which staff has noted recommendations:

1. Addition of new subdivision: (c) The practice of shorthand reporting includes, but is not limited to, the making of verbatim record of any quasi-adjudicatory proceeding under the Administrative Procedures Act.

Recommendation: It is the position of staff that there is no authority to add this subdivision. An additional consideration, OAL frowns on the use of “includes, but is not limited to” language.

2. Correct typo in 2403(a)(6) to read ASCII code

Recommendation: Staff agrees with the correction of this typographical error.

3. Amend (b)(3) to read: Notifying all parties attending the deposition of requests made by other parties for ~~copies~~ the provision of instant visual display (or realtime hookup), rough drafts, partial transcripts or expedited transcripts, and offering or providing to all parties any deposition product or service, including but not limited to, any transcription or any product derived from that transcription.

Recommendation: It is the position of staff that there is no authority for adding the proposed language for this subdivision. The scope of practice identifies duties, not additional services. The requirement to notify parties of requests of this type is already contained within the Professional Standards of Practice. Staff agrees the term “copies” needs modification.

4. Amend (b)(5) to read: Sending written notice to deponent and to all parties attending the deposition when the original transcript of the testimony for each session of the deposition is available for reading, correcting and signing, unless previously waived.

Recommendation: Staff agrees with this proposed amendment.

5. Amend (b)(10) to read: Making audio or video recording of a deposition testimony made by, or at the direction of, any party available to any person party requesting a copy on payment of a reasonable charge.

Recommendation: It is the position of staff that the language should be modified to be consistent with California Code of Civil Procedure 2025.570: “Making transcription of deposition testimony available to any person requesting a copy, on payment of a reasonable charge.

Irene L. Abbey, CSR 2686, submitted written comments which are included as Attachment 3. Her complete comments are included as Attachment 3. She is requesting the following changes to which staff has noted recommendations:

1. Amend (b)(3) to read: Notifying all parties attending deposition of requests made by other parties for copies or rough drafts.

Recommendation: It is the position of staff that there is no authority for adding the proposed language for this subdivision. The scope of practice identifies duties, not additional services. The requirement to notify parties of requests of this type is already contained within the Professional Standards of Practice.

2. Amend (b)(6) to read: Indicating on the original of the transcript, if the deponent has not already done so at the office of the shorthand reporter, any action taken by the deponent and indicate on the original of the transcript the deponent's approval of, or failure or refusal to approve, the transcript, unless previously waived.

Recommendation: It is the position of staff that there is no need for this language because it's a given and adds no clarification.

3. Amend (b)(7) to read: Sending written notification to the parties attending the deposition of any changes which the deponent timely made in person, unless previously waived.

Recommendation: It is the position of staff that there is no need for this language because it's a given and adds no clarification.

4. Amend (b)(9) to read: Securely sealing the transcript in an envelope or package endorsed with the title of the action and marked: "Deposition of the (here insert name of deponent)" and promptly transmitting it to the attorney for the party who noticed the deposition, unless previously waived.

Recommendation: It is the position of staff that there is no need for this language because it's a given and adds no clarification.

5. Addition of new subsection under (b): (11) Marking exhibits for identification as offered during the deposition and taking possession of said exhibits for the purposes of attaching them to the transcript unless otherwise stipulated by the parties in attendance.

Recommendation: While staff agrees this would be a good addition to the scope of practice, there is no statute that this language would clarify, therefore the Board would have no authority to enact it.

Richard L. Manford, Attorney at Law, submitted written comments which are included as Attachment 4. Mr. Manford advocates for re-working the regulations in order to impose responsibility and liability on a court reporting firm or entity, on the one hand, or on the CSR, on the other, depending on which of them actually agrees and/or undertakes to perform those activities.

Recommendation: Staff respectfully disagrees with Mr. Manford's position. Without the clarification set out in the proposed regulations, the Board has to hold the licensee responsible for all these acts, whether or not they were actually performed by a court reporting firm.

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Proposed Modified Text:

Scope of Practice

The accurate transcription thereof includes, but is not limited to:

(a) In superior court

- (1) Taking down in shorthand all testimony, objections made, rulings of the court, exceptions taken, arraignments, pleas, sentences, arguments of the attorneys to the jury and statements and remarks made and oral instructions given by the judge or other judicial official.
- (2) Writing the transcript out, or the specific portions thereof as may be requested, in plain and legible longhand, or by typewriter, or other printing machine.
- (3) Certifying that the transcripts were correctly reported and transcribed.
- (4) Filing the transcripts with the clerk of the court when directed by the court.
- (5) Making and preparing original transcription on paper.
- (6) Delivering a copy of the original transcript in a computer-readable form in standard ASCII code, unless otherwise agreed by the reporter and the court, party, or other person requesting the transcript.
- (7) Labeling disks of transcripts with the case name and court number, the dates of proceedings contained on the disk, and the page and volume numbers of the data contained on the disk and with each disk containing the identical volume divisions, pagination, line numbering, and text of the certified original paper transcript or any portion thereof and sequentially numbered within the series of disks.
- (8) Retention of original stenographic notes for the statutorily-required period, or delivery thereof to the court when required by local rule.

(b) For a deposition

- (1) Administering the oath or affirmation to the deponent.
- (2) Making a full or partial copy of transcription available.
- (3) Notifying all parties who attended a deposition of requests made by other parties ~~of made for copies~~ for either an original or copy of the transcript, or any portion thereof.
- (4) Record testimony by stenographic means and ~~Retaining~~ stenographic notes of depositions for statutorily mandated period of time.
- (5) Sending written notice to deponent and to all parties attending the deposition when the original transcript of the testimony for each session of the deposition is available for reading, correcting and signing, ~~unless previously waived.~~
- (6) Indicating on the original of the transcript if the deponent has not already done so at the office of the shorthand reporter, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve the transcript.
- (7) Sending written notification to the parties attending the deposition of any changes which the deponent timely made in person.
- (8) Certifying on the transcript, ~~or in a writing accompanying an audio or video record of the deposition,~~ that the deponent was duly sworn and that the transcript or recording is a true record of the testimony given.
- (9) Securely sealing the transcript in an envelope or package endorsed with the title of the action and marked: "Deposition of (here insert name of deponent)," and shall promptly transmit it to the attorney for the party who noticed the deposition.
- (10) If the reporter still has a copy, m~~Making audio or video recording~~ transcript of a deposition testimony, available to any person requesting a copy, on payment of a reasonable charge.

(Authority cited BPC sections 8007, 8017; Reference BPC sections 8007, 8017, CCP sections 269, 271, ~~273, 2025.321,~~ 2025.330, 2025.510, 2025.520, 2025.540, 2025.550 and Government Code section 69955)

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Report Originator: Yvonne Fenner, 11/13/2013
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Recommended Board Action:

Staff recommends the Board move to approve the proposed modified text for a 15-day comment period and delegate to the executive officer the authority to adopt the proposed regulatory changes as modified if there are no adverse comments received during the public comment period and also delegate to the executive officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.



September 16, 2013

California Court Reporters Board
2535 Capitol Oaks Drive, Suite 230
Sacramento CA 95833-2944

Re: Proposed Adoption of 16 Cal. Code Regulations, Section 2403

Members of the California Court Reporters Board and colleagues, the California Court Reporters Association thanks you for the opportunity to address you on the proposed adoption of Section 2403 of Title 16 of the California Code of Regulations.

CCRA thanks the Board for its efforts to protect consumers and to honor the court reporting profession by maintaining its integrity.

CCRA recognizes that the proposed adoption of Section 2403 of Title 16 of the California Code of Regulations arises out of the decision held by the Court in the US Legal case. While the Court's decision was in part a defeat, in its footnote, the Court found that US Legal renders professional services, namely shorthand reporting services, within the meaning of Corporations Code 13401.

