



## **COURT REPORTERS BOARD OF CALIFORNIA**

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### **COURT REPORTERS BOARD OF CALIFORNIA MINUTES OF STRATEGIC PLANNING SESSION AND OPEN SESSION SEPTEMBER 17, 2018**

#### CALL TO ORDER

Ms. Davina Hurt, chair, called the meeting to order at 9:33 a.m. at the Department of Consumer Affairs HQ2, 1747 North Market Boulevard, Sacramento, California.

#### ROLL CALL

##### Board Members Present:

Davina Hurt, Public Member, Chair  
Toni O'Neill, Licensee Member, Vice Chair  
Elizabeth Lasensky, Public Member.

##### Board Members Absent:

Carrie Nocella, Public Member

##### Staff Members Present:

Yvonne K. Fenner, Executive Officer  
Anthony Pane, Assistant Chief Counsel  
Paula Bruning, Executive Analyst  
Melissa Davis, TRF Coordinator

A quorum was established, and the meeting continued.

#### I. STRATEGIC PLANNING SESSION

The Board engaged in strategic planning during open session with the assistance of facilitators Trisha St. Clair and Elizabeth Coronel from SOLID Training and Planning Solutions of the Department of Consumer Affairs (DCA). Input was offered by representatives of the industry associations and the public.

The facilitators will utilize the information discussed during the session to develop a draft strategic plan for the Board's review. Once approved, the facilitators will meet with staff to create an action plan with objectives for the Board.

***The Board took breaks from 10:49 a.m. to 10:59 a.m., and 12:04 p.m. to 2:00 p.m., and then returned to open session.***

## II. APPROVAL OF JULY 19, 2018, MEETING MINUTES

Ms. Lasensky requested that the word "to" be added after "the intent of the bill is" to the first line of the second paragraph under the subheading "Consideration of Positions on Legislation" on page 5 of the minutes.

*Ms. O'Neill moved to approve the minutes as amended. 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. O'Neill, and Ms. Hurt

Opposed: None

Absent: Ms. Nocella

Abstain: None

Recusal: None

### **MOTION CARRIED**

## III. RESOLUTION FOR ROSALIE KRAMM

Ms. Hurt shared that Ms. Kramm resigned from the Board. She referred to the resolution prepared for Ms. Kramm on page 36 of the Board agenda packet and read it aloud. Ms. Kramm was unable to attend the Board meeting to personally receive the resolution.

Ms. Lasensky stated that it has been a pleasure to work with Ms. Kramm on this Board. She has always been a delight, shared good insight, provided direction based on a lot of experience, and has a wonderful sense of humor. Ms. O'Neill expressed her appreciation for Ms. Kramm, stating that it was an honor to work with someone of her intelligence. She has a grasp of the profession and where it's going in the future. She thanked her for devoting the time she has to the consumers of California. Ms. Hurt echoed the previous comments. She stated that Ms. Kramm brought a lot of knowledge as a licensee to what is happening in the profession and will be missed. Ms. Fenner shared that it has been a true privilege to work with such an intelligent, forward-thinking person, and staff will miss her enthusiasm.

Diane Freeman stated that Ms. Kramm is wonderful to the profession. She is loved as a person and as a professional with a wealth of knowledge and experience.

*Ms. Lasensky moved to adopt the resolution. 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. O'Neill, and Ms. Hurt.

Opposed: None

Absent: Ms. Nocella

Abstain: None

Recusal: None

### **MOTION CARRIED**

#### IV. REPORT OF THE EXECUTIVE OFFICER

##### A. CRB Budget Report

Ms. Fenner stated that there are no new budget reports to present to the Board since the last meeting. Ms. Hurt inquired as to when staff had last received a budget report. Ms. Fenner indicated that the last report for fiscal year 2017-18 was received and presented at the meeting held July 19, 2018. Ms. Hurt asked when the fiscal year ended and began. Ms. Fenner indicated that the fiscal year runs July 1 – June 30. She indicated that she received a preliminary report the week prior to the meeting, but there were questions that needed to be answered before presenting it to the Board. She added that lack of reports is an ongoing result of the change over to Fi\$CAL, which is California's new financial operating program. She indicated that representatives from the DCA Budget Office were in attendance at the meeting to answer questions.

Mark Ito, budget manager, and Marie Reyes, budget analyst, provided a projection of the fiscal month 12 budget report (see attachment). He stated that the system is transacting appropriately, but the report is just an extract.

Ms. Hurt stated that the Board's fiscal responsibility is important as it relates to conducting business. Historically, the Board made strategic decisions on changing fees based on grossly erroneous reports. The Board is, therefore, concerned to not have concrete information.

