



DEPARTMENT OF CONSUMER AFFAIRS

COURT REPORTERS BOARD

OF CALIFORNIA

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COURT REPORTERS BOARD OF CALIFORNIA MINUTES OF OPEN SESSION MARCH 28, 2023

CALL TO ORDER

Ms. Robin Sunkees, Chair, called the meeting to order at 9:00 a.m. The public meeting was held via a teleconference platform and a physical meeting location was not provided.

ROLL CALL

Board Members Present: Robin Sunkees, Licensee Member, Chair
Davina Hurt, Public Member, Vice Chair
Laura Brewer, Licensee Member
Arteen Mnayan, Public Member
Denise Tugade, Public Member

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

Board staff established the presence of a quorum.

1. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Priscilla Gwaltney, CSR, on behalf of the California Court Reporters Association (CCRA), requested the Board consider reciprocity with National Court Reporters Association (NCRA) and National Verbatim Reporter Association (NVRA). Ms. Fenner noted that discussion regarding reciprocity with NVRA would be considered under Agenda Item 7.

2. REVIEW AND APPROVAL DECEMBER 14, 2022, MEETING MINUTES

Mr. Mnayan moved to approve the minutes. Ms. Hurt seconded the motion. Ms. Sunkees called for public comment. No comments were offered. A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

3. DEPARTMENT OF CONSUMER AFFAIRS UPDATE

Judie Bucciarelli with the Department of Consumer Affairs (Department/DCA) Executive Office provided a Department update.

DCA Diversity, Equity, and Inclusion Steering Committee

The Diversity, Equity, and Inclusion Steering Committee (DEI Committee) met at the end of January and decided to focus on training in the first quarter of 2023. All staff will receive DEI training with regular and recurring training opportunities. Training modules for the DEI Committee, led by DCA's SOLID planning and training unit, included:

- Understanding the value of DEI in the workplace
- Learning to navigate diverse conversations
- Decoding our unconscious biases
- Unleashing the power of generational differences

Additionally, executive officers and bureau chiefs will attend 1.5 hour DEI leadership training as a part of the Director's quarterly meeting. By late April the SOLID trainers will be DEI-certified and will offer DEI-related trainings to all DCA employees by June. The DEI Committee will next meet on May 12, 2023.

Strategic Planning

DCA's SOLID team is in the final stages of updating its strategic planning process, which includes an equity analysis. Environmental scan surveys and SWOT analyses will include DEI-related questions to assist boards and bureaus in developing DEI-related goals and objectives as part of their strategic plans. To further assist the boards and bureaus, sample DEI objectives will be provided. A training video and video messages from Business, Consumer Services, and Housing Agency and DCA are in the works to explain their perspectives on DEI and how it relates to the boards' roles as regulators and policymakers. To improve public access, DCA is creating a centralized website page on DCA's website (dca.ca.gov) that will house all board and bureau strategic plans. Once these new DEI components have been finalized, SOLID will begin working with DCA's boards and bureaus to develop new strategic plans or update existing ones. As new information becomes available, DCA will keep the executive officer informed.

Required Board Member Training

All DCA employees and appointees, including board members, are required to complete the sexual harassment prevention training in 2023. This two-hour, online training is required every odd-numbered year.

All those with a DCA email address are required to complete the Information Security Awareness Fundamentals training annually to aid in protecting DCA data and information.

Board members are required to complete the Board Member Orientation Training (BMOT) within the first year of appointment and reappointment. The next offering will be held virtually on March 22, 2023, and possibly in-person on June 20, 2023, and October 10, 2023. Additionally, Ethics Training must be completed within six months of appointment and repeated every two years. Lastly, Defensive Driver Training must be completed within the first year and every four years.

A mandatory trainings page has been created to help members identify, access, and track specified trainings on the Department's website under Board Member Resources. The page includes direct links to mandatory trainings as well as pertinent information and policies specific to these training courses.

Form 700 Filing

Board and committee members are required to file a Statement of Economic Interests (Form 700) within 30 days of their appointment, annually, and within 30 days of leaving office. This year's annual filing period covers the prior calendar year (January 1 through December 31, 2022). The official deadline for filing is Friday, April 1, 2023. To ensure compliance, DCA requests that Form 700 filers complete the e-filing by Friday, March 15, 2023. You should have recently received an email from Netfile with instructions on how to file your Annual Form 700.

Virtual Meetings and the Bagley-Keene Open Meeting Act

Legislation passed last year amended provisions of the Bagley-Keene Open Meeting Act to extend the ability of state bodies, such as DCA's boards and bureaus, to conduct public meetings virtually through July 1, 2023. Under the current provisions, no physical meeting location is necessary; board members' virtual locations do not need to be open to the public; and members of the public can participate virtually or telephonically, increasing accessibility. Absent legislation to extend these provisions, DCA's boards and bureaus will not be allowed to conduct meetings virtually. After July 1, 2023, boards will have to return to the Open Meeting Act teleconference meeting requirements they were accustomed to before the COVID-19 emergency.

