



DEPARTMENT OF CONSUMER AFFAIRS

**COURT REPORTERS BOARD**

OF CALIFORNIA

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**COURT REPORTERS BOARD OF CALIFORNIA  
MINUTES OF OPEN SESSION  
NOVEMBER 20, 2020****CALL TO ORDER**

Ms. Davina Hurt, Chair, called the meeting to order at 9:00 a.m. The public meeting was held via a teleconference platform pursuant to the provisions of Executive Order N-29-20.

**ROLL CALL****Board Members Present:**

Davina Hurt, Public Member, Chair  
Toni O'Neill, Licensee Member, Vice Chair  
Carrie Nocella, Public Member  
Robin Sunkees, Licensee Member

**Staff Members Present:**

Yvonne K. Fenner, Executive Officer  
Anthony Pane, Assistant Chief Counsel  
Danielle Rogers, Regulations Counsel  
Ryan Perez, Board and Bureau Services  
Connie Conkle, Enforcement Analyst  
Paula Bruning, Executive Analyst

Board staff established the presence of a quorum.

**1. APPROVAL OF MAY 21, 2020 MEETING MINUTES**

Ms. O'Neill requested that "RPR's" be changed to "CSR's" on the second line of paragraph 8 on page 19 of the minutes.

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

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

***MOTION CARRIED***

## 2. RESOLUTION FOR BOARD MEMBER NOCELLA

Ms. Hurt stated that Ms. Nocella has been a key board member with extensive knowledge on the legislative process. She also recognized her positive, ready-to-go demeanor. She read aloud the resolution prepared for Ms. Nocella found on page 29 of the Board agenda packet.

Ms. Fenner expressed her appreciation to Ms. Nocella for the time she gave to the Board. She thanked Ms. Nocella for her input in consumer protection and engagement during Board discussions and stated that her viewpoint would be sorely missed.

Ms. Sunkees wished she had been able to work with Ms. Nocella longer and wished her the best.

Ms. O'Neil shared that Ms. Nocella's input always added clarity to the topic of discussion and helped the Board home in on the issues. She thanked Ms. Nocella for her service on behalf of the consumers of California.

Mike Hensley, CSR, President of the California Court Reporters Association (CCRA), thanked Ms. Nocella for her service and wished her the best in future endeavors.

Ms. Nocella expressed her regret that she was not able to commit to a second term with the Board due to an already loaded schedule. She thanked the Board and staff for their outstanding service and shared that she learned so much in her role as a member. She stated that she has the utmost respect for the court reporting industry and will miss everyone.

*Ms. O'Neill moved to adopt the resolution honoring Carrie Nocella. Ms. Sunkees seconded the motion.* Ms. Hurt called for additional public comment. No comments were offered.

A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

### ***MOTION CARRIED***

## 3. DEPARTMENT OF CONSUMER AFFAIRS UPDATE

Ms. Hurt introduced Ryan Perez from the Department of Consumer Affairs (DCA) Office of Board and Bureau Services.

Mr. Perez recognized the years of distinguished service provided by Ms. Nocella on behalf of California consumers. He wished her the best.

Mr. Perez stated that efficient and effective investigations are a top priority for DCA. The executive leadership team, therefore, decided to hire an individual very familiar with the

investigative process to work with the Division of Investigation (DOI) to identify ways to increase efficiency, decrease investigative time frames, and improve the overall quality of the investigations. The individual will review investigations, statistics, and recommendations from DCA's Organizational Improvement Office which will allow greater assistance to DOI. The overall goal is to decrease the time frame of investigations while still maintaining the level of quality that the boards and bureaus have come to expect from DOI. DCA will provide updates to the Board as changes are made and as improvements are accomplished.

Mr. Perez shared that despite changes in business practices as a result of COVID-19, DCA's work does continue. He stated that after a temporary closure in March due to state and local stay-at-home orders, DCA offices remain open with preventative measures to safeguard the health and safety of employees and visitors. DCA continues to partner with the Governor's Office and Business, Consumer Services and Housing Agency on statewide awareness and public health measures.

The economic impacts of the COVID-19 pandemic and unprecedented wildfire activities are expected to last for several years. The State needs to take immediate action to reduce costs and maximize efficiencies to support Californians. Back in April, DCA and all boards and bureaus worked to limit expenditures and to hire only those necessary to support core functions and emergency response activities. Additionally, this week DCA learned the department will be required to take a 5 percent permanent budget reduction no later than the 2021/22 fiscal year. DCA will be working with board staff immediately to identify a plan for a permanent 5 percent reduction that will best fit the board's operational needs. He thanked the Board and staff for their continued service despite these challenges.

Lastly, Mr. Perez reported that Board and Bureau Relations put on three brown bag trainings this fall to support board and bureau leaders by providing an opportunity to learn and discuss best practices on topics such as appointments, managing staff remotely, and providing ADA compliant meeting materials to board members and the public. In partnership with DCA's SOLID Training and Planning Solutions, board member orientation trainings have been held quarterly in remote sessions, and new training for board presidents is in the planning stage. He indicated that the Board may reach out to any member of the Board and Bureau Relations team should they have any questions or needs.