Mr. Ito stated that the Budget Office knows what the Board's expenditures are. The projection provided is believed to be mostly accurate, and they are working with Ms. Fenner to verify the accuracy of the expenditures.

Ms. O'Neill noted all the red numbers on the report. Ms. Hurt indicated that cuts have been made wherever possible, but costs of operating and staff have increased even though the budget has not. Mr. Ito stated that as long as there is savings indicated on the bottom line, staff can realign the budget and line items appropriately. Ms. Fenner stated that realigning the budget makes it more difficult to find historical data for budget change proposals, etc.

Ms. Hurt inquired about the 13 percent surplus. Ms. Fenner stated that the surplus is what will be reverted to the main fund. Ms. Hurt asked how it related to the Transcript Reimbursement Fund (TRF). Ms. Fenner stated that it is not enough funding to give the Board six months of operating expenses in reserve; therefore, transfers to the TRF are still not possible.

Ms. Lasensky noted that the report is for the last fiscal year and asked if a budget projection for the current fiscal year is available. Ms. Fenner stated that staff is still awaiting the report for the current fiscal year. Ms. Hurt asked when that could be expected. Mr. Ito stated that it is early in the fiscal year, but he believed that an extract could be made to put together a projection based on numbers through August 30.

Ms. Hurt stated that it is difficult to plan for the future without projections. Mr. Ito stated that it is a struggle with the new system, but they are committed to ensuring the Board has updated information on expenditures and projections.

Ms. Fenner stated that the assigned budget analyst has been very responsive, and it is refreshing to work with a dependable and customer-oriented individual.

Mr. Ito stated that his office would start putting together the projections for fiscal year 2018-19.

B. Transcript Reimbursement Fund

Ms. Fenner stated that there have not been any changes to the status of the TRF. She added that invoices for applications that were provisionally approved before the temporary shutdown are being paid from the funds set aside for them.

C. Enforcement Activities

Ms. Fenner referred to the enforcement statistics starting on page 38 of the Board agenda packet. There were no remarkable trends.

D. School Update, Including Reports on Status of Existing Schools

Ms. Fenner stated that the contract for the next dictation examination was finalized, and it will take place at the DoubleTree Hotel in Sacramento on November 2, 2018.

E. Business Modernization

Ms. Fenner stated that staff is finalizing the mapping portion of its business modernization efforts. Staff from DCA's SOLID Training and Planning Solutions have been working with Board staff to chart processes with the goal of updating the database.

V. LEGISLATION

A. Non-Licensee-Owned Firms Subcommittee Report Including Update on AB 2084 (Kalra) – court reporter providers

Ms. Hurt stated that they continued to work with Assemblymember Kalra's office and stakeholders on the bill to rein in inappropriate behavior of non-licensee-owned firms. She reported that since the last meeting, the bill took a different direction from the original efforts toward firm registration. The focus shifted to protecting the transcript and ensuring the rules and regulations that are in place are followed whether a licensee or non-licensee handles it. This refocus has brought additional stakeholders onboard.

Ms. Hurt added that AB 2084 was successful in passing through the Assembly and the Senate and now awaits the Governor's consideration. She thanked Assemblymember Kalra, Assemblymember Mullin, and Senator Hill for their work, as well as the Deposition Reporters Association and California Court Reporters Association. She stated that the subcommittee worked hard to spread awareness of the importance of the bill.

Ms. Lasensky thanked the subcommittee for all their hard work.

## B. Consideration of Positions on Legislation

Ms. Fenner referred to the summaries of legislative bills that staff is following on pages 40 through 42 of the Board agenda packet. She stated that bills that are particular to the Board or the industry have been identified with three asterisks. The language of these bills was also included in the Board agenda packet.

AB 2138 (Chiu and Low) – Ms. Fenner stated that a letter of opposition was sent to the authors' offices as per the direction given by the Board at its meeting on July 19, 2018. The bill is now at the Governor's office. Since the language changed significantly since the last Board meeting, Ms. Fenner brought the bill back to the Board to consider its position.

Ms. Hurt expressed that the bill has good intentions to try to get more people licensed, but there are different issues with various professions as to substantially-related crimes. The Board was reluctant to use a broad brush and say that the parameters set out in the bill work for court reporting as well. It appears that the amendments are a result of feedback provided by a range of professions. Ms. Hurt asked the Board if they would like a position letter sent to the Governor's office.

Ms. Lasensky stated that the original bill had serious problems for consumer protection. She requested a breakdown of the amendments.