BBR Winter Newsletter

In case you missed it, Board and Bureau Relations circulated its Winter board member newsletter at the end of January. The issue includes an introduction of the BBR Team, helpful resources, training details and department updates. Please visit dca.ca.gov to check it out.

Enlighten Enforcement Process

DCA has begun its Enlighten Enforcement Process. Last year the Enlighten Licensing Process Project Team released its report including recommendations on how to improve licensing process specifically for the Board of Registered Nursing, but there were many recommendations that other boards could implement as well to improve their processes. Starting in March, the team is now moving to enforcement, and the Dental Board of California has agreed to be the first board to go through this process. On March 2, the co-chairs on this project led staff through a review of their complaint and investigation process as subject matter experts from all boards were able to ask questions and provide suggestions. This review process will continue until all aspects of the enforcement process have been reviewed. The result will be another report with recommendations, a sample enforcement policies and procedures manual, and a critical review of the process that will be used to update DCA's Enforcement Academy training. This process will also assist in identifying the codes used for reporting to ensure all boards and bureaus are reporting their data accurately.

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

4. REPORT OF THE EXECUTIVE OFFICER

4.1 CRB Budget Report

Ms. Fenner provided a review of the Board's budget and referred the Board to page 16 of the Board agenda packet for the expenditure projections for Fiscal Month 7. Staff continues to keep expenditures minimal, and savings have been realized by holding Board meeting remotely, resulting in a good fiscal position moving to support technology modernization efforts.

Ms. Hurt inquired when the Board would need to return to in-person meetings. Ms. Fenner responded that a bill was circulating to extend the ability to meet remotely.

Ms. Fenner referred to the Board's overall fund condition on page 17 of the Board agenda packet, stating that the months in reserve stands at 9 to 10 months.

4.2 Transcript Reimbursement Fund

Ms. Bruning offered information on the background and application processes for perspective. She stated that there are two pathways for access to the Transcript Reimbursement Fund. The first pathway was established in 1981 and assists non-profit legal entities with the transcript costs for their pro bono clients. These applications are generally straightforward, the most helpful aspect being that most of the non-profits submit applications on a regular basis and thus have the process down well. Additionally, most of these applications are for deposition transcripts and are accompanied by an invoice because the transcript has already been produced. This means once the application is reviewed and the invoice processed, staff is done with that application.

The second pathway was established starting in 2011 to help self-represented indigent litigants with their transcript costs. Although the application is relatively straightforward, there is an unfortunate number of the applications that are deficient. They are missing necessary information such as the date of hearing, the name of the court reporter, the estimate or invoice, or the required fee waiver. This results in heavy delays in the process. Staff emails the litigant requesting the missing information to complete the application. The consequences of this are multiple emails and phone calls also weighing down the process.

When a pro per application is complete and accompanied with the required documentation, staff usually provisionally approves the application since the litigant has not yet paid for their desired transcripts. A letter goes to the litigant with a copy to each of the involved court reporters outlining which dates are to be produced. Later, the court reporters send their invoices that we review and approve for payment. As you can see, yet another step in the process.

Ms. Brewer inquired if the application had been altered to try to mitigate deficiencies and decrease staff time. Ms. Bruning responded that all application forms and guidelines were revised with the assistance of DCA's Office of Public Affairs at the time of the reopening of the TRF in November 2020. Unfortunately, there is necessary information required and many pro per litigants are not used to navigating

the courts' systems to obtain the required information. She added that staff was working with the technology modernization group to make the forms part of the online application process.

Ms. Hurt asked how long the application processing takes. Ms. Bruning stated that initial review times have recently been reduced to a 30-day window. She shared that her workload encompasses more than processing TRF applications causing a variation in processing times. She added that training had begun with the Board's receptionist on the initial review process. Ms. Hurt suggested the Board offer a video explaining the application process.

Ms. Brewer inquired about the calendar year and fiscal year limits for each pathway. Ms. Bruning indicated that during the Board's last sunset review, the pro per and pro bono program were aligned to both be on a fiscal year basis. Additionally, the pro per program is no longer limited to \$75,000 for all cases and were integrated into the main fund. She credited the Legislature for their \$500,000 transfer to the TRF from the General Fund in fiscal year 2021/22.

Ms. Bruning provided statistics for each pathway for the current fiscal year: More than \$115,000 had been paid thus far for pro bono applications, and two applications had been provisionally approved for a total of \$708. Provisional approval had been provided for more than 200 pro per applications of which more than \$35,000 had already been paid. The Board awaits 113 invoices of those provisionally approved for nearly \$40,000.

At the time of the meeting, there were 24 pending pro bono applications of which 16 were deficient. There were 91 pro per applications pending of which 80 were deficient. Applications are reviewed in the order they are received.

