

Disciplinary Guidelines of the



COURT REPORTERS BOARD OF CALIFORNIA

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**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS**

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COURT REPORTERS BOARD
DISCIPLINARY GUIDELINES

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Introduction

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

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

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

To foster uniformity of penalties and to ensure that licensees understand the consequences of violating laws or regulations pertaining to court reporting, the Board has established disciplinary guidelines. These guidelines are intended for everyone involved in and affected by the disciplinary process, namely, the general public, attorneys, courts, administrative law judges, licensees, Board staff and Board members who review and vote on proposed decisions and stipulations.

The offenses for which the Board may take disciplinary action are specified within the Board laws and regulations. These guidelines provide a range of penalties for each section of law which is found to be violated.

The Board recognizes that there are often extenuating, mitigating or aggravating factors in a matter which may necessitate variation. The Board respectfully requests that the administrative law judge take into account these factors, that they be fully considered and noted in the proposed decision when deciding the severity of the penalty within the range. However, when such factors are found to exist, they should be detailed in the "Findings of Fact." Of utmost importance is the effect the licensee's conduct had or can have on the consumer. In determining appropriate discipline, the administrative law judge should note the Board's determination of severity of various offenses as outlined in the Citation and Fine regulations, per Title 16, California Code of Regulations, section 2480.

The Board seeks recovery of all investigative and prosecution costs up to the hearing in all disciplinary cases in accordance with Business & Professions Code section 125.3. This includes all charges of the Office of the Attorney General, including, but not limited to, those for legal services and includes charges by expert consultants. The Board believes that the burden of paying for disciplinary cases should fall on those whose conduct requires prosecution, not upon the profession as a whole.

Should a probationary period be part of a proposed decision, the Board requests that the administrative law judge impose the appropriate conditions of probation as outlined in these Disciplinary Guidelines. These conditions are intended to protect the public from the probationer without being unduly burdensome or anti-competitive.

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

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



Factors to be Considered in Determining Penalties

Business & Professions Code 8025 provides that the Board may take disciplinary action against the holder of, and suspend or revoke, a license certificate issued by the Board.

Denial of a License

When considering the denial of a court reporter's certificate under section 480 of the Business & Professions Code, the Board, in evaluating the rehabilitation of the applicant and his present eligibility for certification, shall consider the following criteria:

1. Nature and severity of the act(s), offense(s) or crime(s) under consideration
2. Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial
3. Time elapsed since commission of the act(s) or offense(s)
4. Extent of compliance with any terms of parole, probation, restitution or other sanctions lawfully imposed
5. Evidence, if any, of rehabilitation

Suspension or Revocation of a License

When considering the suspension or revocation of the certificate of a court reporter on the grounds that the person certified has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his present eligibility for certification, shall consider the preceding factors 1 through 5 as well as the following:

6. Total criminal record

Additional Factors

In determining whether the minimum, intermediate or maximum penalty is to be imposed in a given case, the following factors should also be considered:

7. Actual or potential harm to the consumer
8. Actual or potential harm to the public
9. Prior disciplinary record
10. Number and/or variety of current violations
11. Aggravating evidence
12. Mitigating evidence
13. Overall criminal record
14. Whether the conduct was intentional or negligent, demonstrated incompetence
15. Acceptance of the Board's suggested resolution to consumer complaint
16. Attempts to intimidate consumer
17. Evidence that the unlawful act was part of a pattern of practice
18. Financial benefit to Respondent from the misconduct
19. If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code



Penalty Guidelines for Violations

The following minimum and maximum penalties shall apply to the appropriate violation of the code:

1. Business & Professions Code section 8016: Necessity of Certificate

This section would generally apply to licensees who are practicing with expired licenses (see section 8024). It may also apply to exam applicants (see 8020 and 8025(a)(b)(c)).

Maximum: Revocation of license or denial of admittance to exam. In the case of licensees who practice without a license, the maximum penalty would be imposed in cases where the licensee had been notified by the Board of an expired license and had failed to renew the license. In the case of the exam applicant, in addition to the refusal to admit the applicant, he/she cannot reapply to take the exam for a minimum of one year from the date of the decision, and the appropriate fine should be part of the order.

Minimum: Revocation – stayed and probation for four years.

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

2. Business & Professions Code section 8018: Title and Abbreviation

This section would generally apply to violators of 8024 through 8024.5, as well as unlicensed practice.