#### 4. REPORT OF THE EXECUTIVE OFFICER

Ms. Fenner welcomed the Board's newest staff member, Sheila DeGrace, who will be serving as the Board's half-time receptionist.

##### 4.1 CRB Budget Report

Ms. Fenner referred the Board to its final expenditure report for the 2019/20 fiscal year found in a new format on page 32 of the Board agenda packet. She thanked staff for helping to keep expenditures down, noting that there is a small savings of \$77,000 at the close of the fiscal year.

Ms. Hurt requested an explanation of the Temporary Positions line item. Ms. Fenner explained that the Board did not receive approval from the Department of Finance to

create a permanent civil servant position to assist with the Transcript Reimbursement Fund (TRF), therefore, the position is in the Board's blanket as temporary help.

Ms. Hurt asked for information about the Special Items of Expense line item. Marie Reyes, budget analyst, explained that there was an accounting adjustment made and that the \$62,000 should not have been included. The Special Items of Expense should only be \$551 for digital printing services.

Ms. Fenner referred to the overall fund condition on page 33 of the Board agenda packet. The report reflects the fund condition without any transfers to the TRF. The Board was able to reopen the TRF on November 2, 2020. She indicated that the projections on page 34 indicate what the fund condition would look like if there was a \$100,000 transfer to the TRF, and page 35 reflects a \$200,000 transfer for comparison.

Ms. Fenner thanked Ms. Reyes for her hard work in helping transition the Board from the legacy accounting system into the new FI\$Cal system. She stated that Ms. Reyes dedicated a large amount of time developing spreadsheets for the Board, allowing the Board to make its best decisions with its financial position in mind. She has always been readily available to answer questions and provide reports. Ms. Fenner wished her well in her upcoming retirement and stated that she would miss getting to work with this very competent professional.

#### 4.2 Transcript Reimbursement Fund

Ms. Bruning shared that Board staff worked closely with staff at DCA's Office of Public Affairs (OPA) to revise the application forms and guidelines in hopes of making them more streamlined and clearer to avoid deficiencies and rejections due to incomplete applications. She credited Matt Woodcheke at OPA for his instrumental contributions to the project and facilitation of development of the forms alongside the DCA Public Design and Editing team. She indicated that staff also worked with the DCA Office of Information Services to create a dedicated menu tab on the Board's website to provide updated information.

Ms. Bruning reported that since the reopening of the program, 28 applications had been received for the pro bono portion of the program, and seven applications were received for the pro per portion.

#### 4.3 Enforcement Activities

Ms. Fenner referred to the enforcement statistics starting on page 36 of the Board agenda packet. She indicated that there was nothing significant about the statistics or types of complaints received.

#### 4.4 Exam Update

Ms. Fenner reported that the administration of the skills exam was moved to an online platform. At its May 21, 2020 meeting, the Board directed staff to administer the July 2020 exam online. Fortunately, the contract with the online vendor, Realtime Coach (RTC), was already in place. However, there were many other tasks to complete.

Ms. Fenner applauded Board and DCA staff for their efforts in pulling everything together with minimal time. Ms. Kale learned the entire RTC system and rewrote all the candidate instructions. Ms. Bruning worked with the DCA Office of Public Affairs who found a way to safely record a bank of tests with four speakers who would not be wearing masks. The volunteer readers traveled from near and far to assist the Board with recording. She thanked everyone for their dedication and commitment to excellence.

Ms. Fenner indicated that the historical examination statistics were provided in the Board agenda packet starting on page 38. She stated that the July online exam results were very close to the results of the March onsite exam, with the first-time pass rate being slightly higher for the July test. She congratulated the Board for successfully continuing its licensing efforts without interruption during a global pandemic.

Ms. Fenner described some issues that came up during the new endeavor. One oversight was not including the speakers' names on the written glossary in the warm-up material. Although the speakers identified themselves, no spellings were given for the names. Additionally, there were issues with proctors; therefore, Board staff made improvements to the instructions that the proctors receive. Varying internet issues occurred. Staff also realized that the practice test should be full-length instead of two minutes to ensure the large video could be played on the candidate's equipment. Staff evaluated issues on a case-by-case basis and made decisions taking into consideration all the information particular to each candidate's situation. Ms. Fenner stressed the importance of doing the practice tests that are provided and following the written instructions.

Some candidates were unhappy with the removal of the appeal process. Previously, one test was used for all candidates during the administration of the onsite test, and candidates had access to listen to the test and compare it to a copy of their graded test. The online skills test now mirrors the online written tests in that there is a bank of questions, or in the case of the skills test, a bank of video tests. They are randomly assigned to the candidate. If the candidate is not successful, they are locked out of the test permanently and would be offered another test at a future testing cycle. This way of administration does not allow for the Board to return the test transcripts back to candidates. To help ensure that no candidate is unfairly failed, the grading procedure is more rigorous. The test is initially graded by computer. Because there are so many acceptable ways of setting up colloquy with the four-voice test, a human grader then re-checks the results. If the candidate is within 20 points of passing, it is re-checked by a second human grader. If the candidate is within 10 points of passing, a third human grader re-checks it. Because there is no appeal process available with the online administration, only a pass/fail grade was issued in the results letter, another change which was difficult to accept for the candidates.