4.3 Enforcement Activities

Ms. Fenner referred to the enforcement statistics starting on pages 19 and 20 of the Board agenda packet. She indicated that data included complaints against licensees and firms.

4.4 License Exam

Ms. Fenner indicated that the overall exam statistics began on page 21 of the Board agenda packet. She stated that 100 candidates applied for the most recent skills exam. There were 91 who actually took the test of which 29 were first-timers.

Ms. Fenner strongly encouraged candidates to schedule early in the exam cycle. More than half of the candidates waited to schedule until the last three days of the exam. If they have any issues with the exam, it does not give them time for a re-test because 72 hours is required to schedule a proctor.

She reported that the Board recently licensed its first voice writer.

Ms. Hurt expressed concern over the decrease in the number of candidates taking the test. Ms. Fenner stated there may be an uptick as word of the shortage gets out. She

added that the allowance of voice writers will also increase the number of candidates. Voice writing has been added to the curriculum at more than one recognized school, which is shorter than the machine writing program. Ms. Hurt urged the associations to do everything they can to mentor individuals so they may make it through the testing process. Ms. Fenner responded that CCRA has been working diligently to increase the number of candidates.

Ms. Brewer mentioned that courts are offering very attractive packages to draw interest to a career as an official court reporter. Ms. Sunkees indicated that the Legislature gave the courts \$30 million for the purpose of recruiting and retaining court reporters.

Ms. Fenner stated that the results for the two written portions of the license exam, English and Professional Practice, appeared on pages 23 through 26.

Ms. Fenner requested volunteers for subject matter experts to assist in development of the written licensing exams.

4.5 Technology Modernization

Ms Fenner indicated that staff is meeting twice weekly with the project manager to develop scope documents and learn the management system that will be used to manage the workflow. Staff is working to have as much background work done as possible so that we can move quickly once the contracts are executed between Department of Technology and DCA. The online enforcement complaint form will be first, followed by the TRF online application, and finishing with exam and licensing. After the structure is in place, back-office functions will be built.

She noted that this is big commitment of staff time and the Board's budget. The essential services are being targeted with the grant money received, but as the rest of the business services are built out, it is anticipated that there will be additional expenditures in future years. She thanked staff for carving out time to take on this huge project around their existing duties.

The Board echoed appreciation to staff for taking on this time-intensive process.

Ms. Sunkees called for public comment.

Ms. Gwaltney stated that CCRA will continue to pursue an in-person exam due to their belief it will result in more licensees. She also requested the Board resume providing candidates their exams for corrections or a summary of the problem areas. She invited Board members to attend and promote the "Find Your Voice" webinar put on by the Los Angeles Court Reporters Association (LACRA), which provides information about voice writing careers.

Ms. Hurt and Ms. Fenner provided input on the lack of cost-effectiveness for holding in-person tests. The meeting space for one test may run approximately \$20,000 in Southern California, in addition to travel costs for readers and staff. The Board may wish to consider the number of candidates who would be present to take the test when deciding if in-person tests would be resumed.

Ms. Fenner stated that she reviews every test that is within 15 errors of passing and finds that the majority are just not fast enough or accurate enough and include too many drops to pass the test. She is not aware of a way to provide feedback without compromising the tests.

Ms. Brewer stated that NCRA has moved to all online exams partly because it's more accessible to candidates. She inquired if NVRA also provided online exams. Ms. Fenner commented that NVRA tests in person because part of what they are testing voice writers for is how audible the candidate is.

Ruby requested the Board bring back the appeal process to not only see errors, but in the name of transparency and to know the test was successfully received. She asserted that there is a right to appeal and stated that there might be more candidates who are successful through an appeal. She questioned why the Board would deny appeals.

Ms. Fenner stated that the Board voted to repeal the regulatory language that allowed appeals on the skills exam due to security of the online test bank. She indicated that one test was given to all individuals during in-person dictation exams resulting in no reason for the test to not be shared. However, there is now a bank of tests for the online skills exam, and there is no way to share the test without breaching security of that test for other users. She confidently stated that no one is failing the exam by one or two errors.

The Board took a break at 10:07 a.m. and returned to open session at 10:18 a.m.

5. LEGISLATION

Ms. Fenner stated that information regarding the bills the Board tracked during the last legislative session could be found beginning on page 27 of the Board agenda packet.

5.1 AB 709 (McKinnor) – Ms. Fenner reported that the bill deals with allowing a prosecutor with possession of a transcript that contains potentially exculpatory or impeaching material involving a peace officer witness to provide an unofficial copy of the transcript to defense counsel or a defendant appearing in pro per. It would allow defense counsel to reproduce a copy of the transcript as an exhibit. She added that existing law typically prohibits the sharing of any transcripts.

Ms. Tugade stated that the text of legislation is a very specific scenario involving law enforcement cases. She asked for feedback on the number of transcripts this might involve and how it might affect court reporters. Ms. Sunkees expected that it would be a very minimal number of transcripts.

