



DEPARTMENT OF CONSUMER AFFAIRS

COURT REPORTERS BOARD

OF CALIFORNIA

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**COURT REPORTERS BOARD OF CALIFORNIA
MINUTES OF OPEN SESSION
DECEMBER 13, 2023**CALL TO ORDER

Ms. Denise Tugade, Chair, called the meeting to order at 10:04 a.m. The public meeting was held via a teleconference platform, and a physical meeting location was not provided.

ROLL CALL

Board Members Present: Denise Tugade, Public Member, Chair
Robin Sunkees, Licensee Member, Vice Chair
Laura Brewer, Licensee Member
Michael Dodge-Nam, Public Member
Arteen Mnayan, Public Member

Staff Members Present: Yvonne K. Fenner, Executive Officer
Helen Geoffroy, Board Counsel
Steven Vong, Regulations Counsel
Paula Bruning, Executive Analyst

Board staff established the presence of a quorum.

1. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Esther Chun, CSR, an official court reporter for San Mateo County, requested the Board consider for a future meeting the Board's interpretation and application of Government Code § 69954 (b). She was joined in her request by CSRs Diane Pessagno and Stacy Gaskill.

Belle Vivienne requested the Board consider for a future meeting the problems candidates are experiencing with ProctorU.

Tara Ocana, court reporting student, requested the Board consider non-proctored testing, as practiced by National Court Reporters Association (NCRA), for the dictation exam, or offer an in-person option in the next year. She cited problems experienced with ProctorU. Priscilla Gwaltney, on behalf of the California Court Reporters Association (CCRA), joined in the request.

2. REVIEW AND APPROVAL SEPTEMBER 1, 2023, MEETING MINUTES

Ms. Brewer moved to approve the minutes. Mr. Dodge-Nam seconded the motion.
Ms. Tugade called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Brewer, Mr. Dodge-Nam, Mr. Mnayan, Ms. Sunkees, and Ms. Tugade

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

3. DEPARTMENT OF CONSUMER AFFAIRS UPDATE

Korrina Moreno with the Department of Consumer Affairs (Department/DCA) provided a Department update.

Business, Consumer Services and Housing Agency Update

On November 28th, Governor Newsom appointed Tomiquia Moss as Secretary of the Business, Consumer Services and Housing Agency (BCSH). Information pertaining to Secretary Moss and her appointment may be found on Newsroom page of the Governor's website: <https://www.gov.ca.gov/2023/11/28/governor-newsom-appoints-new-business-consumer-services-and-housing-agency-secretary/>.

DEI Update

On November 7, 2023, UMASS consultant Christopher Veal provided a virtual training titled DEI Dialogue for Leaders to 173 DCA managers, supervisors, and leaders. Veal's training covered psychological safety and how it affects these conversations as well as interactive discussions about the challenges that leaders are facing. Feedback regarding the training was extremely positive.

The DEI Steering Committee will hold its quarterly meeting on December 15, 2023. The Committee will review a draft DEI intranet webpage currently in development, elect its 2024 chairperson and vice chairperson, and discuss DEI training. Once operational, the DEI intranet page will provide all DCA employees information and resources including DEI hiring principles to serve as a guide for those involved in the hiring process.

The DEI Steering Committee would like boards and bureaus to share with DCA Board and Bureau Relations (BBR) any DEI efforts they have made so they may be showcased.

DCA continues to support its boards and bureaus in expanding culturally competent communications and promote the importance of meeting the needs of all California consumers, licensees, and applicants. The latest issue of DCA's Consumer Connection magazine includes articles with information important to consumers, with a feature cover story translated into four languages. The magazine is available on the DCA homepage. Printed copies can be obtained by emailing ConsumerConnection@dca.ca.gov.

Military Portal Launch

On November 29, the Department successfully launched a new process and portal in support of servicemembers and their families following new federal and state laws passed this year. Known as the Federal Professional License Portability and State Registration portal, this new DCA online portal will allow boards and bureaus to accept online requests from military servicemembers and their spouses who currently hold a valid license in good standing in another state, district, or territory to register their practice in California within the same profession or vocation, if they relocate to California because of military orders.