The new testing cycle began on November 16, 2020, and is scheduled to continue through December 7, 2020. There are 87 candidates who have applied for the exam, with 15 first-timers. Of the first-timers, six qualified through schools recognized by the Board.

Ms. Hurt thanked staff for working through the many details of transitioning to online testing. She acknowledged that change is difficult but asserted that the Board is pivoting to meet the challenge.

Heather Bautista thanked the Board and Ms. Kale for the dedication to continuing the exam during the pandemic to ensure California consumers would continue to be served by licensed court reporters.

#### 4.5 CRB Today Newsletter, Fall 2020

Ms. Fenner reported that the Fall 2020 edition of the Board's newsletter would be published on the Board's website on November 23, 2020. She stated that Ms. Bruning worked diligently to shepherd the newsletter to completion while preparing for the Board meeting, reopening the TRF, and assisting in training the Board's new receptionist.

Ms. Hurt thanked staff for a job well done.

#### 4.6 Business Modernization

Ms. Fenner reported that the Board is now able to accept online credit card payments for license renewals. There are a handful of exceptions listed in the latest newsletter edition as well as online. This was another huge endeavor on the part of staff.

### 5. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Ms. Bautista requested the Board move its public comment section to the end of the meeting.

### 6. DIGITAL RECORDERS

Ms. Fenner stated that the Board received a request to place the topic of digital recorders on its meeting agenda. She noted that the Board does not license digital recorders and does not have jurisdiction over their practice. She shared that the practice of shorthand reporting is defined in Business and Professions Code (BPC) section 8017 as making, by means of written symbols or abbreviations in shorthand or machine shorthand writing, of a verbatim record of any oral court proceeding, deposition, court ordered hearing or arbitration, or proceeding before any grand jury, referee, or court commissioner and the accurate transcription thereof. By this definition, digital recorders are not practicing shorthand reporting without a license. Additionally, attorneys have the statutory ability to stipulate in writing to an alternate form of recording a deposition.

Ms. Fenner stated that the Board performs the mandate given to it by the legislature within the confines of the statutes enacted with regard to shorthand reporting, and the Board may not exceed its authority. With any complaint received, staff must first establish jurisdiction and determine what statute may have been violated before it may take action.

She shared that Board staff's position is that this is a consumer awareness issue and best addressed via education of attorneys and litigants to the advantages of hiring a licensed court reporter.

Ms. Hurt conveyed that the Board decided to consider this item in a public forum to clarify what the Board legally can and cannot do within the confines of its legislative mandate. She invited comments from the group that brought the issue forward.

Kimberly D'Urso, CSR, on behalf of Charlotte Mathias, CSR, and Protect Your Record Project (PYRP), asserted that the Board's reference in its agenda summary to Code of Civil Procedure (CCP) 2016.030 does apply to the activity brought to the Board. The attorneys believe they have a CSR because they requested a court reporter, and that is what the notary is calling themselves. Therefore, the attorneys have not entered into a written agreement to use a notary to digitally record their deposition.

She stated that an unauthorized California court reporting firm recently suggested to a group at a legal secretaries association meeting that they update their notices to request a notary public be present instead of a CSR. She contended that this does not meet the standards of a written stipulation and that opposing counsel may not be aware that the testimony is being digitally recorded instead of reported by a licensed court reporter until they request readback. She added that the digitally recorded transcripts also do not identify the notary and just indicate "court reporter."

She inquired whether the Board reached out to the State Bar to educate attorneys as suggested in the recommended board action on the agenda summary. She questioned why the Board publication "5 Reasons Why You Should Choose a Licensed Court Reporter" would reference "licensed court reporter" as if there is such a thing as an unlicensed court reporter. She indicated that DCA claims to be a regulator who works with California professions to guard licensees against unfair competition and to protect consumers from unlicensed practitioners. She added that the Board website indicates the Board will investigate fraud and other crimes but then states it does not have jurisdiction over electronic recording and video operators. It claims it will refer these types of claims to the appropriate agency if possible and notify the complainant. She requested the Board do so immediately to protect California consumers.

Kelly Shainline, CSR, on behalf of PYRP, stated that at the Board's May 21, 2020, meeting, many members of the court reporting community voiced concerns regarding rampant use of digital recording, mostly seen from out-of-state unauthorized foreign corporations. Since that time there has been an escalation of the unethical behavior including fraud upon the court wherein an unauthorized audio recording from a court proceeding was transcribed by an out-of-state transcriber and the attorney unknowingly filed the uncertified transcript with the court as if it was the certified transcript from the official reporter.

She contended that silence from the Board is causing harm and seen as a green light to unauthorized corporations to do whatever they please. She requested the Board either work with the Legislature or fix the regulations to establish jurisdiction over the bad players to protect the consumers and maintain the integrity of the record.