Ms. Hurt asked what impact this bill may have on consumer protection. Ms. Fenner indicated that it would benefit the defendant because they would not have to pay for a copy. Ms. Sunkees added that defendants receive preliminary hearing transcripts in due course free of charge.

Ms. Hurt suggest the Board take a neutral position on the bill. Mr. Mnayan agreed with the neutral position as things develop. He added that it may set a precedent for

additional exceptions, so he was cautious in looking at future impact on licensees. Ms. Brewer concurred.

Ms. Tugade moved to take a neutral position on AB 709 (McKinnor). Ms. Hurt seconded the motion. Ms. Sunkees called for public comment. No comments were offered. A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

5.2 AB 1070 (Low) – No discussion.

5.3 SB 21 (Umberg) – No discussion.

5.4 SB 22 (Umberg) – Ms. Fenner state that the bill includes several provisions for extending the provisions for remote reporting from January 1, 2024, until January 1, 2028. She added that the provisions are generally for people involved in the litigation, not the court reporter, to appear remotely.

Ms. Hurt asked if there is any opposition to the bill. Ms. Sunkees called for public comment.

Janice O'Malley, spoke on behalf of the American Federation of State, County and Municipal Employees (AFSCME), who represent court reporters across the state. She stated that AFSCME has taken an opposed unless amended position on the bill. They have worked with the author's office who she believes has committed to remove the part of the bill that would allow for remote court proceedings in criminal proceedings. However, there are still outstanding items that they are concerned about. They have requested: judicial officer be physically present in the same room as the court reporter and the court interpreter during remote proceedings; the Judicial Council of California (JCC) standards for what technology is minimally required to conduct remote proceedings; and a way for interested parties to provide feedback on remote proceedings on the court's website with a compilation made by the JCC and submitted to the Legislature.

Ms. Tugade indicated that it would be appropriate to defer until July or August to take a position on a bill.

Ms. Fenner shared that she testified at an informational hearing that Senator Umberg held on remote proceedings. She heard testimony from a lot of different stakeholders and provided feedback and concerns that the Board has heard of court reporters. There are licensees who say that they've had excellent experiences with remote trials, typically civil trials where remote depositions have been held and good quality equipment and bandwidth are involved. Contrarily, we've had feedback from officials who have not been able to hear the witness or notify anyone that they are not able to

make a record. Ms. Hurt thanked her for having that exchange and stressed the need to continue to be proactive in protecting consumers by ensuring court reporters are able to protect the record.

5.5 SB 331 (Rubio) – No discussion.

SB 662 (Rubio) (Courts: court reporters) – Ms. Fenner stated that the bill is a latecomer and did not make the Board agenda or packet. The bill would authorize the Board to issue a provisional license that would be valid for three years to RPRs or anyone who is eligible to take the CSR exam. It would also permit courts to use electronic recording in any civil case and would offer CSRs first right of refusal to transcribe those recordings. The bill also includes language that the Board should allocate funding toward recruitment and retention by publicizing the profession to high schools, vocational schools, and higher education institutions.

Ms. Brewer liked the idea of provisional licensing for RPRs and out-of-state licensees but could not support provisionally licensing people who have qualified to take the test. She believed the electronic recording provisions in the bill need a lot of work.

Ms. Tugade stated that provisionally licensing is commonly used across the healthcare professions. She shared concern that there is no structure of consumer protection to the provisional license format as it stands in the bill, such as a supervisor, facility, or licensee that is liable. She encouraged an opposed unless amended stance on the bill.

Ms. Sunkees supported provisional licensing of RPR and CVR certificate holders and out-of-state licensees. She did have concerns about the language surrounding electronic recording as described in the bill.

Ms. Fenner clarified that the bill is contemplating provisional licensing only for official court reporters.

Ms. Geoffroy reminded the Board that since the bill was not included on the meeting agenda, they may discuss it to determine if another meeting needs to be set, but they could not take an official position on the bill.

Ms. Hurt expressed concern that individuals who have not been able to pass the Board's examinations for 10 years may be able to obtain the provisional license. She believed this would jeopardize consumers. She suggested the Board consider provisional licensing in ways that expand consumer protection during the Board's strategic planning. She also shared concern in using Board funds toward recruitment or retention of the profession.

Ms. Sunkees called for public comment.

Janet Harris, President of American Association of Electronic Reporters and Transcribers (AAERT), and Vice-President of Enterprise Sales at Stenograph, shared that AAERT offers certification and continuing education requirements for certified electronic reporters (CER) and certified electronic transcribers (CET). They do not support unmonitored electronic recording systems making a record but support a trained professional responsible for the capture of the record and production where a record needs to be made. She asked the

Board to consider AAERT certification along with granting provisional licenses to someone who has already passed the CER or CET exams.

