



COURT REPORTERS BOARD OF CALIFORNIA

2535 Capitol Oaks Drive, Suite 230, Sacramento, CA 95833
Phone (916) 263-3660 / Toll Free: 1-877-327-5272
Fax (916) 263-3664 / www.courtreportersboard.ca.gov



COURT REPORTERS BOARD OF CALIFORNIA MINUTES OF OPEN SESSION JANUARY 27, 2017

CALL TO ORDER

Ms. Davina Hurt, chair, called the meeting to order at 10:00 a.m. at 2535 Capitol Oaks Drive, Third Floor Conference Room, Sacramento, California.

ROLL CALL

Board Members Present:

Davina Hurt, Public Member, Chair
Elizabeth Lasensky, Public Member
Carrie Nocella, Public Member
Toni O'Neill, Licensee Member

Board Members Absent:

Rosalie Kramm, Licensee Member, Vice Chair

Staff Members Present:

Yvonne K. Fenner, Executive Officer
Norine Marks, Senior Staff Counsel
Fred Chan-You, Staff Counsel
Paula Bruning, Executive Analyst

A quorum was established, and the meeting continued.

I. MINUTES OF THE SEPTEMBER 23, 2016 MEETING

Ms. Hurt requested that the date be corrected from "2015" to "2016" in the second line of the first paragraph under the heading "Update Regarding the Online Testing Policy and Procedures Task Force" on page 11 of the minutes.

Ms. Lasensky moved to approve the minutes as amended. Ms. Nocella seconded the motion. Ms. Hurt called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Lasensky, Ms. Nocella, Ms. O'Neill, and Ms. Hurt
Opposed: None
Absent: Ms. Kramm
Abstain: None
Recusal: None

MOTION CARRIED

II. REPORT OF THE EXECUTIVE OFFICER

A. Year in Review

Ms. Fenner provided an overview of the work completed by the Board and staff in 2016 via a slide show presentation. Highlights include:

- Passage of the Board's sunset bill, including a license fee cap increase;
- Publication of two newsletters and six best practice pointers;
- Development of the communications plan;
- Onsite reviews of two recognized court reporting schools;
- Coordination of various meetings, including four Board meetings, two town hall meetings, and six subcommittee and task force meetings;
- Application review for all three examinations, as well as administration of three skills tests;
- Completion of seven exam development and occupational analysis workshops;
- Processing of 6,900 renewal applications;
- Processing of 100 formal written complaints and closure of 91 investigations; and
- Approval of more than 350 TRF invoices.

Ms. Hurt expressed that the staff has stepped up to accomplish a lot of work and thanked Ms. Fenner and her staff for making the Board look great.

B. CRB Budget Report

Ms. Fenner referred to page 20 of the Board agenda packet for the current expenditure projections and offered to answer any questions. The costs for the retest are not included, but are anticipated to be \$3,000 to \$8,000. Ms. Hurt inquired about the "Temp Help" line item. Ms. Fenner said the cost is for staff who grade the dictation examinations.

Ms. Fenner directed attention to page 21 of the Board agenda packet for the Board's fund condition. The Board is statutorily required to maintain a minimum of two months in reserve, with a maximum allowance of 24 months in reserve.

C. Staffing

Ms. Fenner shared that the Board hired a half-time analyst for the Transcript Reimbursement Fund (TRF) Pro Per Program. She indicated that former analyst Melissa Davis was welcomed back. Since she previously held the position, training time has been minimal, and her positive energy is an asset to staff.

D. Transcript Reimbursement Fund

Ms. Bruning reiterated that Ms. Davis rejoined the Board's staff on January 17, 2017. She jumped right in to processing Pro Per Program applications and had already approved eight applications of the more than 100 pending.

Ms. Bruning added that \$180,000 in invoices had been approved for the Pro Bono Program so far for fiscal year 2016-17. She stated that the backlog for the Pro Bono Program would see relief with the new staff member taking over the Pro Per Program.