Maximum: Revocation. This would apply to people who have failed to comply with previous notices from the Board.

Minimum: Suspension – stayed and probation for four years.

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

3. Business & Professions Code section 8019: Aiding or abetting

Maximum: Revocation

Minimum: Suspension – stayed and probation for four years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

4. Business & Professions Code section 8025(a): Conviction of a crime substantially related to the qualifications, functions and duties of a CSR

Maximum: Revocation

Minimum: Suspension – stayed and probation for three years or the same period as given for conviction, whichever is longer

Conditions of probation: A, B, C, D

5. Business & Professions Code section 8025(b): Failure to notify the Board of a conviction described in subdivision (a), in accordance with Business & Professions Code section 8024 or 8024.2

Maximum: Revocation

Minimum: Suspension – stayed and probation for three years or the same period as given for conviction, whichever is longer

Conditions of probation: A, B, C, D

6. Business & Professions Code section 8025(c): Fraud or misrepresentation resorted to in obtaining a certificate hereunder

Maximum: See 8016 above. Denial of application for (entrance to) exam. Applicant prohibited from applying for the exam for one year from date of

decision and fine. In the case where a license has already been issued:
Revocation

Minimum: Revocation

Conditions for probation: None

7. Business & Professions Code section 8025(d): Fraud, dishonesty, corruption, willful violation of duty

Maximum: Revocation

Minimum: Suspension – stayed and probation for four years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

8. Business & Professions Code section 8025(d): Gross negligence or incompetence in practice

Maximum: Revocation

Minimum: Suspension – stayed and probation for four years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

9. Business & Professions Code section 8025(d): Unprofessional conduct

Maximum: Revocation

Minimum: Suspension – stayed and probation for four years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

10. Business & Professions section 8025(e): Failure to transcribe or file notes

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

11. Business & Professions section 8025(f): Loss or destruction of steno notes

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

12. Business & Professions section 8025(g): Failure to comply with or to pay a monetary sanction imposed by any court for failure to provide timely transcripts

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

13. Business & Professions section 8025(h): Failure to pay a civil penalty relating to the provision of court reporting services or products

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D

14. Business & Professions section 8025(i): Revocation of, suspension of or other disciplinary action against a license to act as a certified shorthand reporter by another state

Maximum: Revocation

Minimum: Suspension – stayed and probation for two years

Conditions of probation: A1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, B 1, 10, C, D



Probation

Probation conditions are divided into two categories: **(A) STANDARD CONDITIONS**, which are those conditions of probation which will generally appear in all cases involving probation as a standard term and condition; and **(B) OPTIONAL CONDITIONS**, which vary according to the nature and circumstances of the particular case.

A. Standard Conditions of Probation

During the period of probation, Respondent shall:

1. **OBEY ALL LAWS** – Respondent shall obey all laws and regulations governing shorthand reporters.
2. **COMPLY WITH THE BOARD'S PROBATION PROGRAM** – Respondent shall fully comply with the conditions of the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the Board's

probation program. Respondent shall provide Board representative's unrestricted access to inspect shorthand reporting records, transcriptions and notes required to be maintained by the licensee. Respondent shall inform the Board in writing within fifteen (15) days of any address change and claim all certified mail issued by the Board. Respondent shall timely respond to all notices of reasonable requests, and submit reports, remedial education documentation, verification of employment, or other similar reports, as requested and directed by the Board or its representative(s). Failure to appear for any scheduled meeting or cooperate with the requirements of the probation program, including timely submission of requested information, shall constitute a violation of probation.

3. **QUARTERLY REPORTS OF COMPLIANCE** – Respondent shall submit Quarterly Reports of Compliance to the Board's designee in accordance with a specified schedule. Quarterly Reports must be completed and signed under penalty of perjury regarding compliance with all conditions of probation. Omission or falsification in any manner of any information on these reports shall constitute a violation of probation. Quarterly reports are due for each year of probation and the entire length of probation as follows:
 - For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 10th.
 - For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 10th.
 - For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 10th.
 - For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 10th.
4. **MAINTAIN VALID LICENSE** – Respondent shall maintain a current, active and valid license for the length of the probation period. Failure to pay all fees prior to the license expiration date shall constitute a violation of probation.
5. **RESIDENCY OUTSIDE OF THE STATE** – Respondent shall immediately notify the Board's designee of any and all address changes. If Respondent should travel outside California for a period greater than sixty (60) days, Respondent must notify the Board's designee, in writing, of the dates of departure and return. Periods of residence outside the State of California shall not apply toward a reduction of this probation time period.