Ms. O'Malley, AFSCME, stated that SB 331 (Rubio) had been changed and no longer had the electronic recording language that is now SB 662 (Rubio). She shared that AFSCME, Service Employees International Union, California Labor Federation, and others met with the Senator on the bill regarding their concerns that everything outside of criminal would be recorded with court reporters acting merely as transcribers. AFSCME has taken an opposed unless amended position.

Ms. Fenner suggested the Board consider supporting provisional approval for out-of-state licensees only if the out-of-state license is in good standing.

Ms. Hurt believed the topic required more in-depth discussion and understanding than could be accomplished at this time.

Ms. Sunkees and Ms. Brewer expressed that supervision of provisional licensees was not necessary. Ms. Tugade clarified that the format of these types of licenses can vary significantly and include tiers of independence and layers of oversight within the learning process.

Ms. Tugade raised concern over the findings and declarations in the language. If the Board takes a position in the future, she suggested the problematic inaccuracies be addressed with the author's office. Additionally, she would like to see results of the recent addition of firm registration and voice writer licensure before any new license types are created.

Ms. Sunkees called for public comment.

Ms. Gwaltney, CSR, agreed that a candidate should hold a national certificate to be considered for a provisional license. She added that each county should provide training and handbooks to new hires to help them be successful in the hands-on portion of their provisional licensing.

Ruby suggested the Board offer a provisional approval to candidates who have passed five or ten qualifiers. She acknowledged that its too expensive to offer the test in person each cycle, but suggested the Board offer an in-person exam at a school or alternative location every few cycles.

Stephanie Whitehead, CSR, agreed that RPR, CVR, and out-of-state licensees are good candidate for provisional licensure. She questioned if the complaint process would be the same for provisional licensees. She strongly opposed the comments offered by AAERT regarding electronic recordings. She asserted that the standards for skills should be kept high, but at the same time the test should be for entry level skills. She asked if the Legislature had offered funding for recruitment or testing.

Ms. Sunkees suggested the Board discuss this topic further at its next meeting.

6. REGULATIONS

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

Ms. Fenner introduced Betsy Figueira as the Board's new regulations manager. Ms. Figueira is a part-time retired annuitant in a two-year limited-term position who has many years of experience working in regulations at the Contractors State License Board. She previously worked as a consultant to the Board and is familiarizing herself with the Board's current issues. Ms. Fenner commented that having a dedicated regulations manager will enable the Board to move forward more efficiently with its many pending regulatory packages.

Ms. Fenner also welcomed Steven Vong, regulations attorney for the Department of Consumer Affairs. Mr. Vong indicated that he has been practicing law and working for the State of California for approximately six years.

Mr. Vong reiterated that the passage of AB 156 allowed for the licensure of voice writers in California. At its December 14, 2022, meeting, the Board voted to approve proposed regulatory language to amend school curriculum to cover voice writing. Since then, DCA Legal Affairs staff determined that use of the word "device" instead of "computer" on pages 38 and 41 of the Board agenda packet may be interpreted as vague under the Office of Administrative Law (OAL) standards for clarity and specificity. Legal Affairs staff encourages the Board to further clarify the word "device" with a parenthetical explaining the potential types of devices that may be included.

Ms. Brewer requested a correction to page 37 of the Board agenda packet under Section 2411(i)(3) wherein "and/or voice" should be before the word "notes".

Ms. Hurt expressed concern that listing all currently possible devices could become troublesome in the future with constant-changing innovation. Ms. Brewer agreed that spelling out all devices becomes a problem as hardware changes.

Ms. Geoffroy suggested using the term "computer or similar device." Mr. Vong stated that the Board needs to clarify whether it's referring to a desktop computer, tablet, laptop, cell phone, etc., in parentheses. Otherwise OAL may ask what devices are acceptable. Alternatively, a definition for device may be included in Section 2414 for universal application to these sections.

Mr. Mnayan moved to use the word "device" with a parenthetical stating "including but not limited to a computer, mobile phone, tablet, and the like." Ms. Brewer seconded the motion.

Ms. Hurt expressed concern that there would be room for "device" to include a tape recorder.

Ms. Brewer indicated that she previously suggested the word "device" in an effort to simplify and make it less specific. In light of the need for specificity, she suggested the Board revert to "computer" in the language. Mr. Vong confirmed that the Board could choose to go back to the work "computer" instead of attempting to define "device".

Ms. Tugade questioned whether the Board could specify the function of the device rather than which device.

Ms. Sunkees stated that the section pertains to the live feed of what is being said on some type of computer, therefore, reverting the language to “computer” may be the simplest resolution. Ms. Brewer agreed that “computer” would be appropriate in the display of the realtime application.