Ms. Fenner agreed that the bill's authors heard the concern expressed by the boards and bureaus. She stated that the amendments allow each board to list out in regulation specific crimes that are important to its mission to protect its consumers. The bill also contains reporting requirements that would need to be posted to the Board's website.

Ms. O'Neill stated that she reviewed the changes but was still not completely happy with the bill. Ms. Lasensky stated that she believes the Board needs to speak to the needs of the consumer and be on the record with its concerns.

*Ms. Lasensky moved that the Board write a letter to the Governor's Office requesting veto on AB 2138. 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. O'Neill, and Ms. Hurt

Opposed: None

Absent: Ms. Nocella

Abstain: None

Recusal: None

### ***MOTION CARRIED***

AB 2354 (Rubio) – Ms. Fenner reported that this bill was held in the suspense file.

AB 2483 (Vopel) – Ms. Fenner reported that the bill is dead.

AB 2531 (Gallagher) – Ms. Fenner stated that the bill is sponsored by CCRA and deals with CART reporters and the standards that are required. The Board may be responsible for identifying the appropriate certification process and adopting standards upon appropriation by the Legislature.

Ms. Hurt clarified that this would not be a license, but approval of a certifying body, so no fees would be collected by the Board. Ms. Fenner added that the Board would also have reporting requirements. Ms. Lasensky noted that additional work would be imposed on staff without additional revenue. Ms. O'Neill was hesitant to support a bill that would add work without adding funding. Ms. Hurt appreciated the importance of ensuring that the deaf and hard of hearing have appropriate support by operators that can do the job well, but agreed it would be difficult without funding.

Ms. Fenner inquired of Mr. Pane whether the Board would be able to identify the certification process through policy instead of by regulation. Mr. Pane responded that the bill exempts the Board from promulgating regulations for this section. He affirmed the Board could establish a policy with the criteria.

Rachel Barkume, on behalf of CCRA, stated that the intent of the bill is a multistep process to determine where the need is. She reiterated that the Board would recognize a state or national association to certify CART providers, and Judicial Council would gather information regarding how many ADA accommodation requests were made in court for a separate CART provider. The final goal is to have CART providers licensed by the Board, which would be revenue generating, but the background information is needed first to determine if there is a true need. She stated there is anecdotal information that courts are saying that deaf or hard of hearing individuals can just use the official reporter's realtime screen for their interpretation. She asserted that this practice is not an adequate ADA compliant method and there needs to be separate CART certified reporter in the courtroom for those individuals.

Ms. Hurt asked if the Board would be responsible for collecting the pertinent information. Ms. Barkume responded that the certifying body designated by the Board, such as CCRA or NCRA, may be able to provide the statistics needed.

Ms. O'Neill stated that she was reading proposed code section 8060(b) to state that the Board does not do anything about certifying CART operators until money has been appropriated by the Legislature. Ms. Fenner confirmed that she read that correctly. Ms. O'Neill then stated that the reporting requirements in proposed code section 8060(a) may not be as costly as originally thought if the certifying body designated by the Board shares their statistics with the Board as suggested by Ms. Barkume.

Ms. Hurt asked legal counsel for confirmation as to the Board's interpretation of the proposed code. Mr. Pane responded that when reading the language, the Legislature is presumed to know what it is doing in crafting its statutes. The condition "upon appropriation" triggers the process to begin. Therefore, if there is no appropriation, the process is not effectuated.

Ms. Hurt stated that the proposed work and cost for the Board now appears more manageable with the ability to create policy instead of going through the difficult hurdle of the regulatory process. Ms. O'Neill agreed, stating that she feels more fiscally

responsible supporting the bill knowing that the Board does not have to adopt standards unless there is appropriation by the Legislature.

Ms. Fenner stated that if the bill is signed, she envisioned the Board would put together a task force to gather industry input on certification criteria, and then await appropriation to designate a certifying body. Ms. Lasensky shared support for the bill.

*Ms. O'Neill moved that the Board support AB 2531 and write a letter to the Governor's Office requesting signature on the bill. 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. O'Neill, and Ms. Hurt

Opposed: None

Absent: Ms. Nocella

Abstain: None

Recusal: None

### ***MOTION CARRIED***

AB 2664 (Holden) – Ms. Fenner stated that the Board previously supported this bill, but it had since been minimally and non-substantially amended.

The Board continued their support of the bill and directed staff to write a letter to the Governor's Office requesting signature on AB 2664.