CCRA supports the language adopted by the CRB, with the following alternate language:

2403. Scope of Practice.

The practice of shorthand reporting is defined as the making, by means of written symbols or abbreviations in shorthand or machine shorthand writing, of a verbatim record of any oral court proceeding, deposition, court-ordered hearing or arbitration, or proceeding before any grand jury, referee, or court commissioner and the accurate transcription thereof.

The accurate transcription thereof includes, but is not limited to:

(a) In superior court, except for services performed by an entity rendering court reporting services on behalf of and authorized by the licensee.

- (1) Taking down in shorthand all testimony, objections made, rulings of the court, exceptions taken, arraignments, pleas, sentences, arguments of the attorneys to the jury and statements and remarks made and oral instructions given by the judge or other judicial official.
- (2) Writing the transcript out, or the specific portions thereof as may be requested, in plain and legible longhand, or by typewriter, or other printing machine.
- (3) Certifying that the transcripts were correctly reported and transcribed.
- (4) Filing the transcripts with the clerk of the court when directed by the court.
- (5) Making and preparing original transcription on paper.

- (6) Delivering a copy of the original transcript in a computer-readable form in standard SCII code, unless otherwise agreed by the reporter and the court, party, or other person requesting the transcript.
- (7) Labeling disks of transcriptions with the case name and court number, the dates of proceedings contained on the disk, and the page and volume numbers of the data contained on the disk and with each disk containing the identical volume divisions, pagination, line numbering, and text of the certified original paper transcript or any portion thereof and sequentially numbered within the series of disks.
- (8) Retention of original stenographic notes for the statutorily-required period, or delivery thereof to the court when required by local rule.
- (b) For a deposition, except for services performed by an entity rendering court reporting services on behalf of and authorized by the licensee.
- (1) Administering the oath or affirmation to the deponent.
 - (2) Making a full or partial copy of transcription available.
 - (3) Notifying all parties attending deposition of requests made by other parties for copies.
 - (4) Retaining stenographic notes of depositions for statutorily mandated period of time.
 - (5) Sending written notice to deponent and to all parties attending the deposition when the original transcript of the testimony is available for reading, correcting and signing, unless previously waived.
 - (6) Indicating on the original of the transcript, if the deponent has not already done so at the office of the shorthand reporter, any action taken by the deponent and indicate on the original of the transcript the deponent's approval of, or failure or refusal to approve, the transcript.
 - (7) Sending written notification to the parties attending the deposition of any changes which the deponent timely made in person.
 - (8) Certifying on the transcript, or in a writing accompanying an audio or video record of the deposition, that the deponent was duly sworn and that the transcript or recording is a true record of the testimony given.
 - (9) Securely sealing the transcript in an envelope or package endorsed with the title of the action and marked: "Deposition of (here insert name of deponent," and promptly transmitting it to the attorney for the party who noticed the deposition.
 - (10) ~~Making audio or video recording of a deposition testimony available to any person requesting a copy on payment of a reasonable charge.~~

Rationale:

- CCRA's language distinguishes accountability, but not to a degree that is too specific as to exclude or include any or all of the duties and responsibilities of a licensee. We believe this aids in addressing Mr. Finch's concern stated in the CRB March 2013 Board minutes about the cumbersomeness of too detailed a list. He said that even lawyers are not bound by such a long list.
- CCRA finds that the consumer benefits from being aware of the distinction between the services offered by a firm and by a licensee. The clause, "except for services performed by an entity rendering court reporting services on behalf of and authorized by the licensee,"

makes clear that a distinction does indeed exist. For example, a deposition firm cannot personally swear a witness in; nor can it certify a transcript. It would be unconscionable for the Board to hold a licensee accountable for actions or omissions on the part of the firm over which the licensee has no control. For example, a licensee's page format can be altered without his or her knowledge. The Board has authority to go after the licensee, but the habitual practice of padding the record by a firm will continue.

- CCRA's proposed language is appropriate for the privately hired court reporter in court. The clause, "except for services performed by an entity rendering court reporting services on behalf of and authorized by the licensee," applies equally. Many firms are now asked to cover superior courts throughout the state of California. It is equally true that it would be unconscionable for the Board to hold a licensee accountable for actions or omissions on the part of the firm over which the licensee has no control. Many, but not all, of the duties enumerated by the Board can be performed by a firm.
- CCRA opposes No. 10 under "deposition" as too vague because it (1) confuses the audio sync work product (backup audio media – that's the phrase CRB uses) (if used) of the licensee with the audio or video recording of a deposition produced by the videographer; and (2) may have unintended consequences of eliding the differences between an audio or video recording and the official stenographic record.
- CCRA's proposes the addition of No. (8), under "superior court" because it is missing. (8) Retention of original stenographic notes for the statutorily-required period, or delivery thereof to the court when required by local rule. This is one of the duties of a superior court reporter, whether privately hired or not. And the addition conforms to the duty listed under No. 4, "deposition," (4) Retaining stenographic notes of depositions for statutorily mandated period of time.

CCRA's proposed alternative language supports the Board's intention to "... further define the scope of practice regarding court reporting services and actions constituting transcription" which "... will lessen confusion in the industry as to who is being held accountable *for their actions* when engaging in court reporting services." By adding the clause, "except for services performed by an entity rendering court reporting services on behalf of and authorized by the licensee," CCRA's language enlightens the consumer of the distinction between the firm and the licensee which lessens confusion in the industry as to who is held responsible. CCRA's language enlightens the consumer of the responsibility of a licensee working in court by adding the duty of retaining notes. And CCRA's request to delete the obligation of making available an audio or video recording to anyone on payment of a reasonable charge lessens the confusion this would create.

CCRA expresses gratitude to the Board for its careful and thoughtful consideration of our alternate language. CCRA applauds the Board for its dedication to the integrity of the court reporting profession.

Respectfully submitted,

Early Langley
CSR 3537, RSA, RMR
Immediate Past President
California Court Reporters Association

Fenner, Yvonne@DCA

From: Early CSR [early.langle@cal-ccra.org]
Sent: Monday, September 16, 2013 2:52 PM
To: Bruning, Paula@DCA
Cc: Fenner, Yvonne@DCA; Kristi Garcia; Carlos A Martinez
Subject: Error in letter from CCRA to CRB 9-16-13

Paula, please delete "except for" and replace with "including" throughout our whole letter.
Thank you!
Please acknowledge receipt.

Early Langley CSR
CCRA Immed. Past President
Sent from my iPhone



DEPOSITION
REPORTERS ASSOCIATION
OF CALIFORNIA, INC.

September 12, 2013

Ms. Paula Bruning
Court Reporters Board of California
2535 Capitol Oaks Drive, Suite 230
Sacramento, CA 95833

Re: **Comments Related To Proposed Regulations: Scope of Practice**

Dear Ms. Bruning:

The Deposition Reporters Association of California ("DRA") respectfully submits these comments in support of the Board's proposal to amend Title 16, Division 24 of the California Code of Regulations, with section 2403 ("section 2403"). As well, DRA submits the following suggested changes to the regulations.

DRA

DRA represents more deposition reporting professionals than any organization in California and is the leading organization in the nation solely devoted to representing such professionals. DRA is a California affiliate of the National Court Reporters Association ("NCRA").

DRA was founded in 1995 by freelance deposition reporters seeking to preserve the impartiality and independence of their profession. In the early nineteen nineties, certain deposition companies and firms began the practice of offering services or prices to one party in litigation but not to others. DRA was founded to combat such practices.

