DEPARTMENT OF CONSUMER AFFAIRS

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

MEETING OF THE COURT REPORTERS BOARD

Thursday, May 21, 2020
9:00 a.m. to conclusion

PUBLIC TELECONFERENCE MEETING

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-29-20, dated March 17, 2020, a physical meeting location is not being provided.

Important Notices to the Public: The Court Reporters Board will hold a public meeting via a teleconference platform.

INSTRUCTIONS FOR PARTICIPATION: Please see the instructions attached hereto to observe and participate in the meeting using WebEx.

Members of the public may, but are not obligated to, provide their names or personal information when observing or participating in the meeting. When signing into the WebEx platform, participants may be asked for their name and email address. Participants who choose not to provide their names will be required to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address in the following sample format: XXXXX@mailinator.com.

For all those who wish to participate or observe the meeting, please log on to this website: https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=ef365fc3d3ef5f9bc1f04fe8dec601c74.

As an alternative, members of the public who wish to observe the meeting without making public comment can do so (provided no unforeseen technical difficulties) at: https://thedcapage.blog/webcasts/

Please note the Board will ask members of the public to limit their comments to two minutes, unless, at the discretion of the Board, circumstances require a shorter period; the Board will advise when the two-minute time limit is approaching.

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Thursday, May 21, 2020
9:00 a.m. to conclusion

AGENDA

Board Members: Davina Hurt, Chair; Toni O'Neill, Vice Chair; Elizabeth Lasensky; Carrie Nocella; and Robin Sunkees

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The Board may discuss other items of legislation not listed here in sufficient detail to determine whether such items should be on a future Board meeting agenda and/or whether to hold a special meeting of the Board to discuss such items pursuant to Government Code section 11125.4.

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ADJOURNMENT

Action may be taken on any item on the agenda. All times are approximate and subject to change. The meeting may be cancelled or shortened without notice. Any item may be taken out of order to accommodate speaker(s) and/or to maintain quorum. For further information or verification of the meeting, the public can contact the Court Reporters Board (CRB) via phone at (877) 327-5272, via e-mail at paula.bruning@dca.ca.gov, by writing to: Court Reporters Board, 2535 Capitol Oaks Drive, Suite 230, Sacramento CA 95833, or via internet by accessing the Board's website at www.courtreportersboard.ca.gov and navigating to the Board's Calendar under "Quick Hits.".

In accordance with the Bagley-Keene Open Meeting Act, all meetings of the CRB are open to the public. The CRB intends to webcast this meeting subject to availability of technical resources.

Requests for further information should be directed to Yvonne Fenner at (877) 327-5272, e-mailing paula.bruning@dca.ca.gov, or sending a written request to 2535 Capitol Oaks Drive, Suite 230, Sacramento, CA 95833. If any member of the public wants to receive a copy of the supporting documents for the items on the agenda, please contact the Board within 10 days of the meeting.

The public can participate in the discussion of any item on this agenda. To better assist the Board in accurately transcribing the minutes of the meeting, members of the public who make a comment may be asked to disclose their name and association. **However, disclosure of that information is not required by law and is purely voluntary**. Non-disclosure of that information will not affect the public's ability to make comment(s) to the Board during the meeting. Please respect time limits; which may be requested by the Chair on an as needed basis to accommodate all interested speakers and the full agenda. The public may comment on any issues not listed on this agenda. However, please be aware that the Board CANNOT discuss or comment on any item not listed on this agenda.

AGENDA ITEM 1 – Introduction of New Board Member – Robin Sunkees

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Agenda Description: New Board Member

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Brief Summary:

Licensee Robin Sunkees has been an official court reporter since 1986, currently working for the San Diego County Superior Court for the past 29 years. She also has experience in freelance reporting.

Ms. Sunkees has a long history of involvement in local, state, and national associations as a member, leader, and mentor. She is a member of the San Diego Superior Court Reporters Association, the California Court Reporters Association (CCRA), and the National Court Reporters Association (NCRA). She is a past president of CCRA and received their Distinguished Service Award in 2018. She was awarded the distinction of Fellow of the Academy of Professional Reporters by NCRA. She chaired the National Committee of State Associations for NCRA and helped facilitate NCRA's annual Legislative Bootcamps and leadership conferences. Additionally, she became a Certified Program Evaluator to review and analyze court reporting programs and their curriculum for NCRA approval.

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Recommended Board Action: Informational

AGENDA ITEM 2 – Petition for Reinstatement

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Agenda Description:

Valerie Wu – Petition for Reinstatement of Revoked License

(Public Hearing before ALJ and Board followed by Closed Session for decision)

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Support Documents: None

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Fiscal Impact: None

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Recommended Board Action: Decision needed on petition. The petition may be granted, granted with conditions, or denied.

AGENDA ITEM 3 – Closed Session

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Agenda Description:

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

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Fiscal Impact: None

AGENDA ITEM 4 – License/Certificate Reciprocity

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Agenda Description:

4.1 Discussion and possible action to allow license reciprocity with the state of Texas.

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Brief Summary:

The Board has received a request from the Texas Judicial Branch Certification Commission to consider opening discussions to establish reciprocal licensing agreements for court reporters. It is their position that reciprocal agreements between our jurisdictions would allow for the waiver of some or all of the prerequisites of court reporting licensure for court reporters to obtain licenses in the two states. In their outreach email, it was noted that they contend that reciprocal agreements allow for the removal of unnecessary obstacles to licensure for persons who have established they have honed their skills in another jurisdiction and are fully capable of engaging in a licensed occupation or profession in a new jurisdiction. Reciprocity helps to support a mobile workforce which in turn aids a dynamic and healthy economy.

Currently, the skills portion of the Texas exam is similar to the National Court Reporters Association's (NCRA's) Registered Professional Reporter (RPR) components, specifically, five minutes of two-voice dictation at 225 words per minute, five minutes of jury charge at 200 words per minute, and five minutes of dictation of literary material at 180 words per minute. Successful candidates must transcribe the dictation portions with a minimum of 95% accuracy. Unlike the RPR, Texas requires all three legs be passed in one sitting.

The California skills exam is currently four-voice live dictation from an actual court or deposition transcript at 200 words per minute for 12-13 minutes. The successful candidate will transcribe 10 minutes of the dictation at a minimum of 97.5% accuracy.

Any change to the testing standards will involve a regulatory change.

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Support Documents: None

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Fiscal Impact: Staff time would be required to develop the regulatory language and prepare the regulations package.

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Recommended Board Action: Staff recommends that if the Board decide to allow reciprocity with Texas, it should consider accepting the RPR as the standard for the skills portion of the California CSR. The written professional practice exam should still be required in order to assure consumers that the Certified Shorthand Reporter that they hire is familiar with California law. The Board should determine if the English testing standard of the RPR is sufficient to protect the consumers of California or, in the alternative, the Board should consider requiring the California English exam.

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Agenda Description:

4.2 Discussion and possible action to grant CSR certification to holders of the RMR or CRR certifications on either a full or provisional basis.

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Brief Summary:

At its July 12, 2019, meeting, the California Court Reporters Association (CCRA) requested that the Board take action to allow license reciprocity for holders of the Registered Merit Reporter (RMR) and Certified Realtime Reporter (CRR) certifications from the National Court Reporters Association (NCRA). CCRA is requesting reciprocity of the skills portion, requiring RMRs and CRRs to only take the two written tests in order to gain full licensure in California. As a reminder, the RMR and CRR both require an RPR first and so would be considered a more advanced certification.

This topic was also discussed at the November 17, 2019, meeting with no decision made.

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Support Documents: None

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Fiscal Impact: Staff time would be required to develop the regulatory language and prepare the regulations package.

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Recommended Board Action: If the Board decides to pursue a change to the examination requirements for licensing, it should instruct staff to prepare regulatory language consistent with the Board's decision.

AGENDA ITEM 5 – Review and Approval of November 15, 2019, Meeting Minutes

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Agenda Description: Review and approval of minutes

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Brief Summary:

Minutes from November 15, 2019, meeting

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Support Documents:

Attachment – Draft minutes for November 15, 2019

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Fiscal Impact: None

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Recommended Board Action: Staff recommends the Board approve minutes.

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Attachment
Agenda Item 5

DRAFT

COURT REPORTERS BOARD OF CALIFORNIA
MINUTES OF OPEN SESSION
NOVEMBER 15, 2019

CALL TO ORDER

Ms. Davina Hurt, chair, called the meeting to order at 11:37 a.m. at the DoubleTree by Hilton Hotel Sacramento, 2001 Point West Way, Sacramento Room, Sacramento, CA 95815

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 Rebecca Bon, Staff Counsel Paula Bruning, Executive Analyst

A quorum was established, and the meeting continued.

I. APPROVAL OF JULY 12, 2019, MEETING MINUTES

Ms. Lasensky requested that the word "I" be amended to "is" on the third line of the last paragraph on page 6 of the minutes.

Ms. Lasensky moved to approve the minutes as amended. 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

II. REPORT OF THE EXECUTIVE OFFICER

A. CRB Budget Report

Ms. Fenner referred to the expenditure projection for fiscal month three on page 23 of the Board agenda packet. The Board's budget usually breaks even; however, the report is projecting a very slight surplus.

Ms. Fenner then directed attention to page 24 of the Board agenda packet, which included the Board's overall fund condition. The report reflected the estimated fund balance and reserve for the beginning of the next fiscal year.

B. Transcript Reimbursement Fund

Ms. Fenner stated that the Board is on target to be in a position to reopen the Transcript Reimbursement Fund (TRF) beginning July 2020. She encouraged consumers to register for the Board's email subscription list so that they will be notified when the TRF reopens.

C. Enforcement Activities

Ms. Fenner referred to the enforcement statistics starting on page 25 of the Board agenda packet. She indicated that there was nothing notable about the statistics or types of complaints received.

D. Exam Update

Ms. Fenner pointed to the historical examination statistics provided in the Board agenda packet starting on page 27. She reported that were 100 candidates scheduled to take the dictation exam that day, of which 27 are first-time candidates.

Referring to the July 2019 dictation examination, Ms. Hurt stated that it was nice to see that 17 of the 22 first-time candidates, as well as 20 repeat candidates, passed.

E. Business Modernization

Ms. Fenner stated that the Board was still in stage one, defined as the planning process, of its business modernization process. As a result, there will be charges this fiscal year which will be absorbable. The Department of Consumer Affairs (DCA) budget office is working on a fiscal analysis worksheet to assist the Board in understanding its ability to proceed with the project. It is likely the Board will need to submit a Business Change Proposal (BCP) in order to have the spending authority for the project.

Ms. Fenner shared that in the interim, the Board is working on a contract with a vendor who will allow the Board to accept credit card payments.

Ms. Fenner shared that the Board's long-time receptionist and licensing assistant, Jennifer Haupert, would be retiring at the end of the year. She expressed that Ms. Haupert would be sorely missed. The Board conveyed its appreciation of Ms. Haupert and thanked her for her years of service.

Ms. Fenner reported that for a few months staff would be absorbing the duties left by the vacancy but would begin recruiting for a new receptionist in the spring.

Ms. Fenner announced that a new licensee Board member, Robin Sunkees, had been appointed by Governor Newsom the day before the meeting. Ms. Sunkees is an official court reporter in San Diego.

III. DEPARTMENT OF CONSUMER AFFAIRS UPDATE

Ms. Fenner indicated that Kimberly Kirchmeyer was appointed by Governor Newsom on October 8, 2019, as the director of the DCA. She shared that Ms. Kirchmeyer is a proven leader with a wealth of knowledge and experience, having worked in both the DCA Executive Office and as an executive officer of a board.

She stated that a representative from the Executive Office was not able to be in attendance, but that they had submitted a written update which was made available to attendees (see attachment).

IV. ONLINE SKILL TESTING UPDATE

Ms. Fenner reported that in 2016 and 2017, the Online Testing Policy and Procedures Task Force met and drafted policies and procedures for moving the dictation examination online. A contract is now in place with Realtime Coach to offer online skills tests.

At its September 17, 2018, meeting, the Board voted to conduct a two-year trial period for calendar years 2019 and 2020 wherein candidates are read two tests instead of one. The online exam and onsite exam must mirror each other in how they are offered. Due to the additional length of testing time when two tests are offered, the offering of two tests to online candidates would pose security risks. Ms. Fenner requested the Board decide whether to continue the trial project and delay moving to the online test or end the pilot project early.

Ms. O'Neill inquired how soon the online testing would be available. Ms. Fenner indicated that it would be available for the March 2020 examination.

Charlotte Mathias, CSR, suggested the Board continue the two-test pilot project. She stated that it has been a good project thus far and believed the Board would glean more information if it continued for the full trial period.

Ms. Lasensky stated that the statistics thus far did not reflect that the two tests have made a difference in the pass rate. She shared that she wants to see the transition to online testing as soon as possible, but that she wants to see the pilot project through to have solid statistics.

Ms. Hurt believed having two tests gives candidates a chance to calm their nerves and have a greater opportunity to pass the test. She desired to see the pilot project through the two years. She also suggested the Board work to increase its test bank.

Ms. O'Neill did not consider there to be enough data yet to determine if two tests were beneficial. She stated that online testing has benefits for the candidates and was leaning toward moving that direction.

Ms. Fenner clarified that if the Board decided to move to online testing, there would be a continuation of onsite testing for a two-year period. Therefore, the candidate would be able to choose in which format they wanted to take the exam. At the end of the two years, the Board would then evaluate which format to adopt.

Mike Hensley, Vice President of the California Court Reporters Association (CCRA), stated that he supported seeing the project through to have full data. He also favored online testing for convenience of candidates in and out-of-state.

Lorri Doll, Argonaut Court Reporting School, asked if the online testing came with a shorter transcription time. Ms. Fenner confirmed that once the test is moved online, the transcription period would be shorted from three hours to two-and-a-half hours for both the online and onsite tests.

Ms. O'Neill asked what the cost would be to offer both testing formats until November 2020. Ms. Fenner responded that the online testing cost is minimal because the applicant pays for most of the cost.

Ms. Hurt inquired if the budget presented to the Board took into consideration both modes of testing. Ms. Fenner responded that it only reflected the projected costs of onsite testing.

Ms. Lasensky moved to continue the present two-test pilot project for the onsite exam and begin online testing in November 2020. Ms. O'Neill seconded the motion. Ms. Hurt called for public comment.

Suzy Metcalf, South Coast College, requested an explanation of when the two-test onsite pilot project would end and when the online exams would begin. Ms. Fenner explained that the two-year, two-test pilot project would continue through November 2020. She added that when the online testing begins, it will also be a pilot project where the onsite tests continue for two years and candidates have a choice of online or onsite testing.

Ms. Lasensky amended the motion to remove "begin online testing in November 2020." Ms. O'Neill seconded the amendment.

The motion was reread as follows:

Ms. Lasensky moved to continue the current two-test pilot at the onsite exam through November 2020. Ms. O'Neill seconded the motion. Ms. Hurt called for public comment on the amendment. No further 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

V. SUNSET REVIEW

Ms. Fenner reported that AB 1520 (Low) was signed, which extended the Board's sunset date to January 1, 2024. She stated that the language for the two issues that were added as a last-minute amendment to the bill were ultimately removed and needed attention. This includes voice writing and firm registration.

A. Voice Writing

Ms. Hurt referred to the two options presented in the Board agenda packet:

Option 1: Offer the exam to voice writers who qualify under existing law; and
Option 2: Work with the Legislature to make statutory changes to the practice act.

Ms. Hurt stated that the Board was hopeful the Legislature would clarify whether there needed to be a differentiation between steno machine writers and voice writers, but that did not happen. She summarized the options by stating that the Board could choose to continue interpreting the practice act as allowing voice writers or going to the Legislature to refine the practice act even more. Ms. Hurt indicated that licensing voice writers may aid in the shortage of court reporters and give more people an opportunity to work in the industry.

Ms. Lasensky asked if there was a down side to Option 1. Ms. Fenner referred to the exam qualifications listed on page 60 of the Board agenda packet. She indicated that the exam entry paths were geared toward steno machine writers, which would limit voice writers to those who qualify with out-of-state experience or RPR certificate holders. This would restrict the pool of eligible candidates.

Ms. Hurt stated that a limited pool may benefit the Board in gathering data to see if there are issues with licensing voice writers, which could later be brought to the Legislature for tailored language. Ms. O'Neill agreed, adding that seeking legislation takes a long time to put into place.

Ms. Hurt clarified that with Option 1, the Board would issue a CSR number to successful exam candidates. The license would not specify whether they are a steno machine writer or voice writer. Ms. Hurt added that voice writers would be required to meet the minimum standards of practice and provide stenographic notes to the Board upon request.

Diane Freeman, President of the Deposition Reporters Association of California (CalDRA), addressed the issue of one license covering both steno machine writers and

voice writers. She argued that she is not qualified to make a record by means of voice writing and believed the Board should differentiate between the two.

Mr. Hensley, on behalf of CCRA, opposed Option 1 and any authorization for anyone to practice voice writing in California without being tested by the Board on voice writing equipment. He asserted that the Board had not yet developed an exam for testing voice writers. He stated that the Legislature adopted legislation that prohibits the issuing of voice writing authority until they adopt a protocol to license voice writers in 2020. He indicated that CCRA has confirmed the intent of this language with the legislative offices involved with drafting the bill. He contended that Option 1 would violate the law and urged the Board to reject it. Failure to wait for full and specific protocols as intended would put the Board in the position of violating its responsibility to protect consumers.

Ms. Fenner stated that the Board has never indicated that it would license voice writers without testing them. Voice writers would be taking the same test that steno machine writers take. Ms. Hurt added that the voice writers would have to be proficient in their skills to take and pass the exams.

Ms. O'Neill requested clarification of the language found in Business and Professions Code (BPC) 8016.5(a) wherein is states, "The Board shall not issue a certificate for the practice of shorthand reporting by means of voice writing…". Ms. Fenner stated that the legal interpretation of the language is that the Board cannot differentiate between a voice writer and a steno machine writer. She indicated that the Board can test individuals on their ability to report a proceeding and produce an accurate transcript within a specified amount of time.

Jason Buktenica, Maverick Reporting, asked under which existing law mentioned previously that voice writers would receive a certificate. Ms. Fenner referred to BPC 8020, exam eligibility requirements found on page 60 of the Board agenda packet.

Mr. Buktenica asked if the Board's motivation for licensing voice writers was due to the perceived shortage of court reporters. Ms. Hurt responded that it is one factor, but not the only reason.

Mr. Buktenica expressed his fear that licensing individuals who cannot meet the rigorous licensing requirements that current licensees have to meet would be watering down the profession and opening the door to several detrimental problems. He shared that transcripts affect people's lives, business, and families and that there are far-reaching ramifications on the decision the Board is facing. He requested the Board form a committee of stakeholders that can create an alternative solution to fill the gap of the perceived shortage. He believed analyzing examination statistics to discover where candidates are falling short would help.

Ms. Hurt clarified that voice writers would have to meet the same rigorous requirements and take the same exam as steno machine writers, just utilizing different equipment. She reiterated that the Board's mission is protecting consumers, therefore, the decisions made by the Board are in that light.

Kimberly D'Urso, on behalf of Protect Your Record Project (PYRP), inquired as to how many individuals had expressed interest in taking a test to become a voice writer. Ms. Fenner responded that the National Verbatim Reporters Association requested the Board consider licensing voice writers and provided a demonstration at the Board's July 2018 meeting. Although the Board later found voice writing to fall under the Board's scope of practice, there was only a two-week period until the March 2019 exam application deadline; therefore, no applications were received. She indicated that the Board then began working with the Legislature regarding voice writing and thus did not make voice writing an option for the next test.

Ms. D'Urso indicated that it was represented to her organization by the author's office that voice writing would not be allowed in California. She requested clarification as to the Board's legal interpretation of the same language. Ms. Fenner responded that the straightforward legal reading of the language is not saying that voice writers cannot be licensed, but that the Board cannot issue a license specific to voice writing. Since voice writers use machines to make a record with shorthand symbols, they fall within the Board's scope of practice and are, therefore, eligible to take the Board's exam. The Board cannot differentiate by which means the reporter is making the record.

Ms. D'Urso supported the idea offered by Mr. Buktenica to wait for more information before deciding. She stated that PYRP opposed Option 1.

Kay Reindl, Humphreys University, asked how voice writers fit into the regulations that require stenographic notes to be the official record. Ms. Fenner indicated that voice writing software companies have created a technical fix by translating English to stenographic notes. Although it is not optimal from an enforcement viewpoint to collect the translated stenographic notes versus the original voice file, it would allow the Board to start gathering data. Ms. Reindl expressed that it would not make a level playing field.

Veronica Guerrero, on behalf of CalDRA, stated that although not opposed to voice writing, the association wants a clear distinction between a stenographic reporter and voice writing reporter. She indicated that as a stenographic reporter she cannot perform adequately as a voice writing reporter and did not believe there was protection of the consumer to allow her to do so and then discipline her after the fact.

Ms. Hurt requested staff legal counsel to explain how voice writers are understood to be a part of the Board's practice act and how the Board has authority to implement Option1. Ms. Bon responded that voice writing fits within the definition of reporting. She added that the language is AB 1520 talks about not differentiating or distinguishing on the license or certificate what method is used. She stated that both methods of reporting are in the practice act and practitioners of either method must still meet the minimum standards. It is presumed that a licensee would not jeopardize their license by using method for which they did not meet the minimum standards. She stated that there is historical legislative information that led to this interpretation, including different iterations of the bill discussing distinction between the two methods. She indicated that the Board has more maneuverability and control over the situation because it will be able to gather information on what legal clarifications might be needed or how many individuals are even interested in practicing voice writing. Information may also be

gleaned about what changes are needed for the exam. The Board may be able to hone its needs through regulatory changes instead of legislative changes.

Kelly Shainline, PYRP, indicated that a lot of the codes that govern CSRs contain the word “stenographic”; therefore, she questioned where a voice writer would work. She quoted Civil Code of Procedure 2025.330(b). Ms. Fenner reiterated that the voice writers software can create stenographic notes. Ms. Bon advised that the Board has purview over its own practice act and licensing, not employment or hiring laws. She stated that having a certificate and being guaranteed employment are two separate issues.

Ms. Mathias asserted that the Board is changing the definition of the word “stenographic,” which means shorthand. Ms. Bon responded that the Board’s practice act has its own definition of shorthand reporter and some enforcement laws and regulations may use the word “stenographic” regarding what may be requested, but that does not mean it’s changing the definition of the word in practice.

Sandy Bunch VanderPol, CSR, applauded the Board for being forward thinking and considering the needs of consumers by allowing voice writing. She shared that competent voice writers are working nationally. She stated that it is not the modality of the record that protects the consumer, it is the professional making the record that protects the consumer. Although she believes stenographic reporting is the gold standard, there is a true shortage of court reporters and help is needed.

The Board took a break at 12:58 p.m. and returned to open session at 1:16 p.m.

Ms. Hurt indicated that the topic of voice writing had been before the Board for nearly a year and a half. She recapped the earlier discussion, including the need for competent and capable court reporters, which voice writers have proven to be nationally. She reiterated that voice writers meet the requirements set in the Board’s practice act and that they would be required to take and pass the same test as steno machine writers.

Ms. Hurt expressed that she preferred Option 1, which would provide an opportunity for the Board to gather important data and information which the Board could use to educate the Legislature on whether voice writing has been good for consumers or not. The Board may elect to stop licensing voice writers in the future.

Ms. O’Neill agreed, adding that consumers would benefit by having the option of using a licensee reporter.

Ms. Lasensky stated that if voice writers cannot be employed as suggested by public comment, then the Board is not solving the court reporter shortage issue. Ms. Hurt responded that this could be another point of data gathering to use for advocacy with the Legislature at a later time.

Ms. Lasensky indicated that the Board already has the authority to allow voice writers to sit for its test. She supported Option 1, believing that court reporting needs to move forward.

Ms. Hurt summarized that all Board members supported Option 1. She welcomed the opportunity to work with stakeholders who wished to move forward with sponsoring a bill specific to this issue.

The Board directed staff to put the option of examination by voice writing back on the examination application.

B. Firm Registration

Ms. Hurt reported that she and Ms. Fenner worked with the author's office to find a different path for the firm registration language. The language was moved from the Board's sunset bill into AB 1469 (Low). She indicated that the Board needs to set up a task force to work with the Legislature and various stakeholders. Ms. Hurt requested feedback on the bill language and clear direction to provide to the task force.

Ms. Fenner referred to the proposed language for BPC 8050 (f) on page 62 of the Board agenda packet. She proposed that the Board request to change the civil fine remedy into an administrative fine remedy, which would be comparable to the existing actions that the Board takes on individual licensees. The Board expressed support of this proposal.

Ms. Fenner expressed that the language included with the reporter-in-charge (RIC) model found in BPC 8051(a)(2) makes it ineffective. The language requires that the Board prove that the RIC had knowledge of or knowingly participated in the misconduct.

Ms. Lasensky shared concern that the RIC is left to shoulder a lot of burden of any misconduct. Ms. Fenner clarified that the RIC is a person hired to keep the corporation on track, not the reporter who reports the proceeding. She compared it to a broker in a real estate transaction. Ms. Hurt added that the Board can pull the entity's authorization to practice if there are violations, so not only just the RIC would be penalized.