This online portal will allow DCA to properly receive, track, and review requests to ensure compliance with federal and state law. In addition, DCA's military resources webpage and board and bureau licensing webpages have been updated with Federal Professional License Portability and State Registration information.

It is vital that DCA provide servicemembers and their families coming to California under military orders with the highest level of customer service and assistance. DCA continues to strongly encourage all boards and bureaus to streamline internal processes, use single points of contact for military licensure requests, and process all military requests as quickly as possible. Developed and implemented completely by DCA staff, this is a huge accomplishment, and DCA is very proud of the talent and teamwork that made this portal a reality.

In-Person Meetings and the Bagley-Keene Open Meeting Act

As a reminder, DCA boards and bureaus may conduct entirely remote public meetings without noticed locations accessible to the public through December 31, 2023, so long as the public is able to participate in the meeting remotely.

Commencing on January 1, 2024, four meeting options will be available pursuant to the Bagley-Keene Open Meeting Act: traditional single-location, traditional teleconference, new teleconference option, and new advisory body teleconference option. [Details for each of the four options is summarized on page 42 of the Board agenda packet.]

DCA encourages boards to work closely with their board counsels to ensure compliance with the Open Meeting Act.

Required Board Member Training

All DCA employees and appointees, including board and advisory council members, are required to complete Sexual Harassment Prevention Training this year. Board members are required to take the two-hour supervisory training.

Board members with an assigned DCA email (i.e., dca.ca.gov) are required to complete the Information Security Awareness Fundamentals training. This training addresses everyone's role in protecting DCA data and information, is available online, and required every year.

Both trainings are available in the Department's Learning Management System (LMS). If Board members need assistance in accessing the LMS, please reach out to BBR or your board's liaison.

Out-of-State Travel Update

California's restricted states travel list has been eliminated and replaced with a new public awareness project that will consult with community leaders to promote California's values of acceptance and inclusion of the LGBTQ+ community across the country. Over the past years, several out-of-state trips requested by boards were not authorized because the travel was to a state on the restricted travel list. Now out-of-state travel to all states is permitted if the trip is critical to the functions and needs of the board. Out-of-state travel requests must still follow the established process for review and approval by DCA, Agency, and the Governor's Office. For questions, please reach out to your executive officer or Board and Bureau Relations.

Our Promise State Employees Giving at Work Campaign

In partnership with board members, DCA will continue its tradition of generosity and caring for our communities. This year's *Our Promise Giving at Work Campaign* is underway and runs through December 31, 2023. DCA's Co-Chairs are Monica Vargas, Deputy Director of Communications, and Yvonne Dorantes, Assistant Deputy Director of Board and Bureau Relations. This annual campaign gives state employees, including board members, an opportunity to support nonprofits through a one-time donation or payroll deduction. These contributions make a positive impact by providing vital resources to those experiencing poverty, homelessness, food insecurity, and offer support to causes such as veterans, animals, the environment, and more. We hope you will join the State's campaign and contribute to one or more nonprofits of your choice. Please contact Yvonne Dorantes for additional information on how to give by December 31st.

State Employee Food Drive

The annual California State Employees Food Drive started this month and runs through January 8, 2024. In our effort to support families in need, DCA has distributed collection boxes at the following Sacramento-area locations: HQ1, HQ2, BAR, CSLB, and Evergreen. Employees and Board members can drop off nonperishable items in the boxes for DCA to donate to a local food bank. Collection boxes will be available through January 8, 2024. For more information on how to make a difference as part of this year's food drive and other ways to participate, visit www.fooddrive.ca.gov.

BBR Fall Newsletter

Lastly, BBR sent out its 2023 fall newsletter, which was distributed to board presidents, vice presidents, and executive officers and is also available online on the DCA Board member resources page.

Ms. Tugade called for public comment. No comments were offered.