DRA worked with the NCRA to organize and coordinate successful efforts across the country to preserve the impartiality of the freelance deposition reporting profession. As a result, court rules or laws preserving the impartiality of freelance deposition professionals were passed in fourteen states including Hawaii, Texas, Minnesota, Utah, West Virginia, New Mexico, Georgia, Louisiana, Nevada, Kentucky, Michigan, Arkansas, Indiana, and North Carolina.

Court Reporters Are Highly Trained Professionals.

The term "shorthand reporter" broadly refers to two kinds of licensed professional: those licensees who are full-time employees of county courts and work in courtrooms, reporting and transcribing official proceedings (called "officials"), those licensees who are hired by attorneys to report and transcribe depositions and other out-of-court proceedings (called "freelancers"),

A shorthand reporter's license, like a license to practice law, is a general license. That is, it legally permits a reporter immediately to work in any setting for which a licensed reporter is required, whether it be a complex medical malpractice deposition replete with scientific medical jargon and yelling lawyers, or a discovery motion in a simple breach of contract trial.

The importance of this licensed profession to the reasoned and credible administration of justice is hard to overstate. This was judicially confirmed in 2011 in *Serrano v. Stefan Merli Plastering Co.* (2011) 52 Cal.4th 1018, 1021 where the Supreme Court held that court reporters who take depositions are “ministerial officers of the court,” meaning officers charged with non-discretionary, *inherently judicial* duties. This is why freelancers who report and transcribe depositions are empowered to swear in witnesses, and this is why the Code of Civil Procedure strictly regulates what they do: shorthand reporters are extensions of the judge, often working in a private setting.

Indeed, the California Legislature’s Joint Committee on Boards, Commissions, & Consumer Protection correctly underscored the importance of this frequently taken-for-granted profession in 2005 when it wrote:

An accurate written record of who said what in court is essential if the outcome of a judicial proceeding is to be accepted by the litigants and the public as non-arbitrary, fair, and credible.

In criminal cases, for example, courts of appeal rely exclusively upon [] written briefs and a written transcript to adjudicate the lawfulness of what occurred at trial. A conviction – and thus in some instances the life or death of an accused – can stand or fall based entirely upon what a witness said, what a lawyer said, what a juror said, or what a judge said, as solely reflected in the written transcript.

In civil cases, millions of dollars, life-long careers, and the fate of whole business[] enterprises can hinge on what was said or what was not said in a deposition or at trial.

Moreover, the testimony in civil and criminal cases is often thick with technical jargon. A medical malpractice case where specialist experts from both sides contradict one another can involve complex technical medical terminology; criminal cases can involve scientific language related to DNA identification; anti-trust cases can involve diction from economic theory, and so on. No matter how obscure or technical, such jargon must to-the-word accurately be reflected in the written transcript.

Shorthand reporters are highly trained professionals who transcribe the words spoken in a wide variety of official legal settings such as court hearings, trials, and other litigation-related proceedings such as depositions.

Like physicians, engineers, and accountants, shorthand reporters are licensed by and subject to discipline by a regulatory board in the Department of Consumer Affairs. The Court Reporters Board has the power not just to discipline individual licensees but, as discussed below, also corporate entities that provide or arrange for court reporting services. Befitting the enormously difficult and exacting nature of the profession, passage rates for the court reporter’s licensing exam are usually below those of the Bar Exam.

Just As Is The Case With CPAs, Lawyers, Engineers, And Other Licensed Professionals, Shorthand Reporters Are Not Fungible.

A common misperception is that shorthand reporters simply and passively take dictation; that they are fungible. As any experienced litigator will tell you, and as a glance at the many and complex Code of Civil Procedure and Government Code sections dealing with shorthand reporting confirms, that is very wrong. As officers of the court who administer oaths, as the custodians of the record during and after a deposition (when corrections are made by the witness) or hearing, shorthand reporters are required to ensure that the transcript is accurate, and that often means intervening in the proceeding to ensure that

the words witnesses speak can accurately be heard, understood, and reported. This must all be done under sometimes extraordinarily stressful circumstances, with emotional witnesses and sometimes furious attorneys jockeying for any advantage.

Moreover, shorthand reporters don't just show up unprepared. Call, for example, a freelance deposition reporter on the weekend prior to a patent or trademark-related deposition and you will discover it is commonplace for them to be busy reading the underlying patents or pleadings to familiarize themselves with the jargon and what the jargon means, or creating a custom dictionary of key terms, all to better ensure the accuracy of transcribed testimony. This mastery of context is how the best reporters will know whether one technical chemical compound (for example) is uttered over its similar sounding cousin.

And, this is the reason why lawyers sometimes receive good, accurate transcripts that also flow and are easily readable and why they sometimes do not receive good transcripts. Just as no two lawyers will write a brief in the same way, no two licensed reporters will organize (for example) a passionate colloquy between counsel the same way. The preparation; the management of the proceeding to ensure an accurate record, the decisions as to how the transcript will be organized; these factors all require professional judgment, preparation, experience, and intelligence, and the product lawyers obtain will vary -- sometimes significantly -- depending on the reporter hired.

The Aim of the Proposed Regulations

For all of the reasons stated above, DRA has previously testified in support of defining the scope of practice by regulation and now applauds the Board's section 2403 as a thoughtful and welcome baseline for licensees and professional corporations, clarifying what services they may render and what services lay people and non-professional corporations may not render.

As is common throughout the nation, only licensees and professional corporations¹ may render professional services in California, in this setting, shorthand reporting services.² Many different regulated professions benefit by regulations clarifying scopes of practice including chiropractors (16 CCR § 302), nurse midwives (16 CCR § 1463), and respiratory care therapists (16 CCR § 1399.360).

What follows are our suggestions for section 2403:

2403: Scope of Practice

The language currently appearing in the regulation is verbatim from Business & Professions Code section 8017 and is therefore appropriate as the beginning point for this proposed regulation.

¹ See, e.g., "The Corporate Practice of Professions," <http://www.op.nysed.gov/corp/corppractice.htm>

² *Painless Parker v. Board of Dental Exam.* (1932) 216 Cal. 285, 296 As the competence and integrity of corporations cannot be tested by a licensing exam, the "traditional rule," according to Witkin, is that services provided by licensees cannot lawfully be rendered through a corporation such as the Defendant. However, this blanket prohibition has been qualified by statute. Witkin, *Summary of California Law*, (2005) Tenth Edition, sec. 26, pp. 804-05. Specifically, in California, corporations rendering services for which a license is required are only permitted to do so pursuant to the Moscone-Knox Professional Corporation Act ("Act") (Corp.Code. sec. 13400 *et seq.*) *Ibid.* "Before the enactment of the Moscone-Knox [Act] in 1968, practitioners of certain professions were not permitted to incorporate...the prevailing case law being that a corporation, as an artificial entity, could not 'practice' that profession. Today, with the passage of the [Act], a corporation may be formed for the purposes of qualifying as a professional corporation and rendering professional services." 15A Cal.Jur.3d, Corporations, sec. 540.

The proposed regulation is, however, later divided-up between shorthand reporting done "In superior court" and depositions. Yet, shorthand reporting outside of a deposition is not limited to superior courts. For example, the Senate Rules Committee uses a licensee and licensees are commonplace in quasi-adjudicatory disciplinary hearings and even sometimes quasi-legislative hearings under the Administrative Procedures Act.

True, the proposed regulation includes an "including, but not limited to," caveat, so that technically shorthand reporting done in these settings is not per se excluded. Reporting in these settings is, however, common enough so that it may be best not to exclude them entirely from the face of the regulation.

For this reason, we recommend adding a new subdivision (c):

(c) The practice of shorthand reporting includes, but is not limited to, the making of a verbatim record of any quasi-adjudicatory proceeding under the Administrative Procedures Act.