## **VI. FEE INCREASE REGULATION**

Ms. Fenner stated that the rulemaking package is under review at Business, Consumer Services and Housing Agency (Agency). Once returned, she will expedite delivery to the Office of Administrative Law (OAL) for their final review, which may take up to 30 days.

Mr. Pane added that OAL posts the regulation in a quarterly publication when chaptered which determines the effective date. Ms. Fenner stated that it may be effective as early as January 1, 2019. If it takes longer than a couple of weeks, she will file a request to have it effective upon filing rather than waiting for the quarterly deadline.

Ms. Hurt asked if it is typical for a regulation to takes years to get a regulation to this place. Mr. Pane responded that the regulatory process is not quick. The Governor's Office implemented an additional process approximately a year ago that requires Agency review. Because OAL is so exacting before it promulgates a regulation, DCA and Agency want to ensure it has a thorough review before sending it forward to OAL so that it is not rejected.

## **VII. SUNSET REVIEW**

Ms. Hurt reported that at its meeting on July 19, 2018, the Board appointed Ms. O'Neill and Ms. Lasensky as a task force to work with staff in preparing a draft of the Sunset Review Report. The draft report was included as a separately bound document with the Board agenda packet. She then invited feedback and corrections. The Board reviewed the document and suggested edits.

Ms. Fenner pointed out that some sections are missing language or charts because she is awaiting some information such as bill status or data from other entities. She indicated that the date on the first page will be updated once the report is finalized. She stated that she would update page 5 with information from the new strategic plan. She will also update the status of AB 2084 on pages 6, 25, 31, and 41.

Ms. Lasensky requested that the second "in" be made lowercase on the first line of the third paragraph under subsection 4 on page 6.

Ms. Hurt inquired if it would help to explain why the Board does not belong to any national associations, as described in subsection 5. Ms. O'Neill responded that it's not relevant since the only national association, NCRA, does not have a category for boards.

Ms. Fenner stated that she would update the status of the rulemaking package for the fee increase as mentioned in the third paragraph on page 6.

Ms. Hurt requested citation of the fee authority be added to the information provided in subsection 14 on page 12. She suggested reorganization of the fee history information to precede the TRF information.

Ms. Fenner stated that data for subsection 15, Budget Change Proposals, would be updated on page 13.

Ms. Lasensky requested the addition of a period at the end of the sentence under subsection 22(d) on page 18. She also requested the addition of periods at the end of the sentences under subsections 47 and 51 on page 32.

Ms. Fenner indicated that staff is awaiting confirmation of the Total Enforcement Expenditures for FY 2017/18 on page 33. The amount indicated in the report is a projection.

Ms. Fenner provided an expanded explanation of section 10 of the report titled, "Board Action and Response to Prior Sunset Issues," starting on page 36. She stated that there are 10 issues from the prior report, each followed by the legislative staff recommendation and Board response. Following that information is an underlined portion preceded by two asterisks which is the Board's current response to the issue.

Ms. Fenner made a note on page 46 to check the page numbers for CRB Issues No. 1 after edits are made to the report to ensure they are accurate. She will also update page 46 with updates from this meeting under CRB Issue No. 2.

Ms. Fenner stated that the report is still a work in progress, but none of the upcoming changes would be substantive enough to necessitate full Board review and a meeting. She recommended the Board authorize the task force to approve the final changes. If the task force deemed the changes significant, another meeting could be held.

*Ms. Hurt moved to allow the Sunset Review Task Force to review the final changes and make nonsubstantive corrections to the final report. 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. O'Neill, and Ms. Hurt  
Opposed: None  
Absent: Ms. Nocella  
Abstain: None  
Recusal: None

**MOTION CARRIED**

***The Board took a break at 3:12 p.m. and returned to open session at 3:17 p.m.***

**VIII. LICENSING OF VOICE WRITERS**

Ms. Hurt introduced voice writing court reporter Tori Pittman who was calling in from North Carolina to respond to questions. Ms. Pittman appeared at the Board's meeting held on July 19, 2018.

Ms. Fenner shared that in lieu of gathering feedback via town hall meetings, Ms. Davis suggested the Board conduct a survey. Not only did the Board save time and money, but there was great response to the survey. The 1,421 responses are summarized on page 65 of the Board agenda packet.

Ms. Fenner shared that approximately two-thirds of the responders were opposed to the Board licensing voice writing. When reading the comments, it became clear that those opposed were not familiar with the current state of voice writing, such as having the ability to provide realtime. Ms. Fenner clarified that the Board would be licensing voice writers using the same requirements that are used for steno machine reporters including taking the license examinations.