Respondent's license shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California totals three years. However, Respondent's license shall not be cancelled as long as Respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that

state, in which case the three-year period shall begin on the date probation is completed or terminated in that state.

6. **FAILURE TO PRACTICE- CALIFORNIA RESIDENT** – In the event Respondent resides in the State of California and for any reason Respondent stops practicing in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation.
7. **CRIMINAL PROBATION** – If Respondent is on criminal probation for the acts upon which disciplinary action is based; Respondent shall submit reports from the criminal court probation officer regarding Respondent's progress during criminal probation to the Board's designated representative. Reports shall be filed quarterly and continue until Respondent is no longer on criminal probation or the Board's probation is terminated, whichever occurs first. Quarterly reporting shall be consistent with the guidelines set forth in the Standard Conditions, to comply with the conditions of the probation program.
8. **RESTITUTION** – Respondent shall make restitution to each identified victim when the evidence has demonstrated that there are uncompensated victims.
9. **COST RECOVERY** – Respondent shall pay the Board its costs and charges of investigating and enforcing this matter in the amount of \$ _____ in _____ (#) equal, consecutive quarterly payments of \$ _____ per month. The first payment shall be due within 30 calendar days of the effective date of this decision and order. The following _____ (#) quarterly payments shall be due by the first of the following month. Any payment that is not received by the tenth day of the month shall be considered late. Any late payments shall be a violation of probation.
10. **VIOLATION OF PROBATION** – If Respondent violates the conditions of his/her probation, the Board, after giving Respondent notice and the opportunity to be heard, may set aside the Order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

11. **NOTICE OF FINANCIAL INTEREST** – (This condition only applies to licensees who operate reporting firms) Report to the Board, in writing within

30 days of the effective date of this decision, any financial interest which Respondent has in any corporation required to be registered pursuant to section 8040 of the Business & Professions Code. Respondent shall notify the Board 30 days prior to changing their financial interest in any such corporation.

12. **NOTIFY EMPLOYEES** – (This condition only applies to licensees who operate reporting firms) Post and circulate to all employees a notice which accurately recites the terms and conditions of probation. “Employees” as used in this provision includes all full-time, part-time, temporary and relief employees and independent contractors employed or hired at any time during probation.
13. **NOTIFY OWNERS, OFFICERS** – (This condition only applies to licensees who operate reporting firms) Within 30 days after the effective date of this decision, submit proof of notification of probationary status to the owners, officers, or any owner or holder of 10% or more of the interest in Respondent or Respondent’s stock.
14. **ADVERTISING APPROVAL** – (This condition only applies to licensees who operate reporting firms) Submit any proposed advertising copy, whether revised or new, to the Board at least 30 days prior to its intended use. Any such copy must be approved by the board prior to being used.

B. Optional Conditions of Probation

During the period of probation, Respondent shall:

1. **NOTIFY EMPLOYER/FIRM** – Notify employer or owner of court reporting firm with which Respondent is associated or subcontracted of the decision in case number _____ and the terms, conditions, and restrictions imposed on Respondent by said decision.

Within 30 days of the effective date of this decision and within 15 days of Respondent undertaking new employment or associating with a different court reporting agency, Respondent shall submit written proof to the Board that he/she has provided notice of his/her probationary status to his/her employer or court reporting agency with which he/she is associated or subcontracted.

2. **REHABILITATION PROGRAM** – Submit to the Board for its prior approval, within 30 days of the effective date of this decision, the name, address, phone number, and description of a rehabilitation program for the abuse of chemical substances and/or alcohol which Respondent shall successfully participate in and complete. Respondent shall provide the Board or its designee with a copy of Certification of successful completion of the rehabilitation program. The costs for such rehabilitation program shall be borne by Respondent.