Ms. Fenner stated that if AB 1469 passes, the Board would create regulations to make certain aspects specific, such as the fee for the registration, the due process for the firm, and the individual fines.

Ms. Hurt stated that the bill analysis indicates the registration would be valid for five years, which seemed inappropriate since individual licensees currently renew annually. Ms. Fenner indicated that the only reference to five years that she found in the actual bill language was in reference to the period of time before the registration is submitted (BPC 8051(b)(3)).

Ms. Mathias expressed that there are already laws in place that indicate that court reporters must follow the law. She stated that foreign corporations are already breaking the laws, and she does not believe these entities will start following a new law.
Ms. Fenner responded that the Board would publish a list on its website of corporations that are in good standing, including licensee-owned firms that are already established under BPC 8040. Licensees would be prohibited from working for any entity that is not registered, thus drying up the labor source for non-compliant entities.

Ms. Freeman, on behalf of DRA, supported AB 1469 stating that it offers stronger consumer protection than previous bills that were sponsored and/or supported by the Board and the associations. She indicated that the bill differs by requiring prescreening of unlicensed entities who apply for registration to determine whether there are any disciplinary actions or civil lawsuits against the entity, similar to how the Board can deny a license to a reporter. The bill would also mandate revocation of the registered entity for certain violations, such as invading the scope of licensees. Ms. Freeman highlighted the proposed requirement that only a licensee can oversee another licensee, which would be in line with all other DCA license types. She asserted that firm registration with a RIC prevents the Legislature from characterizing licensees as unnecessary to consumer protection.

Ms. D'Urso stated that she was told that Assemblymember Low would not be bringing firm registration forward in another bill. She also expressed concern that the author's office did not consult the Board and its staff as the enforcement entity. She asserted that more stakeholders needed to be afforded an opportunity to give input and bring facts and statistics forward. She volunteered to be on the committee or task force as a stakeholder representing PYRP and indicated that everyone should have a seat at the table instead of just one entity.

Ms. Hurt stated that the Board has discussed firm registration and trying to level the playing field for a while, which the author is aware of. She stated that the Board is always open to receiving comments on what stakeholders find important for proposed bill language. She acknowledged Ms. D'Urso's position and request to be involved.

Ms. D'Urso stated that she found it impossible for the Board to physically and monetarily enforce firm registration when its already stretched thin in both aspects. She also indicated that PYRP has issues with the RIC model and did not believe it had been thought out. She stated that the comparison to the pharmacist-in-charge model was comparing apples to oranges.

Ms. Fenner indicated that part of the fee for firm registration will go toward enforcement oversight.

Ms. Mathias stated that there is no point in having an RIC if they have an "out" by claiming to not have knowledge or knowingly participated in misconduct.

Ms. Guerrero thanked the Board for having done research and acknowledging that it has a seat at the table.

Ms. Hurt requested volunteers from the Board to be on a subcommittee to carry out the Board's position on the firm registration bill by working with the Legislature. Ms. O'Neill volunteered to work on the subcommittee. Ms. Lasensky did not feel she had the proper background to lend to this project and would be terming off the Board in June. Thus, Ms. Hurt appointed Ms. O'Neill and herself to the two-person subcommittee.

VI. LEGISLATION

Ms. Fenner referred to the summaries of the legislative bills that the Board followed in the last year, which were found on pages 65 through 67 of the Board agenda packet. Those that were marked "Chaptered" had been signed into law by the Governor. Other bills had been vetoed. She indicated that the bills that were neither chaptered not vetoed became two-year bills, and no further action will be taken until the beginning of 2020.

AB 253 (Stone) – Ms. Hurt noted that the word "remove" in the agenda packet summary should say "remote."

The Board took a break at 2:04 p.m. and returned to open session at 2:08 p.m.

VII. REGULATIONS FOR AB 2138 IMPLEMENTATION

Ms. Fenner reported that the regulations package was still in the pre-approval process.

VIII. STRATEGIC PLAN

A. Update on idea of educational outreach to the State Bar of California re the "So. Cal stip"; purview of the Board

Ms. Fenner referred to the background summary on page 71 of the Board agenda packet. She reported that the Board spent a lot of time in town hall meetings in an attempt to discover if consumer harm existed. The Board did not take a position in the matter; however, a suggestion was made to potentially reach out to the State Bar Association to educate its members on the topic. She reported that workload had not allowed staff to move forward with the suggestion. Ms. Lasensky questioned the Board's jurisdiction in the matter.

Ms. Mathias reported that in the time since the Board had discussed the So Cal stip, a judge in Kern County issued an order rejecting unsealed original deposition transcripts due to potential harm. She stated that consumers are being harmed in situations where attorneys stipulate but the judge will not allow the transcript to be used. She requested the Board revisit the So Cal stip issue and have the Attorney General's (AG) Office review the legal opinions. She stated that the Board would never receive a complaint on the issue because the complainant would have to be one of the attorneys that agreed to the stipulation. She indicated that the rules were written to protect the integrity of the transcript, which is in the Board's purview.

She added that attorneys need a comprehensive education about the role of the court reporter and their duties, including those under Civil Code of Procedure section 2025. She stated that many times court reporters are requested to carry out secretarial-type duties and to make inappropriate changes to transcripts.

Mr. Buktenica stated that consumers are best protected when the sealed hard copy original transcript is maintained in the proper custody of the non-biased party throughout its lifespan. Otherwise, the door is opened for tampering of the transcript. He indicated that there is a divide in the state where Northern California attorneys follow the code and Southern California has accepted the stipulation for 40 years. He

noted, however, that the Southern California attorneys who travel to Northern California do not even try to engage the So Cal stip, which indicates that they have a clear understanding of the code and where they can and cannot disregard it. He requested the Board support court reporters in their efforts to follow the code to protect the original and to unify the state with a consistent practice.

Mr. Hensley, on behalf of CCRA, also supported the concept of unification across the state so that consumers receive consistent services. He added that the duties as the impartial officer of the court include upholding the code that governs their profession. He requested the Board consider issuing an updated opinion regarding the So Cal stip in line with following the code.

Ms. Hurt thanked everyone for their comments. She indicated that it is an issue for the Legislature due to conflicting codes of which the Board does not have authority to change.

Ms. Hurt asked if the Board had penalized any licensee for not following the So Cal stip. Ms. Fenner responded that all complaints are handled on a case-by-case basis. Even one factor can change the outcome of an investigation. There had not been anyone that was sanctioned for simply following the code; however, there may have been cases where a violation occurred in conjunction with refusing to go by the So Cal stip. In general, it would be difficult for the Board to take action against a court reporter for following the code.

Ms. Mathias indicated that attorneys in Southern California say there is a code that allows them to stipulate, but the attorneys in Northern California have stated that the code regarding stipulations does not apply to the court reporter. She requested that the current AG look at it and see if it applies. She asserted that the code governing the handling of the transcript is the Board's to enforce.

Ms. Fenner indicated that a judge is needed to interpret the law. Whether a judge will accept an unsealed original transcript or not is key.

Ms. Bon clarified that she works for DCA Legal Affairs as counsel for the Board, not the AG's Office. She indicated that just because an issue is important does not mean that it is for the Board to resolve or to become involved with. She stated that the point that complaints would not come before the Board regarding the So Cal stip perfectly illustrated why the matter is not within the Board's jurisdiction and practice act.

Ms. Shainline asked if reporters would jeopardize their license by not following the code and by instead going with the So Cal stip. Ms. Bon reiterated that enforcement is a case-by-case basis. There may be some conflict in the law, which means the investigator would look to whether the court reporter is meeting their minimum standards under the law. Ms. Fenner added that the Board looks at the consumer harm. She advised that court reporters should decide on how they are going to practice based on their knowledge of the law and how it will affect the consumer. Ms. Bon stated that the Board does not provide legal advice to the public; therefore, individual reporters may want to consult with their own counsel.

B. Update on Action Plan

Ms. Fenner referred the Board to the Action Plan timeline on page 85 of the Board agenda packet. She invited revisions to the target dates presented.

Ms. Hurt noted that expanding the Best Practice Pointers had a target date of January 2020. Ms. Fenner stated that it was not likely that the target would be met. She shared that the Board's office lease had recently been renewed, which resulted in the scheduling of tenant improvements. The improvements will require staff to pack up the entire office and cause the computer and phone systems to be down intermittently between December 4 through 6. She indicated that staff could look at scheduling a Best Practice Pointer task force meeting in the spring. Ms. Hurt advised interested licensee members to contact Ms. Bruning to volunteer for the task force.

IX. LICENSE/CERTIFICATE RECIPROCITY

Ms. Fenner indicated that the Board heard a request from CCRA at its July 12, 2019, asking that holders of the Registered Merit Reporter (RMR) and Certified Realtime Reporter (CRR) certifications from National Court Reporters Association (NCRA) not be required to take the skills portion of the examination. A change to the licensing requirements would necessitate a regulatory amendment.

Ms. Hurt asked how many reporters this would make eligible at this time. Ms. Fenner responded that 1,809 reporters hold the RMR certification and 2,474 reporters hold the CRR certification. Of those certificate holders, 168 RMRs and 287 CRRs currently reside in California.

Ms. Fenner noted that the cost of the test is not high and, therefore, the only savings in waiving the skills exam is $25. She stated that the aforementioned national certifications make the holders eligible to take the Board's exams. She did not believe there to be a barrier to the exam.

Mr. Hensley, on behalf of CCRA, stated that the group is attempting to further analyze the proposal with facts, figures, and statistics that may enhance the discussion. He asked that the request be deferred until further data is gathered.

Ms. Mathias stated that other states do not require that a licensee from California take the skills exam to gain a reciprocal license. She believed reciprocity could help with the shortage of court reporters.

Ms. Bruning stated that the regulatory process to effectuate the change would take approximately 12 to 24 months. Since the Board plans to move to an online skills exam, the cost and inconvenience of traveling to California for the skills test will be removed well before the changes to the regulations would take effect.

Ms. O'Neill stated that it was not foreseeable to know how many of these certificate holders were even interested in working in California. Ms. Hurt agreed and added that she did not see any barriers to individuals coming to take the test at this time. Ms. Lasensky would also like to defer the request until more data is received.

The Board directed CCRA to request to go back on a future meeting agenda when they are ready with additional information.

X. FUTURE MEETING DATES

Ms. Fenner stated that no future meetings were scheduled yet. She estimated the Board would want to meet in the spring to take a position on the firm registration bill.

XI. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Ms. Freeman, on behalf of DRA, suggested that licensees laminate their pocket card license and show it to attorneys to prove they are licensed. She thought it might be a good subject for the best practice pointers.

Mr. Buktenica stated that both large and small court reporting agencies are sending out non-licensed individuals to depositions under the façade that they are licensed CSRs. The testimony is later transcribed and certified by a licensee. The agencies are using this as a solution to the perceived shortage of court reporters. He asserted that the consumer is paying for and believing that they are receiving services from a licensee, but they are not. He requested the Board to visit this issue and discuss if there is a need for discipline and a path to eliminate this unlicensed work in the industry. Ms. Fenner encouraged him to contact her directly with information on the activity.

XII. CLOSED SESSION

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.

ADJOURNMENT

Ms. Hurt adjourned the meeting at 2:50 p.m.

DAVINA HURT, Board Chair	DATE	YVONNE K. FENNER, Executive Officer	DATE

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR

Executive Office
1625 North Market Blvd., Suite S-308, Sacramento, CA 95834
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November 8, 2019

Yvonne Fenner
Executive Officer
Court Reporters Board of California
2535 Capitol Oaks Drive, Suite 230
Sacramento, CA 95833

Executive Officer Fenner:

Thank you for this opportunity to submit a written update from the Department of Consumer Affairs (DCA) to the Court Reporters Board of California. You will find below an update on recent Department activities:

DEPARTMENT OF CONSUMER AFFAIRS DIRECTOR APPOINTMENT

We are pleased to share that, on October 8, 2019, Governor Newsom announced his appointment of Kimberly Kirchmeyer as Director of Department of Consumer Affairs. Ms. Kirchmeyer enters her new role with a wealth of DCA experience. Ms. Kirchmeyer has served as Executive Director of the Medical Board of California since 2013, where she was deputy director from 2011 to 2013. She was deputy director of board and bureau relations at the Department of Consumer Affairs from 2009 to 2011 and deputy director at the Medical Board of California from 2005 to 2009, where she was a staff services manager from 2001 to 2005 and an associate governmental program analyst from 1999 to 2001. Ms. Kirchmeyer is also a member of the International Association of Medical Regulatory Authorities, Federation of State Medical Boards Committees, Administrators in Medicine, and the United States Medical Licensing Examination State Board Advisory Panel.

We look forward to Ms. Kirchmeyer's leadership and working with her to carry out her vision for the Department!

EXECUTIVE TEAM UPDATE

It is bittersweet to report the departure of some of our colleagues in the DCA executive team:

- Chief Deputy Director, Chris Shultz, was appointed by Governor Newsom to serve as Chief Deputy Commissioner at the California Department of Business Oversight. Mr. Shultz's last day with the Department was Friday, November 1, 2019.
- Deputy Director Christopher Castrillo's last day with the Department will be Friday, November 22, 2019. Mr. Castrillo is exploring opportunities for the coming year.

- Deputy Director Dennis Cuevas-Romero's last day with the Department will be Friday, November 15, 2019. Mr. Cuevas-Romero accepted a position with the American Civil Liberties Union.
- Assistant Deputy Director Karen Nelson's last day last day with the Department was Thursday, October 31, 2019. Ms. Nelson accepted a position as Chief Impact Officer with the American Leadership Forum – Mountain Valley Chapter.
- Assistant Deputy Director Patrick Le's last day with the Department was September 6, 2019. Mr. Le accepted a position as a consultant with the Assembly Business and Professions Committee.

Mr. Shultz, Mr. Castrillo, Mr. Cuevas-Romero, Ms. Nelson, and Mr. Le have been integral members of DCA's executive staff and their contributions to the Department will be dearly missed. We wish them well in the next chapter of each of their careers.

BOARD MEMBER RESOURCES CENTER ONLINE PORTAL

The DCA Board Member Resource Center has been revamped and relocated to the DCA public website (dca.ca.gov).

The DCA Board Member Resource Center is an online tool designed to provide information and resources to current board and committee members, and to those who are interested in becoming appointed to serve as a board or committee member. Examples of items offered via the Resource Center are: informational tools regarding required trainings and Form 700, the DCA Travel Guide, the Bagley-Keene Open Meeting Act, Board meeting dates, and appointment information for individuals interested in an appointment to a board or committee.

We encourage you to visit the refreshed, newly designed page and we welcome your feedback!

NEW PUBLICATION – "DCA – WE'RE LISTENING"

DCA's Communications Division has been working to find ways to improve the interactions of the public with DCA and our boards and bureaus; to help them understand how to bring to you their concerns, comments, accolades, and complaints as effectively as possible.

Toward that effort, the Communications Division created a simple, visual how-to guide for Californians who want to approach us.

It's called "DCA-We're Listening," and it lays out everything the public needs to know about giving their feedback to DCA, our boards and bureaus. From public comment etiquette to meeting mechanics, this guide is the perfect primer for approaching the podium.

The guide is available in both brochure and poster form. The brochures work great at the welcome table for any public meeting, and anywhere else interested parties may see it. The poster will hang in DCA's two Sacramento hearing rooms, but additional copies are available for purchase, laminated with foam backing, to go in any room where you may hold a public meeting. If you would like more information, please contact the Communications Division.

FUTURE LEADERSHIP DEVELOPMENT PROGRAM

The third cohort had its kick-off meeting on September 24, 2019. Eight individuals were selected to be a part of this year's cohort. We look forward to reporting on the cohort's progress throughout this eight-month leadership program.

Thank you again for your valued partnership. Please let us know if the Department can be of service to your board. If you have any questions, feel free to contact Christopher.Castrillo@DCA.ca.gov.

All the best,

Christopher Castrillo
Deputy Director, Board and Bureau Services
Department of Consumer Affairs

AGENDA ITEM 6 – Report of the Executive Officer

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Agenda Description: Report on:

6.1 CRB Budget Report
6.2 Transcript Reimbursement Fund
6.3 Enforcement Activities
6.4 Exam Update - discussion and possible action regarding online skills exam
6.5 CRB Today Newsletter, Spring 2020
6.6 Business Modernization – Status update
6.7 COVID-19-related changed re CRB

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Support Documents:

Attachment 1, Item 6.1 – FY 2019-20 Expenditure Projection FM09
Attachment 2, Item 6.1 – CRB Fund Condition
Attachment 3, Item 6.3 – Enforcement Statistics
Attachment 4, Item 6.4 – Exam Statistics
Online Reference, Item 6.5 – CRB Today Newsletter, Spring 2020

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Fiscal Impact: None.

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Recommended Board Action: All items informational except 6.4. Staff recommends the Board consider offering online skills exam before 2021 as originally slated.

1/27/2020 Extract

COURT REPORTERS BOARD
BUDGET REPORT
FY 2019-20 EXPENDITURE PROJECTION

	FY 2018-19	FY 2019-20				
OBJECT DESCRIPTION	PRELIMINARY EXPENDITURES (MONTH 12)	BUDGET ACT 2019-20	CURRENT YEAR EXPENDITURES 3/18/2020 extract	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
PERSONNEL SERVICES						
Civil Service-Perm	245,418	**266,000**	184,937	70%	**254,000**	12,000
Temp Help Reg (907)	31,074	**11,000**	24,120	219%	**32,160**	(21,160)
Statutory Exempt (EO)	98,040	**84,000**	76,104	91%	**101,472**	(17,472)
Bd / Commsn (901, 920)	3,200	**8,000**	1,700	21%	**3,200**	4,800
Overtime	10,791	**6,000**	6,543	109%	**11,217**	(5,217)
Staff Benefits	251,540	**204,000**	193,791	95%	**263,429**	(59,429)
TOTALS, PERSONNEL SVC	640,063	**579,000**	487,195	84%	**665,478**	**(86,478)**
OPERATING EXPENSE AND EQUIPMENT						
General Expense	19,284	**9,000**	26,208	0%	**43,500**	(34,500)
Printing	3,272	**1,000**	3,244	0%	**4,800**	(3,800)
Communication	3,687	**6,000**	2,688	45%	**4,608**	1,392
Postage	5,662	**0**	1,031	0%	**7,244**	(7,244)
Insurance	1,568	**0**	10	0%	**1,600**	(1,600)
Travel In State	5,658	**23,000**	3,370	15%	**5,800**	17,200
Travel, Out-of-State	0	**0**	0	0%	**0**	0
Training	0	**2,000**	0	0%	**20,417**	(18,417)
Facilities Operations	67,430	**29,000**	33,926	117%	**58,159**	(29,159)
Utilities	0	**0**		0%	**0**	0
C & P Services - Internal	19	**84,000**	20	0%	**34**	83,966
Attorney General	38,509	**176,000**	27,457	16%	**37,400**	138,600
Office Admin. Hearings	6,140	**16,000**	350	2%	**500**	15,500
C & P Services - External	56,617	**92,000**	27,970	30%	**41,955**	50,045
DCA Pro Rata	190,668	**146,000**	97,333	67%	**146,000**	0
IA w/ OPES	0	**0**	26,800		**51,080**	(51,080)
Consolidated Data Center	31	**3,000**	1,909	64%	**3,273**	(273)
Information Technology	15,488	**2,000**	0	0%	**2,000**	0
Equipment	730	**10,000**	0	0%	**10,000**	0
Other Items of Expense	0	**0**	0	0%	**0**	0
TOTALS, OE&E	414,763	**599,000**	252,316	42%	**438,370**	160,630
TOTAL EXPENSE	1,054,826	**1,178,000**	739,511	63%	**1,103,848**	74,152
Sched. Reimb. - Fingerprints	(490)	**(1,000)**	(490)	0%	**(490)**	**(510)**
Sched. Reimb. - External/Private/Grant	(1,645)	**(17,000)**	(2,065)	12%	**(2,065)**	**(14,935)**
Unsched. Reimb. - Inves Cost Recovery	(2,230)	**0**		0%	**0**	**0**
NET EXPENSE	1,050,461	**1,160,000**	736,956	64%	**1,101,293**	**58,707**
SURPLUS/(DEFICIT):					**SURPLUS/(DEFICIT):**	**5.1%**

0771 - Court Reporters Board of California
Analysis of Fund Condition

Prepared on 5.7.2020

(Dollars in Thousands)

2020-21 Governor's Budget

	PY 2018-19	Budget Act CY 2019-20	Governor's Budget BY 2020-21	BY+1 2021-22
BEGINNING BALANCE	$ 434	$ 366	$ 629	$ 680
Prior Year Adjustment	$ 2	$ -	$ -	$ -
Adjusted Beginning Balance	$ 436	$ 366	$ 629	$ 680
REVENUES AND TRANSFERS				
Revenues:				
4121200 Delinquent fees	$ 16	$ 23	$ 23	$ 23
4127400 Renewal fees	$ 928	$ 1,428	$ 1,350	$ 1,350
4129200 Other regulatory fees	$ 19	$ 15	$ 12	$ 12
4129400 Other regulatory licenses and permits	$ 21	$ 31	$ 25	$ 25
4163000 Income from surplus money investments	$ 9	$ 11	$ 8	$ 12
4172500 Miscellaneous revenues	$ 80	$ -	$ -	$ -
Totals, Revenues	$ 1,073	$ 1,508	$ 1,418	$ 1,422
Transfers and Other Adjustments				
T00410 Revenue Transfer to Transcript Reimbursement Fund per B&P Code Section 8030.2	$ -	$ -	$ -100	$ -100
Totals, Revenues and Transfers	$ 1,073	$ 1,508	$ 1,318	$ 1,322
Totals, Resources	$ 1,509	$ 1,874	$ 1,947	$ 2,002
EXPENDITURES				
Disbursements:				
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	$ 1,050	$ 1,158	$ 1,187	$ 1,223
8880 Financial Information System for California (State Operations)	$ -	$ -	$ -	$ -
9892 Supplementary Pension Payments (State Operations)	$ 12	$ 25	$ 25	$ 25
9900 Statewide General Administrative Expenditures (Pro Rata) (Statewide Opertations)	$ 81	$ 62	$ 55	$ 62
Total Disbursements	$ 1,143	$ 1,245	$ 1,267	$ 1,310
FUND BALANCE				
Reserve for economic uncertainties	$ 366	$ 629	$ 680	$ 692
Months in Reserve	3.5	6.0	6.2	6.2

Consumer Protection Enforcement Initiative
Fiscal Year 2019-2020 Enforcement Report
July 1, 2019 - April 30, 2020

Complaint Intake

Complaints	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Received	8	8	12	5	13	12	7	22	5	6			98
Closed without Assignment for Investigation	0	0	0	0	0	0	0	0	0	0			0
Assigned for Investigation	8	8	12	5	13	12	7	22	5	6			98
Average Days to Close or Assign for Investigation	1	1	1	1	1	1	1	1	1	1			1
Pending	0	0	0	0	0	0	0	0	0	0			0 *

Convictions/Arrests Reports	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Received	0	0	0	0	0	0	0	0	0	0			0
Closed	0	0	1	0	0	0	0	0	0	0			1
Average Days to Close	0	0	102	0	0	0	0	0	0	0			102
Pending	2	2	1	1	1	1	1	1	1	1			1 *

Investigation

Desk Investigation	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Initial Assignment for Desk Investigation **	8	8	12	5	13	12	7	22	5	6			98
Closed ***	2	9	7	9	1	7	8	15	1	22			81
Average Days to Close [Straightline] ***	33	66	67	39	186	60	88	108	207	96			83
Pending ***	69	68	72	68	80	85	84	91	95	79			79 *

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

All Investigation	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Closed **	2	9	8	9	1	7	8	15	1	22			82
Average Days to Close [Straightline] **	33	66	71	39	186	60	88	108	207	96			66
Pending **	71	70	73	69	81	86	85	92	96	80			80 *

*Average number of cases pending per month

** Intake complaints and convictions

*** Intake complaints only

Enforcement Actions

AG Cases	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
AG Cases Initiated	0	2	2	0	0	0	1	2	0	0			7
AG Cases Pending	3	4	6	6	6	5	6	8	7	6			6 *

SOIs/Accusations	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
SOIs Filed	0	0	0	1	0	0	0	0	2	0			3
SOIs Withdrawn	0	0	0	0	0	0	0	0	0	0			0
SOIs Dismissed	0	0	0	0	0	0	0	0	0	0			0
SOIs Declined	0	0	0	0	0	0	0	0	0	0			0
Average Days to Complete SOIs	0	0	0	86	0	0	0	0	49	0			61
Accusations Filed	0	1	0	1	0	2	0	0	0	0			4
Accusations Withdrawn	0	0	0	0	0	0	0	0	0	0			0
Accusations Dismissed	0	0	0	0	0	0	0	0	0	0			0
Accusations Declined	0	0	0	0	0	0	0	0	0	0			0
Average Days to Complete Accusations	0	111	0	60	0	94	0	0	0	0			90
Petition to Revoke Probation (PRP)	0	0	0	0	0	0	0	0	0	0			0
Average Days to Complete PRP	0	0	0	0	0	0	0	0	0	0			0