Ms. Shainline stated that the board discussed electronic recording at its February 1990 planning session where it determined it should examine its use; however, there does not appear to be an outcome of the variety of options they were exploring. She requested the Board revisit this issue and protect consumers who utilize court reporting services or determine who does have jurisdiction over the practice.

Kim Kuziora, CSR, stated that she received confirmation via email from the California Secretary of State that if a notary public performs depositions, they may not record and transcribe it unless they are a California licensed CSR. The notary may take the deposition by long hand or typing.

She stated that she filed multiple complaints with the Secretary of State's office related to notaries calling themselves court reporters and digitally recording depositions. One such complaint included a deposition notice that indicated the deposition will be before a certified court reporter, but a notary public was sent to digitally record the deposition. There was no written stipulation to allow for the digital recorder, and one of the attorneys did not agree to stipulate on the record. She shared that the attorney related to her that he was horrified that this was allowed to happen and felt backed into a corner to go forward due to discovery deadlines. This transcript was certified by the notary and transcriptionist. Per CCP 2025.340(m), this transcript would not be admissible evidence because it is not a stenographic transcript. As pointed out in the March 2020 attorney email submitted, this transcript would be useless in an insurance fraud situation where a district attorney would need to use a transcript for criminal prosecution.

Ms. Kuziora declared that attorneys have a reasonable expectation that when a deposition notice requests to have a certified court reporter and someone calls themselves a court reporter, that that person is a licensed CSR. She stated that the notary public section manager at the Secretary of State's office told her the Board should be handling these complaints and instructed her to also forward her complaint to the District Attorney's Office. The District Attorney's Office responded that her complaint raised issues of possible deceptive or unlawful business practices by a notary public and that these types of investigations are usually handled by the Board. She requested the Board receive complaints regarding digital records and adhere to its duties under BPC 129(b) by forwarding complaints outside its jurisdiction to the appropriate agency.

Mr. Hensley, on behalf of CCRA and those pursuing a stenographic career, stated that CCRA stands in support of the comments made by PYRP and similar opinions from others.

He stated that California court reporting has been considered the gold standard of competency in the profession for many years. Other states and the national association have acted to counteract the infiltration of digital recording practices in the profession. For California to remain a viable front runner and shining example of the high standard of the profession, he encouraged the Board to thoughtfully consider the comments that have been presented and take serious decisive action to promote the viability of stenographic reporting as it relates to certified shorthand reporters otherwise known in common parlance as court reporters.

Ms. Hurt reiterated the recommended Board action to educate attorneys via the State Bar regarding the importance of requesting a Certified Shorthand Reporter. She stated that an expansion of the Board's jurisdiction from the Legislature would be in order.

*Ms. Sunkees moved to direct staff to reach out to the State Bar to educate attorneys on the importance of requesting a shorthand reporter. Ms. Nocella seconded the motion.*  
Ms. Hurt called for public comment.



Ms. D'Urso thanked the Board for indicating they would reach out to the State Bar and requested that the Board publish similar educational statement on its website regarding the importance of hiring a CSR. Ms. Hurt responded that the publication is on the Board's website.

Mr. Hensley requested the Board review the documentation provided in relation to this agenda item. Specifically, in BPC 8018 there is an outline of oversight of those who attempt to perform the practice of using words or symbols or intending to indicate that he or she is certified under this chapter.

Ms. O'Neill recalled when licensing became required for deposition reporters in the 1980s. At that time, attorneys began asking to see the court reporter's license at the beginning of every deposition. She recommended attorneys be reminded that they can ask to see the license to ensure they have a CSR present.

A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

### ***MOTION CARRIED***

***The Board took a break at 10:19 a.m. and returned to open session at 10:35 a.m. A quorum was reestablished by roll call.***

## **LICENSE/CERTIFICATION RECIPROCITY**

### **7.1 Discussion and possible action to allow reciprocity with the state of Texas**

Ms. Sunkees reported that the Texas License Reciprocity Task Force, co-chaired with Board Member O'Neill, met on June 26, 2020. She thanked members of the California task force, Stephanie Leslie and Heather J. Bautista, as well as attendees from the Texas task force including members from their Judicial Branch Certification Commission, the Texas Court Reporters Association (TCRA), and the Texas Deposition Reporters Association.

She stated that the task force was created as a result of the proposal from Texas to create license reciprocity between the two states. Texas considered the licensing tests to be substantially equal and believed reciprocity would ease the growing reporter shortage.

During the meeting, the Board learned that Texas currently has roughly 2200 licensees and 300 firms registered. They reached out to 31 states that have some sort of certification, but California was their first attempt at a reciprocity agreement. Texas accepts provisional licensing, meaning you can work in Texas until you pass test, and an apprentice category for a new reporter who would need to keep trying to take test while working under an experienced reporter.

Though the RPR uses the same testing standards, 180 literary, 200 jury charge and 225 Q&A at 97% (sic) accuracy, Texas does not use the RPR, partly because the national test is allowed to be passed in legs rather than in one sitting and also because the RPR test is given by an association. Texas law requires certification by jurisdiction. The Texas exam is developed by the TCRA's Testing Advisory Committee.