Motion Amended

Mr. Mnayan moved to revert the word “device” back to “computer.” Ms. Brewer seconded the motion. Ms. Sunkees called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Brewer, Ms. Hurt, Mr. Mnayan, Ms. Tugade, and Ms. Sunkees
Opposed: None
Absent: None
Abstain: None
Recusal: None

MOTION CARRIED

Ms. Hurt moved to correct Section 2411(i)(3) wherein “and/or voice” should be before the word “notes.” Ms. Brewer seconded the motion. Ms. Sunkees called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Brewer, Ms. Hurt, Mr. Mnayan, Ms. Tugade, and Ms. Sunkees
Opposed: None
Absent: None
Abstain: None
Recusal: None

MOTION CARRIED

Ms. Hurt moved that the Board rescind prior proposed text approved December 14, 2022, and approve the newly proposed regulatory text and changes to Sections 2403, 2411, and 2414 as provided in the materials and as amended during this meeting and direct staff to submit all approved text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review. If no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations for Sections 2403, 2411, and 2414 as noticed and amended. Ms. Tugade seconded the motion. Ms. Sunkees called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Brewer, Ms. Hurt, Mr. Mnayan, Ms. Tugade, and Ms. Sunkees
Opposed: None
Absent: None
Abstain: None
Recusal: None

MOTION CARRIED

The Board took a break at 12:09 p.m. and returned to open session at 12:56 p.m.

7. LICENSE/CERTIFICATE RECIPROCITY

Ms. Fenner reminded the Board that it previously looked at reciprocity with Texas and with NCRA's RPR certificate. Although those efforts were unsuccessful, before the Board was a proposal to evaluate the equivalent certificate, CVR, issued by NVRA. The NVRA tests both voice writers and steno writers.

She indicated that the first step in this process would be for the Office of Professional Examination Services (OPES) to evaluate the CVR. As a reminder, the evaluation is comprehensive, looking at the underlying occupational analysis, test development, and administration. The cost of an interagency agreement with OPES is approximately \$24,000. It was staff's recommendation to enter into this agreement.

Ms. Sunkees called for public comment.

Ms. Gwaltney inquired why reciprocity did not go through with Texas. Ms. Fenner responded that the OPES was not able to validate the Texas exam because they do not use an occupational analysis in developing their test.

Ruby asked why reciprocity did not work with NCRA. Ms. Fenner indicated that OPES also evaluated the RPR, however, their occupational analysis did not include the skills portion of the exam.

Ms. Hurt asked if there would be a task force assigned to evaluate reciprocity with NVRA. Ms. Sunkees did not see a need for a task force if the Board agreed with pursuing this as part of the solution for increasing licensees. The Board would instead assign the matter to OPES, who would report back to the full Board. Ms. Hurt supported taking this step to grow its licensee base.

Ms. Brewer inquired if it is known yet if NVRA has an occupational analysis. Also, she asked if there was a way to work with the national associations on getting an appropriate occupational analysis for their exam. Ms. Fenner did confirm that NVRA does have an occupational analysis, which OPES will include in their evaluation. She indicated that feedback was given to the Texas license board and NCRA regarding the deficiencies.

Ms. Tugade moved to instruct staff to enter into an interagency agreement with the Office of Professional Examination Services to evaluate the National Verbatim Reporters Association Certified Verbatim Reporter certification for possible reciprocity with the skills portion of the California license exam. Ms. Brewer seconded the motion. Ms. Sunkees called for public comment.

Ms. Gwaltney asked if the Board was seeking reciprocity for just the skills portion of the exam. Ms. Sunkees reiterated that the motion is to enter into an agreement with OPES to evaluation the NVRA exam.

A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

8. 2019-2023 STRATEGIC PLAN

Ms. Fenner reiterated information provided by the Department regarding the guidance issued by the Governor's Office for its Diversity, Equity, and Inclusion program. This has allowed DCA's SOLID to incorporate it into its strategic planning facilitation, and they have begun scheduling strategic planning sessions for boards and bureaus in late summer and early fall. She asked Board members to provide staff with availability for July or August for an in-person strategic planning meeting in Sacramento, potentially followed by a Board meeting the next day.

She referred to action plan for the Board's outgoing strategic goals on page 44 of the Board agenda packet.

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

9. FUTURE MEETING DATES

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

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

The Board convened into closed session at 1:16 p.m.

10. CLOSED SESSION

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

The Board returned to open session at 1:26 p.m.

11. SUNSET REVIEW

Ms. Sunkees reported that the draft sunset review form, which shapes the backbone of the Board's sunset review report, had been received from the Legislature. Additionally, questions specific to this Board will be coming from the oversight committees at some point

during the summer. In the meantime, the Board can discuss the material and make decisions to give to Ms. Fenner to draft the responses and bring back at the next meeting.

Ms. Fenner stated that the form before the Board is the general form that goes to all boards that are up for sunset review. Staff will supply much of the statistical data. As mentioned, the Legislature will also be sending a questionnaire specific to this Board mid-summer along with a specific deadline for submittal of the report. She proposed a target deadline of December 1, 2023.

Ms. Fenner pointed to the Sunset Review Form starting on page 49 of the Board agenda packet and reviewed the report section by section.