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

Disciplinary Orders	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Final Orders (Proposed Decisions Adopted, Default Decisions, Stipulations)	0	1	0	0	0	1	0	0	1	1			4
Average Days to Complete [Straightline]	0	384	0	0	0	381	0	0	270	279			329
Interim Suspension Orders	0	0	0	0	0	0	0	0	0	0			0

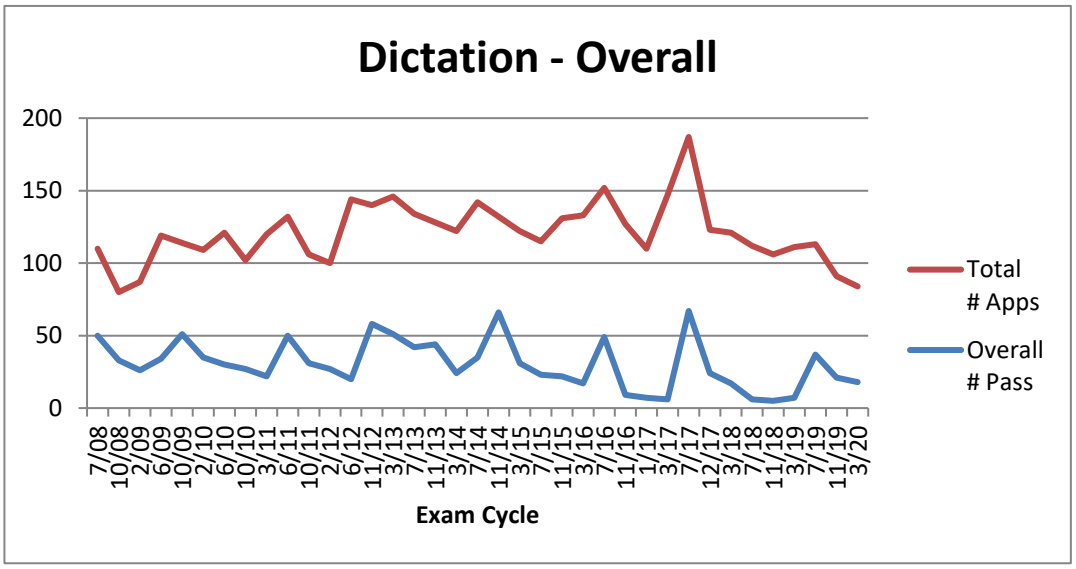
Citations	July	August	Sept.	Oct.	Nov.	Dec.	January	Feb.	March	April	May	June	Total
Final Citations	1	0	5	0	1	1	2	5	0	2			17
Average Days to Complete [Straightline]	35	0	52	0	186	41	150	111	0	232			108

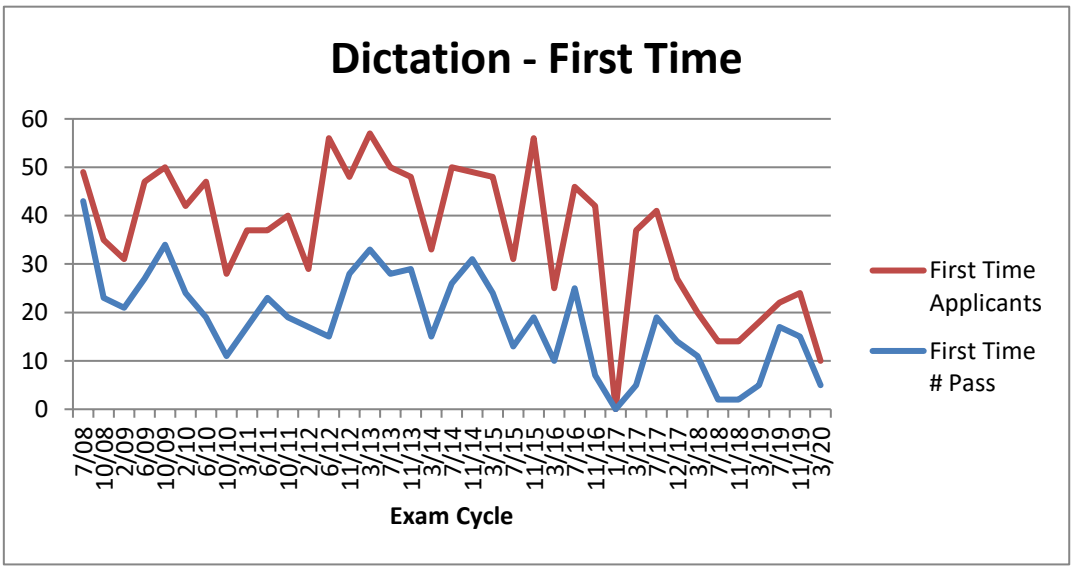
*Average number of cases pending per month

Dictation Exam

Exam Cycle	Total # Apps	Overall # Pass	Overall % Pass	First Time Applicants	First Time # Pass	First Time % Pass
Jul 2008	110	50	45.5%	49	43	87.8%
Oct 2008	80	33	41.3%	35	23	65.7%
Feb 2009	87	26	29.9%	31	21	67.7%
Jun 2009	119	34	28.6%	47	27	57.4%
Oct 2009	114	51	44.7%	50	34	68.0%
Feb 2010	109	35	32.1%	42	24	57.1%
Jun 2010	121	30	24.8%	47	19	40.4%
Oct 2010	102	27	26.5%	28	11	39.3%
Mar 2011	120	22	18.3%	37	17	45.9%
Jun 2011	132	50	37.9%	37	23	62.2%
Oct 2011	106	31	29.2%	40	19	47.5%
Feb 2012	100	27	27.0%	29	17	58.6%
Jun 2012	144	20	13.9%	56	15	26.8%
Nov 2012	140	58	41.4%	48	28	58.3%
Mar 2013	146	51	34.9%	57	33	57.9%
Jul 2013	134	42	31.3%	50	28	56.0%
Nov 2013	128	44	34.4%	48	29	60.4%
Mar 2014	122	24	19.7%	33	15	45.5%
Jul 2014	142	35	24.6%	50	26	52.0%
Nov 2014	132	66	50.0%	49	31	63.3%
March 2015	122	31	25.4%	48	24	50.0%
July 2015	115	23	20.0%	31	13	41.9%
Nov 2015	131	22	16.8%	56	19	33.9%
March 2016	133	17	12.8%	25	10	40.0%
July 2016	152	49	32.2%	46	25	54.3%
Nov 2016	127	9	7.1%	42	7	16.7%
Jan 2017 (Nov 2016 retest)	110	7	6.4%	n/a	n/a	n/a
Mar 2017	147	6	4.1%	37	5	13.5%
Jul 2017	187	67	35.8%	41	19	46.3%
Dec 2017	123	24	19.5%	27	14	51.9%
Mar 2018	121	17	14.0%	20	11	55.0%
Jul 2018	112	6	5.4%	14	2	14.3%
Nov 2018	106	5	4.7%	14	2	14.3%
Mar 2019	111	7	6.3%	18	5	27.8%
Jul 2019	113	37	32.7%	22	17	77.3%
Nov 2019	91	21	23.1%	24	15	62.5%
Mar 2020	84	18	21.4%	10	5	50.0%

Dictation Exam

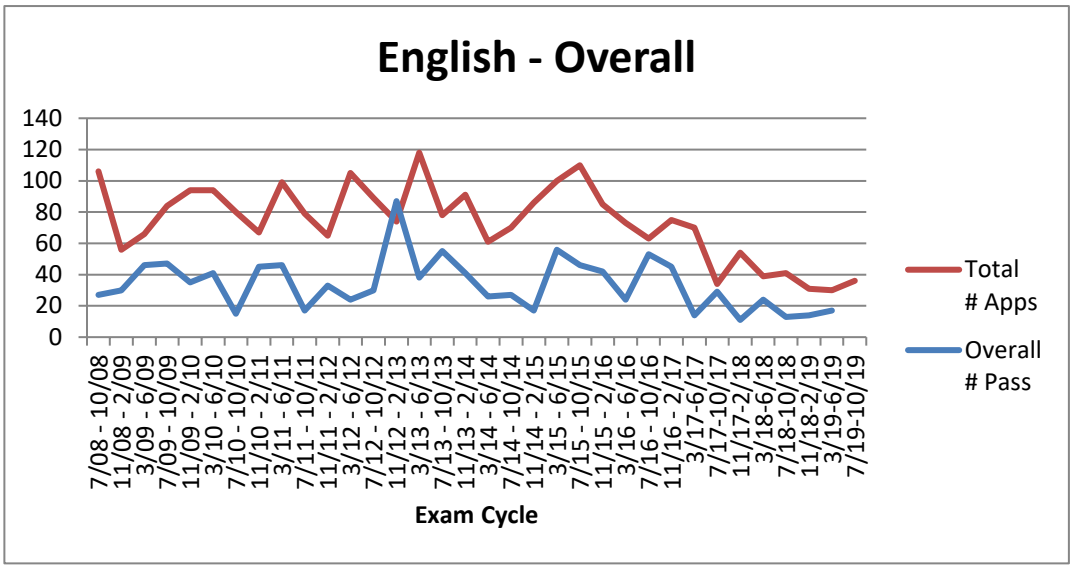


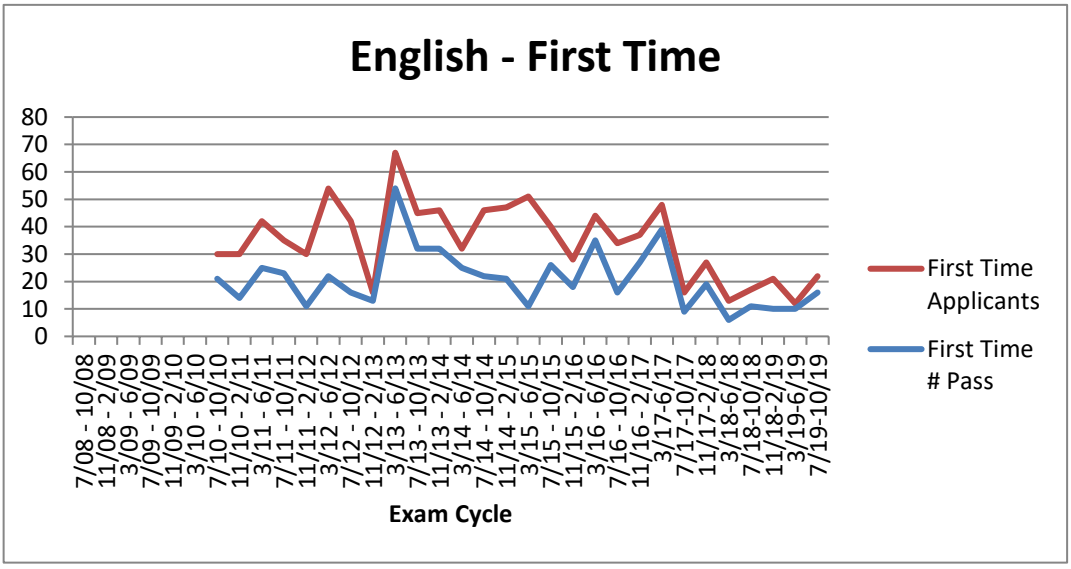


English Exam

Exam Cycle	Total # Apps	Overall # Pass	Overall % Pass	First Time Applicants	First Time # Pass	First Time % Pass
Jul 2008 - Oct 2008	106	71	65.7%			
Nov 2008 - Feb 2009	56	27	48.2%			
Mar 2009 - Jun 2009	66	30	45.5%			
Jul 2009 - Oct 2009	84	46	54.8%			
Nov 2009 - Feb 2010	94	47	50.0%			
Mar 2010 - Jun 2010	94	35	37.2%			
Jul 2010 - Oct 2010	80	41	51.3%	30	21	70.0%
Nov 2010 - Feb 2011	67	15	22.4%	30	14	46.7%
Mar 2011 - Jun 2011	99	45	45.5%	42	25	59.5%
Jul 2011 - Oct 2011	79	46	58.2%	35	23	65.7%
Nov 2011 - Feb 2012	65	17	26.2%	30	11	36.7%
Mar 2012 - Jun 2012	105	33	31.4%	54	22	40.7%
Jul 2012 - Oct 2012	89	24	27.0%	42	16	38.1%
Nov 2012 - Feb 2013	74	30	40.5%	16	13	81.3%
Mar 2013 - Jun 2013	118	87	73.7%	67	54	80.6%
Jul 2013 - Oct 2013	78	38	48.7%	45	32	71.1%
Nov 2013 - Feb 2014	91	55	60.4%	46	32	69.6%
Mar 2014 - Jun 2014	61	41	67.2%	32	25	78.1%
Jul 2014 - Oct 2014	70	26	37.1%	46	22	47.8%
Nov 2014 - Feb 2015	86	27	31.4%	47	21	44.7%
Mar 2015 - June 2015	100	17	17.0%	51	11	21.6%
Jul 2015 - Oct 2015	110	56	50.9%	40	26	65.0%
Nov 2015 - Feb 2016	85	46	54.1%	28	18	64.3%
Mar 2016 - Jun 2016	73	42	57.5%	44	35	79.5%
Jul 2016 - Oct 2016	63	24	38.1%	34	16	47.1%
Nov 2016 - Feb 2017	75	53	70.7%	37	27	73.0%
Mar 2017 - Jun 2017	70	45	64.3%	48	39	81.3%
Jul 2017 - Oct 2017	34	14	41.2%	16	9	56.3%
Nov 2017 - Feb 2018	54	29	53.7%	27	19	70.4%
Mar 2018 - Jun 2018	39	11	28.2%	13	6	46.2%
Jul 2018 - Oct 2018	41	24	58.5%	17	11	64.7%
Nov 2018 - Feb 2019	31	13	41.9%	21	10	47.6%
Mar 2019 - Jun 2019	30	14	46.7%	12	10	83.3%
Jul 2019 - Oct 2019	36	17	47.2%	22	16	72.7%

English Exam

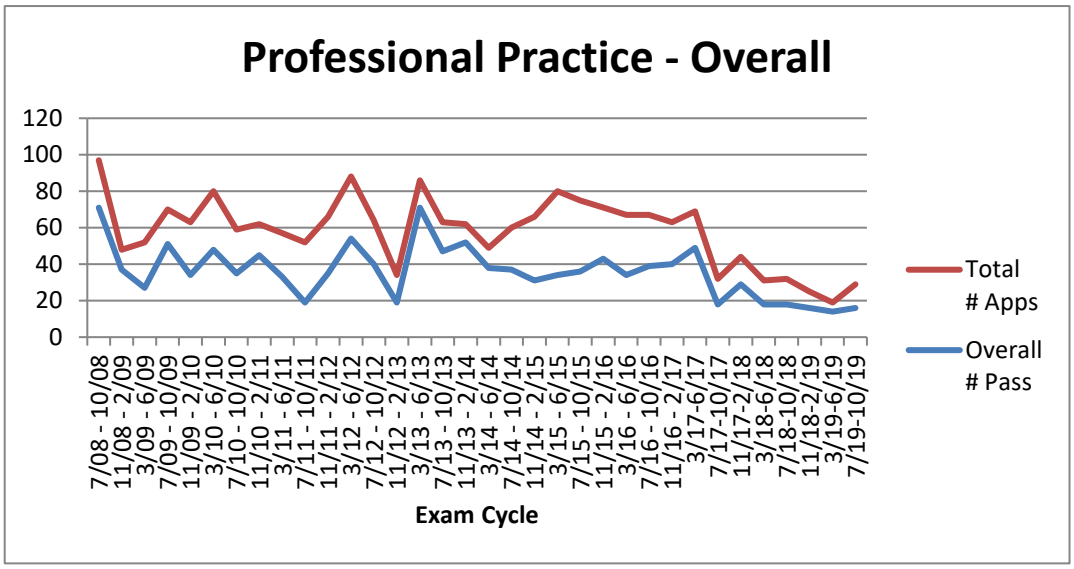


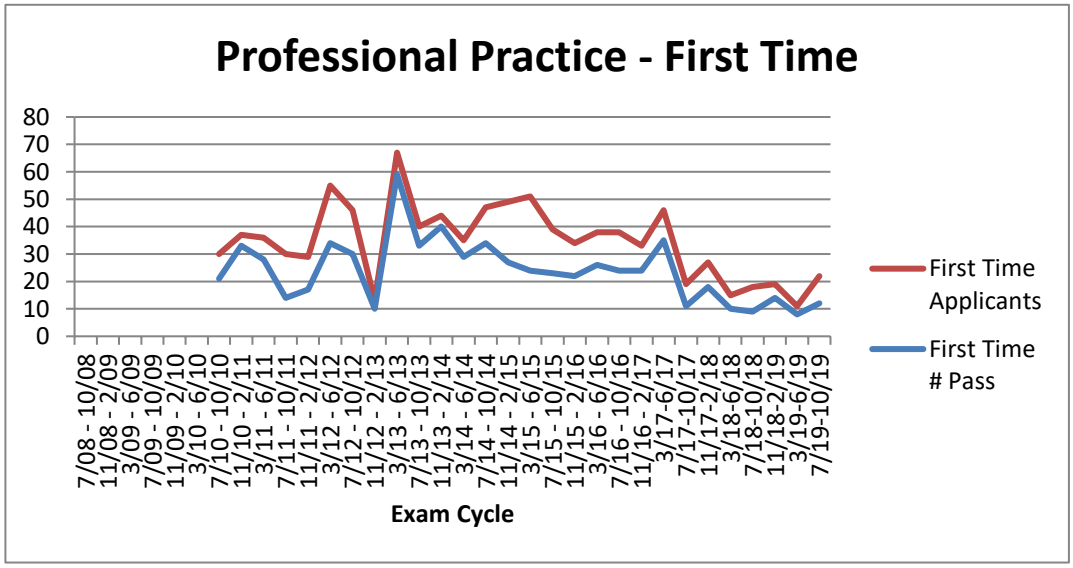


Professional Practice Exam

Exam Cycle	Total # Apps	Overall # Pass	Overall % Pass	First Time Applicants	First Time # Pass	First Time % Pass
Jul 2008 - Oct 2008	97	71	73.2%			
Nov 2008 - Feb 2009	48	37	77.1%			
Mar 2009 - Jun 2009	52	27	51.9%			
Jul 2009 - Oct 2009	70	51	72.9%			
Nov 2009 - Feb 2010	63	34	54.0%			
Mar 2010 - Jun 2010	80	48	60.0%			
Jul 2010 - Oct 2010	59	35	59.3%	30	21	70.0%
Nov 2010 - Feb 2011	62	45	72.6%	37	33	89.2%
Mar 2011 - Jun 2011	57	33	57.9%	36	28	77.8%
Jul 2011 - Oct 2011	52	19	36.5%	30	14	46.7%
Nov 2011 - Feb 2012	66	35	53.0%	29	17	58.6%
Mar 2012 - Jun 2012	88	54	61.4%	55	34	61.8%
Jul 2012 - Oct 2012	64	40	62.5%	46	30	65.2%
Nov 2012 - Feb 2013	34	19	55.9%	13	10	76.9%
Mar 2013 - Jun 2013	86	71	82.6%	67	59	88.1%
Jul 2013 - Oct 2013	63	47	74.6%	40	33	82.5%
Nov 2013 - Feb 2014	62	52	83.9%	44	40	90.9%
Mar 2014 - Jun 2014	49	38	77.6%	35	29	82.9%
Jul 2014 - Oct 2014	60	37	61.7%	47	34	72.3%
Nov 2014 - Feb 2015	66	31	47.0%	49	27	55.1%
Mar 2015 - June 2015	80	34	42.5%	51	24	47.1%
Jul 2015 - Oct 2015	75	36	48.0%	39	23	59.0%
Nov 2015 - Feb 2016	71	43	60.6%	34	22	64.7%
Mar 2016 - Jun 2016	67	34	50.7%	38	26	68.4%
Jul 2016 - Oct 2016	67	39	58.2%	38	24	63.2%
Nov 2016 - Feb 2017	63	40	63.5%	33	24	72.7%
Mar 2017 - Jun 2017	69	49	71.0%	46	35	76.1%
Jul 2017 - Oct 2017	32	18	56.3%	19	11	57.9%
Nov 2017 - Feb 2018	44	29	65.9%	27	18	66.7%
Mar 2018 - Jun 2018	31	18	58.1%	15	10	66.7%
Jul 2018 - Oct 2018	32	18	56.3%	18	9	50.0%
Nov 2018 - Feb 2019	25	16	64.0%	19	14	73.7%
Mar 2019 - Jun 2019	19	14	73.7%	11	8	72.7%
Jul 2019 - Oct 2019	29	16	55.2%	22	12	54.5%

Professional Practice Exam





AGENDA ITEM 7 – Department of Consumer Affairs Update

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Agenda Description: Report from the DCA Executive Office

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Support Documents:

Attachment – Written Update

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Fiscal Impact: None

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Recommended Board Action: Informational.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
Executive Office
1625 North Market Blvd., Suite S-308, Sacramento, CA 95834
P (916) 574-8200 F (916) 574-8613 | www.dca.ca.gov

MEMORANDUM

DATE	**May 6, 2020**
TO	Court Reporters Board of California
FROM	Department of Consumer Affairs Office of Board and Bureau Services
SUBJECT	**Report of the Department of Consumer Affairs**

Thank you for this opportunity to submit a written update from the Department of Consumer Affairs (DCA) on its current activities to the Court Reporters Board of California (Board).

DCA EFFORTS PERTAINING TO CORONAVIRUS (COVID-19)

Pursuant to the Governor's Executive Order N-39-20, during the State of Emergency, the DCA director may waive any statutory or regulatory requirements with respect to a professional license issued pursuant to Division 2 of the Business and Professions Code (healing arts boards). In addition, pursuant to Executive Order N-40-20, the director of DCA may waive any statutory or regulatory requirements with respect to continuing education for licenses issued pursuant to Division 3 of the Business and Professions Code (professions and vocational boards). To date, the Director has issued eight waivers. These waivers include DCA waiver DCA-20-07, which waives specific license renewal requirements (continuing education) for active licenses expiring between March 31, 2020 and May 29, 2020. DCA is working with its boards to identify waivers that balance consumer protection with the purpose of the Executive Order, which was to facilitate the continued provision of care to individuals affected by the COVID-19 outbreak.

On March 31, 2020, Governor Newsom issued a call to action asking those licensed in California to join the fight in battling the COVID-19 pandemic. The Governor launched the California Health Corps where individuals can go to sign up to be deployed to assist in providing care to those in need. In addition, individuals with a current/active out-of-state license who want to assist with COVID-19 outbreak in California should email Emergency Medical Services Authority (EMSA) at: Covid19@emsa.ca.gov.

DCA is maintaining ongoing efforts to support licensees, support accessibility to healthcare services in California, and protect California's consumers during this

pandemic. DCA and the boards and bureaus within DCA have implemented telework plans to allow individuals who can perform their duties outside of the office to do so and have required physical distancing for those employees who cannot telework. The licensing and enforcement functions at the boards and bureaus are continuing to take place, though several functions are done remotely. In addition, the manner in which board meetings are being held has changed drastically and DCA is assisting boards with tools such as Webex. DCA is also working on a plan that will look at staff returning to work and allowing public access, as well as looking at identifying areas where changes could be made on an ongoing basis for some process efficiencies. DCA remains committed to providing ongoing communication and assistance to its boards and bureaus. In addition, up-to-date information on COVID-19, including a full list of issued waivers, is posted to the Department's website, www.dca.ca.gov. DCA has also been providing boards and bureaus information via email and teleconference meetings.

NEW AGENCY AND DCA APPOINTMENTS

On January 22, 2020, Governor Newsom appointed Lourdes Castro Ramirez as the new secretary of the Business, Consumer Services and Housing Agency (Agency). Secretary Castro Ramirez assumed this position effective March 2, 2020. Previously, Secretary Castro Ramirez served as the president of the University Health Systems Foundation.

Former Agency Secretary Alexis Podesta was appointed by Governor Newsom to the State Compensation Insurance Fund Board of Directors. DCA has been very fortunate to have Secretary Podesta serve these past years as her leadership helped guide the Department through many significant changes that helped benefit the consumers of California. DCA wants to thank her for her support and leadership and wishes her the best in her future endeavors.

In addition, on March 5, 2020, Governor Newsom appointed Jennifer Simoes as the Department's Deputy Director of Legislation. Ms. Simoes assumed this position on March 16, 2020, and brings with her a strong background in legislation, having most recently served as the Chief of Legislation at the Medical Board of California since 2010.

Finally, on April 16, 2020, Christine Lally was appointed by Governor Newsom as the Chief Deputy Director of DCA. Ms. Lally most recently served as Deputy Director of the Medical Board of California. Prior to that, Ms. Lally was Deputy Director of Board and Bureau Relations at DCA. Ms. Lally will join DCA at a later date.

DCA is excited to have Ms. Lally's and Ms. Simoes' great experience and expertise on the DCA team!

WEBSITE ADA COMPLIANCE

DCA is continuing its ongoing effort to encourage boards and bureaus to bring all web postings, including meeting materials, into compliance with the American Disabilities Act (ADA). Just like the laws that govern physical accessibility, California Government Code requires state agencies to make websites accessible to people with disabilities. DCA's Office of Information Services (OIS) is continuing to find ways to bring all boards and bureaus into compliance with State law by having all "old" documents converted to ADA-accessible web documents by the end of this year. Further, it is continuing to work with boards'/bureaus' staff to ensure that all documents posted on DCA's websites are compliant moving forward. Currently, OIS is offering ADA remediation training to DCA staff to educate them about the process of converting web documents for ADA accessibility. Accordingly, even while exercising social distancing by teleworking, staff can help contribute to the goal.