2403(a)(6)

DRA is unable to find a statutory reference to "SCII" so it may be best to amend the regulation so that it reads instead:

SCII ASCII code

2403(b)(3)

DRA could not find a reference to regarding requests for "copies" in the California Code of Civil Procedure. CCP section 2025.510(d) requires notification when partial transcripts or expedites are requested. Hence, DRA proposes deleting the reference to copies here (which, in any event, is properly referred to as "*certified* copies."). Moreover, we propose supplementing the regulation as follows to capture all those services for which notice is required, so that (b)(3) would read:

(b)(3) Notifying all parties attending the deposition of requests made by other parties for copies the provision of instant visual display (or realtime hookup), rough drafts, partial transcripts, or expedited transcripts.

Impartiality in the deposition setting is also an important part of a shorthand reporter's scope of practice and for this reason DRA respectfully suggests adding language from CCP section 2025.320(b) to the end of what currently appears in 2403(b), as follows:

transcripts, and offering or providing to all parties any deposition product or service, including but not limited to, any transcription or any product derived from that transcription.

2403(b)(5)

This proposed regulation has a slight ambiguity as to its application to each deposition and thus we suggest adding, between "original transcript of the testimony" and "is available" the following:

for each session of the deposition

2403(b)(10)

The regulation currently references making an audio or video recording available "to any person" but it is unclear to us whether doing so for literally any person outside of such a recording being used for a legal proceeding is, in fact, within the practice of shorthand reporting. Moreover, without clarification, there is the possible inference that reporters would have to supply their audio files to any person who asks for it; something that the Board has said reporters are not required to do. For this reason, DRA respectfully suggests that after "recording of deposition testimony" and before "available the following should be inserted:

made by, or at the direction of, any party

Similarly, after "to any" and before "requesting a copy, insert:

party

DRA thanks the Board for this thoughtful and sensible addition to the regulation of shorthand reporting in California.

Sincerely,

Vicki Saber
DRA President

Antonia Pulone
DRA Legislative Chair

Irene L. Abbey, C.S.R. No. 2686
107 Berkeley Avenue
Ventura, California 93004

To the Court Reporters Board of the State of California:

Re: Proposed Changes to Title 16, Division 24 of California Code of Regulations

I have the following concerns and suggestions regarding the proposed language of Section 2403:

I would suggest, so that the language is absolutely clear, that (b) (3) be amended to include "or rough drafts" after "parties for copies." It is my understanding that not all reporters/agencies are notifying deposition attendees of the fact a rough draft has been ordered, and this additional language would make it clear that there is that responsibility.

Section (b) (5) references waiver of correcting and signing provisions; however, Sections (b) (6), (7), and (9) do not reference a waiver, thereby requiring the reporters to have responsibility for something over which they may have no control.

I would suggest language similar to that in (b) (5) for these other sections, so if the reporter is relieved of responsibility to provide notice of availability, there is also relief from indications on the original transcript (which will no longer be in the reporter's possession) and from sending notice regarding changes made by the deponent and also transmittal of the original, for the same reason, namely, once the parties have stipulated to have the original sent to the deponent or deponent's counsel for review, the reporter will not be able to perform those other duties.

I would implore the Board to please include an additional section related to the marking of exhibits for identification at a deposition. There is no current regulation which governs the marking of exhibits, except for those provided in Federal Rules of Civil Procedure. Perhaps a (2) (b) (11) could be added with language similar to the following:

"(11) Marking exhibits for identification as offered during the deposition and taking possession of said exhibits for the purposes of attaching them to the transcript unless otherwise stipulated by the parties in attendance."

This would provide regulatory backup for the proposition that deposition exhibits are to be secured and retained by the reporter for inclusion with the verbatim transcript and would clearly describe the procedure as it currently exists in common practice, but is not codified. It would also make it clear that a party cannot ask to have an exhibit attached to the transcript which was not offered during the taking of the deposition.

Thank you for your consideration of my comments.

Sincerely,

Irene L. Abbey

RICHARD L. MANFORD
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SEP 11 2013

11 September 2013

Ms. Paula Bruning
California Court Reporters Board
2535 Capitol Oaks Drive, Suite 230
Sacramento CA 95833-2944

Re: Proposed Adoption of 16 Cal.Code Regulations, Section 2403

Dear Ms. Bruning:

The Court Reporters Board of California ("Board") proposes to adopt new Section 2403 of Title 16 of the California Code of Regulations to define the scope of practice of a certified shorthand reporter ("CSR"). In anticipation of the 16 September public hearing thereon, I offer the following concerning this proposal.

By way of qualification to comment, I have been a litigator for 41 years. I have tried 100+ cases (criminal and civil) to juries, and have taken thousands of depositions. Dozens of CSRs are professional acquaintances and long-time friends. I do advocate on their behalf. I am not paid by anyone. I write because it's right.

Shorthand Reporting: "The practice of shorthand reporting is defined as the making, by means of written symbols or abbreviations in shorthand or machine shorthand writing, of a verbatim record . . . and the accurate transcription thereof." (Bus. & Prof. Code, § 8017.) Section 2403 purports to " . . . further define the scope of practice regarding court reporting services and actions constituting transcription[]" which " . . . will lessen confusion in the industry as to who is being held accountable *for their actions* when engaging in court reporting services." (Italics added.) Per the Board's Initial Statement of Reasons,

"[t]he intent of the [proposed] regulation is to clarify for the industry, licensee, and court reporting firm alike, what court reporting services constitute transcription services so that the Board can act for enforcement purposes should a violation of law, associated with court reporting or transcription thereof, occur."

The Board currently has pending before the Office of Administrative Law ("OAL") proposed amendments to 16 Cal.Code Regs., § 2475 (Professional Standards of Practice), the design purpose of paragraph (b)(8) thereof being to limit the giving by businesses that render shorthand reporting services of gifts, incentives, reward or anything of value [to those who contract for or with a CSR] beyond receipt of compensation for reporting services. However, because the Board currently has no jurisdiction over foreign corporations, LLPs and LLCs offering and/or providing shorthand reporting services in California, proposed Section 2403 will affect domestic providers only. I am separately writing to the Board with my analysis, comments, and suggestions regarding the proposed amendments to Section 2475 even though they now pend before the OAL.

Analysis: As to domestic providers of shorthand reporting services and individual CSRs engaging in the practice of shorthand reporting, proposed Section 2403 defines "accurate transcription thereof" to include activities in two basic categories, namely superior court (7 activities) and depositions (10 activities).

For CSRs providing shorthand reporting services in superior courts, their scope of practice is proposed to include (1) shorthand reporting of proceedings, (2) transcript preparation, (3) certification of transcript as correct, (4) filing transcripts with court clerks, (5) preparation of original transcripts on paper [redundant of (2)], (6) electronic copy transcript delivery, and (7) preparation of transcript discs. Notably absent are retention of original stenographic notes for the statutorily-required period, or delivery thereof to the court when required by local rule.

As to CSRs reporting depositions, their practice scope is proposed to consist of (1) swearing the deponent, (2) ensuring copy transcript availability, (3) notifying deposition attendees of copy requests by other parties, (4) retention of stenographic notes, (5) written notification of original transcript availability for a deponent's action thereon, (6) noting on the original transcript the deponent's action or inaction, (7) notification to attendees of the deponent's approval of the transcript or failure to approve, (8) transcript certification, (9) transmission of the original transcript to the noticing attorney, and (10) making available to any person an audio or video recording of deposition testimony.