Ms. Fenner stated that she worked with the Board's legal counsel, Shela Barker, to start to identify places in the law that would require change to license voice writers. Ms. Barker did not see any necessary legislative changes to start licensing voice writers based on the definition of shorthand reporting found in Business and Professions Code (BPC) section 8017. The courts may have further requirements for employing voice writers.

Ms. Fenner stated that she would consult with Ms. Pittman regarding security measures for the skills exam. They have already discussed the types of things staff would need to look for. Ms. Pittman was very helpful in providing information about disqualifying candidates for being too loud or distracting.

Ms. Hurt inquired if the survey should be sent to other stakeholders that would be using voice writer services. Ms. Fenner did not believe it mattered to the consumers. It may be a competition issue among reporters, but the Board believes competition and an array of individuals who can supply the demand for court reporting services is good for the consumer. It would be up to the consumer to choose a stenographic reporter or a voice writer.

Ms. Lasensky recalled from the last discussion that voice writing may be an advantage and opportunity for individuals who were unable to report by means of a steno machine due to disability, which could increase the population of reporters in the field. Ms. Fenner stated

that the survey yielded several comments from licensees who were interested in switching to voice writing due to physical limitations.

Ms. Lasensky asked if current licensees would need to obtain a new certification if they want to provide voice writing as a service. Ms. Fenner responded that the Board would need to test their skills. The written test would be the same so it is unclear at this time if they would need to retake English and Professional Practice.

Ms. Freeman was impressed by the presentation provided by Ms. Pittman at the July Board meeting. She asserted that voice writing is a viable option to fill the shortage of court reporters. She did not see a difference in service between voice writing and steno writing when considering that both types of operators must pass the California skills exam to be licensed. She said that some voice writers are skilled enough to offer realtime.

Ms. O'Neill added that not all voice writers offer realtime, just like not all steno writers offer realtime. She had no concern over licensing voice writers, stating that the Board has a rigorous test to protect consumers and ensure all operators can provide a product on a level expected by the Board. Ms. Hurt agreed, stating that the standards are the same for both.

Ana Fatima Costa agreed, stating that adding reporters to the workforce without lowering standards of certification is a great option. She shared that one of her former apprentices changed to voice writing recently, and it has been much easier for her.

Ms. O'Neill expressed that giving an opportunity to those who have experienced physical deterioration as a result of steno writing may help avoid a dwindling workforce.

Lorri Doll, instructor at Argonaut Court Reporting Program, inquired how voice writers would qualify and prove their eligibility to take the Board's exams. She emphasized that reporters need to be well-rounded, not just capable of creating a transcript. Ms. Fenner responded that voice writers currently may be able to qualify through work experience or by having an RPR certificate. The Board may decide to pursue a legislative change to allow them to qualify by way of certification from the National Verbatim Reporters Association (NVRA).

Ms. Pittman thanked the Board for the opportunity to participate in the meeting. She was amazed at the incredible survey response received. It appeared to her that many of the negative comments were as a result of individuals not understanding the current state of voice technology and hoped that with more education in California there would be more buy-in. She offered to talk with Board staff about the skills exam. She pointed out that voice writers listen to dictated steno notes to create a transcript. To some it may appear that the voice writer is listening to a room audio file, but they are not.

Ms. Hurt inquired about the safety nets for backing up records. Ms. Pittman responded that voice writers are able to create audio sync files just like a machine writer. One file is the dictated steno notes from the mask attached to the computer. This is translated with the software in real time. Another file is created for the room audio. Some reporters also create a second voice backup on a separate recording device so that if there is a technical failure, they can create the record using their voice steno notes and run it through Dragon software to translate it.

Ms. Hurt thanked Ms. Pittman for her explanations. She stated that this is the second meeting where the topic of licensing voice writers was discussed. The Board has heard a lot about a shortage of court reporters in California. She inquired what steps the Board would need to take to move forward with licensing voice writers.

Mr. Pane stated that legal staff reviewed BPC section 8017 and found that no statutory change was needed to license voice writers. The language as worded specifically references machine, which voice writing uses as well. Since voice writing technology was available at the time the statute was passed, the Legislature is presumed to know what it is doing. He stated that the Board could promulgate regulations specifically allowing voice writers to be authorized under this statute, but it's not necessary. He also indicated that the Board needs to keep the standards and process the same for both types of writers. He suggested that legal look at the Board's entire practice act and determine what, if any, tweaks need to be made to outline the process for effectuating all the pieces that are needed.