4. REPORT OF THE EXECUTIVE OFFICER

4.1 CRB Budget Report

Ms. Fenner provided a review of the Board's budget and referred the Board to page 28 of the Board agenda packet for the expenditure projections for Fiscal Month 3. She referred to the Board's overall fund condition on page 29 of the Board agenda packet. She confirmed that a transfer of \$100,000 to the Transcript Reimbursement Fund (TRF) was included starting in Fiscal Year 2025/26 and \$200,000 the following two years.

There is a projected dip to below six months in the operating reserve in Fiscal Year 2026/27. Once the reserve falls below six months, transfers to the TRF must stop. The estimates shared are conservative; however, the Board may wish to consider exploring the possibility of a fee increase. The current license fee is \$225 annually with a statutory maximum of \$250. Justifying a fee increase takes quite a bit of time; therefore, it may be wise to start the background work since the majority of the Board's revenue is license renewal fees.

Ana Costa asked who prepares the Board's budget and whether or not it is a CPA. Ms. Fenner responded that the Board has a budget analyst through DCA who is not a CPA. She indicated that any questions regarding the budget may be submitted to staff.

4.2 Transcript Reimbursement Fund

Ms. Bruning reported that the TRF paid out more than \$37,000 for pro bono cases and over \$31,000 for pro per cases thus far in the 2023/24 fiscal year. She added that the TRF provisionally approved just under \$12,000 for which staff was awaiting final invoices.

4.3 Enforcement Activities

Ms. Fenner referred to the enforcement statistics starting on page 31 of the Board agenda packet. She indicated that the number of complaints is slightly higher than average, but it is not unexpected with the addition of firm registration/oversight.

4.4 License Exam

Ms. Fenner indicated that the overall exam statistics began on page 35 of the Board agenda packet.

The most recent dictation exam was open from November 1 – 22, 2023. She stated that 33 of the 141 exam applications received were voice writers. There were 120 candidates who actually sat for the test, of which 94 successfully submitted exams for grading. She added that 59 candidates scheduled to take the test during the last five days of the testing window. Scheduling late in the three-week exam cycle may cause a candidate to miss the opportunity to retest if they experience technical issues because 72 hours is required to reschedule for a proctor.

Mr. Dodge-Nam asked if the increase in the first-time candidates was as a result of voice writing candidates. Ms. Fenner believed that opening the test to voice writers played a large part in the increase of candidates. The training program is much shorter, and the schools have embraced it. Enrollment is often spurred by the ebb of licensees; therefore, some schools have reported that they have a wait list for entry. Ms. Tugade requested an explanation of the information received by candidates for how and when to schedule their exam. Ms. Fenner responded that the instructions are emailed as soon as the candidates are eligible to take the exam. The instructions include information regarding the 72-hour advanced notice for scheduling a proctor.

Ms. Brewer suggested that staff create a separate deadline for scheduling during the first part of the cycle that allows for only retesting during the last week. Ms. Fenner indicated that staff has struggled with potentially establishing different timelines in hopes of more candidates passing the exam but ultimately does not believe it is proactive to license a group of people who will not be able to fulfill transcript request expectations because they fail to read and abide by instructions. Ms. Sunkees agreed that licensees should be held to the standards of reading directions and planning accordingly.

Ms. Sunkees requested staff reach out to the state trade associations and ask that they reiterate to their CSR-prep class attendees the need to schedule their dictation exam early in the testing cycle. Ms. Tugade asked that staff review the exam instructions to evaluate anywhere they may be made clearer.

Ms. Fenner referred to the statistics for the two written portions of the license exam, English and Professional Practice, which appeared on pages 37 through 40.

Ms. Gwaltney, CCRA, questioned whether an in-person exam would have resulted in exams being submitted by the 26 candidates who did not submit a test. She reiterated the problems with ProctorU. She requested feedback on the types of causes for failure to upload a test so that she may assist students with those issues during her CSR-prep course. Ms. Fenner offered that not all 26 failures to upload were a cause of technical problems – some candidates did not submit their test because they felt that they did not pass.

Ana Costa suggested the Board post its notices to social media regarding application deadlines and meetings. She asked when the Board would post its 2023 environmental scan survey. Ms. Fenner offered to find out if it is available for distribution to the public.