She reported that the Board has entered into an interagency agreement with the Office of Professional Examination Services (OPES) to help determine if the Texas license exam is comparable to the California exam. The Board has also requested that OPES look at NCRA's RPR exam for the same purpose. When all information is received, the results will be discussed by the task force and a recommendation will be made to the Board.

Mr. Hensley, President of CCRA, asked for clarification on a question asked at the Board's May 21, 2020, meeting by Ms. Bautista regarding how to determine which state's minimum transcript format standards should be followed for remote proceedings. He asked if Ms. O'Neill's question was answered on how the different state boards would handle enforcement issues.

Ms. Bautista stated that she is also licensed in Texas and was granted endorsement for her machine portion because of her experience and certification. However, she was required to take the written knowledge test for Texas. She is in favor of reciprocity but believes the written knowledge test should be required for the California specific codes.

Ms. Hurt thanked Ms. Sunkees and Ms. O'Neill for working through the issue. She believes it to be very important to have the OPES test analysis to obtain the data necessary to make a decision. She indicated that the task force co-chairs would take the comments and questions back to the task force for consideration.

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

No discussion was taken on this item since it was reported above that OPES has been asked to research the NCRA exam.

### 8. LEGISLATION

- 8.1 AB 1469 (Low) – Ms. Fenner stated that the bill did not make it out of Senate Appropriations Committee due to the shortened legislative year and the priority that was given to COVID-related legislation. The Board is very appreciative of the continued efforts by Assemblymember Low to move firm registration forward on behalf of the California consumers. Ms. Hurt echoed appreciation to Assemblymember Low.

Ms. D'Urso read the staff comments from the August 11, 2020, Senate Appropriations bill analysis. She stated that the bill was put in suspense because the cost of the bill would likely surpass the Suspense File threshold.

8.2 SB 1146 (Umberg) – Ms. Fenner reported that the bill became law in September. She emphasized that the only thing that changed with this law is the requirement of the court reporter to be in the physical presence of a party witness. Before COVID, if the deponent was in California, the reporter had to be licensed by the CRB in order to report that deposition. The same still applies if the deponent is in California regardless if the case is venued in Georgia or the attorneys are from Texas. If it is a federal case, then Federal rules apply as CRB does not have jurisdiction over federal cases. If the deponent is located in another state, the reporter may need to inquire with that state to determine if they have similar requirements for licensure to practice in that state.

She stated that misinformation on social media prompted more phone calls to the Board office on this issue than any other issue. She thanked staff for their endless patience with the variations of questions.

Mr. Hensley requested the Board clarify the question of where a court reporter need to be physically while performing remote proceedings. He requested a written response to avoid inconsistencies and reduce the myriad of phone calls received by the Board and association offices. Ms. Fenner responded that the location of the court reporter was irrelevant, but the Board looks to the location of the deponent.

8.3 Proposal from CalDRA to amend Business & Professions Code section 8018 re: use of the terms ‘court reporter’ and ‘deposition reporter’

Mary Pierce, on behalf of the California Deposition Reporters Association (CalDRA), related the request to the issue of digital recorders that are calling themselves “court reporter” and “deposition reporter” out in the field. She stated that this leads to a misunderstanding on the part of the attorneys about whether they are licensed and governed by the Board. CalDRA believes that the titles “court reporter” and “deposition reporter” should be added to the same code that restricts the use of “certified shorthand reporter” or “CSR” to add clarity to who is licensed and who is not. She thanked staff for their recommendation to the Board to pursue the proposal.

Ms. D’Urso, on behalf of PYRP, stated that the title of “court reporter” should be protecting and belonging fully to CSRs who have been identified for decades in the legal field as court reporters. She stated that a poll conducted by PYRP revealed that attorneys expect a CSR to report their depositions when a court reporter is ordered, not a notary public posing as one. She shared that one attorney stated that it is imperative that a professional CSR be responsible for the transcripts and their accuracy. She indicated that the deposition notice contains language defining that the CSR will report the proceeding by stenographic means.

She stated that PYRP believes the Board has not protected consumers by not taking action against notaries who fraudulently use the title “court reporter.” She added that the Board changed its name from Board of Certified Shorthand Reporters to Court Reporters Board and uses the title “court reporter” repeatedly in the majority of its publications. She believed the contradictory language and ambiguities to be harmful and requested the Board protect the hard-earned title that stenographic CSRs have professionally trained to use.

Ms. Bautista requested the Board also add “deposition officer” to the list of protected titles. She stated that the Board governs how licensed certified professionals are to conduct themselves while performing duties under the California CCP. She asserted that CSRs readily pay their yearly license fee in order to perform an integral part of the justice system in the state. She found it insulting for the Board to turn a blind eye to the rampant and blatant fraud being perpetrated on consumers by corporations and persons in violation of BCP 8018.

She indicated that she spent seven years training to become a court reporter. Certified reporters depend on skill, their human brain, impartiality, and the ability to determine what it and is not understood. They do not simply press record, monitor microphones, and depend on electronic recordings to capture the record. She asked the Board to seek legislation that offers title protection for its licensees.