The specified superior court activities appear appropriately within the capabilities and responsibility of a CSR who is not retained as an independent contractor by a reporting company or firm, i.e., a true freelancer who functions solo and personally performs the seven listed activities for her/his sole benefit. The same is true for the ten

deposition reporter activities. But, in the real world, true solo CSRs are a distinct minority. Most CSRs get their work assignments through reporting firms. Moreover, due to cutbacks in court funding and concomitant layoffs of official court reporters, some deposition reporting firms, upon retention by law firms, are now assigning CSRs to report court proceedings in civil cases. For the reasons discussed below, this practice potentially brings court activities (4), (5), and (6) into play.

To impose court requirements (4), (5), and (6), and deposition requirements (2), (3), (5), (6), (7), (8), ^{1/} (9) and (10) ^{2/} on a CSR hired by a reporting firm as an independent contractor for court or deposition work potentially exposes that CSR to disciplinary action for activities over which that CSR, as an imposed condition of employment, forfeits control thereof to the hiring firm. ^{3/} A review of some of the evidence in the Santa Clara County Superior Court trial of *Court Reporters Board of California v. U. S. Legal Support, Inc., et al* (case no. 1-11-CV197817) illustrates the point. There, U. S. Legal's national director testified that law firms and other entities that schedule depositions with U. S. Legal pay it directly; it sets the rates charged and pays its CSRs directly (a lesser sum, of course). Its

1. As to deposition activity (8), a CSR can certify on a transcript that the deponent was sworn, and that the transcript is a true record of the testimony given, because the CSR is the one who swears and transcribes. However, CSRs don't make official audio or video recordings of deposition proceedings. (Cf. Code Civ. Proc., § 2025.510(g) [stenographic transcript is official record of deposition testimony].) Therefore, a deposition CSR is not competent to certify an audio or video recording made by an employee of the noticing attorney (see Code Civ. Proc., § 2025.340(b) or by another deposition officer. (See Code Civ. Proc., § 2025.340(c) [videographer shall be authorized to administer oath].)

2. As to deposition activity (10), a deposition videographer is separately retained by the attorney noticing the deposition. The videographer retains possession of the electronic medium on which the proceedings are recorded. The CSR never has care, custody, control or possession thereof absent a stipulation otherwise. (Code Civ. Proc., § 2025.340(l).) Therefore, this activity cannot appropriately be made a part of a CSR's scope of practice unless a qualifier is added that the requirement applies only when the CSR takes possession by stipulation. Otherwise, the most that the CSR can do is field a request for a copy of the video recording and forward that request to the videographer.

3. Of course, a reporting firm or corporation cannot "personally" swear a witness, cannot take shorthand, cannot transcribe, cannot certify a transcript as accurate, etc. It can only be vicariously liable for a CSR's failure to perform those activities.

production department prints the transcripts, puts its logo and phone number at the bottom of each page, and sends the transcripts directly to its clients. U. S. Legal directly fields any complaints about transcripts. Retained CSRs are expected to follow the procedures in U. S. Legal's Reporter's Manual.

Proposed Section 2403 would expose a CSR's license to administrative discipline and potential criminal liability for activities that a reporting firm demands, as a non-negotiable condition of the CSR's retention as an independent contractor, that the firm undertake and perform to the exclusion of the CSR. Thus, the proposed regulation represents the doctrine of vicarious liability in reverse, i.e., the independent contractor ("employee") would become liable for defalcations committed solely by the hiring reporting firm ("employer"). Therefore, as proposed, Section 2403 leaves such a CSR with two equally-untenable choices: (a) Accept such potential liability and its consequences despite lack of personal participation in the retaining firm's misconduct; or (b) don't accept work from a court/deposition reporting firm. The cloud becomes even darker for a CSR hired as an independent contractor by a foreign corporation or LLC. As the Board has no jurisdiction to discipline or to cite and penalize foreign entities, the only available target is the CSR.

It is inequitable and unjustifiable for the Board to seek implementation of a regulation which would force a CSR to make either of the above choices which, in my opinion, may well constitute a violation of constitutional substantive due process. Although the administrative hearing process is a prerequisite to judicial review, the Board can expect to find itself in court facing petitions for writs of mandate if proposed Section 2403 is adopted in its present form, and the Board has imposed discipline against a CSR's license for activities in which s/he did not personally participate or personally fail to perform. Contrary to the Board's stated goal of reducing confusion in the industry "... as to who is being held accountable *for their actions* . . ." (italics added), this regulation as proposed increases the confusion.

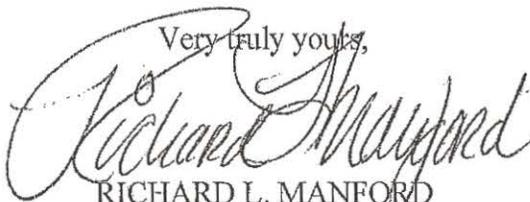
The Board may suggest that it has discretion as to whether to charge a CSR under circumstances as described above. An analogy might be drawn to a district attorney who has discretion as to whether to charge a person with a crime. That analogy fails. Of

Ms. Paula Bruning
California Court Reporters Board
11 September 2013
Page 05

course, a district attorney has discretion to not charge, ^{4/} but no district attorney has discretion to charge a person with liability for criminal conduct in which the person did not personally participate. Possibly more analogous is a criminal conspiracy: It is a felony for "... two or more persons [to] conspire [t]o commit any crime." (Pen. Code, § 182(a)(1).) At least one overt act in furtherance of a conspiracy by one of the conspirators is required. (Pen. Code, § 184.) Even if not performing the overt act, any other conspirator is equally guilty for first having affirmatively engaged in criminal conduct, i.e., the conspiratorial agreement. Again, proposed Section 2403 could impose liability on the CSR who, as a required condition of employment as an independent contractor, delegates to the hiring firm court activities (4), (5), and (6) and deposition requirements 2, 3, 5, 6, 7, 9, and 10 in which the CSR does not personally participate, and over which the CSR retains no control.

As to superior court activities 4, 5, and 6, and deposition activities 2, 3, 5, 6, 7, 9, and 10, proposed regulation 2403 should be re-worked to impose responsibility and liability on the reporting firm or entity, on the one hand, or on the CSR, on the other, depending on which of them actually agrees and/or undertakes to perform those activities.

Very truly yours,


RICHARD L. MANFORD
Attorney at Law

4. The Board similarly has discretion to not charge at all. But, given the Board's mission of protection of the public and assuming a complaint of violation committed by a foreign reporting entity, what's the Board's choice under the current proposal? Not charge? Or, accept the complaint and charge the CSR? Section 2403 as proposed paints the Board into a corner from which there is no escape, except at the peril of the CSR who did not participate in the violation.

**AGENDA ITEM IX – DRA Rulemaking Petition Related to Clock Hours for Students
– Title 16 of the California Code of Regulations, section 2411**

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Agenda Description: Possible Action

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Brief Summary: Section 11340.6 of the Government Code provides that any interested person may petition a state agency requesting the adoption, amendment, or repeal of a regulation.

Petitioner Deposition Reporters Association (DRA) requests that the Board amend Title 16 of the California Code of Regulations (CCR), section 2411. The full petition is included as Attachment 1.

The request from DRA is to add the following new subdivision to 2411:

(o) For purposes of this section, nothing prohibits an accredited, degree-granting institution from counting coursework in credits and subsequently translating credits into hours to comply with this section and Business & Professions Code section 8027.

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Attachment 1: DRA Petition
Attachment 2: Golden State College Letter

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Report Originator: Yvonne Fenner, 11/8/2013

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Recommended Board Action:

Staff analysis finds the proposed language somewhat misleading in its reference to “accredited, degree-granting institution(s) as the language in BPC 8027 and CCR 2411 clearly relate to all recognized court reporting schools.