Ms. Gaskill supported the request made by Ms. Gwaltney regarding tracking candidate technical issues. She also agreed with reserving five days of the exam cycle for retests for candidates who experienced technical problems because of ProctorU.

Ms. Fenner clarified that not all technical issues experienced by candidates are caused by ProctorU. Some problems are related to internet bandwidth issues on the candidate's end.

Ms. Ocana offered to send information she compiled from other candidates regarding problems with ProctorU.

Ms. Costa joined in the comments by Ms. Gwaltney and Ms. Ocana.

4.5 Technology Modernization

Ms Fenner reported that staff continues to meet with the development team daily to report progress and solve impediments. The first run of data conversion testing has begun with the goal of full cutover in March. The project is currently on schedule, on budget, and matching the defined scope of the project.

Ms. Fenner once again thanked staff for their countless hours devoted to testing the system and assisting the developers to understand the Board's business processes. Ms. Brewer expressed her gratitude for being able to see this program come together. Ms. Sunkees agreed.

5. LEGISLATION

Ms. Fenner stated that information regarding the bills the Board is tracking during the two-year legislative cycle could be found beginning on page 41 of the Board agenda packet.

5.1 AB 477 (Waldron) – No discussion.

5.2 AB 1363 (Flora) – No discussion.

5.3 SB 372 (Menjivar) – No discussion.

5.4 SB 544 (Laird) – Ms. Fenner stated that the bill was chaptered and would become law January 1, 2024. It provides updates to the Bagley-Keene Open Meeting Act and would have a financial impact on the Board as its meetings move back to in-person.

5.5 SB 662 (Rubio) – Ms. Fenner stated that the bill includes language requiring the Board to submit a report to the Legislature regarding whether its exam is required for licensure to establish competency or if it is a barrier to licensure. The bill has until the end of January to move through the Senate in order to move to the Assembly side.

Ms. Brewer stated that the improvement in the Board's exam statistics would hopefully negate the need to pursue alternative means for capturing court proceedings. Mr. Dodge-Nam agreed and commented on the Board's historical opposition to electronic recording. Ms. Tugade added that the Board has pursued multiple avenues such as reciprocity and reviewing its own exam in an effort to reduce barriers to licensure. Ms. Sunkees offered that increased school enrollment also spoke to the positive prospect of a solid licensee base.

Ms. Fenner indicated the Board historically looked at electronic recording (ER) as an inferior way to make a record for consumer. The court is trying to make a record of some sort; however, past Boards have had a lot of concern on whether it's a complete and intelligible record or if an okay or partial record is sufficient for a litigant. Without a live reporter, there is no one to stop and address any problems. There are also

privacy concerns of obtaining a matter when multiple proceedings are heard that may be inadvertently released.

Mr. Dodge-Nam moved to take an OPPOSE position on SB 662 (Laird). Ms. Brewer seconded the motion. Ms. Tugade called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Brewer, Mr. Dodge-Nam, Mr. Mnayan, Ms. Sunkees, and Ms. Tugade

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

- 5.6 SB 802 (Roth) – Ms. Fenner stated that the bill does not appear to be moving forward. She indicated that if it does pass, it will affect Board’s enforcement and application processes.

The Board took a break at 11:30 a.m. and returned to open session at 11:45 a.m.

6. REGULATIONS

Ms. Figueira updated the Board on its two rulemaking packages. Information was also included starting on page 43 of the Board agenda packet.

6.1 Title 16, Section 2403, 2411, and 2414 – Voice Writing Skills Curriculum

Ms. Figueira indicated that this package relates to voice writers. It was still under review by the Office of Administrative Law (OAL), which has until December 18, 2023, to complete their review. The fiscal and economic analyses documents were approved by the Department of Finance on December 8, 2023, and submitted to OAL on the same day. Staff has been in communication with the OAL reviewing attorney and anticipates action by the end of the week. If OAL approves the voice writers rulemaking package, the regulatory changes will become effective on April 1, 2024.