Ms. Kuziora stated that attorneys have a reasonable expectation that when a deposition notice of the deposition will be taken before a certified shorthand reporter or a certified court reporter, that a license certified shorthand reporter will be stenographically reporting the deposition transcript and that the transcript will be admissible in a court of law. She stated that untrained persons who show up and represent themselves as court reporters are a fraud and cannot be tolerated in a judicial or administrative proceeding.

She shared that bill analysis for AB 1520 and AB 1469 both state that court reporters are highly trained professionals who stenographically preserve the words spoken at a variety of settings. Additionally, the Board’s sunset review bill states, “licensed court reporters are charged with producing an accurate and timely transcript of legal proceedings. Charged with oversight of the court reporting industry, the Board assures protection of the California consumer and their essential legal rights.” This would lead consumers to believe that anyone who calls themselves a court reporter is a licensed certified shorthand reporter that is under the jurisdiction of the Board. She urged the Board to support the proposal.

Janet Harris, President of the American Association of Electronic Reporters and Transcribers, opposed the proposal. She stated that there are multiple technologies for preserving testimony and producing verbatim transcripts, including digital, machine shorthand, voice writing, and video, each with a recognized national organization certifying a person’s proficiency to preserve and produce a complete and accurate record. She asserted that the Court Reporters Board was formed to regulate only certified shorthand reporters and that changing its name does not broaden its scope. She stated that “court reporter” and “deposition reporter” are terms of art and not specific to a particular technology. She alleged that the proposal is anti-competitive and impacts mostly individuals and small businesses at a time when the state and country are facing huge shortages of court reporters. She stated that the vast majority of consumers of court reporting services are well-informed attorneys and judges who are not before the Board requesting further oversight. She stated the proposal creates a new problem for current users of digital recording technology in California who have relied on these services for decades to ensure the efficient administration of justice including many state agencies, municipal courts, and the superior courts. She urged the Board to reject the proposal.

Mr. Hensley, on behalf on CCRA, shared interest in participating in the furtherance of this endeavor both through discussion and processes.

Ms. Bautista stated that she reviewed the exam statistics and found that the average pass rate for the last two years for the dictation exam is 16.8 percent. It is a difficult test and difficult license to attain. Not all who want to claim the title and respect of being a court reporter should be able to. She shared that she continues to hone her skills so that attorneys can expect an accurate record of proceedings prepared by a person with an ethical and professional obligation to do so.

Ms. D'Urso, on behalf of PYRP, stated that remote reporting has revealed that stenographic reporters have been able to cover calendars through the perceived shortage. She expressed that stenographic reporters have trained to use the term court reporter, and those who want a title should get their own.

Ms. Hurt emphasized the dedication and time that the Board members spend working and reviewing materials to make decisions at the meetings. She shared that there are two licensed reporters and two attorneys on the Board who are thoughtful and knowledgeable and take the mandate to protect California consumers very seriously.

*Ms. Sunkees moved to appoint a subcommittee to work with CalDRA and interested stakeholders in find an author for this legislation. Ms. Nocella seconded the motion.* Ms. Hurt called for public comment.

Ms. Bautista requested that she be invited to participate in the discussions with the subcommittee.

Ms. Harris encouraged the Board to educate themselves regarding the education and certifications required for technologies outside of steno machine writing.

Ms. D'Urso, on behalf of PYRP, requested to be included in the conversations with the subcommittee.

Ms. Hurt indicated that she would like to understand the topic more, but the current discussion is in regard to protecting the terms "court reporter" and "deposition reporter," and it does not preclude work that is done by other means. She believed it to be appropriate to work to protect the titles.

A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

### ***MOTION CARRIED***

Ms. Hurt appointed Ms. Sunkees as chair of the Title Protection Subcommittee.

## 9. REGULATIONS

### 9.1 AB 2138 Implementation: Status report for section 2470 & 2471

Ms. Rogers shared that Business, Consumer Services and Housing Agency approved the language on November 16, 2020, and she would, therefore, be filing the regulatory package with the Office of Administrative Law soon.

### 9.2 Disciplinary Guidelines: Proposed amendments to section 2472

Ms. Rogers stated that the proposed amendments were approved by the Board at its May 21, 2020 meeting. Staff is preparing the regulatory package.

### 9.3 License Examination

#### 9.3.1 Inspection of Examination Papers; Notification: section 2422

Ms. Fenner recommended the Board adopt the proposed language.

*Ms. Sunkees moved to approve the proposed regulatory language to amend 16 CA ADC § 2422. Additionally, she moved to direct staff to proceed with the pre-approval process for the regulations with authority to make nonsubstantive changes. If no substantive changes, staff is then directed to submit the regulations package to the Office of Administrative Law. Ms. Nocella seconded the motion. Ms. Hurt called for public comment. No comments were offered. A vote was conducted by roll call.*

For: Ms. Nocella, Ms. Sunkees, and Ms. Hurt

Opposed: None

Absent: Ms. O'Neill

Abstain: None

Recusal: None

#### ***MOTION CARRIED***

#### 9.3.2 Examination Application: section 2418

Ms. Fenner indicated that section 2418 would be brought back to the Board at a later meeting.