Ms. Hurt inquired what would be needed if the Board determined at a later time that licensing voice writers was creating problems for consumers. Ms. Fenner responded that the Board could then specify through the regulations which forms of making a verbatim record were acceptable and which were not. Mr. Pane added that the Board may then also want to pursue statutory changes if data and policy rationale reveal there is a problem.

Ms. Fenner stated that if the Board moved forward with licensing voice writers, she would gather information from subject matter experts to ensure all necessary security measures are put in place.

Ms. Fenner inquired with legal counsel if the Board would be able to offer testing of voice writers at the next skills exam. Mr. Pane suggested the Board allow time for legal staff to comb through all the Board's statutes, regulations, and internal processes before accepting voice writer applicants. Ms. Fenner agreed and added that the application deadline for the November test is quickly approaching on October 3, 2018.

Ms. Fenner stated that NVRA has a test that is equivalent to the RPR. She asked if the Board would like to use the sunset review report to add NVRA's test as an avenue by which voice writers may qualify for the test. Ms. Hurt shared apprehension for adding anything via sunset review that may be controversial.

Ms. Costa expressed that people often find change to be difficult. She does not see voice writers as competition for machine writers, but as just another option available as it already is on the East Coast and in Canada. She suggested the Board offer a test run as a separate group at its next exam for those who would like to try it.

Ms. Hurt recommended that the Board not rush into the change but give adequate time to establish the process and security measures to be most successful. Ms. Fenner hoped for implementation by spring 2019.

*Ms. O'Neill moved to direct staff to pursue the necessary steps to allow voice writers to practice in California as licensees. Ms. Lasensky seconded the motion. Ms. Hurt called for public comment. No comments were offered.*

Ms. Hurt proposed the Board put a five-year time limit on the program. Ms. Fenner responded that it will be up to the marketplace to determine if there is a place for voice writers. Ms. Lasensky indicated that the complaint process would still be in place to weed out bad actors.

A vote was conducted by roll call.

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

Opposed: None

Absent: Ms. Nocella

Abstain: None

Recusal: None

### ***MOTION CARRIED***

## **IX. EXAMINATION PASS RATES**

Ms. Fenner shared that while grading the last dictation examination, staff worked to identify where the problems were. They reviewed survey comments where readers had been identified as reading too fast and conducted a thorough analysis of the types of errors candidates made. She directed attention to the analysis starting on page 73 of the Board agenda packet.

Ms. Fenner stated that staff ruled out issues with any one particular speaker after noting that the mistakes were equal between the witness and the questioning attorney – the two readers who had the largest speaking roles. She indicated that punctuation was graded liberally and did not make a difference in whether candidates passed or not. She stated that staff timed the speed of every minute of every group to ensure it never went above 200 words per minute. Staff did find that candidates had a difficult time making the transition during colloquy which can cause a candidate to get five errors each time they misidentify a speaker.

Ms. Fenner indicated that 17.8 percent of candidates had taken the test 10 or more times. As discussed at previous meetings, there have been several school closures in recent times. The Board has seen large groups of students “qualify” for the test just as a school closes. Unfortunately, when those students are not successful in passing the exam, they do not have a school to return to. It appears candidates are just coming back hoping for an easy test instead of working to get faster and more accurate.

Ms. Fenner expressed that staff feel the tests are compliant with policy, given fairly, and entry level. Staff received five suggestions for improving the pass rate, which were on page 66 of the Board agenda packet for consideration. Ms. Fenner stated that the fourth and fifth suggestion were discussed at the last Board meeting wherein staff counsel gave caution to creating any additional barriers to licensure.

Ms. Hurt read the other suggestions from page 66. Ms. Fenner added that historically staff has avoided the second part of suggestion three, using current teachers as readers, so that there is not an unfair advantage to their students. Ms. Hurt stated that the first suggestion, reading the same test three times, seemed to be too much of a hand-holding scenario that may lower consumer protection. Ms. O'Neill agreed.

Ms. Fenner stated that the second suggestion, reading two tests to each group, was done in the 1980s but it did not have an effect on the pass rate. The readers and staff are willing to extend their day and read two tests to each group, one court and one deposition.

Ms. Hurt reminded the participants that the Board's obligation is to implement a fair test. Ms. Lasensky added that the Board also has a responsibility to the consumer and expressed that the suggestions appear to weaken the exam. Ms. Hurt agreed that most of the suggestions are not consumer protection friendly, but that she was open to the reading of two tests as indicated in the second suggestion. Ms. O'Neill was open to the reading of two tests for a specified period of time where after the results would be analyzed to determine if it is helpful.