3. **MEDICAL EVALUATION/TREATMENT** – Respondent shall within 30 days of the effective date of this decision and on a periodic basis thereafter, no less than quarterly, but as may be required by the Board or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician who shall furnish a medical report to the Board or its designee. If Respondent is required by the Board or its designee to undergo physical or mental treatment, Respondent shall within 30 days of written notice from the Board submit to the Board for its prior approval the name and qualifications of a physician or psychotherapist of Respondent's choice. Upon the Board's approval of the treating physician or psychotherapist, Respondent shall undergo and continue medical treatment until further notice from the Board. Respondent shall have the treating physician submit quarterly reports to the Board. Failure to timely submit to, or schedule physical or mental treatment shall result in violation of probation.
4. **PSYCHOLOGICAL EVALUATION** – (To be used in cases involving a sexual offense, pattern of chemical substance/drug/alcohol abuse or violence.) Within 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo psychological evaluation by licensed psychologists and/or psychiatrists as are approved by the Board. Such evaluator shall furnish a written report to the Board or its designee regarding Respondent's judgment and ability to function independently, safely and or pose a threat to the public. The cost of such evaluation shall be borne by Respondent. Respondent shall execute a Release of Information authorizing the evaluator to release all information to the Board. The evaluation shall be treated as confidential by the Board. Failure to timely submit to or schedule a mental examination shall result in violation of probation.
5. **PSYCHOTHERAPY** – (To be used in cases involving a sexual offense, pattern of chemical substance/drug/alcohol abuse or violence.) Within 30 days of the effective date of this decision, Respondent shall submit to the Board or its designee for its prior approval, the name and qualifications of one or more therapists of Respondent's choice. Such therapist shall possess valid California license and shall have had no prior business, professional or personal relationship with Respondent. Upon approval by the Board, Respondent shall undergo and continue treatment until the Board determines that no further psychotherapy is necessary. Respondent shall have the treating therapist submit quarterly reports to the Board and notify the Board immediately if the therapist believes Respondent poses a threat to the public or Respondent's clients. All costs of therapy shall be borne by Respondent. Respondent shall execute a release of Information authorizing the therapist to divulge information to the Board.
6. **ABSTAIN FROM PRACTICE** – If recommended by the physician and approved by the Board or its designee, Respondent shall be barred from practicing shorthand reporting until the treating physician recommends, in writing and stating the basis therefore, that Respondent is physically and/or

mentally fit to practice shorthand reporting and the Board approves said recommendation.

7. **ATTEND COURSES** – Respondent shall attend a recognized court reporting school and successfully complete a final examination in one or more specified courses.
8. **RETAKE LICENSE EXAM** – Respondent shall pass the (name of examination section(s)) portion(s) of the next regularly scheduled license examination after the effective date of this decision. Should Respondent fail said examination, Respondent shall be suspended, upon written notice of failure, until he/she takes and passes the same (name of examination sections(s)) portion(s) at a subsequent examination.
9. **PROOF OF ADVERTISING CORRECTION** – Respondent must correct misleading advertisement within 30 days of Decision. Respondent shall not practice until proof of correction has been submitted to the Board or its designee.
10. **REIMBURSEMENT OF PROBATION PROGRAM** – Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be \$_____ per year/\$_____ per month.
11. **ABSTAIN FROM CONTROLLED SUBSTANCES / SUBMIT TO BIOLOGICAL FLUID TESTING** – Respondent shall completely abstain from the use or possession of controlled or illegal substances during the period of probation unless lawfully prescribed by a medical practitioner for a bona fide illness. Respondent shall immediately submit to biological fluid testing and/or other required drug screening, at Respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. Respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding shall constitute a violation of probation.
12. **ABSTAIN FROM USE OF ALCOHOL / SUBMIT TO BIOLOGICAL FLUID TESTING** – Respondent shall completely abstain from the use of alcoholic beverages during the period of probation. Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. Respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding shall constitute a violation of probation.
13. **PROVISION OF RECORDS** – Respondent shall provide specific records for Board inspection as required.

14. **ADMINISTRATIVE CITATION** – The Board is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to Sections 125.9 or 148 of the Business and Professions Code against a licensee or an unlicensed person who has committed any acts or omissions which are in violation of the Act or regulations.

C. Probation Violation

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

D. Probation Completion

Upon successful completion of probation, Respondent's license will be fully restored.



Terms of Suspension

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

During the period of suspension, Respondent shall:

- A. Attend a recognized court reporting school and successfully complete the specified number of hours and final examination(s) in specified course(s), in accordance with Board regulations.
- B. Pass the (name of examination section(s)) portion(s) of the next regularly scheduled license examination after the effective date of this decision. Should Respondent fail said portion(s) of the examination, the period of suspension shall be extended until Respondent successfully passes said (name of examination section(s)) portion(s) of the examination.
- C. Notify employer(s) or reporting firm owners(s) of the decision in case number _____ and the terms, conditions, and restrictions imposed on Respondent by said decision.

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