(For reference purposes, this summary is organized by section and not necessarily in the order of the discussion. Ms. Tugade left the meeting at 2:05 p.m.)

Sections 1 through 6

Mostly statistical or straight forward background questions for which specific staff would draft the responses.

Section 7 – Online Practice Issues

Ms. Fenner indicated that she would draft responses to the questions in this section but invited input from the Board.

Ms. Brewer referred to the Board's response to this section from the 2018/19 Sunset Review Report wherein the Board indicated it had no jurisdiction over out-of-state reporters. She asked if this has now been rectified with firm registration. Ms. Fenner confirmed that this issue is now under control with firm registration.

Section 8 – Workforce Development and Job Creation

Ms. Fenner stated that this section mostly pertained to historical work for which she can draft responses from Board artifacts. She asked for feedback from the Board pertaining to any perceived barriers to licensure.

Ms. Sunkees recommended the Board include information pertaining to its efforts toward license reciprocity.

Ms. Tugade suggested the numerous actions taken related to firm registration and voice writer licensure be included. Ms. Fenner agreed with detailing the voice writer licensure for this section but believed firm registration would be described in the sections related to new license category and new enforcement efforts.

Ms. Hurt acknowledged the high standards and difficultly level of passing the Board's examinations. She raised the issue of institutional barriers and inequities making it difficult for some people to jump into licensure. She encouraged the Board to expand on diversity, equity, and inclusion with its work toward reducing barriers.

Ms. Tugade would like the Board to collect and review data regarding its licensee base in terms of diversity to use for workforce development.

Section 9 – Current Issues

Ms. Fenner indicated that some of terms may not be up to date. For example, Consumer Protection Enforcement Initiative has been replaced by Enlighten Enforcement Process. She said that staff would put together a draft for the Board to review on what is currently being done in each of the areas.

Section 10 – Board Actions and Responses to COVID-19

Ms. Fenner indicated that report have been made at each meeting of the Board. She invited the members to bring forward anything they want highlighted.

Ms. Sunkees suggested the Board highlight the advancement of its online testing plans as a response to COVID-19 restrictions.

Ms. Fenner stated that she would include information pertaining to emergency orders that were specific to court under Question 69. She will also add information regarding budget impacts and participation of Board members and the public during remote meetings.

Ms. Brewer requested inclusion of information about the limits faced by the Board in completing its strategic plan actions as a result of COVID-19. Ms. Fenner indicated that if it is not somewhere earlier in the report, she would include it in this section.

Ms. Sunkees mentioned the move to remote reporting because of COVID-19. Ms. Fenner stated that it may be split between this section and Section 12 – New Issues. Ms. Brewer stated that there should be minimum audio and technology requirements related to remote reporting implementation. Mr. Mnayan stated that bandwidth is also an important factor. Ms. Brewer expressed that this may be a good place for consideration of diversity, equity, and inclusion issues.

Ms. Sunkees would like to inform the Legislature about the Board's expedient manner to meet and develop best practices for remote reporting.

Section 11 – Board Action and Response to Prior Sunset Issues

Ms. Fenner referred to the 2018/19 Sunset Review Report regarding new issues raised in the last report.

Issue 1 – Foreign corporations violating court reporting statutes and regulations

Ms. Fenner reported that firm registration should address any concerns laid out regarding out-of-state firms. She stated that complaints thus far against firms have been minimal without any significant trends. The Enforcement Unit has put a lot of effort into education as it resolves complaints.

Issue 2 – Low pass rate for skills portion of licensing exam

Ms. Fenner stated that the Legislature tasked the Board with developing an entry-level skills test, for which it has put a lot of time and resources into making sure the test is as fair as it can be. She finds it difficult to offer any alternatives to the issue as it is the Board's responsibility to administer a fair test.

Ms. Brewer suggested the Board may want to change the format of the skills exam to be more like the RPR format. She added that part of the difficulty the Board has faced in reaching reciprocity with other states is that its skills test is different, but not necessarily better. Ms. Fenner agreed that aligning the format to what other states are teaching may reduce the barrier that some have faced with even the unfamiliarity factor. Ms. Sunkees supported this idea, noting the benefit of shorter exam files and alignment with other testing authorities.

Ms. Hurt noted that there are fewer schools who offer court reporting programs in California. She suggested the Board coordinate with the California Department of Education to help spur more schools to offer court reporting.

Issue 3 – Shortage or perceived shortage of court reporters

Ms. Fenner pointed to some of the Board's solutions and attempts at solutions to the shortage, such as licensure of voice writers and efforts at reciprocity.

Ms. Sunkees noted the influx of court reporting students since voice writing licensure was enacted.

Ms. Brewer suggested the Board participate in outreach to help the courts coordinate to be more efficient with the scarce resource of reporters. Mr. Mnayan added that the outreach should include the licensees and stakeholders. It would be vital to glean feedback as well.