Ms. Hurt inquired as to the fee for the exam. Ms. Fenner responded that there is a \$40 application fee, which is good for three years, and there is a \$25 fee for each of the three portions of the exam. The proposed fee increase regulation will raise the exam fee to \$50 per portion of the exam.

Ms. Freeman indicated that she liked the idea of students being required to return to school for a set amount of time before retesting. She asked what the criteria is for hiring readers. Ms. Fenner stated that the same individuals have been reading the test for approximately four years with a substitute from time to time. The readers must be able to read at 200 words per minute for 15 minutes at a time. Ms. O'Neill commented that it is a learned skill.

Ms. Fenner asked if requiring candidates to requalify would necessitate a legislative change. Mr. Pane stated that it is usually a regulatory change, but he was not sure for this Board.

Ms. Hurt asked what would be required to move forward with the reading of two tests at each exam. Ms. Fenner stated that she would need direction from the Board. She stated that it could be implemented at the November 2018 test. Ms. Hurt asked why the practice was discontinued in the 1980s. Ms. Fenner stated that it did not make a difference in the pass rate.

Ms. Fenner recommended the Board set a time frame for which the practice of reading two exams will be conducted. After that time, the Board could then review any trends to determine if the practice should continue. She also indicated that there are currently no hardships in extending the testing day by reading two tests because the candidate pool is small, however, if the candidate pool increases significantly, the practice may need to be reexamined.

Ms. Hurt asked how reading two tests may affect future online testing. Ms. Fenner responded that anything offered to brick-and-mortar test candidates has to be offered to online test candidates.

Ms. Fenner added that offering two tests may actually prove more beneficial to consumers. The test candidate will need some endurance to write for 30 minutes for two tests instead of 15 minutes for one test. There will be a short break while the readers get out the second script and identify themselves, and then they will continue to the second test.

Ms. O'Neill moved that beginning November 2018, two tests will be read to each dictation group from which each candidate will choose one dictation test to transcribe. This will continue for the trial period of calendar years 2019 and 2020. Ms. Lasensky seconded the motion. Ms. Hurt called for public comment.

Ms. Costa thanked the Board for their thorough research behind the scenes. She stated that the data provided was tremendous. She also expressed appreciation for offering this additional opportunity to candidates and for implementing it immediately.

Ms. Hurt also thanked Board staff for collecting all the information needed to make a good decision. Ms. Fenner complimented staff for volunteering to gather and analyze the data to ensure all candidates have a fair opportunity to pass the test.

A vote was conducted by roll call.

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

### ***MOTION CARRIED***

#### **X. FUTURE MEETING DATES**

Ms. Fenner state that she will notify the Board if there is an immediate necessity for a meeting when finalizing the Sunset Review Report. She anticipated the next meeting would be in spring 2019.

#### **XI. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA**

No comments were offered.

***The Board convened into closed session from 4:20 p.m. to 4:42 p.m.***

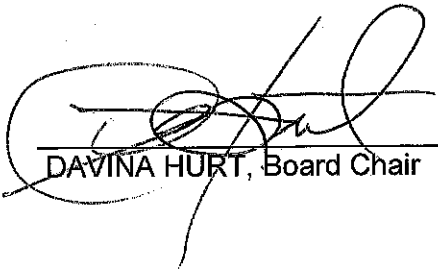
#### **XVI. CLOSED SESSION**


- A. Pursuant to Government Code Section 11126(a)(1), the Board will meet in closed session to conduct the annual evaluation of its executive officer.
- B. Pursuant to Government Code Sections 11126(c)(2), 11126(c)(3), and 11126(e)(2)(C), the Board will meet in closed session as needed to discuss or act on disciplinary matters and/or pending litigation. *This item was deferred.*

Ms. Hurt indicated that there was nothing to report from closed session.

ADJOURNMENT

Ms. Hurt adjourned the meeting at 4:42 p.m.

  
\_\_\_\_\_  
DAVINA HURT, Board Chair      2.4.19  
DATE

  
\_\_\_\_\_  
YVONNE K. FENNER, Executive Officer      2.4.19  
DATE

**COURT REPORTERS OF CALIFORNIA  
BUDGET REPORT  
FY 2017-18 EXPENDITURE PROJECTION  
FM 11 - Activity Log July 1, 2018**