6.2 Title 16, Section 2420, 2422, and 2473 – Examination Results & Transcript Format

Ms. Figueira reported that this package relates to examination results and transcript format. The package was under review by the Business, Consumer Services and Housing Agency. Once approved, it will be submitted to OAL for publication of the Notice of Proposed Regulatory Action and start of the 45-day comment period. A hearing for this rulemaking had not yet been scheduled, but if a request is made for one in accordance with the Notice, a hearing would be scheduled. If no adverse comments are received during the 45-day comment period, staff will continue the processing of this rulemaking through the DCA, the Department of Finance, and OAL, which could take approximately another four to seven months before the package is approved and the changes become effective.

7. SUNSET REVIEW

Ms. Fenner referred to the final draft of the Board's sunset review report starting on page 45 of the Board agenda packet. She invited amendments and a motion to approve from the Board and shared that the report must be to the Legislature by January 4, 2024.

The Board provided nonsubstantive amendments to the draft report. They also added information pertaining to the expedite of applications from military personnel and spouses to the answer for Question 20. They requested staff add information to the answer for Question 27 regarding plans for the next occupational analysis, exploring reciprocity, and the format for the exam.

Ms. Tugade called for public comment. No comments were offered.

Ms. Brewer moved to submit the amended report to the Legislature. Mr. Dodge-Nam seconded the motion. Ms. Tugade called for public comment.

Ms. Costa thanked the Board for putting together the comprehensive document.

A vote was conducted by roll call.

For: Ms. Brewer, Mr. Dodge-Nam, Mr. Mnayan, Ms. Sunkees, and Ms. Tugade

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

The Board took a break at 1:11 p.m. and returned to open session at 2:00 p.m.

8. 2024-2028 STRATEGIC PLAN

Ms. Fenner presented the Board's 2024–2028 Strategic Plan draft starting on page 98 of the Board agenda packet. The plan includes the Board's overarching goals which Board and SOLID staff will use to develop an action plan by breaking down each objective into smaller action items with target deadlines. She welcomed amendments to the document.

The Board provided amendments to the document.

Ms. Sunkees moved to approve the 2024-2028 Strategic Plan as amended. Ms. Brewer seconded the motion. Ms. Tugade called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Brewer, Mr. Dodge-Nam, Ms. Sunkees, and Ms. Tugade

Opposed: None

Absent: Mr. Mnayan

Abstain: None

Recusal: None

MOTION CARRIED

9. EXPEDITED FEES FOR DEPOSITION TRANSCRIPTS

Helen Geoffroy, Board Counsel provided a recap of the Bagley-Keene Open Meeting Act guidance she gave at the last meeting. She stated that each member has an equal role within the Board but acts as one body to protect the public. She added that participation by the public was encouraged as long as it remained orderly. She shared information from Business and Professions Code (BPC) sections 8005.1 and 8015.

Ms. Geoffroy stated that the Board was briefed at its meeting of September 1, 2023, on the need for codification of the professional conduct policy regarding the expedited depo transcript fees. The matter before the Board in this issue included fees deemed unconscionable adding that Board staff receives consistent complaints of excessive fees. Licensees need to know what is expected for professional conduct standards, and the Board must enforce professional conduct by its licensees. The Board determined at the September meeting that it required additional context to make an informed decision as to the policy it wished to implement and the codification process it should pursue. Any party may request expedited transcripts regardless of who noticed the deposition. She presented a legal summary of her findings and referenced information contained in the Deposition Expedite Fee Examples and History document provided in the Board agenda packet starting on page 112.

Ms. Geoffroy indicated that in 2012 the Board requested DCA Legal to review and opine on professional conduct implications for court reporter to charge a copy party expedited fees. DCA Legal advised that Code of Civil Procedure (CCP) 2025.510 does not codify the authority for a court reporter to unilaterally charge fees to a copy party that are related to deposition services, but only for a copy of the completed services. Fees are to be paid by the noticing party unless otherwise ordered by a court. The purpose of an expedited fee is charge for the prioritization of the transcription task ahead of others queued for the court reporter. To charge additional parties would be charging twice for same service, which is unreasonable and, therefore, unprofessional conduct. The Board accepted the advice and published the policy; however, the policy was not set forth into law.