## 10. BOARD POLICY MANUAL

### 10.1 Repeal policies already contained in regulations or otherwise duplicative

Ms. Fenner indicated that along with updating the regulations to conform to online testing, the Board Policy Manual also needs to be updated.

The first policy relates to appointing an Appeals Committee. Since there is no longer an appeals process, staff recommends the Board repeal the portion of the policy regarding the Appeals Committee.

Mr. Hensley, on behalf of CCRA student and educator membership, stated that there is a concern regarding the removal of an appeals process as part of the online examination. He stated that in order for California to maintain the high standard of accuracy required to pass the exam, then an appeals process must be included. He asserted that nature of the exam grading is subjective, and candidates have been able to successfully appeal their exam grade leading to licensure. He suggested the Board consider revising the appeal process to align with the online platform instead of entirely removing the appeal process.

Ms. Hurt acknowledged the concern but believed removal of the appeal process to be appropriate to protect the test bank. Ms. Fenner stated that the computer can check for accuracy of the words, but recognizing there can be different styles of punctuation, the Board has added three layers of human grading. The first person rechecks what the computer graded, looking for formatting and style. If the test is within 20 points of passing, the test is reviewed by a second human grader to recheck it. If the test is within 10 points of passing, it is given to a third human grader. If there is any question as to whether something is essential, it always goes in the favor of the candidate. She shared that after the multi-step process, no one from the last test was within 20 points of passing and, therefore, would not have been eligible for an appeal under the old process.

*Ms. Sunkees moved to repeal appointment of an Appeals Committee from the current Board Policy. Ms. Nocella seconded the motion. Ms. Hurt called for public comment.*

Ms. D'Urso, on behalf of PYRP, supported and thanked Mr. Hensley for his comments.

A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

### ***MOTION CARRIED***

Ms. Fenner referred to the second policy for consideration regarding the results of the skills test. In December of 1987, the Board adopted the policy of not giving the candidates their actual test scores. The staff recommendation is to similarly move to advising candidates of pass or fail on the skills portion.

*Ms. Sunkees moved to send the skills exam results as pass or fail. Ms. Nocella seconded the motion. Ms. Hurt called for public comment. No comments were offered. A vote was conducted by roll call.*

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

**MOTION CARRIED**

Ms. Fenner stated that the third policy that needed review is regarding printing rough drafts for the skills test. The current policy allows candidates to print one rough draft from which to proof their final transcripts. A request has been received to allow the candidates to print their notes and as many drafts as they feel they need. Recognizing that it is easier to proofread on paper rather than on a screen, the Board previously adopted the recommendation to allow the candidates to print one rough draft. The staff recommendation is to leave the policy as is and limit it to one printing for security reasons.

No public comments were offered. No action was taken.

10.2 Amend policies for online skills portion of license exam:

10.2.1 Time to upload steno notes

10.2.2 Time for a second try

Ms. Fenner reported on these two items together. She stated that despite being allowed unlimited access to RTC to practice, a number of candidates were unable to successfully upload their steno notes in the two-minute time allotted to them. Although by policy they were allowed a second two-minute time period to upload, this created confusion with some of the proctors. To eliminate this problem, staff is proposing that the Board change the policy regarding the uploading of notes to be one four-minute period.

*Ms. O'Neill moved to modify the time allowed for uploading of stenographic notes to one four-minute period. Ms. Sunkees seconded the motion. Ms. Hurt called for public comment. No comments were offered. A vote was conducted by roll call.*

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

**MOTION CARRIED**

10.2.3 Acceptable pass rate

Ms. Fenner indicated that the Board received a written request from a member of the public to lower the current passing grade of 97.5% accuracy on the skills portion of the exam. The reasoning offered is the State Bar has lowered its



passing grade and the CRB should follow suit. If the Board makes a change to the passing grade, it would require a regulatory change.

Ms. Hurt asked how long the pass grade has existed. Ms. Fenner was not sure if it had ever changed but was able to confirm that the passing grade was the same when she took it in 1996.

Ms. Sunkees did not see a convincing reason to lower the passing grade of the skills exam. She gleaned from the discussions of the day that there was a consensus to maintain standards, not lower them.

Ms. Hurt added that there was a huge equity argument being associated with the changes to the State Bar. She stated that the State Bar had quite a bit of statistical data, but there was nothing comparable that for the Board's dictation exam. She said the State Bar made a statement advocating for the change because the passing rate was not reflecting whether one could be a good attorney. She believed the skills of court reporting are more straightforward and objective.

Ms. O'Neill expressed that she did not support proposals to lower the passing grade in the 1980s, and she does not support it now.

Ms. Nocella agreed with the previous comments. She said without significant data she did not believe this was something the Board should act on. She shared that she did not support the change for the State Bar and does not believe the Board should change the threshold for the dictation pass grade.

No public comments were offered. No action was taken.