BOARD MEMBER ORIENTATION TRAINING

With consideration to COVID-19, DCA cancelled its Board Member Orientation Training that was scheduled for March 25, 2020. To enable board members to meet the mandate of completing this training within one year of appointment and reappointment, DCA will provide a webinar-based training this month. This training will be structured as two, half-day courses taking place May 18, 2020 and May 29, 2020. Board members will be asked to participate in both sessions in order to earn completion credit.

In addition, a Board Member Orientation Training is scheduled to be held on Saturday, June 27, 2020 at the USC Institute of Urology in Los Angeles. At this time, DCA will begin accepting registrations for this training. However, please be advised that the offering of this training is contingent on California's declared State of Emergency and whether public gatherings and travel will be safe and permissible.

To register and for more details about the Board Member Orientation Training, please visit the DCA Board Member Resource Center located on DCA's Website, www.dca.ca.gov.

Thank you again for your valued partnership. Please let us know if DCA can be of service to the Board. If you have any questions, feel free to contact DCA Board and Bureau Services at MemberRelations@dca.ca.gov.

AGENDA ITEM 8 – Resolution for Elizabeth Lasensky

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Agenda Description: Review and approval of resolution

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Brief Summary:

Resolution honoring outgoing Board member, Elizabeth Lasensky.

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Support Documents:

Attachment – Resolution

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Fiscal Impact: None

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Recommended Board Action: Staff recommends the Board adopt the resolution.

Department of Consumer Affairs

Court Reporters Board of California

Resolution

WHEREAS, Elizabeth Lasensky has faithfully and devotedly served as a Board member of the Court Reporters Board from October 15, 2007, through June 1, 2020, having never missed a single meeting; and

WHEREAS, she served as Vice Chair from October 16, 2009, to October 15, 2010; and

WHEREAS, she served as Co-Chair of the Online Testing Policy and Procedures Task Force, and as Co-Chair of the Sunset Review Committee; and

WHEREAS, she, testified before the Legislature during the Board's Sunset Review Hearing; and

WHEREAS, she was integral in developing four Board Strategic Plans and provided direction on reaching the Board's goals; and

WHEREAS, she strongly advocated for protection of consumers from corporations practicing outside the requirements of the laws set forth by the State of California; and

WHEREAS, throughout her years of service, at all times Elizabeth Lasensky gave fully of herself and her ideas and acted forthrightly and conscientiously, always with the public interest and welfare in mind;

NOW, THEREFORE, BE IT RESOLVED, that the members of the Court Reporters Board express heartfelt appreciation to Elizabeth Lasensky for the outstanding contribution she made during her years of service on the Court Reporters Board and to the consumers of California.

Presented this 21st day of May 2020.

Davina Hurt, Board Chair

Yvonne K. Fenner, Executive Officer

AGENDA ITEM 9 – Legislation

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

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Brief Summary: (Bills with a notation of *** are of particular interest or impact to court reporting or the Court Reporters Board specifically)

9.1 * AB 424 (Gabriel) – Depositions: audio or video recordings.**
(Senate Judiciary) – This bill would clarify that a stenographic transcript accompanying an audio or video recording of deposition testimony offered into evidence must be prepared by a certified shorthand reporter. It would also restate the ability of parties to modify the act's procedures for the recording of oral depositions by means of audio or video technology.

9.2 * AB 613 (Low) – Professions and vocations. Regulatory fees.**
(Senate Business, Professions & Economic Development) – This bill would authorize programs within the Department of Consumer Affairs to increase their fees every four years in an amount not to exceed the increase in the Consumer Price Index in the last four years. Fees increased pursuant to this bill would be exempt from the Administrative Procedure Act.

9.3 * AB 1263 (Low) – Contracts: consumer services; consumer complaints.** (Senate, pending referral) – This bill would prohibit a licensee from limiting a consumer's right to file a complaint with a licensing board or participate in an investigation into the licensee by the licensing board. A violation would constitute unprofessional conduct subject to discipline by the licensing board.

9.4 AB 1385 (Santiago) – Court reporter fees.
(Author not moving forward) – This bill would revise fees for transcripts prepared by official court reporters and court reporters pro tempore.

9.5 * AB 1469 (Low) – Court reporters: registration: nonshorthand reporting corporation entities.** (Senate, pending referral) – This bill would require business entities offering court reporting services to register with the Court Reporters Board.

9.6 AB 1616 (Low) – Department of Consumer Affairs: boards: expunged convictions. (Senate, pending referral) – This bill would require boards and bureaus that post information on its website about a revoked license due to a criminal conviction to update or remove information about the revoked license within six months of the board receiving an expungement order related to the conviction. The person seeking the change must pay to the board a fee determined by the Department of Consumer Affairs, designed to cover the administrative costs of these requirements.

9.7 AB 1850 (Gonzalez) – Employee classification: still photographer, photojournalists: freelancers. (Assembly Labor & Employment) – This bill makes revisions to the application of the Dynamex decision for photographers, photojournalists, freelance writers, editors, and newspaper cartoonists.

9.8 AB 1925 (Obernolte) – Worker status: independent contractors: small businesses. (Assembly Labor & Employment) – This bill makes revisions to the application of the Dynamex decision for physician and surgeon, dentist, podiatrist, psychologist, veterinarian, lawyer, architect, engineer, private investigator, or accountant.

9.9 AB 1928 (Kiley and Menendez) – Employment standards: independent contractors and employees. (Assembly Labor & Employment) – This bill makes revisions to the application of the Dynamex decision.

9.10 * AB 2028 (Aguilar-Curry) – State agencies: meetings.**
(Assembly Governmental Organization) – This bill would require state bodies subject to the Bagley-Keene Open Meeting Act to post all relevant background documents online at least 10 days prior to a public meeting instead of the agenda alone. Such writing and materials would only be eligible for distribution or discussion at the noticed meeting if posted within the 10-day time frame. The bill also clarifies that the public has the right to comment on any agenda item listed for that meeting, regardless of whether or not it has been previously discussed.

9.11 AB 2113 (Low) – Refugees, asylees, and immigrants: professional licensing. (Assembly Business & Professions) – This bill would require programs within the Department of Consumer Affairs to expedite and assist the initial licensure process for an applicant who supplies satisfactory evidence that they are a refugee, have been granted political asylum, or have a special immigrant visa, as specified. The bill would authorize programs to adopt regulations necessary to administer these provisions.

9.12 * AB 2185 (Patterson) – Professions and vocations: applicants licensed in other states: reciprocity.** (Assembly Business & Professions) – This bill would require each program at the Department of Consumer Affairs to issue a license to an applicant if the applicant holds an out-of-state license in good standing in the discipline and practice level and if the applicant meets certain requirements, including, but not limited to, holding the out-of-state license for the past three of five years.

9.13 AB 2214 (Carillo) – Administrative Procedure Act: notice of proposed action. (Assembly Accountability & Administrative Review) – This bill would require a state agency, including programs within the Department of consumer Affairs, to conspicuously post specified regulatory documents on its website within 24 hours of submitting a proposed action to the Office of Administrative Law.

9.14 AB 2631 (Cunningham) – License fees: military partners and spouses. (Assembly, pending referral) - This bill would require programs within the Department of Consumer Affairs to waive initial or original licensing fees for spouses and domestic partners of active duty military members.

9.15 AB 2748 (Fong) – Public agencies: information practices. (Assembly Privacy and Consumer Protection) – This bill would require public agencies subject to the Information Practices Act of 1977, including the Department of Consumer Affairs and its programs, to collect the least amount of personal information required to fulfill the purposes of its collection and would require those agencies to substituted the collection of nonpersonal information instead of personal information to fulfill any information gathering requirements whenever possible.

9.16 AB 2978 (Ting) – Department of Justice: arrest and conviction records: review. (Assembly, pending referral) – The Department of Justice is required beginning January 1, 2021, to review statewide criminal justice databases and identify individuals who are eligible for arrest record relief or automatic conviction record relief by having their arrest records or criminal conviction records withheld from disclosure or modified. Current law provides that individuals are eligible for this relief, among other criteria, if the arrest or conviction occurred on or after January 1, 2021. This bill would instead require the arrest or conviction to have occurred on or after January 1, 1973.

9.17 AB 3045 (Gray) – Department of Consumer Affairs: boards: veterans: military spouses: licenses. (Assembly Business & Professions) – This bill would require boards to issue a license to an applicant if the applicant, among other criteria, is an honorably discharged veteran of the US Armed Forces or is married to or in a domestic partnership or other legal union with an active duty member of the US Armed Forces.

9.18 AB 3087 (Brough) – Contractors State License Law. (This spot bill is being used to amend law pertaining to the licensing of contractors and is no longer being tracked by the Board.)

9.19 * AB 3136 (Voepel) – Worker status: independent contractors: certified shorthand reporters.** (Assembly Labor & Employment) – This bill makes revisions to the application of the Dynamex decision to certified shorthand reporters.

9.20 SB 16 (Roth) – Courts: judgeships. (dead) – This bill appropriates $36,500,000 from the General Fund to fund 25 new Superior Court judgeships and expenses associated with judicial positions associated with them.

9.21 SB 873 (Jackson) – Gender: discrimination: pricing. (Senate Judiciary and Senate Governance & Finance) – This bill would prohibit business establishments from charging different prices for products from the same manufacturer that are substantially similar if this price difference is based on the gender of the person who is the intended user of the product.

9.22 SB 875 (Grove and Jones) – Worker status: independent contractors; court interpreters. (Senate Labor, Public Employment & Retirement) – This bill makes revisions to the application of the Dynamex decision to various professions.

9.23 SB 878 (Jones) – Department of Consumer Affairs Licensing: applications: wait times. (Senate Business, Professions & Economic Development) – This bill would require each licensing program within the Department of Consumer Affairs to prominently display on its website the current average time frame for processing initial and renewal license applications for each license it offers.

9.24 SB 891 (Chang) – Department of consumer Affairs. (Senate, pending referral.) – This is a spot bill relating to the Department of Consumer Affairs.

9.25 SB 900 (Hill) – Department of Industrial Relations: worker status: employees and independent contractors. (Senate Labor, Public Employment & Retirement) – This bill makes revisions to the application of the Dynamex decision to various professions.

9.26 SB 926 (Hill) – Business: retail stores: cash payments. (Senate Business, Professions & Economic Development) – This bill would require retail stores to accept cash payment for any transaction, subject to specified exemptions. It would also require the Department of Consumer Affairs to enforce these provisions with a civil penalty ranging between $25-$500.

9.27 SB 937 (Hill) – State agencies: web accessibility. (Senate Judiciary and Senate Governmental Organization) – This bill would authorize a state agency to temporarily remove public documents from digital access if a justifiable impediment exists, the Director of Technology verifies the impediment prohibits full compliance, and the state agency complies with various requirements, including but not limited to citing the reason for the document's removal and listing options and instructions for how to access the document offline. It would also make any file or document removed after October 14, 2017, subject to these requirements.

9.28 * SB 991 (Gonzalez) – Court reporters.** (Senate Judiciary) – This bill would revise fees for transcripts prepared by official court reporters and court reporters pro tempore.

9.29 * SB 1106 (Gonzalez) – Operators of computer-aided realtime transcription systems proceedings: certification.** (Senate Judiciary and Senate Business, Professions & Economic Development) – This bill would require the Court Reporters Board (CRB) by January 1, 2022, to adopt standards for certifying operators of computer-aided realtime transcription (CART) systems. The bill also requires the CRB to track the number of CART providers who are certified. The bill authorizes the CRB to set a fee for the cost of tracking the certification and imposes reporting requirements.

9.30 * SB 1146 (Umberg) – Oral depositions: transcripts.** (Senate Rules) – This bill would place the So. Cal Stip into law. The So. Cal stip, in essence, relieves the court reporter of their duties with regard to handling of the original transcript and witness review.

9.31 * SB 1324 (Allen) – Professional licenses.** (Senate, pending referral) – This bill require the Department of consumer Affairs, among other stated entities, to place a prominently displayed military licensure icon or hyperlink on its website that is linked to information about each occupational program for licensure or certification that it administers, along with additional information relating to the professional licensure of veterans, service members, and their spouses. This bill would also require the Department of consumer Affairs to submit an annual report to the Legislature based on information collected to satisfy the requirements of this bill.

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Support Documents:

Attachment 1, Item 9.1 – AB 424 (Gabriel)
Attachment 2, Item 9.2 – AB 613 (Low)
Attachment 3, Item 9.3 – AB 1263 (Low)
Attachment 4, Item 9.5 – AB 1469 (Low)
Attachment 5, Item 9.5 – AB 1469 (Low) Support Letter
Attachment 6, Item 9.10 – AB 2028 (Aguiar-Curry)
Attachment 7, Item 9.12 – AB 2185 (Patterson)
Attachment 8, Item 9.19 – AB 3136 (Voepel)
Attachment 9, Item 9.29 – SB 1106 (Gonzalez)
Attachment 10, Item 9.30 – SB 1146 (Umberg)
Attachment 11, Item 9.31 – SB 1324 (Allen)

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Recommended Board Action: Staff recommends the Board discuss pertinent bills and vote to support, oppose, or take a neutral position. In the case of a support or oppose position, the Board should instruct staff to prepare a letter to the author stating the reason(s) for the Board's position.

AMENDED IN SENATE JUNE 14, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

Assembly Bill No. 424

Introduced by Assembly Member Gabriel

February 7, 2019

An act to amend Section 2025.340 of the Code of Civil Procedure, relating to depositions.

LEGISLATIVE COUNSEL'S DIGEST

AB 424, as amended, Gabriel. Depositions: audio or video recordings.

Existing law, the Civil Discovery Act, provides procedures for parties to obtain discovery by various methods, including by taking oral and written depositions, and authorizes parties to modify these procedures by written stipulation, unless otherwise ordered by the court. The act also provides procedures for the recording of depositions by means of audio or video technology. A party who intends to offer an audio or video recording of the deposition in evidence must accompany the offer with a stenographic transcript prepared from the recording, unless a stenographic record was previously prepared.

This bill would clarify that a stenographic transcript accompanying an audio or video recording of deposition testimony offered into evidence must be prepared by a certified shorthand reporter. It would also restate the ability of parties to modify the act's procedures for the recording of oral depositions by means of audio or video technology.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

The people of the State of California do enact as follows:

SECTION 1. Section 2025.340 of the Code of Civil Procedure is amended to read:

2025.340. If a deposition is being recorded by means of audio or video technology by, or at the direction of, any party, the following procedure shall be observed:

(a) The area used for recording the deponent's oral testimony shall be suitably large, adequately lighted, and reasonably quiet.

(b) The operator of the recording equipment shall be competent to set up, operate, and monitor the equipment in the manner prescribed in this section. Except as provided in subdivision (c), the operator may be an employee of the attorney taking the deposition unless the operator is also the deposition officer.

(c) If a video recording of deposition testimony is to be used under subdivision (d) of Section 2025.620, the operator of the recording equipment shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties, unless all parties attending the deposition agree on the record to waive these qualifications and restrictions.

(d) Services and products offered or provided by the deposition officer or the entity providing the services of the deposition officer to any party or to any party's attorney or third party who is financing all or part of the action shall be offered or provided to all parties or their attorneys attending the deposition. No service or product may be offered or

provided by the deposition officer or by the entity providing the services of the deposition officer to any party or any party's attorney or third party who is financing all or part of the action unless the service or product is offered or provided to all parties or their attorneys attending the deposition. All services and products offered or provided shall be made available at the same time to all parties or their attorneys.

(e) The deposition officer or the entity providing the services of the deposition officer shall not provide to any party or any other person or entity any service or product consisting of the deposition officer's notations or comments regarding the demeanor of any witness, attorney, or party present at the deposition. The deposition officer or the entity providing the services of the deposition officer shall not collect any personal identifying information about the witness as a service or product to be provided to any party or third party who is financing all or part of the action.

(f) Upon the request of any party or any party's attorney attending a deposition, any party or any party's attorney attending the deposition shall enter in the record of the deposition all services and products made available to that party or party's attorney or third party who is financing all or part of the action by the deposition officer or by the entity providing the services of the deposition officer. A party in the action who is not represented by an attorney shall be informed by the noticing party that the unrepresented party may request this statement.

(g) The operator shall not distort the appearance or the demeanor of participants in the deposition by the use of camera or sound recording techniques.

(h) The deposition shall begin with an oral or written statement on camera or on the audio recording that includes the operator's name and business address, the name and business address of the operator's employer, the date, time, and place of the deposition, the caption of the case, the name of the deponent, a specification of the party on whose behalf the deposition is being taken, and any stipulations by the parties.

(i) Counsel for the parties shall identify themselves on camera or on the audio recording.

(j) The oath shall be administered to the deponent on camera or on the audio recording.

(k) If the length of a deposition requires the use of more than one unit of tape or electronic storage, the end of each unit and the beginning of each succeeding unit shall be announced on camera or on the audio recording.

(l) At the conclusion of a deposition, a statement shall be made on camera or on the audio recording that the deposition is ended and shall set forth any stipulations made by counsel concerning the custody of the audio or video recording and the exhibits, or concerning other pertinent matters.

(m) A party intending to offer an audio or video recording of a deposition in evidence under Section 2025.620 shall notify the court and all parties in writing of that intent and of the parts of the deposition to be offered. That notice shall be given within sufficient time for objections to be made and ruled on by the judge to whom the case is assigned for trial or hearing, and for any editing of the recording. Objections to all or part of the deposition shall be made in writing. The court may permit further designations of testimony and objections as justice may require. With respect to those portions of an audio or video record of deposition testimony that are not designated by any party or that are ruled to be objectionable, the court may order that the party offering the recording of the deposition at the trial or hearing suppress those portions, or that an edited version of the deposition recording be prepared for use at the trial or hearing. The original audio or video record of the deposition shall be preserved unaltered. If no stenographic record of the deposition testimony was made during the deposition, the party offering an audio or video recording of that testimony under Section 2025.620 shall accompany that offer with a stenographic

transcript prepared from that recording by a person certified pursuant to Article 3 (commencing with Section 8020) of Chapter 13 of Division 3 of the Business and Professions Code.

(n) Unless the court orders otherwise, the parties may by written stipulation modify the procedures provided by this article.

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

Assembly Bill No. 613

Introduced by Assembly Member Low

February 14, 2019

An act to add Section 101.1 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 613, as introduced, Low. Professions and vocations: regulatory fees.

Exiting law establishes the Department of Consumer Affairs, which is comprised of boards that are established for the purpose of regulating various professions and vocations, and generally authorizes a board to charge fees for the reasonable regulatory cost of administering the regulatory program for the profession or vocation. Existing law establishes the Professions and Vocations Fund in the State Treasury, which consists of specified special funds and accounts, some of which are continuously appropriated.

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

The people of the State of California do enact as follows:

SECTION 1. Section 101.1 is added to the Business and Professions Code, to read:

101.1. (a) Notwithstanding any other law, no more than once every four years, any board listed in Section 101 may increase any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index, as determined pursuant to Section 2212 of the Revenue and Taxation Code, for the preceding four years in accordance with the following:

(1) The board shall provide its calculations and proposed fee, rounded to the nearest whole dollar, to the director and the director shall approve the fee increase unless any of the following apply:

(A) The board has unencumbered funds in an amount that is equal to more than the board's operating budget for the next two fiscal years.

(B) The fee would exceed the reasonable regulatory costs to the board in administering the provisions for which the fee is authorized.

(C) The director determines that the fee increase would be injurious to the public health, safety, or welfare.

(2) The adjustment of fees and publication of the adjusted fee list is not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) of the Government Code.

(b) For purposes of this section, “fee” includes any fees authorized to be imposed by a board for regulatory costs. “Fee” does not include administrative fines, civil penalties, or criminal penalties.

AMENDED IN ASSEMBLY JANUARY 6, 2020
AMENDED IN ASSEMBLY APRIL 1, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

Assembly Bill No. 1263

Introduced by Assembly Member Low

February 21, 2019

An act to add Section 1670.8.5 to the Civil Code, relating to business regulation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1263, as amended, Low. Contracts: consumer services: consumer complaints.

Existing law regulates the formation and enforcement of contracts, including what constitutes an unlawful contract. Under existing law, a contract is unlawful if it is contrary to an express provision of law, contrary to the policy of express law, though not expressly prohibited, or otherwise contrary to good morals.

Existing law regulates licensees who are subject to the jurisdiction of a state licensing entity, including the State Bar of California, the Department of Real Estate, the Department of Consumer Affairs, or any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

This bill would prohibit a contract or proposed contract involving the provision of a consumer service by a licensee regulated by a licensing board from including a provision limiting the consumer's ability to file a complaint with that board or to participate in the board's investigation into the licensee. The bill would specify that a waiver of these provisions is contrary to public policy and is void and unenforceable. The bill would provide that a violation of these provisions by a licensee constitutes unprofessional conduct subject to discipline by the licensee's regulatory board.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

The people of the State of California do enact as follows:

SECTION 1. Section 1670.8.5 is added to the Civil Code, to read:

1670.8.5. (a) A contract or proposed contract involving the provision of a consumer service by a licensee regulated by a licensing board shall not include a provision limiting the consumer's ability to file a complaint with that board or to participate in the board's investigation into the licensee.

(b) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

(c) For purposes of this section, the following terms apply:

(1) "Consumer service" means any service which is obtained for use primarily for personal, family, or household purposes.

(2) "Licensing board" means any entity contained in Section 101 of the Business and Professions Code, the State Bar of California, the Department of Real Estate, or any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(d) Violation of this section by a licensee shall constitute unprofessional conduct subject to discipline by the licensee's licensing board.

AMENDED IN ASSEMBLY SEPTEMBER 13, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

Assembly Bill No. 1469

Introduced by Assembly Member Low

February 22, 2019

An act amend Section 8050 of, and to add Section 8051 to, the Business and Professions Code, relating to court reporters, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1469, as amended, Low. Court reporters: registration: nonshorthand reporting corporation entities.

Existing law provides for the licensure and regulation of shorthand reporters by the Court Reporters Board of California, which is within the Department of Consumer Affairs. Existing law subjects a person or entity to certain penalties if the person or entity engages in specified acts relating to shorthand reporting, including any act that constitutes shorthand reporting, except if the person or entity is a licensed shorthand reporter, a shorthand reporting corporation, or one of specified other persons or entities not subject to those provisions. Existing law requires all fees and other revenues received by the board to be deposited into the Court Reporters' Fund, which is continuously appropriated to carry out the provisions for the licensure and regulation of shorthand reporters. Existing law makes a violation of these provisions a misdemeanor.

This bill, on and after January 1, 2021, would authorize an entity that is not a shorthand reporting corporation to engage in those specified acts if the entity is registered with the board as a corporate court reporter provider. The bill would require an entity seeking registration to provide the board with certain information and satisfy specified requirements, including paying an annual registration fee not to exceed $500 to the board and designating a board-certified reporter-in-charge, as specified. By requiring such an entity to pay a fee that is deposited into a continuously appropriated fund and by expanding the purposes of that fund, the bill would make an appropriation. The bill would require the board to approve an entity's registration or deny the entity's application upon making specified findings. The bill would make a registration valid for 5 years and would also provide for the suspension and revocation of a registration by the board under specified circumstances. The bill would require the board to make available on its internet website a directory of registered entities.

Because a violation of the provisions regulating short hand reporting is a crime, by expanding the provisions to include a new class of certificate holders, the bill would expand the scope of a crime and impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes. Local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 8050 of the Business and Professions Code is amended to read:
8050. (a) It is the intent of the Legislature to enhance the regulation of licensed shorthand reporters and shorthand reporting corporations pursuant to this section, by imposing specific penalties in addition to other remedies permitted by this chapter that seek to discourage practices that are inconsistent with the integrity and impartiality required of officers of the court, to promote competition based upon the quality and price of shorthand reporting services, and to ensure consistent regulation of corporations owned by certificate holders and those not owned by certificate holders.

(b) This section shall apply to an individual or entity that does any of the following:

(1) Any act that constitutes shorthand reporting that occurs wholly or partly in this state.

(2) Employs, independently contracts with, or recruits a licensed shorthand reporter to report or transcribe deposition testimony in a court proceeding or in a deposition.

(3) Contracts with a resident of this state by mail or otherwise that requires either party to perform licensed shorthand reporting wholly or partly in this state.

(4) Independently contracts with or is employed by an entity that does any of the acts described in paragraphs (1) to (3), inclusive.

(c)(1) This section does not apply to an individual, whether acting as an individual or as an officer, director, or shareholder of a shorthand reporting corporation, as defined in Section 8040, who possesses a valid license, issued pursuant to Section 8018 or a valid registration issued pursuant to Section 8051, that may be revoked or suspended by the board, or to a shorthand reporting corporation that is in compliance with Section 8044.

(2) This section does not apply to a court, a party to litigation, an attorney of a party, or a full-time employee of a party or the attorney of a party, who provides or contracts for certified shorthand reporting for purposes related to the litigation.