E. Exams

Ms. Fenner mentioned the historical examination pass rates found on pages 23 through 28 of the Board agenda packet.

Ms. Fenner requested the Board appoint a task force made up of court reporters to assist in writing the skills portion of the examination. She provided a brief summary of what the test entails, including the requirement for the test to be 200 words per minute for 15 minutes, of which 10 minutes will be transcribed, and a syllabic density of between 1.3 and 1.5. Although it is not technically difficult to count the tests out, it is time consuming. The tests are then read to newly licensed reporters for feedback. Ms. O'Neill volunteered to chair such a task force, and Ms. Hurt appointed her as such.

Tracy Montez, Ph.D., Chief of the DCA Division of Program and Policy Review, offered to provide consultation through the Office of Professional Examination Services (OPES) to the newly appointed task force for psychometric guidance. She stated that for legal defensibility it's important to have a three-prong approach to the examination, including subject matter experts, Board oversight, and the psychometric component.

F. Occupational Analysis

Ms. Fenner invited Amy Welch-Gandy of OPES to provide an update to the occupational analysis (OA). Ms. Welch-Gandy reported that the project began with interviews with licensees throughout the state to discover what a typical day is like, what changes have taken place over the last five years, and what is anticipated for the future. Additionally, a workshop was held with approximately eight reporters to develop task and knowledge statements to include in the OA survey. The pilot survey for the OA will be sent out soon to the participants of the interviews and workshop, then to a sample of 2,000 licensees in the state. Another workshop will take place to review the responses and ensure a wide demographic was covered, including both official and freelance reporters, and to finalize the exam plan. It is anticipated that the final product, a valuation report, will be complete in June 2017.

G. Enforcement

Ms. Fenner referred to the enforcement statistics found on pages 29 and 30 of the Board agenda packet. There were no notable trends.

H. School Update

Reviews

Ms. Fenner reported that staff completed onsite reviews of two recognized court reporting programs: College of Marin and Golden State College. These were the first reviews completed by the team, which includes expert consultant Ned Branch. The staffs of both schools were very hospitable and open.

Accreditation

Ms. Fenner indicated that the Board has been following the issue with the Accrediting Council for Independent Colleges and Schools (ACICS). As of December 12, 2016, the U.S. Department of Education (DOE) ceased recognition of ACICS, which has left the private court reporting programs in a terrible position.

Sandy Finch of Golden State College reported that DOE sent out an addendum of terms and conditions and required the ACICS-accredited schools to sign it. DOE is now requiring the schools to have an "in progress" status with a new accreditor by March 12, 2017. Ms. Finch stated that she has applied to the Accrediting Council for Continuing Education and Training (ACCET), a federally recognized accreditor. Students can continue to access federal student aid (Title IV) until June 12, 2018, by way of DOE acting as the interim accreditor. She is continuing to onboard students with full disclosure regarding restriction of access to financial aid after the deadline if a new accreditor is not secured. She also submitted an application to the Bureau of Private Postsecondary Education (BPPE) in hopes of gaining full approval by them, which would allow them to continue operating, but does not give students access to federal aid after the DOE cutoff date.

Ms. Finch thanked the Board for the letters sent to the accrediting bodies, which she attached to her applications. She is hopeful that her school will receive approval by an accreditor so she may be able to continue serving her students. Ms. Hurt offered to send additional letters as deemed necessary. Ms. Fenner shared that she was assured by BPPE that they are giving priority to schools affected by the ACICS issue.

Ms. Fenner referred to the letters regarding the closure of Sage College on pages 39 and 40 of the Board agenda packet. She accompanied team members from BPPE to a workshop on January 9, 2017, to provide students of Sage College with assistance and additional information. There were approximately 90 people who attended the meeting.

Ms. Hurt shared that there are 2,320 projected job openings in court reporting by 2018. She emphasized the need to have schools so that consumers can obtain court reporting services.

I. Disciplinary Guidelines Regulation

Ms. Fenner did not have any updates on this item.