The court struggled without codified guidance and had to piecemeal concepts of contract law, applicability to those outside the contract, reasonableness, authority to grant remedies, and market economics to rule on the law and fact patterns presented to them. Despite these case rulings, the Legislature still did not amend CCP 2025.510 regarding deposition transcript costs to clarify as to allow any type of transcript fees for the copy party. The statute remains as is. In subdivision (b), the noticing party shall bear the cost of transcription, unless a court orders otherwise. In subdivision (c), the other parties may pay to obtain a copy. And in subdivision (d), the transcripts shall be made available to all parties at the same time.

Legal's position has not changed. Legal advises that the statutory language of CCP 2025.510 both (b) and (c) do not support charging additional fees to the copy party by the court reporter, including expedited fees for a period of time or charging all or a percentage of additional fees to the copy party. The Board is advised that discipline against a licensee for charging a non-requesting party is legally supported. This Board cannot enforce a policy, however, the discipline would be supported by the current law in BCP section 8025 which requires licenses to comply with any provision of law related to court reporter duties. CCP 2025.510 is known to licensees as controlling the law for

deposition transcripts. Moreover, this statute is specifically referenced in Code of Regulations section 2475. Sections 2025.510 authorizes the licensee to collect payment for transcription services from the noticing party. The requesting party is required to pay for transcripts and services unless other parties are ordered to do so by a Court. Other parties may pay for a copy. Legislative intent for section 2025.510 provides that any other deposition services that are requested shall be the responsibility of the requesting party. Code of Regulations section 2470 codifies that professional misconduct shall include any violation of the shorthand reporters act, Board regulations, or any code provision specifically governing shorthand reporting. The Legislature codified that the Board shall work in the best interests of litigants in BPC 8015. The Board would argue that a fee beyond a stable copy fee is not in the best interest of the litigant. Citation by either party of Stephan I, would quote a reasonable fee for a copy of the transcript would not include any amount that compensates the deposition reporter for the cost to expedite the transcription. Moreover, the Legislature codified in BPC section 8019 that any violation of the act is a misdemeanor. Therefore, the Legislature has codified that the law adopted to license, regulate, and discipline the licensees is strict enough to support criminal charges. Therefore, the law fully supports that charging a copy party is unprofessional conduct.

As previously mentioned, the licensee and litigant population are entitled to clarity, however, codification is necessary to clearly communicate what is unprofessional conduct to licensees. This Board may codify or attempt to codify any policy that it deems is in the best interest of the public and litigants. Policy determined by the Board, regardless as to what it is, will not change the above law. Once the board determines its policy, staff will prepare the appropriate codification documents for review at the next meeting.

The Board must decide its policy on what is or is not professional conduct for a court reporter: May a court reporter charge the copy party for an expedited deposition transcript?

If the Board finds that a court reporter may not charge a copy party expedited fees, the statute supports this position; so, therefore, the Board may pursue regulatory adoption of the policy into enforceable law. Regulations interpret, implement, and make more specific statutes that the Board has authority over.

If the Board finds that a court reporter may charge a copy party expedited fees, then the Board must pursue a legislative change to alter the statute. The Legislature, however, is not bound by any of this Board's preferences. The Legislature may codify whatever clarification or mandates that it wishes. The Board may not use the regulatory process in this case because the CCP is not within the Board's practice act.

Ms. Sunkees stated that consumers need an unbiased licensed professional who treats all parties equally. She believed the court reporter must charge all parties the expedite fee. She added that expedites are a value-added service like realtime and rough drafts. It would be unfair to charge only one party for all services provided. She shared that AB 177 amended Government Code 69951 in September 2021, which allows reporters to charge 50% more for a daily copy fee in court for both the original and any copies. She suggested a provision that requires the reporter to provide the transcript to the copy party within 10 business days if they do not want to pay an expedite fee.