(d) An individual or entity described in subdivision (b) shall not do any of the following:

(1) Seek compensation for a transcript that is in violation of the minimum transcript format standards set forth in Section 2473 of Article 8 of Division 24 of Title 16 of the California Code of Regulations.

(2) Seek compensation for a certified court transcript applying fees higher than those set out in Section 69950 of the Government Code.

(3) Make a transcript available to one party in advance of other parties, as described in subdivision (d) of Section 2025.510 of the Code of Civil Procedure, or offer or provide a service to only one party as described in subdivision (b) of Section 2025.320 of the Code of Civil Procedure.

(4) Fail to promptly notify a party of a request for preparation of all or any part of a transcript, excerpts, or expedites for one party without the other parties' knowledge, as described in paragraph (5) of subdivision (b) of Section 2475 of Article 8 of Division 24 of Title 16 of the California Code of Regulations.

(e) Nothing in this section shall be construed to prohibit a licensed shorthand reporter, shorthand reporting corporation, or an individual or entity described in subdivision (b), from offering or providing long-term or multicase volume discounts or services ancillary to reporting and transcribing a deposition, arbitration, or judicial proceeding in contracts that are subject to laws related to shorthand reporting.

(f) An individual or entity that violates this section shall be subject to a civil fine not exceeding ten thousand dollars ($10,000) per violation.

(g) The Attorney General, a district attorney, a city attorney, or the board may bring a civil action for a violation of this section, including an action for injunctive relief and any other appropriate relief, and shall be entitled if they are the prevailing party, to recover reasonable attorney's fees.

SEC. 2. Section 8051 is added to the Business and Professions Code, to read:
8051. (a) On and after January 1, 2021, an entity that is not a shorthand reporting corporation may, wherever incorporated in the United States, engage in the conduct described in subdivision (b) of Section 8050 if it is approved for registration by the board after meeting all of the following requirements:

(1) The entity pays an annual registration fee, in an amount determined by the board, not to exceed five hundred dollars ($500), to the board. The fee shall not exceed the board's cost of administering this section.

(2) The entity has designated a board-certified reporter-in-charge who is a full-time employee of the registered entity, a resident of this state, and holds a currently valid California license at all times as a certified shorthand reporter where the certificate holder has no restrictions on their license and is not subject to a pending board accusation or investigation at the time of the entity's application for registration. The reporter-in-charge shall be responsible to the board for an entity's compliance with all state laws and regulations pertaining to and within the scope of the practice of certified shorthand reporting and any acts of the entity pertaining to and within the scope of the practice of a certificate holder shall be deemed acts of the reporter-in-charge. Nothing in this paragraph shall be construed as permitting the board to restrict, suspend, or revoke the license of a reporter-in-charge for conduct committed or directed by another person unless the reporter-in-charge had knowledge of or knowingly participated in such conduct.

(3) The entity agrees in the registration to abide by the laws, regulations, and standards of practice applicable to businesses that render shorthand reporting services pursuant to Section 13401 of the Corporations Code, except for the requirements of Sections 8040 and 8044.

(b) An entity shall provide the board with all of the following information for consideration of initial registration pursuant to subdivision (a):

(1) The name and certificate number of the entity's certified reporter-in-charge.

(2) Whether the entity, a controlling officer or parent corporation of the entity, the entity's reporter-in-charge, or any of its officers, employees, or independent contractors, had been subject to any enforcement action, relating to the provision of court reporting services, by a state or federal agency within five years before submitting the initial registration. If so, the entity shall provide the board a copy of the operative complaint with the initial registration.

(3) Whether the entity, within five years before submitting the registration, has settled, or been adjudged to have liability for, a civil complaint alleging the entity or the entity's reporter-in-charge engaged in misconduct relating to the provision of court reporting services for more than fifty thousand dollars ($50,000).

(4) Any additional documentation the board reasonably deems necessary for consideration in the initial registration process.

(c) Within 90 days of receiving a completed application for initial registration, including any disclosures made pursuant to subdivision (b), the board shall either approve the entity's registration or deny the application upon a finding that a substantial risk would be posed to the public, which shall be subsequently provided to the applicant in writing with specificity as to the basis of that finding.

(d) A registration issued by the board pursuant to this section shall be valid for five years, at which time it may be approved for renewal by the board upon meeting the requirements of subdivision (a).

(e) A registered entity shall notify the board in writing within 30 days of the date when a reporter-in-charge ceases to act as the reporter-in-charge and propose another certificate holder to take over as the reporter-in-charge. The proposed replacement reporter-in-charge shall be subject to approval by the board. If disapproved, the entity shall propose another replacement within 15 days of the date of disapproval and shall continue to name proposed replacements until a reporter-in-charge is approved by the board.

(f) The board shall revoke the registration of an entity if the board determines the entity:

(1) Engages, in whole or in part, through officers, employees, or independent contractors that are not certificate holders, in acts that are within the scope of practice of a certificate holder, unless otherwise permitted by law.

(2) Directs or authorizes the reporter-in-charge to violate state laws or regulations pertaining to shorthand reporting or offering financial incentives to the reporter-in-charge for engaging in acts that violate state law.

(g) In addition to revoking an entity's registration as required by subdivision (f), a registration issued under this section may be revoked, suspended, denied, restricted, or subjected to other disciplinary action as the board deems fit for violations of the laws or regulations pertaining to shorthand reporting by the entity's officers, employees, or independent contractors, including the issuance of citations and fines.

(h) The board shall consider suspending the registration of an entity for a minimum of one year if the license of its reporter-in-charge is suspended or revoked for violating this section more than twice in a consecutive five-year period.

(i) An entity shall have the right to reasonable notice and opportunity to comment to and before the board regarding any determination to deny or revoke registration before that determination becomes final. An entity may seek review of a board decision to deny or revoke registration under this section either in an administrative hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or through an action brought pursuant to Section 1085 of the Code of Civil Procedure.

(j) A certificate holder shall not engage in the practice of shorthand reporting on behalf of an entity that the reporter knows or should know is not registered with the board and shall verify whether a person or entity is registered with the board before engaging in the practice of shorthand reporting on behalf of that person or entity.

(k) The board shall create and make available on its internet website a directory of registered entities. The board shall not take action against a certificate holder solely for a violation of subdivision (j) if the certificate holder reasonably relied on the board's directory stating that the entity was registered at the time.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

COURT REPORTERS BOARD
OF CALIFORNIA
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Attachment 5
Agenda Item 9.5

January 7, 2020

The Honorable Evan Low, Chairman
Members, Assembly Business and Professions Committee
Legislative Office Building, Room 379
Sacramento, CA 95814

RE: AB 1469 (Low) Court Reporter Providers – Support

Dear Chairperson Low and Committee Members:

The Court Reporters Board of California (Board) is supportive of AB 1469 to ensure the consumers of court reporting services in California are protected whether they secure those services through a licensee-owned firm or through a non-licensee-owned firm. There is room in the California court reporting market for all competition who are willing to follow the law as properly set out by the California Legislature.

Firm registration is an uncomplicated, smart solution for all businesses who are providing court reporting services, as well as a vetted standard by many other large states. As you are aware, court reporting is not a "true" free market. In a deposition setting, the noticing attorney has the ability to choose the court reporter, and opposing counsel are forced to get transcripts from that reporter. Because of this dynamic, the Code of Civil Procedure sets out laws to ensure goods and services are handled fairly, available to all sides at the same time. AB 1469 expressly states, without doubt or confusion, that the Board regulates all providers of court reporting services and all will be held to the same laws and regulations as intended by the Legislature.

To ensure the integrity, neutrality, and fairness of the judicial process, all litigants must be assured that transcripts provided by court reporting services are honestly and accurately prepared and distributed. This is a hallmark of this industry that must not be compromised. Without holding all entities to the same laws and regulations, it creates inequities within the provision of court reporting services and can undermine the integrity of the American judicial system.

We appreciate your support of this important bill – AB 1459 (Low).

Sincerely,

DAVINA HURT
Chairperson

CC: Bill Lewis, Minority Caucus Consultant
Department of Consumer Affairs

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

Assembly Bill No. 2028

Introduced by Assembly Member Aguiar-Curry

January 30, 2020

An act to amend Sections 11125 and 11125.7 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 2028, as introduced, Aguiar-Curry. State agencies: meetings.

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require these writings and materials to be made available on the internet at least 10 days in advance of the meeting. The bill would provide that a state body may only distribute or discuss these writings or materials at a meeting of the state body if it has complied with these requirements.

Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item. Existing law exempts from this requirement, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded an opportunity to address the committee on the item.

This bill would delete this exception, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address it at a public meeting of a committee of the state body.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) The Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) (hereafter “Bagley-Keene”) was intended to implement Section 3 of Article I of the California Constitution, which states in part, “The people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.”

(b) Bagley-Keene was written to protect public meetings and public notice and to ensure the transparency of actions taken by state agencies, boards, and commissions.

(c) Californians have the right to participate in state body deliberations. This includes the public's ability to comment on all agenda items discussed at a meeting of the state body, regardless of whether an item has been discussed previously in a committee of the state body.

(d) The purpose of public notice is so that state bodies give the public adequate time for review of the substance of a state body meeting and for comment.

(e) Public notice must also include any writings or materials provided by a state body's staff or by a member of the state body to other members of the state body for a noticed meeting of the body held at least 10 days prior to the meeting.

(f) Bagley-Keene affirms these rights by stating in Section 11120 of the Government Code, "The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."

SEC. 2. Section 11125 of the Government Code is amended to read:

11125. (a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the internet website where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c)(1) Except as otherwise provided in paragraph (4), any notice provided pursuant to subdivision (a) shall include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting.

(2) The writings or materials described in paragraph (1) shall be made available on the internet at least 10 days in advance of the meeting, and to any person who requests that notice in writing.

(3) A state body may distribute or discuss writings or materials described in paragraph (1) at a meeting of the state body only if it has complied with this subdivision.

(4) This subdivision does not apply to writings or materials prepared for a matter to be discussed in a closed session of the state body.

(d) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the

advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(e) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(f) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(g) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

SEC. 3. Section 11125.7 of the Government Code is amended to read:

11125.7. (a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c)(1) Notwithstanding subdivision (b), when a state body limits time for public comment the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the state body.

(2) Paragraph (1) shall not apply if the state body utilizes simultaneous translation equipment in a manner that allows the state body to hear the translated public testimony simultaneously.

(d) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(e) This section is not applicable to any of the following:

(1) Closed sessions held pursuant to Section 11126.

(2) Decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(3) Hearings conducted by the California Victim Compensation Board pursuant to Sections 13963 and 13963.1.

(4) Agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section

1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

AMENDED IN ASSEMBLY MARCH 16, 2020

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

Assembly Bill No. 2185

Introduced by Assembly Members Patterson and Gallagher

February 11, 2020

An act to add Section 117 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2185, as amended, Patterson. Professions and vocations: applicants licensed in other states: reciprocity.

Existing law establishes the Department of Consumer Affairs, which is composed of boards that license and regulate various professions and vocations to ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated. Existing law makes a violation of some of those licensure provisions a crime.

Existing law authorizes certain boards, for purposes of reciprocity, to waive examination or other requirements and issue a license to an applicant who holds a valid license in another state and meets specified other requirements, including, among others, a license to practice veterinary medicine.

This bill, with exceptions, would require each board within the department to issue a license to an applicant in the discipline for which the applicant applies if the person meets certain requirements, including, but not limited to, that the person is married to, or is in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, who is assigned to a duty station in this state, the person currently holds a license in good standing in another state in the discipline and practice level and with the same scope of practice for which the person applies, the person has held the license and has practiced in the licensed field in the other state for at least 3 of the last 5 years, and the person pays all applicable fees and complies with any applicable surety bond and insurance requirements. By expanding the applicants who are authorized to be licensed and who may be prosecuted for a violation of those licensure provisions constituting a crime, the bill would impose a state-mandated program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

The people of the State of California do enact as follows:

SECTION 1. Section 117 is added to the Business and Professions Code, to read:

117. (a) Notwithstanding any law, each board within the department shall issue a license in the discipline for which the applicant applies if the applicant meets all of the following requirements:

(1) The person is married to, or is in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) The person currently holds a license in good standing in another state in the discipline and practice level and with the same scope of practice for which the person is applying.

(3) The person has held the license and has practiced in the licensed field in the other state for at least three of the last five years.

(4) The person has not had any disciplinary actions imposed against their license and has not had a license in the discipline for which the person is applying revoked or suspended in any other state.

(5) The person submits verification that they have satisfied all education, work, examination, and other requirements for licensure in the other state in which the person holds a license in good standing and those requirements are similar to the standards required for licensure in this state.

(6) The person would not be denied licensure under any other provision of this code, including, but not limited to, disqualification for criminal history relating to the license sought.

(7) The person pays all applicable fees for licensure and complies with any applicable surety bond and insurance requirements.

(8) If required by the board, the person has passed a California jurisprudence and ethics examination or other examination otherwise required for applicants by the board on the statutes and regulations relating to the license.

(b) This section shall not supersede any other reciprocity agreement, compact membership, or statute that provides reciprocity for a person who holds a valid license in another state.

(c) This section shall not apply to the Board of Registered Nursing, any board that has a mandatory license portability requirement in statute, and any board that currently authorizes license portability as a component of qualifying for licensure in this state.

(d) Notwithstanding any law, the fees, fines, penalties, or other money received by a board pursuant to this section shall not be continuously appropriated and shall be available only upon appropriation by the legislature.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

Assembly Bill No. 3136

Introduced by Assembly Member Voepel

February 21, 2020

An act to amend Section 2750.3 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 3136, as introduced, Voepel. Worker status: independent contractors: certified shorthand reporters.

Existing law, as established in the case of Dynamex Operations W. v. Superior Court (2018) 4 Cal.5th 903 (Dynamex), creates a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Existing law requires a 3-part test, commonly known as the “ABC” test, to determine if workers are employees or independent contractors for those purposes.

Existing law establishes that, for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity’s business, and the person is customarily engaged in an independently established trade, occupation, or business. Existing law charges the Labor Commissioner with the enforcement of labor laws, including worker classification.

Existing law exempts specified occupations and business relationships from the application of Dynamex and the provisions described above, including various professional services provided by graphic designers, grant writers, and fine artists, among others.

This bill would also exempt certified shorthand reporters from the application of Dynamex and the above provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

The people of the State of California do enact as follows:

SECTION 1. Section 2750.3 of the Labor Code, as amended by Section 1 of Chapter 415 of the Statutes of 2019, is amended to read:

2750.3. (a)(1) For purposes of this code and the Unemployment Insurance Code, and for the purposes of wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that all of the following conditions are satisfied:

(A) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(B) The person performs work that is outside the usual course of the hiring entity's business.

(C) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

(2) Notwithstanding paragraph (1), any exceptions to the terms "employee," "employer," "employ," or "independent contractor," and any extensions of employer status or liability, that are expressly made by a provision of this code, the Unemployment Insurance Code, or in an applicable order of the Industrial Welfare Commission, including, but not limited to, the definition of "employee" in subdivision 2(E) of Wage Order No. 2, shall remain in effect for the purposes set forth therein.

(3) If a court of law rules that the three-part test in paragraph (1) cannot be applied to a particular context based on grounds other than an express exception to employment status as provided under paragraph (2), then the determination of employee or independent contractor status in that context shall instead be governed by the California Supreme Court's decision in S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341 (Borello).

(b) Subdivision (a) and the holding in Dynamex Operations W. Inc. v. Superior Court (2018) 4 Cal.5th 903 (Dynamex) do not apply to the following occupations as defined in the paragraphs below, and instead, the determination of employee or independent contractor status for individuals in those occupations shall be governed by Borello.

(1) A person or organization who is licensed by the Department of Insurance pursuant to Chapter 5 (commencing with Section 1621), Chapter 6 (commencing with Section 1760), or Chapter 8 (commencing with Section 1831) of Part 2 of Division 1 of the Insurance Code.

(2) A physician and surgeon, dentist, podiatrist, psychologist, or veterinarian licensed by the State of California pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, performing professional or medical services provided to or by a health care entity, including an entity organized as a sole proprietorship, partnership, or professional corporation as defined in Section 13401 of the Corporations Code. Nothing in this subdivision shall apply to the employment settings currently or potentially governed by collective bargaining agreements for the licensees identified in this paragraph.

(3) An individual who holds an active license from the State of California and is practicing one of the following recognized professions: lawyer, architect, engineer, private investigator, or accountant.

(4) A securities broker-dealer or investment adviser or their agents and representatives that are either of the following:

(A) Registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority.

(B) Licensed by the State of California under Chapter 2 (commencing with Section 25210) or Chapter 3 (commencing with Section 25230) of Division 1 of Part 3 of Title 4 of the Corporations Code.

(5) A direct sales salesperson as described in Section 650 of the Unemployment Insurance Code, so long as the conditions for exclusion from employment under that section are met.

(6) A commercial fisherman working on an American vessel as defined in subparagraph (A) below.

(A) For the purposes of this paragraph:

(i) “American vessel” has the same meaning as defined in Section 125.5 of the Unemployment Insurance Code.

(ii) “Commercial fisherman” means a person who has a valid, unrevoked commercial fishing license issued pursuant to Article 3 (commencing with Section 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code.

(iii) “Working on an American vessel” means the taking or the attempt to take fish, shellfish, or other fishery resources of the state by any means, and includes each individual aboard an American vessel operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, including maintaining the vessel or equipment used aboard the vessel. However, “working on an American vessel” does not apply to anyone aboard a licensed commercial fishing vessel as a visitor or guest who does not directly or indirectly participate in the taking.

(B) For the purposes of this paragraph, a commercial fisherman working on an American vessel is eligible for unemployment insurance benefits if they meet the definition of “employment” in Section 609 of the Unemployment Insurance Code and are otherwise eligible for those benefits pursuant to the provisions of the Unemployment Insurance Code.

(C)(i) On or before March 1, 2021, and each March 1 thereafter, the Employment Development Department shall issue an annual report to the Legislature on the use of unemployment insurance in the commercial fishing industry. This report shall include, but not be limited to, all of the following:

(I) Reporting the number of commercial fishermen who apply for unemployment insurance benefits.

(II) The number of commercial fishermen who have their claims disputed.

(III) The number of commercial fishermen who have their claims denied.

(IV) The number of commercial fishermen who receive unemployment insurance benefits.

(ii) The report required by this subparagraph shall be submitted in compliance with Section 9795 of the Government Code.

(D) This paragraph shall become inoperative on January 1, 2023, unless extended by the Legislature.

(7) A newspaper distributor working under contract with a newspaper publisher, as defined in subparagraph (A), and a newspaper carrier working under contract either with a newspaper publisher or a newspaper distributor.

(A) For purposes of this paragraph:

(i) “Newspaper” means a newspaper of general circulation, as defined in Section 6000 of the Government Code, and any other publication circulated to the community in general as an extension of or substitute for that newspaper’s own publication, whether that publication be designated a “shoppers’ guide,” as a zoned edition, or otherwise.

(ii) “Publisher” means the natural or corporate person that manages the newspaper’s business operations, including circulation.

(iii) “Newspaper distributor” means a person or entity that contracts with a publisher to distribute newspapers to the community.

(iv) “Carrier” means a person who effects physical delivery of the newspaper to the customer or reader.

(B) This paragraph shall become inoperative on January 1, 2021, unless extended by the Legislature.

(8) A certified shorthand reporter, licensed pursuant to Chapter 13 (commencing with Section 8000) of Division 3 of the Business and Professions Code.

(c)(1) Subdivision (a) and the holding in Dynamex do not apply to a contract for "professional services" as defined below, and instead the determination of whether the individual is an employee or independent contractor shall be governed by Borello if the hiring entity demonstrates that all of the following factors are satisfied:

(A) The individual maintains a business location, which may include the individual's residence, that is separate from the hiring entity. Nothing in this subdivision prohibits an individual from choosing to perform services at the location of the hiring entity.

(B) If work is performed more than six months after the effective date of this section, the individual has a business license, in addition to any required professional licenses or permits for the individual to practice in their profession.

(C) The individual has the ability to set or negotiate their own rates for the services performed.

(D) Outside of project completion dates and reasonable business hours, the individual has the ability to set the individual's own hours.

(E) The individual is customarily engaged in the same type of work performed under contract with another hiring entity or holds themselves out to other potential customers as available to perform the same type of work.

(F) The individual customarily and regularly exercises discretion and independent judgment in the performance of the services.

(2) For purposes of this subdivision:

(A) An "individual" includes an individual providing services through a sole proprietorship or other business entity.

(B) "Professional services" means services that meet any of the following:

(i) Marketing, provided that the contracted work is original and creative in character and the result of which depends primarily on the invention, imagination, or talent of the employee or work that is an essential part of or necessarily incident to any of the contracted work.

(ii) Administrator of human resources, provided that the contracted work is predominantly intellectual and varied in character and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.

(iii) Travel agent services provided by either of the following:

(I) A person regulated by the Attorney General under Article 2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code.

(II) An individual who is a seller of travel within the meaning of subdivision (a) of Section 17550.1 of the Business and Professions Code and who is exempt from the registration under subdivision (g) of Section 17550.20 of the Business and Professions Code.

(iv) Graphic design.

(v) Grant writer.

(vi) Fine artist.

(vii) Services provided by an enrolled agent who is licensed by the United States Department of the Treasury to practice before the Internal Revenue Service pursuant to Part 10 of Subtitle A of Title 31 of the Code of Federal Regulations.

(viii) Payment processing agent through an independent sales organization.

(ix)(I) Services provided by a still photographer or photojournalist who does not license content submissions to the putative employer more than 35 times per year. This clause is not applicable to an individual who works on motion pictures, which includes, but is not limited to, projects produced for theatrical, television, internet streaming for any device, commercial productions, broadcast news, music videos, and

live shows, whether distributed live or recorded for later broadcast, regardless of the distribution platform.

(II) For purposes of this clause, a “submission” is one or more items or forms of content produced by a still photographer or photojournalist that meets all of the following:

(ia) Pertains to a specific event or specific subject.

(ib) Is provided for in a contract that defines the scope of the work.

(ic) Is accepted by and licensed to the publication or stock photography company and published or posted.

(III) Nothing in this section shall prevent a photographer or artist from displaying their work product for sale.

(x)(I) Services provided by a freelance writer, editor, or newspaper cartoonist who does not provide content submissions to the putative employer more than 35 times per year. Items of content produced on a recurring basis related to a general topic shall be considered separate submissions for purposes of calculating the 35 times per year.

(II) For purposes of this clause, a “submission” is one or more items or forms of content by a freelance journalist that meets all of the following:

(ia) Pertains to a specific event or topic.

(ib) Is provided for in a contract that defines the scope of the work.

(ic) Is accepted by the publication or company and published or posted for sale.

(xi) Services provided by a licensed esthetician, licensed electrologist, licensed manicurist, licensed barber, or licensed cosmetologist provided that the individual:

(I) Sets their own rates, processes their own payments, and is paid directly by clients.

(II) Sets their own hours of work and has sole discretion to decide the number of clients and which clients for whom they will provide services.

(III) Has their own book of business and schedules their own appointments.

(IV) Maintains their own business license for the services offered to clients.

(V) If the individual is performing services at the location of the hiring entity, then the individual issues a Form 1099 to the salon or business owner from which they rent their business space.

(VI) This subdivision shall become inoperative, with respect to licensed manicurists, on January 1, 2022.

(d) Subdivision (a) and the holding in Dynamex do not apply to the following, which are subject to the Business and Professions Code:

(1) A real estate licensee licensed by the State of California pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code, for whom the determination of employee or independent contractor status shall be governed by subdivision (b) of Section 10032 of the Business and Professions Code. If that section is not applicable, then this determination shall be governed as follows:

(A) For purposes of unemployment insurance by Section 650 of the Unemployment Insurance Code.

(B) For purposes of workers’ compensation by Section 3200 et seq.

(C) For all other purposes in the Labor Code by Borello. The statutorily imposed duties of a responsible broker under Section 10015.1 of the Business and Professions Code are not factors to be considered under the Borello test.

(2) A repossession agency licensed pursuant to Section 7500.2 of the Business and Professions Code, for whom the determination of employee or independent contractor status shall be governed by Section 7500.2 of the Business and Professions Code, if the repossession agency is free from the control and direction of the hiring person or entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(e) Subdivision (a) and the holding in Dynamex do not apply to a bona fide business-to-business contracting relationship, as defined below, under the following conditions:

(1) If a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation ("business service provider") contracts to provide services to another such business ("contracting business"), the determination of employee or independent contractor status of the business services provider shall be governed by Borello, if the contracting business demonstrates that all of the following criteria are satisfied:

(A) The business service provider is free from the control and direction of the contracting business entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(B) The business service provider is providing services directly to the contracting business rather than to customers of the contracting business.

(C) The contract with the business service provider is in writing.

(D) If the work is performed in a jurisdiction that requires the business service provider to have a business license or business tax registration, the business service provider has the required business license or business tax registration.

(E) The business service provider maintains a business location that is separate from the business or work location of the contracting business.

(F) The business service provider is customarily engaged in an independently established business of the same nature as that involved in the work performed.

(G) The business service provider actually contracts with other businesses to provide the same or similar services and maintains a clientele without restrictions from the hiring entity.