III. LICENSE FEE INCREASE

Ms. Fenner referred the Board to page 47 of the Board agenda packet to view the overall Fund Condition. She stated that by fiscal year 2017-18, the Board's reserve will dip under six months, which triggers a stop of transfers to the TRF. Additionally, the projections for 2018-19 indicate the reserve will go to less than two months in reserve, which is a statutory problem since the minimum requirement is two months in reserve. She highlighted the three scenarios provided by DCA Budgets, with choices of a \$25, \$50, or \$75 increase to the fee for an initial license and renewal.

Ms. Hurt expressed thanks to Senator Hill for authoring the bill in which the license fee cap increase was accomplished.

Ms. Lasensky and Ms. O'Neill shared the opinion that a \$25 increase to a total license fee of \$150 was not enough, but that a \$50 increase to a license fee of \$175 would give the Board a healthy fund without too big of a jump in fees.

Ms. Nocella asked when the Board last raised its license fee. Ms. Fenner responded that it was July 2010. Ms. Nocella inquired which amount between \$50 or \$75 would be more fiscally responsible. Ms. Fenner indicated that the license fee increase is done by Board resolution; therefore, there is not a need for legislation to change the license fee up to the maximum amount set in statute. However, some lead time is needed for the programming changes that must be made to the databases and updates to the renewal notification forms. She stated that the Board has been considerate with the timing of needed fee increases in the past, and since the process is not overly complicated there is flexibility to wait longer before going to a license fee of \$200. She requested the Board determine both the new license fee and when it will become effective.

Ms. Nocella was supportive of a \$50 increase to provide necessary results. Ms. Hurt agreed. She asked the Board when they would like to make the license fee increase effective. Ms. Fenner stated that she originally suggested that the increase take effect on July 1, 2018, but after consulting with staff counsel, she changed her recommendation to have the increase take effect January 1, 2018, so that the TRF would not be affected by the reserve in fund condition.

Toni Pulone, licensee, stated that the proposed amount and effective date seem reasonable.

Ms. O'Neill moved to adopt by resolution to increase the license fee to \$175 for any license that expires on or after January 1, 2018. Ms. Lasensky seconded the motion. Ms. Hurt called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Lasensky, Ms. Nocella, Ms. O'Neill, and Ms. Hurt

Opposed: None

Absent: Ms. Kramm

Abstain: None

Recusal: None

MOTION CARRIED

IV. NON-LICENSEE-OWNED FIRMS SUBCOMMITTEE REPORT

Ms. Hurt reported that at its September 23, 2016 meeting, the Board formed a subcommittee to work with stakeholders to formulate options for ways to fulfill its consumer protection mission by ensuring all firms offering court reporting services are adhering to existing statutes and regulations. She and Ms. Nocella are serving on the committee and have had multiple meetings with the Office of the Attorney General, staff, and stakeholders.

Ms. Nocella expressed that the subcommittee meetings were beneficial in receiving direction from stakeholders. She believes firm registration and exploring legislative

solutions are priorities for the Board. She requested the Board empower the subcommittee with the authority to act in furtherance of legislation between Board meetings. Ms. Hurt added that time limits in the legislative arena would make it difficult to meet with the full Board each time a decision was needed, but the subcommittee would still be very much connected to the Board's goals and strategies it has discussed over many years.

Ms. Hurt shared that in order to meet a legislative deadline, the subcommittee submitted language to the Office of Legislative Counsel as a placeholder for a spot bill. The subcommittee has not yet sought an author and requested the Board decide if it wants to pursue legislation.

Ms. O'Neill supported the pursuit of legislation and granting of authority for the subcommittee to move forward with legislation. She shared that quick decisions often have to be made when sponsoring a bill, which does not allow time for formal meetings of the Board. Ms. Lasensky agreed.

Ms. Hurt called for public comment.

Ms. Pulone, on behalf of the Deposition Reporters Association (CalDRA), stated that the association is pleased that the Board has developed language for a spot bill as the issue of non-licensee owned firms has negatively affected their members. She added that she believes it is appropriate that the Board is taking the lead on a bill and offered support.