Mr. Dodge-Nam indicated that he did not believe it was in the best interest of the consumer to charge an expedited fee to the copy party. There may be an advantage created by one party who has more money and obtains the transcript before the disadvantaged party. He acknowledged the value of the reporters and stated that reporters should charge an appropriate expedite fee to the ordering party that does not rely on charging an additional fee to the copy party. He remarked that the language states to make the transcript available at the same time, not to make it available to order. He opposed allowing an expedited copy fee.

Mr. Mnayan suggested that the copy party be charged a discounted expedite fee.

Ms. Brewer stated that a thriving deposition market is in the best interest of the consumers. She believed that consumers have a right to fair charges and to not be disadvantaged, however, asserted that providers should also not be disadvantaged. She also stated that the noticing party pays a greater portion of the transcription and that expedite fees are paid on a proportional basis. She stated that deposition fees are not regulated and, therefore it would be problematic to regulate one thing and not others. She agreed expedites are a value-added service that they should be allowed to charge for.

Mr. Dodge-Nam agreed that having an attractive marketplace and industry is important and benefits everyone. He indicated that expedited copy fees is not the right way to make that happen. He added that deposition fees are not regulated, and court reporters can charge more to the noticing party to justify the costs; however, it would not be appropriate to potentially disadvantage the copy party if they cannot pay the expedite fee.

Ms. Geoffroy reiterated that any percentage, sliding scale, or alternating copy price is not supported by the current statute which the Legislature dictated to say that the copy party only pays for a copy and that services are born by the requesting party. A delegated waiting period would also not be supported by the statute. The Board would need to pursue legislative change which may cause the Board to lose control over how the legislation is adopted. The Legislature may accept, deny, accept in part, alter, reverse, go completely opposite, or refuse to adopt any proposal the Board brings forward. The Legislature may set guidelines, caps, or other mandate on what a court reporter may charge for any expedited fees or services instead of there being an open market.

Ms. Tugade called for public comment.

Mary Pierce thanked Ms. Sunkees and Ms. Brewer for their comments and agreed with their position. She stated that the CCP 2025.320(b) states that all services and products offered shall be made available and argued that it does not mean "shall be provided to." Expedites are a value-added service that is available and can be declined.

Ms. Geoffroy provided information on what the Board would need to do to prepare a legislative proposal change. The Board may need to specify things such as where they want to add in a restrictive timeline for providing the non-expedited transcript and provide what it believes would be a reasonable expedited transcript fee. Depending on how restrictive the amended legislative language is, the Board may be able to further implement regulatory language to be specific to its licensee population.

Ms. Sunkees moved that expedite fees can be charged to all parties. Ms. Brewer seconded the motion. Ms. Tugade called for public comment.

Ms. Pierce thanked the Members for their motion but requested an amendment to indicate that all parties ordering or asking for an expedited service on their transcript may be charged for that value-added service.

Ms. Geoffroy suggested the Board avoid a compound motion and start with a basic statement. Additional motions or instructions may be made to further clarify the details.

Cindy Vega thanked the Members and agreed with Ms. Pierce.

Teresa Kusar stated that she fears there will be more transcript sharing with counsel if this is passed, resulting in both the court reporter and agency to lose on the copy charges.

Mr. Dodge-Nam reiterated his opposition to the motion. He believes strongly in the need to earn a living and charge appropriate fees; however, this is not the way to do it. A disadvantage is created by allowing one party to receive the transcript at an earlier time.

Ms. Brewer commented that the expedite fee is no different than other services that a court reporter charges such as rough drafts and realtime. She stated that if a party wants to be on equal footing with a noticing party who orders a transcript, they have to order a transcript and they are charged for it. All parties must be treated fairly in the interest of all the consumers.

Ms. Tugade sympathized with the need for addressing costs for both parties but stated that access to a competent workforce was also imperative for consumers. She believed the motion to be the best way forward.

Ms. Gwaltney echoed the comments made by Ms. Brewer, Ms. Sunkees, and Ms. Pierce. She did not believe that the court reporter should be responsible to give away their services for free in order to create a fair playing field for the litigants.

Ms. Geoffroy clarified that it is the role of the Legislature to determine what is fair. They have set their intent on who shall pay, and the Board would essentially be asking them to reverse that. The Legislature will do whatever it wishes to do and may further codify what charges or percentage of fees can be charged and to whom.