(H) The business service provider advertises and holds itself out to the public as available to provide the same or similar services.

(I) The business service provider provides its own tools, vehicles, and equipment to perform the services.

(J) The business service provider can negotiate its own rates.

(K) Consistent with the nature of the work, the business service provider can set its own hours and location of work.

(L) The business service provider is not performing the type of work for which a license from the Contractors' State License Board is required, pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

(2) This subdivision does not apply to an individual worker, as opposed to a business entity, who performs labor or services for a contracting business.

(3) The determination of whether an individual working for a business service provider is an employee or independent contractor of the business service provider is governed by paragraph (1) of subdivision (a).

(4) This subdivision does not alter or supersede any existing rights under Section 2810.3.

(f) Subdivision (a) and the holding in Dynamex do not apply to the relationship between a contractor and an individual performing work pursuant to a subcontract in the construction industry, and instead the determination of whether the individual is an

employee of the contractor shall be governed by Section 2750.5 and by Borello, if the contractor demonstrates that all the following criteria are satisfied:

(1) The subcontract is in writing.

(2) The subcontractor is licensed by the Contractors' State License Board and the work is within the scope of that license.

(3) If the subcontractor is domiciled in a jurisdiction that requires the subcontractor to have a business license or business tax registration, the subcontractor has the required business license or business tax registration.

(4) The subcontractor maintains a business location that is separate from the business or work location of the contractor.

(5) The subcontractor has the authority to hire and to fire other persons to provide or to assist in providing the services.

(6) The subcontractor assumes financial responsibility for errors or omissions in labor or services as evidenced by insurance, legally authorized indemnity obligations, performance bonds, or warranties relating to the labor or services being provided.

(7) The subcontractor is customarily engaged in an independently established business of the same nature as that involved in the work performed.

(8)(A) Paragraph (2) shall not apply to a subcontractor providing construction trucking services for which a contractor's license is not required by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, provided that all of the following criteria are satisfied:

(i) The subcontractor is a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation.

(ii) For work performed after January 1, 2020, the subcontractor is registered with the Department of Industrial Relations as a public works contractor pursuant to Section 1725.5, regardless of whether the subcontract involves public work.

(iii) The subcontractor utilizes its own employees to perform the construction trucking services, unless the subcontractor is a sole proprietor who operates their own truck to perform the entire subcontract and holds a valid motor carrier permit issued by the Department of Motor Vehicles.

(iv) The subcontractor negotiates and contracts with, and is compensated directly by, the licensed contractor.

(B) For work performed after January 1, 2020, any business entity that provides construction trucking services to a licensed contractor utilizing more than one truck shall be deemed the employer for all drivers of those trucks.

(C) For purposes of this paragraph, "construction trucking services" mean hauling and trucking services provided in the construction industry pursuant to a contract with a licensed contractor utilizing vehicles that require a commercial driver's license to operate or have a gross vehicle weight rating of 26,001 or more pounds.

(D) This paragraph shall only apply to work performed before January 1, 2022.

(E) Nothing in this paragraph prohibits an individual who owns their truck from working as an employee of a trucking company and utilizing that truck in the scope of that employment. An individual employee providing their own truck for use by an employer trucking company shall be reimbursed by the trucking company for the reasonable expense incurred for the use of the employee-owned truck.

(g) Subdivision (a) and the holding in Dynamex do not apply to the relationship between a referral agency and a service provider, as defined below, under the following conditions:

(1) If a business entity formed as a sole proprietor, partnership, limited liability company, limited liability partnership, or corporation ("service provider") provides services to clients through a referral agency, the determination of whether the service provider is

an employee of the referral agency shall be governed by Borello, if the referral agency demonstrates that all of the following criteria are satisfied:

(A) The service provider is free from the control and direction of the referral agency in connection with the performance of the work for the client, both as a matter of contract and in fact.

(B) If the work for the client is performed in a jurisdiction that requires the service provider to have a business license or business tax registration, the service provider has the required business license or business tax registration.

(C) If the work for the client requires the service provider to hold a state contractor's license pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, the service provider has the required contractor's license.

(D) The service provider delivers services to the client under the service provider's name, rather than under the name of the referral agency.

(E) The service provider provides its own tools and supplies to perform the services.

(F) The service provider is customarily engaged in an independently established business of the same nature as that involved in the work performed for the client.

(G) The service provider maintains a clientele without any restrictions from the referral agency and the service provider is free to seek work elsewhere, including through a competing agency.

(H) The service provider sets its own hours and terms of work and is free to accept or reject clients and contracts.

(I) The service provider sets its own rates for services performed, without deduction by the referral agency.

(J) The service provider is not penalized in any form for rejecting clients or contracts. This subparagraph does not apply if the service provider accepts a client or contract and then fails to fulfill any of its contractual obligations.

(2) For purposes of this subdivision, the following definitions apply:

(A) "Animal services" means services related to daytime and nighttime pet care including pet boarding under Section 122380 of the Health and Safety Code.

(B) "Client" means a person or business that engages a service contractor through a referral agency.

(C) "Referral agency" is a business that connects clients with service providers that provide graphic design, photography, tutoring, event planning, minor home repair, moving, home cleaning, errands, furniture assembly, animal services, dog walking, dog grooming, web design, picture hanging, pool cleaning, or yard cleanup.

(D) "Referral agency contract" is the agency's contract with clients and service contractors governing the use of its intermediary services described in subparagraph (C).

(E) "Service provider" means a person or business who agrees to the referral agency's contract and uses the referral agency to connect with clients.

(F) "Tutor" means a person who develops and teaches their own curriculum. A "tutor" does not include a person who teaches a curriculum created by a public school or who contracts with a public school through a referral company for purposes of teaching students of a public school.

(3) This subdivision does not apply to an individual worker, as opposed to a business entity, who performs services for a client through a referral agency. The determination of whether such an individual is an employee of a referral agency is governed by subdivision (a).

(h) Subdivision (a) and the holding in Dynamex do not apply to the relationship between a motor club holding a certificate of authority issued pursuant to Chapter 2 (commencing with Section 12160) of Part 5 of Division 2 of the Insurance Code and an individual performing services pursuant to a contract between the motor club and a third party to provide motor club services utilizing the employees and vehicles of the third party and, instead, the determination of whether such an individual is an employee of the motor club shall be governed by Borello, if the motor club demonstrates that the third party is a separate and independent business from the motor club.

(i)(1) Subdivision (a) does not constitute a change in, but is declaratory of, existing law with regard to wage orders of the Industrial Welfare Commission and violations of this code relating to wage orders.

(2) Insofar as the application of subdivisions (b), (c), (d), (e), (f), (g), and (h) would relieve an employer from liability, those subdivisions shall apply retroactively to existing claims and actions to the maximum extent permitted by law.

(3) Except as provided in paragraphs (1) and (2), this section shall apply to work performed on or after January 1, 2020.

(j) In addition to any other remedies available, an action for injunctive relief to prevent the continued misclassification of employees as independent contractors may be prosecuted against the putative employer in a court of competent jurisdiction by the Attorney General or by a city attorney of a city having a population in excess of 750,000, or by a city attorney in a city and county or, with the consent of the district attorney, by a city prosecutor in a city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of a board, officer, person, corporation, or association.

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

Senate Bill No. 991

Introduced by Senator Lena Gonzalez

February 12, 2020

An act to amend Section 69951 of, to add and repeal Section 69950.5 to, and to repeal and add Section 69950 of, the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

SB 991, as introduced, Lena Gonzalez. Court reporters.

(1) Existing law requires a fee for the transcription for an original ribbon or printed copy of a court transcript to be $0.85 for each 100 words, and for each copy purchased at the same time by the court, party, or other person purchasing the original to be $0.15 for each 100 words. Existing law also requires a fee for the first copy to any court, party, or other person who does not simultaneously purchase the original to be $0.20 for each 100 words, and for each additional copy, purchased at the same time, to be $0.15 for each 100 words.

This bill would increase those fees commencing on July 1, 2021, as specified, including an increase to $1.13 for each 100 words of transcription for original ribbon or printed copy and $0.20 for each copy purchased at the same time by the court, party, or other person purchasing the original. The bill would specifically prohibit a trial court from unilaterally changing its practice and policy as to the number of words or folios on a typical transcript page. The bill would require the Judicial Council, on or before January 1, 2023, to report to the Legislature recommendations to increase uniformity in transcription rate expenditures in California.

(2) Existing law authorizes a court reporter to charge an additional 50% for special daily service for transcription in civil cases.

This bill would delete the reference to civil cases, resulting in an authorization for the reporter to charge an additional 50% for special daily service for transcription in all cases.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Official court reporters and court reporters pro tempore employed by the courts are currently paid under a dual compensation structure in which the base salary of the court reporter is supplemented by income from preparing required transcripts and providing other required transcription services.

(b) The dual compensation structure protects the state from bearing the full cost of transcript preparation and other transcription services and avoids the resulting consequences of overtime liability related to those services.

(c) The fees for original transcripts prepared by official court reporters and court reporters pro tempore have not been adjusted in 30 years, and fees for copies purchased at the same time as the original transcript have only increased once in 105 years.

(d) In order to ensure full and fair compensation of official court reporters and court reporters pro tempore employed by the court, and in order to attract and retain official court reporters and court reporters pro tempore employed by the courts that have sufficient skills and competence to serve the needs of the justice system, it is imperative that the system of dual compensation provide sufficient payment for transcription services.
(e) Therefore, it is necessary to revise the fees for transcripts prepared by official court reporters and court reporters pro tempore.

SEC. 2. Section 69950 of the Government Code is repealed.

SEC. 3. Section 69950 is added to the Government Code, to read:
69950. (a) Until July 1, 2021, the following fees shall apply:
(1) The fee for transcription for original ribbon or printed copy is eighty-five cents ($0.85) for each 100 words, and for each copy purchased at the same time by the court, party, or other person purchasing the original, fifteen cents ($0.15) for each 100 words.
(2) The fee for a first copy to any court, party, or other person who does not simultaneously purchase the original shall be twenty cents ($0.20) for each 100 words, and for each additional copy, purchased at the same time, fifteen cents ($0.15) for each 100 words.
(b) On and after July 1, 2021, the following fees shall apply:
(1) The fee for transcription for original ribbon or printed copy is one dollar and thirteen cents ($1.13) for each 100 words, and for each copy purchased at the same time by the court, party, or other person purchasing the original, twenty cents ($0.20) for each 100 words.
(2) The fee for a first copy to any court, party, or other person who does not simultaneously purchase the original shall be twenty-six cents ($0.26) for each 100 words, and for each additional copy, purchased at the same time, twenty cents ($0.20) for each 100 words.
(c) A trial court practice and policy as to the number of words or folios on a typical transcript page shall not be unilaterally changed by a trial court.

SEC. 4. Section 69950.5 is added to the Government Code, to read:
69950.5. (a) On or before January 1, 2023, the Judicial Council shall report to the Legislature recommendations to increase uniformity in transcription rate expenditures in California. The intent of the report shall be to not reduce the rate of pay or overall compensation to reporters or jeopardize collective bargaining agreements. The Judicial Council shall work in collaboration with key stakeholder groups, including the California Court Reporters Association, exclusively recognized employee organizations representing court reporters, and the Court Reporters Board of California.
(b) The report to be submitted pursuant to this section shall be submitted in compliance with Section 9795.
(c) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 5. Section 69951 of the Government Code is amended to read:
69951. For transcription, the reporter may charge an additional 50 percent for special daily copy service.

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

Senate Bill No. 1106

Introduced by Senator Lena Gonzalez

February 19, 2020

An act to add Article 7 (commencing with Section 8060) to Chapter 13 of Division 3 of the Business and Professions Code, and to amend Section 54.8 of the Civil Code, relating to operators of transcription systems.

LEGISLATIVE COUNSEL'S DIGEST

SB 1106, as introduced, Lena Gonzalez. Operators of computer-aided realtime transcription systems proceedings: certification.

Existing law requires that a participant in any civil or criminal proceeding, court-ordered or court-provided alternative dispute resolution, or administrative hearing of a public agency, who is hearing impaired be provided with a functioning assistive listening system or a computer-aided transcription system, upon their request. Existing law requires, if a computer-aided transcription system is requested, sufficient display terminals be provided to allow the hearing impaired individual to read the real-time transcript of the proceeding without difficulty. Existing law requires the Judicial Council to perform various tasks related to assistive listening systems and computer-aided transcription systems, including the development and maintenance of a system to record utilization by the courts of these systems.

This bill would require an individual requiring the services of an operator of a computer-aided realtime transcription system to give advance notice of this need, as specified, and would require the operator to provide the speech-to-text equipment to be used, unless otherwise provided by the court. The bill would require a sign to be posted in a prominent place indicating the availability, and how to request, the services of an operator. The bill would also require the Judicial Council to develop and approve official forms for notice of the availability of the services of an operator and to develop and maintain a system to record utilization by the courts of the services of certified operators of computer-aided realtime transcription systems, the services of sign language interpreters, and the services of otherwise uncertified operators, interpreters, or captioners.

Existing law authorizes a court reporter to be present in the jury deliberating room during jury deliberation if the services of the court reporter for the purpose of operating a computer-aided realtime transcription system are required for a juror who is hearing impaired.

This bill would instead authorize an operator of a computer-aided realtime transcription system to be present for that purpose.

Existing law requires the Court Reporters Board of California to license and regulate the practice of shorthand reporting, defined to generally mean, among other things, the making of a verbatim record of any oral court proceeding.

This bill, on or before January 1, 2022, would require the board to adopt standards for certifying operators for computer-aided realtime transcription (CART) systems and would authorize the board to satisfy this requirement by approving a state or national association

to certify operators of computer-aided realtime transcription systems. The bill would authorize the board to collect a certification fee to cover the board's costs of administering those provisions. The bill, on or before January 1, 2026, would also require the board to report to the Legislature the number of operators of computer-aided realtime transcription systems that, between January 1, 2022, and July 1, 2025, have successfully been certified pursuant to the standards adopted by the board.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

The people of the State of California do enact as follows:

SECTION 1. Article 7 (commencing with Section 8060) is added to Chapter 13 of Division 3 of the Business and Professions Code, to read:

Article 7. Operators of Computer-Aided Realtime Transcription Systems

8060. On or before January 1, 2022, the board, subject to Section 8005.1, shall adopt standards for certifying operators of computer-aided realtime transcription (CART) systems under Section 54.8 of the Civil Code. The board may satisfy this requirement by approving a state or national association to certify operators of computer-aided realtime transcription systems under Section 54.8 of the Civil Code.

8061. (a) In addition to any other applicable authority, the board's powers and duties in Section 8008 also apply to any individual certified pursuant to Section 8060. The board may collect a certification fee in an amount that is reasonably necessary to carry out its regulatory duties under this article, to be deposited in the Court Reporters' Fund. Notwithstanding any other law, no funds collected for purposes of this article shall be transferred to the Transcript Reimbursement Fund.

8062. (a) On or before January 1, 2026, the board shall report to the Legislature the number of operators of computer-aided realtime transcription systems that, between January 1, 2022, and July 1, 2025, have successfully been certified pursuant to the standards adopted pursuant to Section 8060.

(b) The report required by this section shall be submitted pursuant to Section 9795 of the Government Code.

SEC. 2. Section 54.8 of the Civil Code is amended to read:

54.8. (a)(1) For a civil or criminal proceeding, including, but not limited to, traffic, small claims court, family court proceedings and services, and juvenile court proceedings, for a court-ordered or court-provided alternative dispute resolution, including mediation and arbitration, or for an administrative hearing of a public agency, in which a party, witness, attorney, judicial employee, judge, juror, or other participant is deaf or hard of hearing, the individual who is deaf or hard of hearing, upon that individual's request, shall be provided with a functioning assistive listening system or a computer-aided realtime transcription system. Any individual requiring this equipment or the services of an operator of a computer-aided realtime transcription system shall give advance notice of their need to the appropriate court or agency at the time the hearing is set or not later than five days before the hearing.

(2) The operator of a computer-aided realtime transcription system shall provide the speech-to-text equipment to be used, unless otherwise provided by the court.

(b) Assistive listening systems include, but are not limited to, special devices that transmit amplified speech by means of audio-induction loops, radio frequency systems (AM or FM), or infrared transmission. Personal receivers, headphones, and neck loops shall be available upon request by individuals who are deaf or hard of hearing.

(c) If a computer-aided realtime transcription system is requested, sufficient display terminals shall be provided to allow the individual who is deaf or hard of hearing to read the real-time transcript of the proceeding without difficulty.

(d) A sign shall be posted in a prominent place indicating the availability of, and how to request, an assistive listening system and the services of an operator of a computer-aided realtime transcription system. Notice of the availability of the systems shall be posted with notice of trials.

(e) Each superior court shall have at least one portable assistive listening system for use in any court facility within the county. When not in use, the system shall be stored in a location determined by the court.

(f) The Judicial Council shall develop and approve official forms for notice of the availability of assistive listening systems and the services of an operator of computer-aided realtime transcription systems for individuals who are deaf or hard of hearing. The Judicial Council shall also develop and maintain a system to record utilization by the courts of these assistive listening systems, the utilization of computer-aided realtime transcription systems, the utilization of the services of certified operators of computer-aided realtime transcription systems who are certified pursuant to Section 8060 of the Business and Professions Code, the utilization of the services of sign language interpreters, and the utilization of the services of otherwise uncertified operators, interpreters, or captioners.

(g) If the individual who is deaf or hard of hearing is a juror, the jury deliberation room shall be equipped with an assistive listening system or a computer-aided realtime transcription system upon the request of the juror.

(h) An operator of a computer-aided realtime transcription system may be present in the jury deliberating room during a jury deliberation if the services of the operator for the purpose of operating a computer-aided realtime transcription system are required for a juror who is deaf or hard of hearing.

(i) In any of the proceedings referred to in paragraph (1) of subdivision (a), or in any administrative hearing of a public agency, in which the individual who is deaf or hard of hearing is a party, witness, attorney, judicial employee, judge, juror, or other participant, and has requested use of an assistive listening system or the services of an operator of a computer-aided realtime transcription system, the proceedings shall not commence until the system is in place and functioning.

(j) As used in this section, “individual who is deaf or hard of hearing” means an individual with a hearing loss, who, with sufficient amplification or with the services of a computer-aided realtime transcription system, is able to fully participate in the proceeding.

(k) In no case shall this section be construed to prescribe a lesser standard of accessibility or usability than that provided by Title II of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant to that act.

AMENDED IN SENATE MARCH 25, 2020

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

Senate Bill No. 1146

Introduced by Senator Umberg

February 20, 2020

An act to amend Section 2025.550 of the Code of Civil Procedure, relating to depositions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1146, as amended, Umberg. Oral depositions: transcripts.

The Civil Discovery Act authorizes a party to obtain discovery by taking in California the oral deposition of any person. Oral depositions must be conducted under the supervision of a deposition officer, as specified, and the testimony must be taken stenographically and then transcribed. The act provides procedures for the deponent to read, correct, approve, and sign the original deposition transcript and requires the deposition officer to certify and promptly transmit the transcript to the attorney of the party who noticed the deposition. The act authorizes the parties to modify these procedures by written stipulation.

This bill would specify that the parties may stipulate to relieve the deposition officer and the attorney for the party who noticed the deposition of their duties relating to custody of the original transcript and to adopt a modified procedure for the review, correction, approval, and custody of the original transcript.

Vote: majority Appropriation: no Fiscal Committee: NO Local Program: no

The people of the State of California do enact as follows:

SECTION 1. Section 2025.550 of the Code of Civil Procedure is amended to read:

2025.550. (a) The certified transcript of a deposition shall not be filed with the court. Instead, the deposition officer shall securely seal that transcript in an envelope or package endorsed with the title of the action and marked: “Deposition of (here insert name of deponent),” and shall promptly transmit it to the attorney for the party who noticed the deposition. This attorney shall store it under conditions that will protect it against loss, destruction, or tampering.

(b) The attorney to whom the transcript of a deposition is transmitted shall retain custody of it until six months after final disposition of the action. At that time, the transcript may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the transcript be preserved for a longer period.

(c)(1) Notwithstanding any other law, the parties may stipulate at the conclusion of the deposition to any of the following:

(A) That the deposition officer and the attorney for the party who noticed the deposition are relieved of the duties imposed by the Code of Civil Procedure relating to custody of the original transcript.

(B) That the deposition officer shall send the original transcript to the deponent or the attorney for the deponent.

(C) The amount of time for the deponent to read, correct, approve, and sign the deposition. The deponent or the attorney for the deponent shall advise the parties of any corrections made to the transcript within the agreed to period of time. If the deponent fails or refuses to approve the transcript within the agreed to period of time, the deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(D) Which attorney shall maintain custody of the original transcript and exhibits. The designated attorney shall make the original transcript and exhibits available to all other parties upon reasonable request.

(E) That a certified copy of the transcript may be used with the same force and effect as the original transcript, including at trial.

(2) Nothing in this subdivision diminishes the authority of the parties to stipulate to discovery procedure modifications pursuant to Section 2016.030.

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

Senate Bill No. 1324

Introduced by Senator Allen

February 21, 2020

An act to add Section 95 to the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1324, as introduced, Allen. Professional licenses.

Existing law requires the Department of Veterans Affairs to develop a transition assistance program for veterans who have been discharged from the Armed Forces of the United States designed to assist them in successfully transitioning from military to civilian life in California. Existing law requires the program to include, among other topics, higher education benefits, vocational training assistance, small business resources and information, and housing information. Existing law establishes the Department of Consumer Affairs in the Business, Consumer Services, and Housing Agency to, among other things, ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated. Existing law establishes the Commission on Teacher Credentialing to establish professional standards, assessments, and examinations for entry and advancement in the education profession. Existing law makes it unlawful for a person to engage in the business of, act in the capacity of, advertise as, or assume to act as a real estate broker or real estate sales person without first obtaining a real estate license from the Department of Real Estate. Under existing law, the State Department of Public Health is responsible for issuing licenses for the operation of health facilities, clinics, and other facilities, as specified.

This bill would require the Department of Consumer Affairs, the Commission on Teacher Credentialing, the Department of Real Estate, and the State Department of Public Health to each place a prominently displayed military licensure icon or hyperlink on the home page of its internet website that is linked to information about each occupational board or program for licensure or certification that it administers along with additional information relating to the professional licensure of veterans, service members, and their spouses, as specified. The bill requires the Department of Veterans Affairs to have a prominently displayed military licensure icon or hyperlink at an appropriate location on its internet website that links to those websites. The bill would require an annual report to the Legislature based on information collected to satisfy this requirement.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) If spouses of active duty military personnel, veterans, and service members separating from military service are able to maintain careers through frequent moves and key transitions, they are able to help support their families while providing critical services

to their communities. Yet, if a military spouse is transferred to California, or a service member leaves the Armed Forces of the United States and returns to or remains in California, these professionals may face difficulty transporting their professional licenses obtained in another state.

(b) The process for transferring licenses for professional careers can be long, burdensome, redundant, and expensive and can prevent some military spouses, veterans, and separating service members from obtaining employment in their field.

(c) Removing barriers to license transfers for spouses of active duty service members, separating service members, and veterans would ease the burden of relocation and transition and provide vital stability to military families and the communities they serve.

SEC. 2. Section 95 is added to the Military and Veterans Code, to read:

95. (a) The Department of Veterans Affairs shall place a prominently displayed military licensure icon or hyperlink on its internet website, in an appropriate location pertaining to employment opportunities for veterans, service members, and spouses, that links to the internet websites identified in this section.

(b) The Department of Consumer Affairs, the Commission on Teacher Credentialing, the Department of Real Estate, and the State Department of Public Health shall place a prominently displayed military licensure icon or hyperlink on the home page of their internet websites, linked to information for each occupational board or program for licensure or certification that it administers. In addition to general licensure or certificate information, the following information shall be displayed:

(1) The number of applications for a license submitted by active duty service members, separating service members, veterans, or military spouses per calendar year.

(2) The number of applications for waived renewal fees received from active duty service members and military spouses per calendar year.

(3) Each licensing agency's process for expediting applications for service members, veterans, and spouses, including the average processing times for expedited applications and the number of expedited applications requested in the calendar year.

(4) The availability of temporary or provisional licensure, specific requirements needed to obtain a temporary or provisional license, and how long the provisional or temporary license is valid.

(c)(1) The Department of Consumer Affairs shall establish a specific gateway aligned with the existing "Board and Bureau Military Contact Information," "Expedited Licensure," and "Renewal Fee Waivers" gateways on their Military Member Resources page, including a list of all boards that provide temporary or provisional licensure, with hyperlinks linking to each board's military licensure data.

(2) The Department of Consumer Affairs' internet website shall establish a "Licensure by Endorsement" section on its internet website listing all boards that offer an option for licensure by endorsement, accompanied by a hyperlink to each board's military licensure data.

(d) The Department of Consumer Affairs, the Commission on Teacher Credentialing, the Department of Real Estate, and the State Department of Public Health shall compile the information collected to satisfy the requirements of this section into an annual report for the Legislature, which shall be submitted in conformance with Section 9795 of the Government Code.

AGENDA ITEM 10 – Regulations for AB 2138 Implementation

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Agenda Description: Review and approval of amended language.