To ensure the regulation is consistent for all court reporting schools, staff recommends substituting the following language:

(o) Notwithstanding court reporting schools’ requirement to maintain records of positive daily and clock-hour attendance of each student, a court reporting school may use a formula approved by its accrediting entity to convert credit hours into clock hours for purposes of complying with this section.

Staff recommends that the Board move to approve the modified text for a 45-day comment period and delegate to the executive officer the authority to adopt the proposed regulatory changes as modified if there are no adverse comments received during the public comment period and also delegate to the executive officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.



October 24, 2013

Ms. Toni O'Neil
Chair, California Court Reporters Board
2535 Capitol Oaks
Suite 230
Sacramento, CA 95833

Re: Petition to Clarify and Amend Regulations Related to Counting Clock Hours For Students -- Title 16 of the California Code of Regulations, section 2411

Dear Chair O'Neil:

In accordance with section 11340.6 of the California Government Code, the Deposition Reporters Association of California ("DRA") respectfully petitions the Board to amend Title 16 of the California Code of Regulations, section 2411 ("section 2411"). This petition provides the substance and nature of the amendments requested and the reasons for this request.

Petitioner DRA

DRA represents more deposition reporting professionals than any organization in California and is the only organization in the nation solely devoted to representing such professionals. DRA is a California affiliate of the National Court Reporters Association ("NCRA").

DRA was founded in 1995 by freelance deposition reporters seeking to preserve the impartiality and independence of their profession. In the early nineteen nineties, certain deposition companies and firms began the practice of offering services or prices to one party in litigation but not to others. DRA was founded to combat such practices.

DRA worked with the NCRA to organize and coordinate successful efforts across the country to preserve the impartiality of the freelance deposition reporting profession. As a result, court rules or laws preserving the impartiality of freelance deposition professionals were passed in fourteen states including Hawaii, Texas, Minnesota, Utah, West Virginia, New Mexico, Georgia, Louisiana, Nevada, Kentucky, Michigan, Arkansas, Indiana, and North Carolina.

Proposed Regulation – Background and Reasons for the Request

There can be little question that the Board should not discourage prospective licensees to attend institutions that have gone through the review required for academic accreditation. Such institutions must undergo scrutiny as to the quality of the instruction offered that unaccredited institutions do not. Moreover, such institutions are more likely to award a formal, job and resume-burnishing AA degree instead of simply a certificate of completion.

Yet, unwittingly, current Board regulations discourage prospective court reporting students from enrolling in accredited institutions and obtaining degrees. Here is how.

According to Department of Education, Federal Student Aid handbook (at p. 2-27) “[a] school may consider any program to be a clock-hour program.” Thus, for student financial aid purposes, the federal government does not in and of itself require clock hours for loan eligibility. If it did, four year degree-granting postsecondary institutions would award bachelor degrees for completing clock-hours rather than classes measured in credits.

However, the Department *will* require clock-hours to be eligible for federal assistance if the *state* requires clock-hours:

A GE program ... must be considered to be a clock-hour program for purposes of the FSA programs if:

A program is required to measure student progress in clock hours when 1) receiving federal or state approval or licensure to offer the program; or 2) completing clock hours is a requirement for graduates to apply for licensure or the authorization to practice the occupation that the student is intending to pursue.

Ibid.

Section 2411 requires court reporting schools to offer and students to complete 2300 hours of machine shorthand and 660 hours of academic instruction: “A recognized court reporting school shall offer at least the following minimum prescribed course of study for not less than the hours specified in order to obtain and maintain board approval.” Throughout section 2411, the word “hours” is used exclusively. . The regulation does not expressly mandate that students complete all the offered hours. Moreover, the section dealing with machine shorthand expressly states that students need not complete all 2300 hours if they acquire proficiency sooner and are able to pass qualifying exams.

But, degree-granting institutions do not track coursework in “hours.” They track it in “credits.”

For this reason, the court reporting schools that offer degrees to prospective students and that have gone through the scrutiny of accreditation are having a difficult time with their students qualifying for student loans. This, in turn, discourages students from attending the schools that grant them degrees and that have been scrutinized for quality by accrediting organizations.

Both Sage College and South Coast College have approached DRA asking for assistance to address this problem. Both institutions represent that they are accredited by the Accrediting Council for Independent Colleges and Schools (<http://www.acics.org/>).

Current law points to a regulatory solution. Current law does not forbid a school from using credits internally and then translating them into hours when presenting itself to the Board. Consider the following excerpts from section 8027, emphases supplied:

(b) A court reporting school shall be primarily organized to train students for the practice of shorthand reporting, as defined in Sections 8016 and 8017. Its educational program shall be on the postsecondary **or collegiate level**. It shall be legally organized and authorized to conduct its program under all applicable laws of the state, and shall conform to and offer all components of the minimum prescribed course of study established by the board. Its records shall be kept and shall be maintained in a manner to render them safe from theft, fire, or other loss. **The records** shall indicate positive daily and clock-hour attendance of each student for all classes, apprenticeship and graduation reports, high school transcripts or the equivalent or self-certification of high school graduation or the equivalent, transcripts of other education, and student progress to date, including all progress and counseling reports.

* * *

(x) The school shall **provide to the board**, for each student qualifying through the school as eligible to sit for the state licensing examination, the number of hours the student attended court reporting classes, both academic and machine speed classes, including theory.

* * *

(aa) A school shall **provide the board** the actual number of hours of attendance for each applicant the school qualifies for the state licensing examination.

There is nothing found in current law that forbids an institution from internally using credits but keeping a translation of credits to clock-hours in their own files. That would satisfy the requirement in (b) that an institution maintain such records. Likewise, nothing in current law forbids a school from internally using credits but translating those credits into hours when “provided” to the Board.

The reference in current law to “collegiate level” institutions underscores that there is no legislative intent to divert students from such institutions.

Proposed Regulation

The fix to this problem is straightforward. DRA proposes adding a new subdivision (o) to section 2411, as follows:

(o) For purposes of this section, nothing prohibits an accredited, degree-granting institution from counting coursework in credits and subsequently translating credits into hours to comply with this section and Business & Professions Code section 8027. ¹

¹ This subsection in part provides: “(a) The board shall, by December 1, 2001, do the following by regulation as necessary:

(1) Establish the format that shall be used by schools to report tracking of all attendance hours and actual timeframes for completed coursework”.

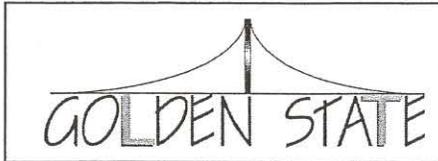
Conclusion

The Board's regulations should not make it harder for students to attend accredited, degree-granting institutions than those which do not offer degrees. The Board's current regulations unwittingly do so. For the reasons set forth above, DRA respectfully requests that this petition be granted and the Board adopt the regulation suggested.

Respectfully submitted:

A handwritten signature in black ink, appearing to read 'Ed Howard', written in a cursive style.

Ed Howard, Howard Advocacy, Inc.
On behalf of DRA



GOLDEN STATE COLLEGE OF COURT REPORTING & REPORTING
7901 STONERIDGE DRIVE, SUITE 105
PLEASANTON, CALIFORNIA 94588
(925) 223-6604

November 4, 2013

Ms. Toni O'Neil
Chair, California Court Reporters Board
2535 Capitol Oaks, Suite 230
Sacramento, CA 95833

Re: Response to DRA Petition to Clarify and Amend Regulations Relating to Counting Clock Hours for Students Dated October 24, 2013

Dear Ms. O'Neil,

As a member of DRA, I received today the emailed petition asking the Board to revise their regulation language so that certain court reporting programs may obtain federal aid for students who are faced with repeating speeds and slow progress.