Ms. Pierce stated that expedite charges are not in the code anywhere. She requested the Board consider limiting the delay period to three to five days for the parties not wishing to order the expedite. She shared concern over the practice of firms cost-shifting fees from the ordering party to the copy party to give a deal to their client.

Ms. Geoffroy stated that the Board would interpret expedite fees through regulation since the Code is silent. However, the Legislature did set forth its intent that the requesting party shall bear the cost of the requested services.

Ms. Costa thanked the Board for their discussion. She shared her experience as a former court reporting firm manager. She asserted that communication between the firm and the parties can help avoid any disputes over fees.

A vote was conducted by roll call.

For: Ms. Brewer, Mr. Mnayan, Ms. Sunkees, and Ms. Tugade

Opposed: Mr. Dodge-Nam

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

The Board took a break at 3:31 p.m. and returned to open session at 3:45 p.m.

10. LICENSE/CERTIFICATE RECIPROCITY

Ms. Fenner reported that the Office of Professional Examination Services (OPES) held a linkage study workshop with California court reports acting as subject matter experts to evaluate the Certified Verbatim Reporter certification issued by the national Verbatim Reporters Association. Staff is currently waiting on a report from OPES after which it will be added to the agenda of a future Board meeting for discussion.

11. JUDICIAL COUNCIL REQUEST FOR WORKFORCE SURVEY

Ms. Fenner indicated that the Board received a request from the Judicial Council to conduct a workforce survey of court reporters. Judicial Council is hoping to gain an understanding of the population of licensed reporters in California and examining changes to the population over time. They have offered to be a source of feedback and input in developing the survey's goals and questions. She stated that she and Ms. Tugade would be meeting with the Judicial Council on December 14, 2023, and would bring the Board's feedback and questions to the meeting.

Ms. Brewer requested they seek additional information regarding any costs that would be borne by the Board. Ms. Sunkees questioned what benefits the Board or consumers would gain from the project. She shared concerns over staff time and delays in efforts toward the Board's strategic goals. Mr. Dodge-Nam and Mr. Mnayan agreed.

Ms. Tugade acknowledged that it may be a difficult and expensive undertaking and hoped to gain more information at the upcoming meeting. She called for public comment.

Ms. Gwaltney requested additional information regarding the Judicial Council's request be relayed to her via email.

Ms. Costa expressed concern over privacy issues with sharing personal information.

Ms. Gaskill thanked the Board for questioning why the information was being requested.

12. BEST PRACTICE POINTERS TASK FORCE

Ms. Fenner indicated that many of the Board's best practice pointers are in need of review and possible updating. Additionally, she received several requests from the industry for

some new topics. Staff requested a Board member be appointed to chair the Best Practice Pointer Task Force.

Ms. Tugade appointed Ms. Brewer and Ms. Sunkees as co-chairs of the task force.

Experienced reporters wishing to be considered for appointment to the task force as a member should contact Ms. Fenner or Ms. Bruning. The meetings will be open to the public.

Ms. Costa stated that she sent a list of ten best practice pointers that need to be updated. Ms. Fenner indicated that she will forward that list to the task force once it convenes.

Mr. Dodge-Nam thanked Ms. Brewer and Ms. Sunkees for serving on the task force.

Ms. Vega inquired if the meetings would be remote and when they would start. Ms. Fenner responded that the meetings might be held remotely. There was not yet a timeline to begin meetings.

13. FUTURE MEETING DATES

Ms. Tugade stated that staff would poll the Board members offline for calendar availability for the next meeting.

Ms. Tugade called for public comment. No comments were offered.

The Board convened into closed session at 4:14 p.m.

14. CLOSED SESSION

Pursuant to Government Code section 11126(a)(1), the Board met in closed session to conduct the annual evaluation of its executive officer.

The Board returned to open session at 4:46 p.m.

ADJOURNMENT

Ms. Tugade adjourned the meeting at 4:46 p.m.

DENISE TUGADE, Board Chair

DATE

YVONNE K. FENNER, Executive Officer

DATE