Ms. Marks asked if the Board would have an opportunity to weigh in on the actual proposed language and any policy it may affect. Ms. Hurt stated that language will be shared once it is formalized. Ms. Nocella added that substantive changes would trigger the subcommittee to bring the language back to the Board. Ms. Hurt also indicated that the Board has had many discussions regarding litigation in the matter and that she understands the direction the Board wishes to go.

Ms. Lasensky moved to delegate authority to the subcommittee to further firm registration legislation in between Board meetings. Ms. O'Neill seconded the motion. Ms. Hurt called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Lasensky, Ms. Nocella, Ms. O'Neill, and Ms. Hurt

Opposed: None

Absent: Ms. Kramm

Abstain: None

Recusal: None

MOTION CARRIED

V. ONLINE SKILLS EXAM TASK FORCE REPORT

Ms. Lasensky, task force co-chair, reported that the task force met on January 20, 2017, at the campus of Bryan University in Los Angeles. She thanked Bryan University for their gracious hospitality and Realtime Coach for their expertise. She indicated that the task force will bring recommended policies and procedures to the Board for consideration.

Ms. Lasensky shared that the task force will meet again on February 7, 2017, in Sacramento.

Ms. O'Neill, task force co-chair, added that the process and issues are being vetted thoroughly. The task force is made up of a variety of stakeholders, which aids in seeing all aspects of the process.

Ms. Hurt thanked the task force for their work and looks forward to hearing their recommendations. Ms. Hurt called for public comment.

Ms. Finch commented that the approving authorities and accreditors are asking schools to show placement in the workforce in as few as 90 to 120 days after graduation. The benchmarks for gainful employment are difficult to reach due to low examination pass rates. She requested the task force and Board consider allowing candidates to retake an examination sooner than the next four-month testing cycle in hopes they can pass within the mandatory timeframe. Additionally, she would like to have more specific information regarding which students pass for reporting to the accreditor.

Ms. Fenner stated that retesting sooner is under consideration of the task force; however, the size of the test bank is a factor.

VI. STRATEGIC AND COMMUNICATION PLANS

Ms. Fenner referred to the Action Plan Timeline on page 55 of the Board agenda packet. She welcomed feedback from the Board in reference to the priority of the action items.

Ms. Hurt stated that she, Ms. Kramm, and Ms. Fenner recently discussed and drafted a rough timeline of the action items for 2017. Due to the shorter sunset period, she expressed that the Board will need to be succinct and directed for accomplishing action items.

Ms. Hurt indicated that other items have been added to the Board's to-do list since the Strategic Plan was developed, including the formation of the task forces to explore an online skills exam and Web site improvement. The Board plans to update its Web site before taking on the Communication Plan.

VII. RETIRED CATEGORY

Ms. Fenner reported that current statute allows the Board to have an "inactive" category for license status, but the Board currently uses the following categories: active, delinquent, and canceled. The Board may explore adding a "retired" category, but it would require the Board to go through the regulatory process. She requested direction from the Board on whether they would like to move forward with adding the category, and if they want to have staff or a subcommittee bring back specific regulatory language for approval.

Ms. Fenner added that court reporters often identify with their job and that a retired status category may be a courtesy title so they can continue to be associated with the profession. If a retired category is pursued, the Board would need to decide what the category would allow the individual to do within the Scope of Practice, such as certify transcripts they had taken while the license was active. Additionally, parameters would need to be set in regards to how many times a person could "unretire." Ms. Fenner also suggested the Board determine whether or not there would be a fee associated with a retired status.

Ms. Hurt believed that a subcommittee would be appropriate.

Ms. O'Neill indicated that most reporters who retire from court no longer want to produce transcripts. However, she finds that it is best when the transcript is produced by the reporter who took the hearing. She added that some reporters keep their license active because they never want to take the test again.