## 11. STRATEGIC PLAN

### 11.1 'Five Reasons to Hire a Licensed Court Reporter' – Publication

Ms. Fenner reported that the Board approved language for a publication to educate attorneys and litigants on the importance of hiring a licensed court reporter. The final design is on the Board's website and is provided in the Board agenda packet on page 62 for informational purposes.

### 11.2 Best Practices Task Force

Ms. O'Neill reported that the Best Practice Pointers Task Force, co-chaired with Board Member Sunkees, met on June 19, 2020, and took on the topic of remote reporting. She thanked task force members Irene Abbey, Lauren Biggins, Jennifer Esquivel, and Priscilla Gwaltney for their attendance and input based on years of experience.

She presented the draft version of Best Practice Pointer No. 11, Videoconference/ Remote Reporting located on pages 63 and 64 of the Board agenda packet. She emphasized that best practices are not underground regulations but are created and made available for anyone to use as a guidance. The Board will not use these guidelines as a basis for discipline or enforcement.

Ms. Hurt thanked the task force for its efforts. She requested Board and public comment on the draft publication.

Ms. Sunkees recommended insertion of the word “only” after the word “transcription” in the first bullet point under item B.

Mr. Hensley, on behalf of CCRA, proposed removal of bullet point seven of item A. He stated that a reporter does not need to be the host of a session in order to identify all participants. Aside from using various platform capabilities, this can be done by verbally inquiring prior to proceedings on the record as to who all are present for the proceedings, as described in Item B bullet point three. Also, inclusion of this advice would be in direct contradiction to NCRA’s Advisory Opinion 44, wherein it is advised that the court reporter should not act also as the videographer.

He further requested removal of bullet point six of item C. He stated that California Rule of Court 3.670(o) states that all proceedings involving telephone appearances must be reported to the same extent and in the same manner as if participants had appeared in person. He added that bullet five under item C advises that no “modified” or “partial” certification page is allowed, therefore, bullet six should not allow for a “best of my ability” clause to be used.

Ms. Fenner expressed that she believed the intent of the language under bullet point seven of Item A was not for the court reporter to act as the videographer in any way but to make the court reporter in charge of the control of the recording as they would be for backup audio media.

The Board directed the task force to consider the proposed amendments and bring it back to the Board for review.

### 11.3 Update to the Board on Action Plan

Ms. Fenner referred the Board to the Action Plan timeline on page 65 of the Board agenda packet. She welcomed changes to the priorities from the Board.

Ms. Hurt suggested moving up the launch of a strategic awareness campaign to educate consumers about the court reporting roles and Board responsibilities and services. Ms. Sunkees and Ms. O’Neill agreed that it would be timely to move it forward.

Mr. Hensley, on behalf of CCRA, requested the Board maintain its target of December 2020 to investigate real-time captioning standards and assess industry practices.

Ms. Fenner reminded the Board that the dates listed on the Action Plan Timeline are target dates, not deadlines. She added that the Board has had to shift priorities that took staff time, such as moving the exam online, that may cause other projects to be moved back.

12. ELECTION OF OFFICERS

Ms. Hurt called for election of officers. She stated it had been an honor to serve as chair and welcomed the chance to support a new chair.

Ms. Nocella thanked Ms. Hurt for an outstanding job as chair.

*Ms. O'Neill nominated Ms. Sunkees as chair. Ms. Hurt seconded the motion. Ms. Hurt called for public comment.*

Mr. Hensley, on behalf of CCRA, thanked Ms. Hurt for her steadfast and diligent efforts in overseeing the Board during her tenure. He also endorsed the nomination of Ms. Sunkees as chair.

A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

**MOTION CARRIED**

*Ms. Hurt nominated Ms. O'Neill as vice-chair. Ms. Sunkees seconded the motion. Ms. Hurt called for public comment.*

Mr. Hensley, on behalf of CCRA, supported the nomination of Ms. O'Neill as vice-chair.

A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

**MOTION CARRIED**

13. FUTURE MEETING DATES

Ms. Hurt indicated that staff would reach out to the Board members for their availability when a meeting is necessary. She suggested that the Board consider having more frequent meetings due to the availability of the online platform.

***The Board took a break at 12:42 p.m. The Board convened into closed session from 1:08 p.m. to 1:18 p.m.***

14. CLOSED SESSION

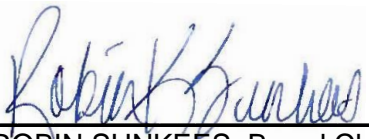
Pursuant to Government Code Sections 11126(c)(2), 11126(c)(3), and 11126(e)(2)(C), the Board met in closed session to discuss or act on disciplinary matters and/or pending litigation.

***The Board returned to open session at 1:18 p.m.***

Ms. Hurt indicated that there was nothing to report from closed session. She thanked the Board members and staff for a great meeting.

ADJOURNMENT

Ms. Hurt adjourned the meeting at 1:19 p.m.

  
\_\_\_\_\_  
ROBIN SUNKEES, Board Chair

8/20/2021  
DATE

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

8/20/2021  
DATE