I appreciate the work DRA relentlessly undertakes to protect the court reporting profession. Without their efforts, our industry would not be what it is today. I appreciate that the intention of the petition is to insure that there is a workforce in the future. As school owners, we want that as well.

Nonetheless, I take issue with some of the points presented in the petition to the Board. First, I am left wondering why Ed Howard/DRA only writes on behalf of Sage College and South Coast, when the other private (and public) institutions face the same difficulties with financial aid issues.

Golden State College (GSC) has been in operation for ten years, opening in September 2003. GSC is also accredited by ACICS, the Accrediting Council for Independent Colleges and Schools, but unlike many other schools, GSC has received the distinction of being placed on the ACICS Honor Roll as an institution "demonstrating quality, integrity and excellence." We are proud of this achievement. Golden State College was among only 33 ACICS-accredited schools nationwide deemed an Honor Roll Institution based on peer evaluation reviews measuring institutional quality.

Golden State College participates in the Title IV program, and eligible GSC students receive federal student aid as they progress through the program. Golden State College is set up as a certificate-granting, clock-hour program as defined in CCR Title 16, Section 2411. As designed, we follow Federal Student Aid (FSA) regulations to the letter of the law. Like Sage and South Coast, GSC struggles with the restraints put on our students by the FSA regulations regarding timely progress limiting repeatability.

In simple language, if a student does not progress steadily and hit speed benchmarks at an unforgiving pace, finishing their program within 124 weeks at GSC, that student cannot receive financial aid until he/she hits those required benchmarks. This means that students need to pay cash from their own resources when they hit a wall. Students usually do not have their own resources. This often means they have to drop the program before completing, which is bad for everyone.

Language in the DRA petition infers that a school should be degree-granting in order for a student to get a quality education and job: Pg 1, Paragraph 5: *"Moreover, such institutions are more likely to award a formal, job and resume-burnishing AA degree instead of simply a certificate of completion."*

We could not disagree more. How many Certified Shorthand Reporters do you know who have enjoyed a fruitful career after being certified through a certificate program? If not all, then I dare say most.

I am one of them. Students do not need to have a degree to launch into this wonderful profession. That remains one of the most unusual and desirable points about being a Certified Shorthand Reporter.

If schools prefer to offer a degree-granting program, that is for them to decide. Institutions make decisions like that based on any number of reasons, such as their own philosophy or marketing goals.

DRA Petition, Page 2, Paragraph 6: *"For this reason, the court reporting schools that offer degrees to prospective students and that have gone through the scrutiny of accreditation are having a difficult time with their students qualifying for student loans. This, in turn, discourages students from attending the schools that grant them degrees and that have been scrutinized for quality by accrediting organizations."*

This statement is confusing and misleading. First, Golden State does not offer degrees and yet it, too, has a difficult time with students qualifying for student loans. Secondly, if students want a degree, they'll attend a school that grants them a degree. Period. I'll never believe students are discouraged from attending any particular school based on how that school tracks its coursework: hours vs. credits.

I understand why DRA is proposing a change in the regulation language, and GSC joins in the request for Board assistance and review. Schools statewide need modification in regulation language to survive the stringent rules put upon us by the Department of Education. Without your help, we may not survive.

But DRA proposes a revised regulation which only helps, apparently, Sage and South Coast. How is this fair? If change is to be effective statewide, why not change the language for all institutions equally?

In DRA's Petition Conclusion, it states: *"The Board's regulations should not make it harder for students to attend accredited, degree-granting institutions than those which do not offer degrees. The Board's current regulations unwittingly do so."*

This is simply not accurate. It is not the Board's regulations that are making it harder for students to attend court reporting school, degree-granting or not; it is the Federal Student Aid regulations which require students to progress within a certain timeframe which has been defined by the Board, 2960 clock hours, which determines when and how much financial aid a student may draw.

The FSA regulations are in place for all clock-hour licenses, like the CSR. The DRA Proposed Regulation language on Page 3 of its Petition is not sufficient and would not change anything. The Department of Education has an *Institutional Improvement Specialist* who actually understands and specializes in clock-hour programs like court reporting. Her advice is sound and I pass it along for your consideration:

1. Talk to the Federal Student Aid/Department of Education **BEFORE** going to a lot of work and effort and finding that it didn't change anything with regard to schools being able to collect more financial aid for/from their students.
2. If the Board creates new language, ask the FSA to look at it first.
3. If the Board is going to change regulation language (resubmitting court reporting as a credit-hour license, for instance), it must say the right thing for the Department of Education to recognize it and have any effect on schools and financial aid.

4. If the Board gets to that point of wanting language reviewed, she has offered to be a contact within the Department of Education and would pass it along for policy review.
5. "It might take a while for FSA to review it, but be patient, get it right, or the effort may be for nothing."

In writing this response, I feel I have been put in an unfortunate position that feels contrary to my friends and associates at Sage College and South Coast, both institutions for which I have enormous respect. We are the very few who are in the trenches of court reporting education, and I want to support their efforts. But it is not appropriate to construct proposals that are not equitable to all.

I was not aware of attempts being made to affect change through the Court Reporters Board. I think it's a great idea, if it is possible. GSC understands better than Sage and South Coast the challenges of working within the financial aid restraints, as GSC has been operating solely as a clock-hour program since the day it became Title IV eligible, and we fully understand the financial ramifications of students not progressing within strict timeframes.

If the Board is to consider changes to its regulatory language, I'd propose a change that would not be as disruptive to the present language, it would solve a lot of the financial aid issues, it would not send up the flags with FSA as credit hours do, and it stems from a question I have had for ten years: How was the number 2300 clock hours derived for machine shorthand instruction? Where does that number come from? Upon what is it based? Who came up with it? And are they kidding?

If the 2300 clock hours for machine shorthand were changed to something more realistic and reflective of the skill achieved, it would help students and schools alike. At GSC, each additional 900 clock hours would allow students an additional academic year, which is approximately 9.5 months.

GSC's request of the Board is that you consider what the realistic and reasonable timeframe for an average student to complete a court reporting program actually is. As stated before, at GSC 2960 clock hours forces a student to complete in 2.6 years. While GSC has had students completing as quickly as 11 months (April Wood, CSR 13782), another required 6.5 years. 60% of GSC graduates have completed the program in less than three years. The average of all students over the past 10 years who started and finished the entire program at GSC is 3.5 years.

As I stated, I don't know the origins of the 2960 clock hour definition of court reporting, and it might be there for a very good reason. Maybe it's too difficult and/or inappropriate to change the numbers.

Nevertheless, I respectfully request that if there is to be debate about the direction to be given to court reporting schools by the Board, that 100% of the schools be aware of the conversation so that language is not adopted that may unwittingly show favoritism to a couple while ignoring the needs of all.

As always, I am available to address questions, concerns, or comments from you and the Board.

Sincerely yours,



Sandy K. Finch, CSR #3883
Chief Executive Officer/Director

AGENDA ITEM X – Request for Best Practices

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Agenda Description: Possible Action

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Brief Summary:

The Office of Professional Examination Services (OPES), the sister agency within DCA that helps us develop our written license examinations, as forwarded a request from the subject matter experts (SMEs) who attend the exam development workshops. In order to have a legally defensible exam, each exam question has to be tied to a resource. In the course of exam development, the SMEs have identified a lack of available resources for two specific areas: interpreted depositions and exhibit handling at depositions. The request is that the Board develop a Best Practices document for those two areas, similar to what was developed for the use of backup audio media.

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Recommended Board Action: Staff recommends the Board appoint two chairpersons, one to form and lead an Interpreted Deposition Task Force and an Exhibit Handling (Deposition) Task Force.