Ms. Bruning clarified that reporters who allow their license to expire can prepare transcripts, but they cannot certify them. In some cases, the original reporter prepares the transcript and arranges for an active licensee to certify it. In other cases, the reporter with a non-active license passes the notes to an active licensee to both prepare and certify the transcript.

Ms. Hurt stated that there appeared to be reporters who are retired but active and reporters who are retired but not active, posing two potential status categories.

Ms. Lasensky indicated that the issue is complicated and agreed that a subcommittee or task force with individuals more familiar with the issue would be more suitable to bring suggestions to the Board. She also stated that she is concerned about reporters being retired for long periods of time and then returning to the field with out-of-date skills. Since the Board does not have mandatory continuing education, it may be difficult to ensure someone has remained current in the industry.

Ms. Hurt reminded the Board of the recent court case that may prevent the executive officer from holding a license. She shared how helpful it has been that Ms. Fenner has a background in the industry to aid the Board with real life application of any policies it sets. A retired category may benefit the Board in retaining an industry-experienced executive officer without her having to completely give up the license.

Ms. O'Neill stated that the license fee increase may push some non-working reporters to stop renewing their license. She added that she has questions that need to be answered before she could support the creation of a retired category.

Kay Reindl from Humphreys University suggested the Board consider how other states accommodate this issue. She commented that encompassing a retired category may aid the Board in gleaning accurate statistics on how many reporters are actively engaged in the industry.

Ms. Pulone asked for details about the canceled category. Ms. Fenner responded that licenses can be canceled by request of the licensee, for disciplinary reasons, or if the license is left in the delinquent status for more than three years. Canceled licenses cannot be renewed. If a reporter later desires to be licensed again, he or she must reapply for the licensing examination and will be issued a new license number if successful. Ms. Pulone suggested the Board require proof of skills from retired category licensees before allowing them to return to the active category. In addition, she recommended that if a fee is collected, it should be the same as the active status renewal fee if the retired status allowed reporters to still perform a certain level of practice.

Diane Freeman of CalDRA stated that reporters that have not practiced in many years may cause harm to consumers, even if they maintain an active license.

Ms. Lasensky questioned how a retired category would affect the Board's budget if they were no longer paying to keep their licenses active. Ms. Nocella shared her concern.

Ms. Marks expressed concern over a retired status category that would allow a portion of the practice. She commented that an inactive status category may allow licensees to more easily go back and forth between active and inactive. She suggested anyone with an inactive license status be ineligible to practice.

Monica Orosz, court reporting student, suggested that a requirement of renewal be proof that the licensee is still connected to the field.

Ms. Nocella would like more information about how other states address retired court reporter licensees. Ms. Hurt asked staff to add the matter to a future meeting agenda.

VIII. FUTURE MEETING DATES

Ms. Hurt asked staff to poll Board members for the next Board meeting, potentially connected to a dictation examination offered in Southern California.

IX. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

No comments were offered.

Ms. Hurt indicated that Mr. Chan-You would be leaving DCA and no longer working with the Board. She presented a Certification of Appreciation to him for his dedicated service and support to the Board and the consumers of the state of California.

The Board took a break at 12:25 p.m. and convened into closed session at 12:32 p.m.

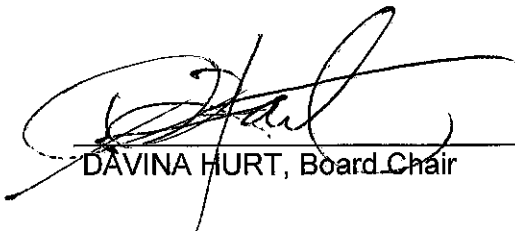
X. CLOSED SESSION

The Board convened into closed session pursuant to Government Code section 11126(e)(1).

The Board returned to open session at 12:39 p.m.

ADJOURNMENT

Ms. Hurt adjourned the meeting at 12:39 p.m.



DAVINA HURT, Board Chair

7/6/17
DATE



YVONNE K. FENNER, Executive Officer

7/6/17
DATE