Updated 9/17/2018

OBJECT DESCRIPTION	FY 2016-17		FY 2017-18				
	ACTUAL EXPENDITURES (MONTH 13)	PRIOR YEAR EXPENDITURES FM 11	BUDGET STONE 2017-18	CURRENT YEAR EXPENDITURES FM 11	PERCENT SPENT	CURRENT YEAR PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
<b>PERSONNEL SERVICES</b>							
Civil Service - Perm	235,560	216,652	241,000	243,059	100%	243,059	(2,059)
Statutory Exempt (EO)	89,988	82,434	84,000	97,898	100%	97,898	(13,898)
Temp Help (907)	17,538	15,144	11,000	14,195	100%	14,195	(3,195)
Board Member Per Diem	5,300	5,000	8,000	2,800	100%	2,800	5,200
Overtime	11,461	11,461	6,000	10,532	100%	10,532	(4,632)
Staff Benefits	212,563	193,651	172,000	220,957	100%	220,957	(48,957)
<b>TOTALS, PERSONNEL SVC</b>	<b>572,410</b>	<b>524,342</b>	<b>522,000</b>	<b>589,440</b>	<b>100%</b>	<b>589,441</b>	<b>(67,441)</b>
<b>OPERATING EXPENSE AND EQUIPMENT</b>							
General Expense	19,534	13,076	0	2,293	0%	422	(422)
Fingerprint Reports	539	490	9,000	434	5%	434	8,566
Minor Equipment	155	155	1,000		0%	0	1,000
Printing (General)	2,992	2,169	0	3,540	0%	3,540	(3,540)
Communication	4,134	3,785	1,000	3,757	376%	3,757	(2,757)
Postage (General)	9,056	8,910	6,000	7,013	117%	7,013	(1,013)
Insurance	4	0	0	1,327	0%	1,327	(1,327)
Travel In State	40,939	35,814	23,000	20,300	88%	20,300	2,700
Training	14	14	2,000	0	0%	0	2,000
Facilities Operations	44,795	44,637	29,000	49,192	170%	49,209	(20,209)
C & P Services - Interdept.	0	0	111,000	0	0%	0	111,000
C & P Services - External (General)	11,004	11,004	27,000	2,629	10%	2,629	24,371
<b>DEPARTMENTAL SERVICES:</b>							
OIS Pro Rata	96,382	90,750	116,000	128,010	110%	116,000	0
Administration Pro Rata	53,791	47,663	62,000	0	0%	62,000	0
IA with OPES	89,444	92,694	0	66,240	0%	0	0
DOI - ISU Pro Rata	920	913	2,000	2,087	104%	2,000	0
Communication Division Pro Rata	7,704	7,337	3,000	161	5%	3,000	0
PPRD Pro Rata	0	0	4,000		0%	4,000	0
<b>INTERAGENCY SERVICES:</b>							
Consolidated Data Center	39	32	3,000	1,667	100%	1,667	1,333
Data Processing	148	148	2,000	3,636	100%	3,636	(1,636)
<b>EXAM EXPENSES:</b>							
Exam Rent - Non State	37,622	37,622	0	31,151	100%	31,151	(31,151)
Administrative - Ext	17,246	17,246	0	0	0%	2,629	(2,629)
C/P Svcs-External Expert Examiners	30,249	25,217	39,000	27,924	0%	27,924	11,076
<b>ENFORCEMENT:</b>							
Attorney General	46,706	43,296	97,000	25,452	100%	25,452	71,548
Office Admin. Hearings	11,736	8,816	16,000	720	100%	720	15,280
Court Reporters Service	450	350	0	1,150	0%	1,150	(1,150)
Evidence/Witness Fees	4,148	219	26,000	2,769	100%	2,769	23,231
Major Equipment	0	0	0	0	0%	0	0
Other Items of Expense	0	0	0	743	0%	904	(904)
<b>TOTALS, OE&amp;E</b>	<b>529,751</b>	<b>492,357</b>	<b>579,000</b>	<b>382,194</b>	<b>102%</b>	<b>373,632</b>	<b>205,368</b>
<b>TOTAL EXPENSE</b>	<b>1,102,161</b>	<b>1,016,699</b>	<b>1,101,000</b>	<b>971,634</b>	<b>101%</b>	<b>963,073</b>	<b>137,927</b>
Sched. Reimb. - Fingerprints	(588)	(343)	(17,000)	(392)		(392)	0
Sched. Reimb. - External/Private/Grant	(705)	(470)	(1,000)	(940)		(940)	(60)
Unsched. Reimb. - Inves Cost Recovery	(8,991)	(8,991)	0	(3,372)		(3,372)	3,372
<b>NET APPROPRIATION</b>	<b>1,091,877</b>	<b>1,006,895</b>	<b>1,083,000</b>	<b>966,931</b>	<b>101%</b>	<b>958,370</b>	<b>141,238</b>
						<b>SURPLUS/(DEFICIT):</b>	<b>13.0%</b>