

**State of California
Office of Administrative Law**

In re:
Court Reporters Board of California

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections:

Amend sections: 2470, 2471

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

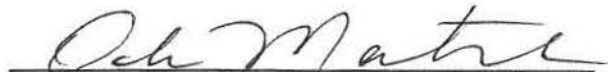
OAL Matter Number: 2020-1130-01

OAL Matter Type: Regular (S)

This action amends the Board's regulation concerning criteria for determining whether a crime, professional misconduct, or other act committed by an applicant for a certificate or a certificate holder is substantially related to the qualifications, functions, and duties of a court reporter. The action also amends the Board's regulation concerning criteria for determining whether an applicant for a certificate or a certificate holder has been rehabilitated after the commission of a crime or after disciplinary action has been taken by the Board against a certificate holder.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 5/12/2021.

Date: May 12, 2021



**Dale P. Mentink
Office Technician**

**For: Kenneth J. Pogue
Director**

**Original: Yvonne K. Fenner, Executive
Officer**

Copy: Yvonne Fenner

NOTICE PUBLICATION/REGULATIONS

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2020-1130-015	

For use by Office of Administrative Law (OAL) only

2020 NOV 30 P 4: 18

OFFICE OF ADMINISTRATIVE LAW

NOTICE REGULATIONS

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAY 12 2021

1:21 PM

AGENCY WITH RULEMAKING AUTHORITY
Court Reporters Board of California per agency request

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) <i>Criminal Conviction Substantial Relationship & Rehab Criteria</i>	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)	SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ACTION
	2470 and 2471	ADOPT
	16	REPEAL

3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

Modified 6-3-20 to ~~6-19-20~~ *6-22-20* per agency request

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) Effective on filing with Secretary of State \$100 Changes Without Regulatory Effect Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal per agency request

Other (Specify) *Kimberly Kirchmeyer, Director, Department of Consumer Affairs* Kimberly Kirchmeyer

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
Yvonne Fenner	916-263-3660	916-263-3664	Yvonne.Fenner@dca.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Yvonne K Fenner</i>	DATE Oct 8, 2020
TYPED NAME AND TITLE OF SIGNATORY Yvonne K Fenner, Executive Officer	

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

ORDER OF ADOPTION

Amend Section 2470 as follows:

§ 2470. Substantial Relationship Criteria.

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

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

- (1) The nature and gravity of the offense;
- (2) The number of years elapsed since the date of the offense; and
- (3) The nature and duties of the shorthand reporter profession.

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

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

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

Amend Section 2471 as follows:

§ 2471. Criteria for Rehabilitation

(a) Denial of a certificate.

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

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

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

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

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

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

(2) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a)(1), the denial is based on professional misconduct, or the denial is based on one or more of the grounds specified in Sections 8025 or 8025.1 of the Code, the board shall apply the following criteria in evaluating an applicant's rehabilitation:

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

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

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

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

(E) The criteria in subdivision (a)(1)(A) through (E), as applicable.

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

(b) Suspension or revocation of a certificate.

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

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

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

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

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

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

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

(2) If the certificate holder has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the certificate holder did not make the showing of rehabilitation based on the criteria in subdivision (b)(1), the suspension or revocation is based on a disciplinary action as described in Section 141 of the code, or the suspension or revocation is based on one or more of the grounds

specified in Sections 8025 or 8025.1 of the Code, the board shall apply the following criteria in evaluating the certificate holder's rehabilitation:

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

(B) Total criminal record.

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

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

(E) The criteria in subdivisions (b)(1)(A) through (E), as applicable.

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

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

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

Note: Authority cited: Sections 481, 482, and 8007, Business and Professions Code.
Reference: Sections 141, 480, 481, 482, 493 and 8025, and 8025.1, Business and Professions Code.