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Fiscal Impact: The task forces would have to be staffed with volunteers. As the Board would be unable to pay any travel expenses, videoconferencing options would be explored by staff. Support for the two task forces would be absorbed within existing staff workload.

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Report Originator: Yvonne Fenner, 10/31/2013

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AGENDA ITEM XI – Resolution for Greg Finch

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Support Documents:

Attachment – Resolution.

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Fiscal Impact: None

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Report Originator: Yvonne Fenner, 11/8/2013

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Recommended Board Action: Approve.

Department of Consumer Affairs
**Court Reporters Board
of California**

Resolution

WHEREAS, Gregory Finch has faithfully and devotedly served as a Board member of the Court Reporters Board from May 25, 2006, through July 31, 2012; and

WHEREAS, he served as Chair of the Board from June 13, 2008, to October 15, 2010, and as Vice Chair from July 13, 2007, to June 13, 2008, and October 15, 2010, to July 31, 2012; and

WHEREAS, he served as Chair of the Firm Registration Task Force, and Vice Chair of the Legislative Committee; and

WHEREAS, he attended budget hearings, testified before the Legislature, acted as a liaison between the Board and the Deputy Attorney General, and acted as a spokesperson for the Board including the Board's Sunset Review video; and

WHEREAS, throughout his years of service, at all times Gregory Finch gave fully of himself and his ideas and acted forthrightly and conscientiously, always with the public interest and welfare in mind;

NOW, THEREFORE, BE IT RESOLVED, that the members of the Court Reporters Board express heartfelt appreciation to Gregory Finch for the outstanding contribution he made during his years of service on the Court Reporters Board and to the consumers of California.

Presented this 19th day of November 2013.

Toni O'Neill, Board Chair

Yvonne Fenner, Executive Officer

AGENDA ITEM XII – Certificate of Appreciation for Dianne Dobbs

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Support Documents:

Attachment – Certificate of Appreciation.

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Fiscal Impact: None

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Report Originator: Yvonne Fenner, 11/8/2013

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Recommended Board Action: Approve.

Certificate of Appreciation

This certificate is awarded to

Dianne R. Dobbs

In recognition of your outstanding service, support,
and dedication to the Court Reporters Board and to the
consumers of the State of California.

Presented this 19th day of November 2013

Toni O'Neill, Board Chair

Yvonne Fenner, Executive Officer

COURT REPORTERS BOARD MEETING – NOVEMBER 19, 2013

AGENDA ITEM XIII – Election of Officers

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Agenda Description: Election of Chair and Vice-Chair.

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Brief Summary:

The election of Board officers shall occur on an annual basis at the first regular meeting of the Board after June 1 of each year. The purpose of this item is to conform to this policy.

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Support Documents:

- Attachment 1 – Board policy on election of officers.
 - Attachment 2 – Chair and Board member duties.
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Report Originator: Paula Bruning, 10/12/2013

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Recommended Board Action: Information exchange.

ANNUAL MEETINGS

The CSR Board shall hold an annual meeting for the purpose of electing a chairperson and a vice-chairperson in accordance with Business and Professions Code, Section 8003. Said annual meeting shall be held at the first regular meeting held after June 1 of each year.

Adopted: August 1987

CERTIFIED SHORTHAND COURT REPORTERS BOARD

Chairperson of the Board

Definition: The Chairperson is responsible for the effective functioning of the Board, the integrity of the Board process, and assuring that the Board fulfills its responsibilities for governance. The Chairperson instills vision, values, and strategic planning in Board policy making. The Chairperson sets an example reflecting the Board's mission as a State licensing and law enforcement agency. The Chairperson optimizes the Board's relationship with its executive officer and the public.

Specific Duties and Responsibilities:

- Chairs meetings to ensure fairness, public input, and due process;
- Prepares Board meeting notices and agendas;
- Appoints Board committees;
- Supports the development and assists performance of Board colleagues;
- Obtains the best thinking and involvement of each Board member. Stimulates each Board member to give their best effort;
- Implements the evaluation of the executive officer to the Board;
- Continually focuses the Board's attention on policy making, governance, and monitoring of staff adherence to and implementation of written Board policies;
- Facilitates the Board's development and monitoring of sound policies that are sufficiently discussed and considered and that have majority Board support;
- Serves as a spokesperson; and
- Is open and available to all Board members, staff and governmental agencies, remaining careful to support and uphold proper management and administrative procedure.

CERTIFIED SHORTHAND COURT REPORTERS BOARD

Board Members

Definition: As Board members, the Board is responsible for good governance of the Board. Appointed as representatives of the public, the Board presses for realization of opportunities for service and fulfillment of its obligations to all constituencies. The Board meets fiduciary responsibility, guards against the taking of undue risks, determines priorities, and generally directs organizational activity. The Board delegates certain administrative duties and responsibilities to its executive officer, but remains involved through oversight and policy making. The Board members are ultimately accountable for all Board actions.

Specific Duties and Responsibilities:

- Develops and sets policy and procedures as a State licensing and law enforcement agency;
- Supports and articulates the Board's mission, values and policies and procedures;
- Serves as spokespersons;
- Reviews and assures the executive officer's performance in managing the implementation of Board policies and procedures;
- Ensures that staff implementation is prudent, ethical, effective and timely;
- Assures that management and staff training and succession is being properly provided;
- Assures the ongoing (quarterly) performance review of the executive officer by the Chairperson, with an annual written evaluation by the Board which is to be conducted at a public Board meeting;
- Assures that the executive officer effectively administers appropriate staff policies;
- Maximizes accountability to the public; and
- Ensures staff compliance with all laws applicable to the Board.

COURT REPORTERS BOARD MEETING – NOVEMBER 19, 2013

AGENDA ITEM XIV – Future Meeting Dates

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Agenda Description: Proposed Meeting Dates.

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Support Documents:

Attachment – 2014 Board Calendar

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Current scheduled activities:

CSR Dictation Exam:

March 14, 2014 – Los Angeles

July 25, 2014 – Los Angeles

Examination Workshops:

February 21 – 22, 2014 – Sacramento

April 25 – 26, 2014 – Sacramento

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Recommended Board Action: Information exchange.

**A YEAR-AT-A-GLANCE CALENDAR 2014
COURT REPORTERS BOARD OF CALIFORNIA**

JANUARY 2014

S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

FEBRUARY 2014

S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

MARCH 2014

S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

APRIL 2014

S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

MAY 2014

S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

JUNE 2014

S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

JULY 2014

S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

AUGUST 2014

S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

SEPTEMBER 2014

S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

OCTOBER 2014

S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

NOVEMBER 2014

S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

DECEMBER 2014

S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

ACTIVITY	
	BD - Board Meeting or Activity
	Exam - Dictation Exam
	Workshop - Exam Workshop
	TF - Task Force Meeting
	Shaded Dates - Board Office is Closed

CITY	
LA-LOS ANGELES	SAC-SACRAMENTO
SD-SAN DIEGO	SF-SAN FRANCISCO
GENERAL LOCATION	
NC-NORTHERN CALIFORNIA	
SC-SOUTHERN CALIFORNIA	

AGENDA ITEM XV – Public Comment

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Public members are encouraged to provide their name and organization (if any).
The Board cannot discuss any item not listed on this agenda, but can consider
items presented for future board agendas.

AGENDA ITEM XVI – Closed Session

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Agenda Description:

Personnel Matters, Disciplinary Matters and Pending Litigation (As Needed)
[Pursuant to Government Code, sections 11126(a), and 11126(e)(2)(C)]

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Fiscal Impact: None

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Report Originator: Connie Conkle, 11/13/2013

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Recommended Board Action: Decision needed on each enforcement matter presented.