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Brief Summary:

Amendments are being proposed based on amendments made to another package reviewed by the Office of Administrative Law. The revised language is attached for the Board's review and approval.

The new language will go out for a 15-day public comment period. No comments were received during the initial public comment period.

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Support Documents:

Attachment – Revised language

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Fiscal Impact: None

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Recommended Board Action: Staff recommends the Board review and approve the revised language. Additionally, the Board should direct staff to offer the amended language to the public for a 15-day comment period. If no substantive comments are received, staff should be instructed to continue with the final submission to the OAL.

TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 24. CERTIFIED SHORTHAND REPORTERS BOARD
ARTICLE 8. DENIAL, SUSPENSION AND REVOCATION OF CERTIFICATES

MODIFIED TEXT

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Modifications to the proposed regulatory language are shown in double underline for new text and ~~double strikethrough~~ for deleted text.

Amend Section 2470 as follows:

§ 2470. Substantial Relationship Criteria.

(a) For the purpose of denial, suspension, or revocation of the certificate of a shorthand reporter pursuant to section 141, ~~or~~ Division 1.5 (commencing with Section 475), or Section 8025 of the Code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions, and duties of a shorthand reporter if to a substantial degree it evidences present or potential unfitness of a shorthand reporter to perform the functions authorized by ~~his~~ the certification in a manner consistent with the public health, safety, or welfare. ~~Such crimes or acts shall include, but are not limited to, the following:~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of a shorthand reporter.

(c) For the purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

~~(a)~~ (1) Any violation of the provisions of Chapter 13 of Division 3 of the Code.
~~(b)~~ (2) Violation of any rule or code provision specifically governing shorthand reporters.
~~(c)~~ (3) Conviction of any crime involving dishonesty or fraud.

Note: Authority cited: Sections 481 and 8007, Business and Professions Code. Reference: Sections 141, 480, 481, 490, and 493, 8025, and 8026, Business and Professions Code.

Amend Section 2471 as follows:

§ 2471. Criteria for Rehabilitation

(a) Denial of a certificate.

(~~a~~1) When considering the denial of a shorthand reporter's certificate under Section 480 of the Code, on the ground that the applicant ~~was~~ has been convicted of a crime, the board shall consider whether the applicant made a showing of rehabilitation ~~and is presently eligible for a certificate~~, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:

(~~1~~A) The nature and gravity of the crime(s).

(~~2~~B) The length(s) of the applicable parole or probation period(s).

(~~3~~C) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(~~4~~D) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(~~5~~E) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(~~ab~~2) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a)(1), the denial is based on professional misconduct, or the denial is based on one or more of the grounds specified in Sections 8025 or 8025.1 of the Code, the board shall apply the following criteria in evaluating an applicant's rehabilitation: ~~If subdivision (a) is inapplicable, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the board shall apply the following criteria in evaluating an applicant's rehabilitation. The board shall find that the applicant made a showing of rehabilitation and is presently eligible for a certificate if, after considering the following criteria, the board finds that the applicant is rehabilitated. When considering the denial of a shorthand reporter's certificate under Section 480 of the Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for certification, shall consider the following criteria~~:

(~~1~~A) The nature and ~~severity~~ gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.

(~~2~~B) Evidence of any act(s) professional misconduct, or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial ~~which also could be considered as grounds for denial under Section 480 of the Code~~.

(~~3~~C) The time that has elapsed since commission of the act(s) professional misconduct, or crime(s) referred to in subdivisions (~~1~~A) or (~~2~~B).

(~~4~~D) ~~The extent to which~~ Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(~~5~~E) The criteria in subdivisions (a)(1)(A)~~-~~through (~~5~~E), as applicable.

(~~5~~~~6~~F) Evidence, if any, of rehabilitation submitted by the applicant.

(b) Suspension or revocation of a certificate.

(~~b~~~~c~~1) When considering the suspension or revocation of the certificate of a shorthand reporter on the grounds that the ~~person certified~~ certificate holder has been convicted of a crime, the Board shall consider whether the certificate holder made a showing of rehabilitation ~~and is presently eligible for a certificate~~, if the certificate holder completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall ~~in evaluating the rehabilitation of such person and his present eligibility for certification will~~ consider the following criteria:

(~~1~~A) The ~~N~~nature and ~~severity~~ gravity of the ~~act(s) or offense~~ crime(s).

(~~2~~B) ~~Total criminal record~~ The length(s) of the applicable parole or probation period(s).

(~~3~~C) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified ~~The time that has elapsed since commission of the act(s) or offense(s)~~.

(~~4~~D) The terms or conditions of parole or probation and the extent to which they bear on the certificate holder or company's rehabilitation ~~Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee~~.

(~~5~~E) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for the modification. ~~If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.~~

~~(6F) Evidence, if any, of rehabilitation submitted by the licensee.~~

(~~d~~2) If the certificate holder has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the certificate holder did not make the showing of rehabilitation based on the criteria in subdivision (b)(1), the suspension or revocation is based on a disciplinary action as described in Section 141 of the code, or the suspension or revocation is based on one or more of the grounds specified in Sections 8025 or 8025.1 of the Code, the board shall apply the following criteria in evaluating the certificate holder's rehabilitation: ~~If subdivision (c1) is inapplicable, or the board determines that the certificate holder did not make the showing of rehabilitation based on the criteria in subdivision (c), the board shall apply the following criteria in evaluating the certified person's rehabilitation. The board shall find that the certificate holder made a showing of rehabilitation and is presently eligible for certification if, after considering the following criteria, the board finds that the applicant is rehabilitated:~~

(~~1~~A) Nature and gravity of the act(s), disciplinary action(s), or crime(s).

(~~2~~B) Total criminal record.

(~~3~~C) The time that has elapsed since commission of the act(s), disciplinary action(s), or crime(s).

(~~4~~D) Whether the certificate holder has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the certificate holder

(~~5~~E) The criteria in subdivisions (~~c~~b)(1)(A)~~-~~through (~~5~~E), as applicable.

(~~6~~F) If applicable, evidence of dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

(~~7~~G) Evidence, if any, of rehabilitation submitted by the certificate holder.

(~~c~~c) When considering a petition for reinstatement of the certification of a shorthand reporter, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in sub~~section~~division (~~b~~a)(1).

Note: Authority cited: Sections 482 and 8007, Business and Professions Code. Reference: Sections 480, 482, ~~and~~ 8025, and 8025.1, Business and Professions Code.

AGENDA ITEM 11 – Regulations for Disciplinary Guidelines

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Agenda Description: Discussion and possible action regarding regulatory change to disciplinary guidelines.

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Brief Summary:

In November of 2013, the Board updated its policy regarding disciplinary guidelines. The disciplinary guidelines need to be put into regulation, and the proposed language is attached.

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Support Documents:

Attachment – Proposed language

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Fiscal Impact: None

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Recommended Board Action: Staff recommends the Board review and approve the proposed language. Additionally, the Board should direct staff to proceed with the pre-approval process for the regulations with authority to make nonsubstantive changes. If there are no substantive changes, staff would additionally be directed to submit the regulations package to the Office of Administrative Law.

COURT REPORTERS BOARD OF CALIFORNIA

Proposed Language

2472. Disciplinary Guidelines

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code section 11400 et seq.), the board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines," (~~Rev. 2/18/89~~ Rev. _____), which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation, ~~for example:~~ including the presence of mitigating factors~~;~~, the age of the case~~;~~, or evidentiary problems.

Note: Authority cited: Sections 8007, 8025 and 8047, Business and Professions Code. Reference: Sections 8025 and 8047, Business and Professions Code; and Section 11425.50(e), Government Code.

~~CERTIFIED SHORTHAND REPORTERS BOARD~~
~~DISCIPLINARY GUIDELINES~~
~~Adopted 2-18-89~~

~~I. INTRODUCTION~~

~~To foster uniformity of penalties and to make sure licensees understand the consequences of violating the CSR Board law and regulations, the Board has established these guidelines.~~

~~The CSR Board law specifies the offenses for which the Board may take disciplinary action. These guidelines provide a range of penalties for each section of law which is found to be violated. The Board recognizes that there are often factors of aggravation or of mitigation which may necessitate variation. The Board respectfully requests that the Administrative law Judge take into account the factors of mitigation and aggravation listed elow in Part V, when deciding the severity of the penalty within the range. However, when such circumstances are found to exist, they should be detailed in the "findings of Fact." In determining appropriate discipline, the Administrative Law Judge should note the Board's determination of severity of various offenses as outlined in the citation and Fine regulations, per Title 16, California Code of Regulation, section 2480. In addition, cost recovery as authorized by Business & Professions Code, section 125.3 should generally be imposed~~

~~Should a probationary period be part of a proposed decision, the Board requests that the Administrative Law Judge impose the appropriate conditions of probation as outlined below in Part III. These conditions are intended to protect the public from the probationer without being unduly burdensome or anti-competitive.~~

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

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

~~II. PENALTY GUIDELINES~~

~~Business & Professions Code:~~	~~Penalty:~~
~~8016 Necessity of Certificate~~	~~This section would most generally apply to licensees who are practicing with expired licenses (see Section 8024). It may also apply to exam applicants (see 8020 and 3025(b)).~~

	~~Maximum: Revocation of license or Denial of admittance to exam. In the case of licensees who practice without a license, the maximum penalty would be imposed in cases where the licensee had been notified by the Board of an expired license and had failed to renew the license. In the case of the exam applicant, in addition to the refusal to admit the applicant, he/she cannot reapply to take the exam for a minimum of one year from the date of the Decision, and the appropriate fine should be part of the order.~~
	~~Minimum: Revocation – stayed and probation for 4 years. The 4 year period is related to 8024.6~~
	~~Conditions of probation: A1, 2, 3, 4, 6, 7, B, C, D, E1, 4, 5~~
~~8018~~ ~~Title and Abbreviation~~	~~This section would most generally apply to violators of 8024 through 8024.5, as well as unlicensed practice.~~
	~~Maximum: Revocation. This would apply to people who have failed to comply with previous notices from the Board.~~
	~~Minimum: Suspension – stayed, probation for 4 years. The 4 year period is related to 8024.5.~~
	~~Conditions of probation: A1, 2, 3, 4, B, C, E, E1, 4, 5.~~
~~8019~~ ~~Aiding or Abetting~~	~~Maximum: Revocation~~
	~~Minimum: Suspension – stayed, and probation 4 years~~
	~~Conditions of probation: A1, 2, 3, 4, 6, 7, B, C, D, E~~
~~8025(a)~~ ~~Conviction of a Crime~~	~~Maximum: Revocation~~
~~Substantially Related to the qualifications, functions & duties of~~	~~Minimum: Suspension plus probation for 3 years or same period as given for conviction, whichever is longer.~~

~~a CSR.~~	
	~~Conditions of Probation: A through D, and E1, 2, 4, 5.~~
~~8025(b) Fraud or Misrepresentation Resorted to in obtaining A certificate hereby.~~	~~Maximum: See 8016 above. Denial of application for (entrance to) exam. Applicant prohibited from applying for the exam for 1 year from date of Decision and fine. In the case where a license Ha already been issued: Revocation.~~
	~~Minimum: Revocation~~
	~~Conditions of Probation: None~~
~~8025(c) Fraud, Dishonesty, Corruptions, Willful Violation of Duty~~	~~Maximum: Revocation~~
	~~Minimum: Suspension and 4 years probation.~~
	~~Conditions of Probation: A thru E.~~
~~8025(c) Gross Incompetence in Practice~~	~~Maximum: Revocation~~
	~~Minimum: Suspension – stayed, probation 4 years~~
	~~Conditions of Probation: A thru E.~~
~~8025(d) Failure to Transcribe Or File Notes~~	~~Maximum: Revocation~~
	~~Minimum: Suspension – stayed, probation 2 years~~
	~~Conditions of Probation: A1, 2, 3, 4, 6, 7, B, C, D, E.~~

~~III. CONDITIONS OF PROBATION~~

~~A. Standard Conditions of Probation~~

~~During the period of probation, respondent(s) shall:~~

~~(1) Obey all laws and regulations governing shorthand reporters.~~

~~(2) Report to the Board or its designee, either in person or in writing as directed, on a schedule set by the Board, but at least once each quarter. Should the final probation report not be made as directed, the~~

~~period of probation shall be extended until such time as the final report is made.~~

~~(3) Make restitution to each identified victim when the evidence has demonstrated that there are uncompensated victims.~~

~~(4) Cost recovery.~~

~~Standard terms #4 through #7 apply only to licensees who operate reporting firms:~~

~~(4) Report to the Board, in writing within 30 days of the effective date of this decision, any financial interest which the respondent has in any corporation required to be registered pursuant to Section 8040 of the Business & Professions Code. Respondent shall notify the Board thirty (30) days prior to changing their financial interest in any such corporation.~~

~~(5) Post and circulate to all employees a notice which accurately recites the terms and conditions of probation. "Employees" as used in this provision includes all full-time, part-time, temporary and relief employees, and independent contractors employed or hired at any time during probation.~~

~~(6) Provide signed and dated statements, within 30 days after the effective date of this decision, from the owners, officers, or any owner or holder of 10% or more of the interest in respondent or respondent's stock, stating said individuals have read and are familiar with state laws and regulations governing the practice of shorthand reporting.~~

~~(7) Submit any proposed advertising copy, whether revised or new, to the Board at least thirty (30) days prior to its intended use. Any such copy must be approved by the Board prior to being used.~~

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

~~C. Should respondent leave California to reside or practice outside this state, respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.~~

~~D. Upon successful completion of probation, respondent's license will be fully restored.~~

~~E. Optional Conditions of Probation~~

~~During the period of probation, respondent(s) shall:~~

~~(1) Notify employer or reporting firm owner, of the decision in case # _____ and the terms, conditions, and restrictions imposed on respondent by said decision.~~

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

~~(2) Submit to the Board, for its prior approval, within 30 days of the effective date of this decision, the name, address, phone number, and description of a rehabilitation program, which respondent shall successfully participate in and complete. The costs for such rehabilitation program shall be borne by the respondent.~~

~~(3) Submit to the Board, for its prior approval, within 30 days of the effective date of this decision, the name and qualifications of a physician or psychotherapist of respondent's choice. Upon approval, per Business & Professions Code, section 8025.1(c), respondent shall undergo and continue treatment until the Board deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board. The Board may require respondent to undergo psychiatric evaluations by a Board appointed psychiatrist.~~

~~The costs for the psychotherapy shall be borne by respondent. The Board will bear the costs of any psychiatric evaluations by Board appointed psychiatrists.~~

~~(4) Attend a recognized court reporting school and successfully complete a final examination in one or more specified courses.~~

~~(5) Pass the (name of examination sections(s)) portions(s) of the next regularly scheduled CSR examination after the effective date of this decision. Should respondent fail said examination, respondent shall be suspended, upon written notice of failure, until he/she takes and~~

~~passes the same (name of examination sessions(s)) portions(s) at a subsequent examination.~~

~~(6)~~ ~~Within 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a medical evaluation by a Board appointed physician who shall furnish a medical report to the Board or its designee.~~

~~If respondent is required by the Board or its designee to undergo physical or mental treatment, respondent shall, within 30 days of written notice from the Board, submit to the Board, for its prior approval, the name and qualifications of a physician of respondent's choice. Upon approval of the treating physician by the Board, respondent shall undergo and continue medical treatment until further notice from the Board. Respondent shall have the treating physician submit quarterly reports to the Board.~~

~~(Optional) Upon the effective date of this decision, respondent shall not engage in the practice of shorthand reporting until notified in writing by the Board of its determination that respondent is physically and/or mentally fit to practice safely.~~

~~(Optional) If recommended by the physician and approved by the Board or its designee, respondent shall be barred from practicing shorthand reporting until the treating physician recommends, in writing and stating the basis therefore, that respondent can safely practice shorthand reporting, and the Board approves said recommendation.~~

~~IV. TERMS OF SUSPENSTION~~

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

~~During the period of suspension, the respondent(s) shall:~~

~~A. Attend a recognized court reporting school and successfully complete the specified number of hours and final examinations(s) in specified course(s), in accordance with Board regulations.~~

~~B. Pass the (name of examination section(s)) portions(s) of the next regularly scheduled Certified Shorthand Reporters Examination after the effective date of this decision. Should respondent fail said portion(s) of the examination, the period of suspension shall be extended until respondent successfully passes said (name of examination section(s)) portion(s) of the examination.~~

~~C. Notify employer(s) or reporting firm owner(s), of the decision in case # _____ and the terms, conditions, and restrictions imposed on respondent by said decision.~~

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

~~V. FACTORS IN AGGRAVATION AND IN MITIGATION~~

~~In determining whether to impose penalties ranging from the maximum level to the minimum level, it is requested that the Administrative Law Judge consider the following factors:~~

~~A. Factors in Aggravation~~

~~(1) Prior warnings from CSRB.~~
~~(2) Prior Notice of Violations.~~
~~(3) Failure to accept CSRB's suggested resolution to consumer complaint.~~
~~(4) Attempts to intimidate consumer.~~
~~(5) Negligent or willful delinquent preparation of transcripts.~~
~~(6) Evidence that the unlawful act was part of a pattern of practice~~
~~(7) Currently on probation for improper acts.~~
~~(8) Failure to successfully complete prior period of probation.~~
~~(9) Violation of previous court order.~~
~~(10) Prior similar violations resulting in discipline.~~

~~B. Factors in Mitigation~~

~~(1) Evidence that respondent accepted CSRB's suggested resolution to consumer complaint.~~
~~(2) Voluntary participation in retraining.~~
~~(3) Evidence of temporary medical condition that prevented respondent from exercising supervision and control over employees or others which led to wrongdoing.~~
~~(4) No loss or harm to consumer.~~
~~(5) No previous violation of law or regulation.~~
~~(6) Evidence of voluntary resolution of consumer's complaint.~~

Introduction

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

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

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

To foster uniformity of penalties and to ensure licensees understand the consequences of violating laws or regulations governing court reporting, the Board has established these Disciplinary Guidelines (Guidelines). These Guidelines are intended to guide everyone involved in and affected by the disciplinary process, including licensees, the public, attorneys, courts, administrative law judges, Board staff, and Board members who review and vote upon proposed decisions and stipulations.

The offenses for which the Board may take disciplinary action are specified within the Board's laws and regulations. These Guidelines provide a range of penalties for each violation of law or regulation and recommend appropriate conditions of probation for these violations.

The Board recognizes there are often aggravating or mitigating factors that may necessitate deviation from the Guidelines. The Board respectfully requests that the administrative law judge consider, apply, and analyze these factors in proposed decisions when deciding upon the severity of the penalty within the suggested range. Of utmost importance is the effect the licensee's conduct had or can have on the consumer.

In all disciplinary cases, the Board will seek recovery of the reasonable costs of the investigation and enforcement of the case in accordance with Business & Professions Code (BPC) section 125.3. This includes all fees and costs charged by the Office of the Attorney General, including but not limited to, attorneys' fees and fees charged by expert consultants before and through the conclusion of the administrative hearing.

If a proposed decision orders a probationary period, the Board requests the imposition of the appropriate conditions of probation as outlined in these Guidelines. These conditions are intended to protect the public from the probationer without being unduly burdensome or anti-competitive.

If a proposed decision ordering probation orders a stay of the revocation or suspension of a license, the Board requests an order that if a licensee violates the order of probation, the stay is lifted, and the revocation and/or suspension goes into effect immediately.

If a proposed decision orders a revocation that is not stayed for probation, the Board requests an order that the licensee to return the original and any duplicate (wall) licenses, which the Board issued, to the Board office within 15 days of the effective date of the revocation order.

Factors to be Considered in Determining Penalties

BPC section 8025 provides that the Board may deny an applicant or suspend, revoke, or impose other disciplinary action against a certificate holder for the causes specified therein.

Denial of a License

When considering the denial of a court reporter's certificate under BPC section 480, the Board shall apply the criteria set forth in California Code of Regulations (CCR), title 16, section 2471(a) or (b), as applicable.

Suspension or Revocation of a License

When considering the suspension or revocation of a court reporter's certificate under BPC section 480, the Board shall apply the criteria set forth in CCR, title 16, section 2471(c) or (d), as applicable.

Additional Factors

The following factors are for determining whether the minimum, intermediate, or maximum penalty should be imposed in a given case:

1. Actual or potential harm to the consumer.
2. Actual or potential harm to the public.
3. Prior disciplinary record.
4. Number and/or nature of current violations.
5. Aggravating evidence.

6. Mitigating evidence, including but not limited to, whether the licensee has demonstrated an ongoing commitment to completing continuing education.
7. Whether the conduct was intentional or negligent, and/or demonstrated incompetence.
8. Acceptance of the Board's suggested resolution to the consumer complaint.
9. Any attempts to intimidate the consumer.
10. Evidence that the unlawful act was part of a pattern or practice.
11. Financial benefit to the respondent from the misconduct.
12. If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code.

Penalty Guidelines for Violations

The following minimum and maximum penalties shall apply to the corresponding violation of the BPC:

1. BPC section 8016, Necessity of certificate; exceptions:

   "No person shall engage in the practice of shorthand reporting as defined in this chapter, unless that person is the holder of a certificate in full force and effect issued by the board."

   This section applies to licensees who are practicing with expired licenses. (BPC, § 8024.) It may also apply to exam applicants. (BPC, § 8020.)

   Maximum: Revocation of license or denial of admittance to the examination, if applicable. The maximum penalty should be imposed in cases where the Board notified the licensee of an expired license, and the licensee failed to renew the license and continued to practice. When denial of admittance to the exam is imposed, the applicant cannot reapply to take the exam for a minimum of one year from the date of the decision, and the appropriate fine should be part of the order. (Cal. Code Regs., tit. 16, § 2480.)

   Minimum: Revocation of license, stayed and probation for four years. No minimum penalty for examination applicants. Please refer to the maximum penalty.

   Conditions of probation:

   (a) Include Standard Terms and Conditions A1 through A6 in all cases.
      i. If the respondent is on criminal probation, add A7.
      ii. If the respondent is a reporting firm, add A12 through A14.
   (b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.

(c) Include Items C and D.

2. BPC section 8018: Title and Abbreviation:

"Except as provided in Section 8043, no other person, firm, or corporation may assume or use the title 'certified shorthand reporter,' or the abbreviation 'C.S.R.,' or use any words or symbols indicating or tending to indicate that he, she, or it is certified under this chapter."

This section applies to violators of BPC section 8024.3 and unlicensed practice.

Maximum: Revocation or denial of admittance to the examination, if applicable. The maximum penalty should be imposed in cases where the Board has previously educated the respondent on the requirements of section 8018. When denial of admittance to the exam is imposed, the applicant cannot reapply to take the exam for a minimum of one year from the date of the decision, and the appropriate fine should be part of the order. (Cal. Code Regs., tit. 16, § 2480.)

Minimum: Suspension – stayed and probation for four years. No minimum penalty for examination applicants. Please refer to the maximum penalty.

Conditions of probation:

(a) Include Standard Terms and Conditions A1 through A6 in all cases.
   i. If the respondent is on criminal probation, add A7.
   ii. If the respondent is a reporting firm, add A12 through A14.
(b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.
(c) Include Items C and D.

3. BPC section 8019: Violation as misdemeanor:

"Any person who directly or indirectly assists in or abets the violation of, or conspires to aid or abet in the violation of, any provision of this chapter, is guilty of a misdemeanor."

Maximum: Revocation

Minimum: Suspension – stayed and probation for four years.

Conditions of probation:

(a) Include Standard Terms and Conditions A1 through A6 in all cases.
   i. If the respondent is on criminal probation, add A7.
   ii. If the respondent is a reporting firm, add A12 through A14.

(b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.
(c) Include Items C and D.

4. BPC section 8025(a), Grounds for suspension, revocation, or denial:

"A certificate issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:

(a) Conviction of any felony or any misdemeanor if the misdemeanor is substantially related to the functions and duties of a court reporter…"

Maximum: Revocation

Minimum: Suspension – stayed and probation for either three years or the same length of probationary period of time imposed for conviction, whichever is longer.

Conditions of probation:

(a) Include Standard Terms and Conditions A1 through A6 in all cases.
    i. If the respondent is on criminal probation, add A7.
    ii. If the respondent is a reporting firm, add A12 through A14.
(b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.
(c) Include Items C and D.

5. BPC section 8025(b), Grounds for suspension or revocation:

For licensees only, "[a] certificate issued under this chapter may be suspended [or] revoked… or other disciplinary action may be imposed for one or more of the following causes:
…
(b) Failure to notify the board of a conviction described in subdivision (a), in accordance with Section 8024 or 8024.2."

Maximum: Revocation

Minimum: Suspension – stayed and probation for either three years or the same period of time applied to the criminal conviction, whichever is longer.

Conditions of probation:

(a) Include Standard Terms and Conditions A1 through A6 in all cases.
    i. If the respondent is on criminal probation, add A7.

ii. If the respondent is a reporting firm, add A12 through A14.

(b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.

(c) Include Items C and D.

6. BPC section 8025(c), Grounds for suspension, revocation, or denial:

"A certificate issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes: …
(c) Fraud or misrepresentation resorted to in obtaining a certificate hereunder."

Maximum: See BPC section 8016 above. Denial of application to take the exam. Applicant should be prohibited from applying for the exam for one year from date of decision and fine. In the case where a license has already been issued, the license should be revoked.