Ms. Sunkees credited the state and local associations with their active efforts of outreach and recruitment. Mr. Mnayan suggested the Board work to unite the recruitment efforts of the associations by providing intellectual resources and guidance. Ms. Fenner shared that the Board has a student career brochure, which she could request be updated by working with the DCA Office of Public Affairs (OPA). Mr. Mnayan volunteered to work with OPA on efforts to create digital marketing materials for distribution to social media, college career coordinators, and associations.

Ms. Hurt reminded the Board that staff time is already limited, so some of the tasks may be difficult to accomplish. She also suggested the Board consider its fiscal responsibility and make goals of what it can accomplish in the short term versus things it needs to do in the long term while stretching its pennies.

Issue 4 – Licensees not staying current on legislative changes

Ms. Fenner provided examples of efforts to keep licensees current with legislative changes. She stated that she and Ms. Sunkees have spoken at numerous conferences. In addition, she and Enforcement Analyst Ms. Conkle have participated in online seminars. Also, the Board has issued newsletters and social media posts.

Ms. Brewer suggested the Board mandate the collection of email addresses for its licensees so that email blasts may provide updates on significant changes.

Section 12 – New Issues

Artificial Intelligence (AI)

Ms. Hurt believed the Board would need to consider and understand the future of court reporters working alongside the evolving technology of AI. Mr. Mnayan and Ms. Tugade agreed that AI is an important issue to monitor.

Ms. Fenner stated that AI currently has a broad spectrum. It may be added into the traditional role of court reporting with the software improving on and incorporating every technology change that comes along to make the user's job easier, faster, and better. She reported that there is at least one software program that incorporates AI as a feature into their court reporting software that can be turned on or off and can help a lot or a little. It may suggest a word to the user based on what it thinks it heard. Alternatively, there is AI that is used to capture the entire transcript with support of a human to guard the record by ensuring the recording is happening, that people not talking on top of one another, et cetera.

Ms. Brewer stated that the job of court reporting would clearly be different in 40 to 50 years. However, in the interim period where AI is gaining public usage, it is creating a recruitment barrier for court reporting where people do not want to enter what is perceived as an antiquated field. There's also a perception that it's easy enough to capture a record with a recording, but even some attorneys do not realize that reporters are the most efficient at capturing an accurate record.

Ms. Fenner mentioned that the diverse accents encountered in this state may limit the use of AI in court until it has been developed much further.

Ms. Sunkees added that AI has crept in more so with the use of remote platforms due to the captioning abilities and potentially a feed or transcript from those captions. Ms. Brewer stated that she provides a realtime captioning feed and the auto-captions may at times be very good when participants are speaking clearly and not too fast. Unfortunately, that contributes to the perception that it is the same product as that provided by a court reporter. She stated that creating transcripts from audio is more difficult and much less pleasant.

Remote Reporting

Ms. Sunkees stated that the industry is still trying to figure out how they can accommodate the different stakeholders during remote proceedings. There is not a universal fit, and each jurisdiction has its own issues. Ms. Fenner stated that it would be key to identify common denominators where successes and failures lie to lay out those factors to the Legislature for future consideration.

Fiscal Solvency

Ms. Hurt also would like to include long-term fixes to the Board's fiscal solvency.

Ms. Fenner remarked that the Board should have more data in the near future regarding the total number of firms it will have to renew annually, which should have a positive impact on the Board's bottom line. There is not enough data yet to determine what impact the licensure of voice writers will have on the Board's revenue.

Digital Recording

Ms. Sunkees stated that there has definitely been a trend of electronic digital recording in the deposition field. She asserted that the Board needs to explore the issue as a consumer protection issue. Ms. Fenner indicated that the Board would want to consider if there is a place for digital recordings to be used appropriately and if there are adequate standards in place for consumer protection.

Captioning

Ms. Hurt suggested consideration of realtime captioning standards.

Ms. Fenner indicated that she will take all of the Board's comments and develop a draft for it to review at its next meeting. She thanked the Board for its hard work and ideas in consideration of the big issues.

Ms. Sunkees called for public comment.

Carolyn Dasher thanked the Board for its commitment in looking into the aforementioned issues. She welcomed input from the Board on issues the associations are working on. She asked the Board to consider allowing candidates to take the skills exam more than once during the exam cycle. She referenced the idea of coordinating with the courts to improve their efficiency in using court reporters. She suggested the courts require official reporters in certain types of proceedings, which may open up more of the freelancers to take official positions. She added that CCRA and LACRA are working on voice writing webinars for which they have advertised with flyers and information to legislators.

Ms. Gwaltney thanked the Board for everything it is doing. She requested to contact Mr. Mnayan. She was directed to contact Ms. Fenner.

ADJOURNMENT

Ms. Sunkees adjourned the meeting at 3:00 p.m.



ROBIN SUNKEES, Board Chair

9/1/2023
DATE



YVONNE K. FENNER, Executive Officer

9/1/2023
DATE