Minimum: Revocation

Conditions for probation: None

7. BPC section 8025(d), Grounds for suspension, revocation, or denial:

"A certificate issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes: …
(d) Fraud, dishonesty, corruption, willful violation of duty…."

Maximum: Revocation

Minimum: Suspension – stayed and probation for four years.

Conditions of probation:

(a) Include Standard Terms and Conditions A1 through A6 in all cases.

i. If the respondent is on criminal probation, add A7.

ii. If the respondent is a reporting firm, add A12 through A14.

(b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.

(c) Include Items C and D.

8. BPC section 8025(d), Grounds for suspension, revocation or denial:

"A certificate issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:

…
(d) … gross negligence or incompetence in practice….”

Maximum: Revocation

Minimum: Suspension – stayed and probation for four years.

Conditions of probation:

(a) Include Standard Terms and Conditions A1 through A6 in all cases.
   i. If the respondent is on criminal probation, add A7.
   ii. If the respondent is a reporting firm, add A12 through A14.
(b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.
(c) Include Items C and D.

9. BPC section 8025(d), Grounds for suspension, revocation, or denial:

“A certificate issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:
…
(d) … or unprofessional conduct in or directly related to the practice of shorthand reporting.

‘Unprofessional conduct” includes, but is not limited to, acts contrary to professional standards concerning confidentiality; impartiality; filing and retention of notes; notifications, availability, delivery, execution and certification of transcripts; and any provision of law substantially related to the duties of a certified shorthand reporter.’”

Maximum: Revocation

Minimum: Suspension – stayed and probation for four years.

Conditions of probation:

(a) Include Standard Terms and Conditions A1 through A6 in all cases.
   i. If the respondent is on criminal probation, add A7.
   ii. If the respondent is a reporting firm, add A12 through A14.
(b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.
(c) Include Items C and D.

10. BPC section 8025(e), Grounds for suspension, revocation, or denial:

"A certificate issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:
…
(e) Repeated unexcused failure, whether or not willful, to transcribe notes of cases pending on appeal and to file the transcripts of those notes within the time required by law or to transcribe or file notes of other proceedings within the time required by law or agreed to by contract. Violation of this subdivision shall also be deemed an act endangering the public health, safety, or welfare within the meaning of Section 494."

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years.

Conditions of probation:

(a) Include Standard Terms and Conditions A1 through A6 in all cases.
   i. If the respondent is on criminal probation, add A7.
   ii. If the respondent is a reporting firm, add A12 through A14.
(b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.
(c) Include Items C and D.

11. BPC section 8025(f), Grounds for suspension, revocation, or denial:

"A certificate issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:
…
(f) Loss or destruction of stenographic notes, whether on paper or electronic media, that prevents the production of a transcript due to negligence of the licensee."

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years.

Conditions of probation:

(a) Include Standard Terms and Conditions A1 through A6 in all cases.
   i. If the respondent is on criminal probation, add A7.
   ii. If the respondent is a reporting firm, add A12 through A14.
(b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.
(c) Include Items C and D.

12. BPC section 8025(g), Grounds for suspension, revocation or denial:

"A certificate issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:
…
(g) Failure to comply with, or to pay a monetary sanction imposed by, any court for failure to provide timely transcripts. The record of the court order, or a certified copy thereof, is conclusive evidence that the sanction was imposed."

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years.

Conditions of probation:

(a) Include Standard Terms and Conditions A1 through A6 in all cases.
   i. If the respondent is on criminal probation, add A7.
   ii. If the respondent is a reporting firm, add A12 through A14.
(b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.
(c) Include Items C and D.

13. BPC section 8025(h), Grounds for suspension, revocation, or denial:

"A certificate issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:
…
(h) Failure to pay a civil penalty relating to the provision of court reporting services or products."

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years.

Conditions of probation:

(a) Include Standard Terms and Conditions A1 through A6 in all cases.
   i. If the respondent is on criminal probation, add A7.
   ii. If the respondent is a reporting firm, add A12 through A14.
(b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.
(c) Include Items C and D.

14. BPC section 8025(i) Grounds for suspension, revocation, or denial:

"A certificate issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:
…
(i) The revocation of, suspension of, or other disciplinary action against a license to act as a certified shorthand reporter by another state. A certified copy of the revocation, suspension, or disciplinary action by the other state is conclusive evidence of that action."

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years.

Conditions of probation:

(a) Include Standard Terms and Conditions A1 through A6 in all cases.
   i. If the respondent is on criminal probation, add A7.
   ii. If the respondent is a reporting firm, add A12 through A14.
(b) Include Optional Conditions, B1 through B13 as appropriate based on the violation, circumstances of the case, or the respondent.
(c) Include Items C and D.

Probation Conditions

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

A. Standard Conditions of Probation

Terms to be included in all orders of probation.

During the period of probation:

1. **OBEY ALL LAWS** – Respondent shall obey all laws and regulations governing shorthand reporters.

2. **COMPLY WITH THE BOARD'S PROBATION PROGRAM** – Respondent shall fully comply with the conditions of the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the Board's probation program. Respondent shall provide the Board representatives with unrestricted access to inspect shorthand reporting records, transcriptions, and notes required to be maintained by the licensee.

Respondent shall inform the Board in writing within 15 days of any address change and claim all certified mail issued by the Board. Respondent shall timely respond to all notices of reasonable requests, and submit reports, remedial education documentation, verification of employment, or other similar reports, as requested and directed by the Board or its representative(s). Failure to appear for any scheduled meeting or cooperate with the requirements of the probation program, or failure to timely submit requested information, shall constitute a violation of probation.

3. **QUARTERLY REPORTS OF COMPLIANCE** – Respondent shall submit quarterly reports of compliance with all probation conditions to the Board's designee in accordance with a specified schedule. Quarterly reports must be completed and signed under penalty of perjury that Respondent is complying with all conditions of probation. Omission or falsification of any information in any manner on these reports shall constitute a violation of probation. Quarterly reports are due for each year of probation and the entire length of probation as follows:

   - For the period covering January 1 through March 31, reports shall be completed and submitted between April 1 and April 10.

   - For the period covering April 1 through June 30, reports shall be completed and submitted between July 1 and July 10.

   - For the period covering July 1 through September 30, reports shall be completed and submitted between October 1 and October 10.

   - For the period covering October 1 through December 31, reports shall be completed and submitted between January 1 and January 10.

4. **MAINTAIN VALID LICENSE** – Respondent shall maintain a current, active, and valid license for the length of the probation period. Failure to pay all fees prior to the license expiration date shall constitute a violation of probation.

5. **RESIDENCY OUTSIDE OF THE STATE** – Respondent shall immediately notify the Board's designee of any and all address changes. If Respondent travels outside of California for a contiguous period greater than 60 days, Respondent must notify the Board's designee, in writing, of the dates of departure and return. Periods of residence outside of California shall not reduce the probation time period.

   Respondent's license shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California

totals 1095 days or more. However, Respondent's license shall not be cancelled as long as Respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that state, in which case the 1095-day period shall begin on the date probation is completed or terminated in that state.

6. **FAILURE TO PRACTICE - CALIFORNIA RESIDENT** – In the event Respondent resides in California and for any reason Respondent stops practicing in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice in California will not reduce the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation.

7. **CRIMINAL PROBATION** – If Respondent is on criminal probation for the acts upon which disciplinary action is based, Respondent shall submit reports from the criminal court probation officer, if the court appoints one, regarding Respondent's progress during criminal probation to the Board's designated representative. Reports shall be filed quarterly and continue to be filed until Respondent is no longer on criminal probation or the Board's probation is terminated, whichever occurs first. Quarterly reporting shall be consistent with the guidelines set forth in the Standard Conditions to comply with the conditions of the probation program.

8. **RESTITUTION** – Within _____ days of the effective date of this decision, Respondent shall make restitution to _____ in the amount of $_____. Failure to make restitution by this deadline shall be considered a violation of probation.

9. **COST RECOVERY** – Respondent shall pay the Board its costs and charges of investigating and enforcing this matter in the amount of $_____ in _____ (#) equal, consecutive quarterly payments of $_____ per payment, unless otherwise agreed by the Board or its designee. The first payment shall be due within 30 calendar days of the effective date of this decision and order. Each required quarterly payment shall be due within 90 days of the prior quarterly payment. Any payment that is not received within those 90 days shall be considered late. Any late payments shall be a violation of probation.

10. **VIOLATION OF PROBATION** – If Respondent violates the conditions of his/her probation, the Board, after giving Respondent notice and an opportunity to be heard, may set aside the order and impose the stayed discipline (revocation/suspension) of Respondent's license.

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

11. **NOTICE OF FINANCIAL INTEREST** – (This condition only applies to licensees who operate reporting firms.) Respondent shall report to the Board in writing within 30 days of the effective date of this decision any financial interest which Respondent has in any corporation required to be registered pursuant to BPC section 8040. Respondent shall notify the Board 30 days prior to changing their financial interest in any such corporation.

12. **NOTIFY EMPLOYEES** – (This condition only applies to licensees who operate reporting firms.) Respondent shall post and circulate to all employees a notice which accurately recites the terms and conditions of probation. "Employees" as used in this provision includes all full-time, part-time, temporary and relief employees and independent contractors Respondent employs or hires at any time during probation.

13. **NOTIFY OWNERS, OFFICERS** – (This condition only applies to licensees who operate reporting firms.) Respondent shall submit to the Board within 30 days after the effective date of this decision proof of notification of his or her probationary status to the owners, officers, or any owner or holder of 10% or more of the interest in Respondent or Respondent's stock.

14. **ADVERTISING APPROVAL** – (This condition only applies to licensees who operate reporting firms.) Respondent shall submit any proposed advertising copy, whether revised or new, to the Board at least 30 days prior to its intended use. Any copy must be approved by the Board prior to use.

B. Optional Conditions of Probation

Terms to be included in orders of probation based upon the violation, circumstances of the case, or the respondent.

During the period of probation:

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

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

2. **REHABILITATION PROGRAM** – Respondent shall submit to the Board or its designee for its prior approval, within 30 days of the effective date of this decision, the name, address, telephone number, and description of a rehabilitation program for the abuse of chemical substances and/or alcohol in which Respondent will participate. Respondent shall provide the Board or its designee with a copy of certification of successful completion of the rehabilitation program. Respondent shall bear the costs for the rehabilitation program.

3. **MEDICAL EVALUATION/TREATMENT** – Respondent shall undergo a medical evaluation by a Board-approved physician who shall furnish a medical report to the Board or its designee within 30 days of the effective date of this decision and on a periodic basis thereafter, no less than quarterly, or as may be required by the Board or its designee. If Respondent is required by the Board to undergo physical or mental treatment, Respondent shall within 30 days of written notice from the Board submit to the Board for its prior approval the name and qualifications of a physician or psychotherapist of Respondent's choice. Upon the Board's approval of the treating physician or psychotherapist, Respondent shall undergo and continue medical treatment until further notice from the Board. Respondent shall have the treating physician submit quarterly reports to the Board regarding treatment progress. Failure to timely submit to or schedule physical or mental treatment shall result in violation of probation.

4. **PSYCHOLOGICAL EVALUATION** – (To be used in cases involving a sexual offense, pattern of chemical substance/drug/alcohol abuse, or violence.) Within 30 days of the effective date of this decision, and on a periodic basis thereafter or as required by the Board or its designee, Respondent shall undergo psychological evaluation by a licensed psychologist and/or psychiatrist as approved by the Board. The evaluator shall furnish a written report to the Board or its designee regarding Respondent's judgment and ability to function independently, safely, and whether he or she poses a threat to the public. Respondent shall bear the cost of the evaluation. Respondent shall execute a release authorizing the evaluator to furnish the Board with a current diagnosis and a written report regarding the respondent's ability to function independently with safety to the public. The evaluation shall be treated as confidential by the Board.

Failure to timely submit to or schedule a mental examination shall result in violation of probation.

5. **PSYCHOTHERAPY** – (To be used in cases involving a sexual offense, pattern of chemical substance/drug/alcohol abuse or violence.) Within 30 days of the effective date of this decision, Respondent shall submit to the Board or its designee for its prior approval, the name and qualifications of one or more therapists of Respondent's choice. The therapist shall possess a valid California license and shall have had no prior business, professional, or personal relationship with Respondent. Upon approval by the Board, Respondent shall undergo and continue treatment until the Board determines that no further psychotherapy is necessary. Respondent shall have the treating therapist submit quarterly reports to the Board and notify the Board immediately if the therapist believes Respondent poses a threat to the public or Respondent's clients. Respondent shall bear all costs of therapy. Respondent shall execute a release authorizing the therapist to furnish the Board with a current diagnosis and a written report regarding the respondent's ability to function independently with safety to the public.

6. **ABSTAIN FROM PRACTICE** – If recommended by the physician and directed by the Board or its designee, Respondent shall be barred from practicing shorthand reporting until the treating physician recommends, in writing and stating the basis therefor, that Respondent is physically and/or mentally fit to practice shorthand reporting and the Board approves the recommendation.

7. **ATTEND COURSES** – Respondent shall attend a court reporting school recognized by the Board and successfully complete a final examination in one or more specified courses.

8. **RETAKE LICENSE EXAM** – Respondent shall pass the (name of examination section(s)) portion(s) of the next regularly scheduled license examination after the effective date of this decision. Respondent shall be suspended upon any written notice of failure of the examination until he/she takes and passes the same (name of examination sections(s)) portion(s) at a subsequent examination.

9. **PROOF OF ADVERTISING CORRECTION** – Respondent shall correct any misleading advertisement within 30 days of the decision. Respondent shall not practice until proof of correction has been submitted to the Board or its designee.

10. **REIMBURSEMENT OF PROBATION PROGRAM** – Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the

probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be $ per year/$ per month.

11. **ABSTAIN FROM CONTROLLED SUBSTANCES / SUBMIT TO BIOLOGICAL FLUID TESTING** – Respondent shall completely abstain from the use or possession of controlled or illegal substances during the period of probation unless lawfully prescribed by a medical practitioner for a bona fide illness. Respondent shall immediately submit to biological fluid testing, and/or other required drug screening at Respondent's cost upon request by the Board or its designee. The length of time and frequency of testing will be determined by the Board. Respondent shall ensure that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding shall constitute a violation of probation.

12. **ABSTAIN FROM USE OF ALCOHOL / SUBMIT TO BIOLOGICAL FLUID TESTING** – Respondent shall completely abstain from the use of alcoholic beverages during the period of probation. Respondent shall immediately submit to biological fluid testing at Respondent's cost upon request by the Board or its designee. The length of time and frequency of testing will be determined by the Board. Respondent shall ensure that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding shall constitute a violation of probation.

13. **PROVISION OF RECORDS** – Respondent shall provide specific records for Board inspection as directed.

C. Probation Violation

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

D. Probation Completion

Upon successful completion of probation, any revocation order, which was stayed, is removed.

Terms of Suspension

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

During the period of suspension, Respondent shall:

A. Attend a court reporting school recognized by the Board and successfully complete the specified number of hours and final examination(s) in specified course(s), in accordance with Board regulations.

B. Pass the (name of examination section(s)) portion(s) of the next regularly scheduled license examination after the effective date of this decision. Should Respondent fail that portion(s) of the examination, the period of suspension shall be extended until Respondent passes the (name of examination section(s)) portion(s) of the examination.

C. Notify employer(s) or reporting firm owners(s) of the decision in case number _____ and the terms, conditions, and restrictions imposed on Respondent by the decision.

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

AGENDA ITEM 12 – Exam Fees

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Agenda Description: Discussion and possible action regarding raising exam fees (16 CCR § 2450).

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Brief Summary:

Currently the Board charges $25 for each of the three portions of the certification exam, whether for the initial exam or any additional re-examination. The Board is permitted to charge a maximum or $75 per exam portion. Raising the cost of the exam would help offset the increasing prices associated with administering the exams.

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Support Documents: None.

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Fiscal Impact: Assuming 586 portions of the exam are taken, which is the yearly average for the last two years, revenue would be increased by $29,300.

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Recommended Board Action: Staff recommends the Board increase the examination fee to $75 for each of the three parts of the examination and instruct staff to initiate the regulatory process.

AGENDA ITEM 13 – Strategic Plan

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Agenda Description:

13.1 Discussion and possible action on consumer protection publication re advantages of using Certified Shorthand Reporters (CSRs)

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Brief Summary:

The Court Reporters Board (Board) has received reports of attorneys using alternate methods of reporting the official record. Staff has been working with the Department of Consumer Affairs' Office of Public Affairs to create an educational publication to educate litigants and attorneys on the advantages of using a CSR.

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Support Documents:

Attachment 1 – Draft publication

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Fiscal Impact: None

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Recommended Action: Staff recommends the Board review the proposed publication and provide feedback. Additionally, staff recommends the Board solicit public input.

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Agenda Description:

13.2 Discussion and possible action on next meeting of Best Practices Task Force

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Brief Summary:

As part of the Action Plan for the Strategic Plan, the Board is using the Best Practices Task Force for creating educational pieces for licensees on a variety of topics. At the November meeting, the Board requested staff set up a meeting. Implementation was delayed due to the Governor's Executive Order regarding meetings of more than 10 people.

Now that remote meeting is available to the Board, the Best Practices Task Force is able to move forward

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Support Documents: None

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Fiscal Impact: None

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Recommended Board Action: Staff recommends the Board confirm a chairperson for this task force and set a specific date for the first meeting of the task force. Anyone with a suggestion for a topic to be addressed by the task force or an interest in serving on the task force on the specified date via remote technology should email Paula Bruning at Paula.Bruning@dca.ca.gov.

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Agenda Description:
13.3 Update on action plan
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Brief Summary:

At the July 12, 2019, Board meeting, the Board approved an action plan for the 2019-2023 Strategic Plan. The Action Plan Timeline is used as a tool to update the Board on the progress of achieving the strategic plan goals.
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Support Documents:

Attachment 2 – Action Plan Timeline
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Fiscal Impact: None
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Recommended Board Action: Staff recommends the Board review Action Plan and provide feedback as needed.

DRAFT

FIVE REASONS

FOR CHOOSING A LICENSED COURT REPORTER

In California, certified shorthand reporters—commonly referred to as court reporters—are certified by the Court Reporters Board of California. To be licensed, a court reporter must demonstrate a minimum level of competency. If you are a party to a legal proceeding, using the services of a licensed court reporter will help ensure you receive accurate, timely, and competent service.

1. Parties to a legal proceeding only have one chance to accurately capture the record. A court reporter provides a verbatim record, and they are there to speak up as necessary to have someone repeat themselves if a word is missed, making sure only one person speaks at a time, and clarifying technical terms or terms of art.

2. Court reporters are highly qualified—they must pass a three-part licensing exam including reporting 200 words per minute at 97.5% accuracy. They must achieve hundreds of hours of training in English, legal and medical terminology, and transcription preparation, including a minimum of 60 internship hours.

3. Not all transcripts are created equal—an uncertified transcript may not be accepted in court by a judge. Only the transcripts generated by a licensed court reporter are guaranteed to be accepted in court.

4. For an appeal, the accuracy of the court reporter during the original proceedings is critical and may impact the ability of the appeal to move forward. "First, take great care to prepare a complete record; second, if it is not in the record, it did not happen; and third, when in doubt, refer back to rules one and two," said Justice Rebecca Wiseman in *Protect Our Water v. County of Merced*.

5. If a problem or a disagreement arises with a licensed court reporter, you can file a complaint with the Court Reporters Board to investigate on your behalf and ensure the law is followed. Litigation can be very costly, and it's important to protect your investment by having somewhere to turn to if an issue arises.

If you need the services of a court reporter, make sure they are licensed by the Board. You can check his or her license at https://search.dca.ca.gov.

CRB
COURT REPORTERS BOARD
OF CALIFORNIA

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

Court Reporters Board of California

2019 – 2023 Action Plan Timeline

Action Items	Target Date	Status
Maintain fair testing to provide consumers with competent entry-level reporters	Dec 2023	On-going
Expand Best Practice Pointers to keep licensees up to date with industry standards	Jan 2020	
Facilitate expansion of verbatim reporting methods to provide sufficient workforce	Jan 2022	On-going
Investigate real-time captioning standards and assess industry practices for consumer protection	Dec 2020	
Monitor compliance by non-licensee-owned firms to ensure integrity of the record	Dec 2023	On-going
Inform licensees regarding the role of the Board's enforcement to dispel common misconceptions	Dec 2020	
Educate consumers about the Board's complaint process to have a place for recourse in cases of violation	Dec 2023	
Support schools' recruitment efforts to preserve the integrity and continuity of the workforce	Jan 2021	
Increase Board school visits to more effectively monitor compliance with applicable laws and regulations	Dec 2023	
Launch a strategic awareness campaign in collaboration with external stakeholders to educate consumers about the court reporting roles and CRB responsibilities and services	Dec 2023	
Improve the CRB website to improve service and efficiency for consumers	June 2019	June 2019
Implement business modernization to allow online renewals and applications	Dec 2023	
Continue to cross-train staff to be effective and efficient, as well as to prepare for succession planning	Dec 2022	On-going

AGENDA ITEM 14 – RSR Certification as Exam Eligibility

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Agenda Description: Discussion and possible action regarding National Court Reporters Association's (NCRA's) new certification level of Registered Skilled Reporter (RSR) as an avenue of eligibility to take the CSR exam.

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Brief Summary: The Board has received a request to use NCRA's new RSR certification as a basis to be eligible to take the CSR exam. The RSR format is similar to the Registered Professional Reporter (RPR) in that it consists of three five-minute tests; however, the speeds are slower than the RPR. Specifically, the test consists of two-voice testimony at 200 words per minute, jury charge at 180 words per minute, and literary at 160 words per minute. Candidates have 75 minutes to transcribe at 95% accuracy. As a reminder, the RPR consists of five minutes of two-voice dictation at 225 words per minute, five minutes of jury charge at 200 words per minute, and five minutes of literary material at 180 words per minute. Successful candidates must transcribe the dictation portions with a minimum of 95% accuracy.

The person requesting the change points out that such a change would allow students who have passed their 200 four-voice test and the RSR but not yet passed a qualifier to be eligible to take the CSR exam. A qualifier is the last testing step in the skills certification process by the school and mirrors the CSR four-voice test format.

Business and Professions Code (BPC) 8020(c) states, in pertinent part: "No person shall be admitted to the examination without first presenting…a certificate from the National Court Reporters Association demonstrating proficiency in machine shorthand reporting," which means that an NCRA certificate would allow a candidate to take the examination regardless of whether the person took the RSR or the RPR to obtain the certificate.

The Board may decide if it would like to clarify (in regulation) whether that eligibility should include or exclude certificates obtained with the RSR.

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Support Documents: None

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Fiscal Impact: Staff time would be required to develop the regulatory language and prepare the regulations package.

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Recommended Board Action: Staff recommends the Board accept a minimum of RPR standard, which means the Board should move to adopt regulatory language to exclude the RSR from BPC § 8020(c) eligibility.

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AGENDA ITEM 15 – Future Meeting Dates

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Agenda Description: Proposed Meeting Dates

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Support Documents:

Attachment – 2020 Board Calendar

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Current scheduled activities:

Exam Workshop:
June 12 - 13, 2020 – Sacramento

CSR Dictation Exam:
July 10, 2020 – Ontario
November 20, 2020 – Sacramento

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Recommended Board Action: Information exchange

A YEAR-AT-A-GLANCE CALENDAR 2020
COURT REPORTERS BOARD OF CALIFORNIA

Attachment
Agenda Item 15

JANUARY 2020

				2	3
6	7	8	9	10	
13	14	15	16	17	
	21	22	23	24	
27	28	29	30	31	

FEBRUARY 2020

3	4	5	6	7	
10	11	12	13	14	
	18	19	20	21	
24	25	26	27	28 Workshop	

MARCH 2020

2	3	4	5	6 Exam-ONT	Workshop
9	10	11	12	13	
16	17	18	19	20	
23	24	25	26	27	
30					

APRIL 2020

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20	21	22	23	24 ~~Workshop~~	
27	28	29	30		

MAY 2020

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18	19	20	21 BD-Tele	22	
	26	27	28	29	

JUNE 2020

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8	9	10	11	12 Workshop	
15	16	17	18	19	
22	23	24	25	26	
29	30				

JULY 2020

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AUGUST 2020

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31					

SEPTEMBER 2020

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OCTOBER 2020

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NOVEMBER 2020

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30					

DECEMBER 2020

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21	22	23	24		
28	29	30	31		

ACTIVITY

- **BD** - Board Meeting or Activity
- **Exam** - Dictation Exam
- **Workshop** - Exam Workshop
- **TF** - Task Force Meeting
- **TH** - Town Hall Meeting
- **OA** - Occupational Analysis
- **Shaded Dates - Board Office is Closed**

CITY

LA-LOS ANGELES
SAC-SACRAMENTO
SD-SAN DIEGO
SF-SAN FRANCISCO
ONT- ONTARIO

GENERAL LOCATION

NC-NORTHERN CALIFORNIA
SC - SOUTHERN CALIFORNIA

AGENDA ITEM 16 – Public Comment for Items Not on the Agenda
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Public members are encouraged to provide their name and organization (if any).

The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting.