



DEPARTMENT OF CONSUMER AFFAIRS

**COURT REPORTERS BOARD**

OF CALIFORNIA

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**COURT REPORTERS BOARD OF CALIFORNIA  
MINUTES OF OPEN SESSION  
FEBRUARY 4, 2019****CALL TO ORDER**

Ms. Davina Hurt, chair, called the meeting to order at 11:03 a.m. at the Department of Consumer Affairs, 1625 North Market Boulevard, Hearing Room, Sacramento, California.

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

Davina Hurt, Public Member, Chair  
Toni O'Neill, Licensee Member, Vice Chair  
Elizabeth Lasensky, Public Member

**Board Members Absent:**

Carrie Nocella, Public Member

**Staff Members Present:**

Yvonne K. Fenner, Executive Officer  
Rebecca Bon, Staff Counsel  
Paula Bruning, Executive Analyst  
Melissa Davis, TRF Coordinator

A quorum was established, and the meeting continued.

**I. APPROVAL OF SEPTEMBER 17, 2018, MEETING MINUTES**

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

For: Ms. Lasensky, Ms. O'Neill, and Ms. Hurt

Opposed: None

Absent: Ms. Nocella

Abstain: None

Recusal: None

***MOTION CARRIED***

## II. REPORT OF THE EXECUTIVE OFFICER

### A. CRB Budget Report

Ms. Fenner indicated that the expenditure projections were on page 21 of the Board agenda packet. She introduced Robert de los Reyes, budget manager, from the Department of Consumer Affairs (DCA) Budget Office.

Mr. de los Reyes shared that the Budget Office is still having to extract information manually from the system to provide monthly reports. He indicated that the expenditure projections provided by the Budget Office are as of fiscal month 4 and indicate a projected savings of approximately \$36,000 this year. He recognized the frustration the Board has experienced in the past in receiving timely and accurate reports. He assured the Board he would be on top of providing accurate numbers on a monthly basis. He stated that the final reports for the closing of fiscal year 2017-18 are anticipated to be issued in March 2019.

Ms. Hurt stated that she looks forward to receiving timely and true projections as the Board works to improve its budget following the recent fee increase. She inquired about the \$36,000 projected savings. Ms. Fenner responded that the projections are from fiscal month 4, which means it may change based on what expenses come into enforcement over the next several months that are left in the fiscal year. Mr. de los Reyes stated that Budgets would continue to monitor the expenses with Ms. Fenner to verify the projections are tracking the same way.

Ms. Fenner shared that the fund condition could be found on page 22 of the Board agenda packet and the TRF fund condition was on page 23.

Ms. Hurt asked Ms. Fenner to state where the overtime was being spent. Ms. Fenner answered that the overtime is for grading the dictation exams.

Ms. Hurt questioned if the analysis took into consideration the increase in license fees. Ms. Fenner confirmed that it does.

### B. Transcript Reimbursement Fund

Ms. Fenner requested Melissa Davis to provide a report on the Pro Per Program of the Transcript Reimbursement Fund (TRF).

Ms. Davis reported that she has returned 112 applications since the TRF temporarily closed in April 2018 due to lack of funding. She stated that she has been working on closing old files where funds were allocated for provisionally approved applications awaiting a final invoice. She indicated that she had closed files totaling \$5,600 where the funds were no longer needed and paid \$2,200 by collecting outstanding invoices.

### C. Enforcement Activities

Ms. Fenner referred to the enforcement statistics starting on page 24 of the Board agenda packet. She stated that there had been an uptick in complaints received, but there was nothing notable or unique about the complaints.

#### D. Exam Update

Ms. Fenner stated that the historical examination statistics were distributed at the meeting (see attachment).

Ms. Fenner shared that there was a tentative agreement for the next dictation examination on March 22, 2019, at the DoubleTree Hotel Ontario Airport. She added that the contract will be a two-year agreement covering the spring and summer examinations. The hotel and location information for all dates will be posted to the Board's website once the contract is finalized.

Ms. Fenner indicated that on February 2, 2019, a group of newly licensed CSRs was convened to pretest four dictation examinations to add to the test bank.

Ms. Hurt requested feedback on the overall pass rate dip in the past three years.

Ms. Fenner stated that there are over a hundred candidates retaking the test, many of whom came from schools that closed. This calls into question whether or not these candidates were ready. Unfortunately, they do not have schools to return to for practice, and it is unknown how effectively they are practicing. She compared trying to fix the test to trying to fix golf. In her comparison she indicated that each individual can acquire a coach, practice, improve, and bring their own set of skills to the table, but there is nothing wrong with the game that needs to be changed. She asserted that the same is true with the test and school closures are likely more responsible for the decreased pass rates than the actual test itself.

Ms. Hurt indicated that the test has been reviewed by another entity to ensure it meets the minimum standards required for the profession. Ms. Fenner added that the review was comparable to the occupational analysis that is conducted for the written tests. The results of the review verified that 200 words per minute is still the entry level skill needed to enter practice.

Ms. Hurt stated that the candidates have resources such as the associations. She emphasized the Board's mission is not to ensure everyone passes the test, but that those who gain licensure are competent and can do the job. Ms. Hurt opened the discussion for public comment.

David Striks, an attorney from Southern California, approached the Board. He started by praising staff as being competent and friendly in his interactions with them. He reminded the Board that he appeared before them in Ontario two years earlier and that his daughter is an examination candidate. He indicated that his daughter and her friends are intelligent young people who have taken the test numerous times with poor results. He asserted that there must be an issue somewhere and that putting the blame entirely on the students may not be fair. The low pass rates make the profession unappealing for those who might have considered starting a court reporting program and that continuation of a low pass rate may add to the shortage of court reporters and additional school closures. Mr. Striks suggested the Board offer the exam more often so candidates do not have to wait four months between exams. He offered to assist in any way he can and thanked the Board for their concern over the matter.

Ms. Fenner stated that the Board is open to ideas for improving pass rates but must work within its budgetary constraints. She reported that staff implemented the administration of two tests at the November 2018 test to provide students with additional testing opportunities without significantly impacting the Board's budget.

Toni Pulone, on behalf of the California Deposition Reporters Association (CaIDRA), joined in the concern over the examination pass rates. Although she does not believe that the problem lies with the test itself, she suggested having a group of volunteer licensees with varying levels of experience sit in on a mock reading of the test to see how they respond. Ms. Fenner responded, saying that the Board currently provides a courtesy reading for the schools, but representatives of the associations have been welcomed as well. There was limited space in the past, but since there are fewer schools there is now more room. If the associations want to designate people to bring their machines and report the courtesy reading, the Board could accommodate them.

#### E. CRB Today Newsletter, Fall 2018

Ms. Fenner proudly presented the Fall 2018 CRB Today newsletter as part of the Board agenda packet. She stated that the Board receives good feedback from the publications. Ms. Hurt complimented the updates provided in the newsletter.

#### F. Business Modernization

Ms. Fenner stated that Board staff spent many hours meeting one-on-one with staff from DCA's SOLID Training and Planning Solutions to map out business processes and desired process improvements. She praised the SOLID staff for capturing all the details of each person's desk and remaining professional and flexible through the process. The next step is to translate the processes into business requirement specifications. Ultimately, the goal is to partner with other boards and bureaus in the proposal-writing and vendor-interviewing stage to save on costs.

***The Board moved to Agenda Item VIII – Public Comment for Items Not on the Agenda, to receive an update from the Department of Consumer Affairs' Director, which is reflected on page 9.***

### III. FEE INCREASE REGULATION BIFURCATION AND IMPLEMENTATION

Ms. Fenner shared that the regulation to increase fees had to be bifurcated. The license fee increase was approved by the Office of Administrative Law (OAL) and became effective January 1, 2019. However, OAL narrowly interpreted Business and Professions Code (BPC) 8031(b) to indicate there are only two exams – one written and one practical – whereas there are currently two written and one practical. Ms. Fenner then described the three options presented in the Board agenda packet starting on page 43. She explained that with Option 1, the Board would need to approve amended language to the regulation to make the exam fee \$75 for dictation and \$37.50 for each of the two written examinations. Option 2 would be to withdraw the proposed examination fee increase. Option 3 would be to work with legislative staff to include language in the Board's sunset bill to clarify the BPC and reflect that there are three parts of the examination, allowing the Board to charge up to \$75 for each portion. She did not believe the change would be

controversial. The Board would then pursue the necessary regulatory amendments next year to change the exam fees as originally planned.

Ms. Fenner indicated that she had received concern from schools indicating candidates were “shopping” the test to see what it was like. It is hoped that the cost increase will deter candidates from sitting for the test before they are ready.

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

Ms. O’Neill expressed that Option 3, clarifying that there are three separate parts of the examination, would be the cleanest path. Ms. Hurt and Ms. Lasensky also supported Option 3 but were uneasy about including a fee in the sunset review bill. Ms. Fenner believed it to be a technical change to the law to clarify that there are three parts of the exam, not a change to the maximum fee allowed by the law, and did not believe it to be controversial. She added that if it did become controversial, it could be removed from the sunset bill. Ms. Hurt and Ms. Lasensky then supported Option 3.

*Ms. Lasensky moved to instruct to work with legislative staff to include language in the sunset bill to clarify BPC 8031(b) to reflect three portions of the license exam, allowing the Board to charge up to \$75 per each of the three portions. Ms. O’Neill seconded the motion.* Ms. Hurt called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Lasensky, Ms. O’Neill, and Ms. Hurt

Opposed: None

Absent: Ms. Nocella

Abstain: None

Recusal: None

### ***MOTION CARRIED***

#### IV. SUNSET REVIEW

Ms. Fenner reported that the Sunset Review Report that the Board approved was finalized and delivered on time. She related that the Board’s was scheduled for its sunset review hearing on March 5, 2019. She anticipated receiving the Legislative staff’s questions and concerns by February 27, 2019. At the hearing, the Board will provide an overview and respond to issues or problem areas, as well as answer additional questions raised by Legislative members. The public, such as stakeholders, professional individuals, group, and associations, will have an opportunity to comment. After the hearing, the Board will have 30 days to submit a written response to any issues or recommendations that arose at the hearing. An omnibus bill will then be developed, which typically includes many boards and bureaus.

#### V. LICENSING OF VOICE WRITERS

Ms. Hurt stated that at a previous meeting the Board discussed the subject and directed staff to pursue the necessary steps to allow voice writers to practice in California. Staff had since learned there are further options for the Board to consider.

Ms. Fenner reported that she was informed that the Board does not have the legislative authority to simply create a new license category for voice writers as was originally planned. After staff conducted an informal survey of other states, it was determined that the states who license voice writers do not distinguish them from machine writers. After multiple discussions with DCA Legal Affairs about the various scenarios, it became clear that the Board needs to make a policy decision on how they would like the recognition of voice writers to look in California.

Ms. Hurt inquired if there was anything evolving or trending in technology as it relates to voice writers versus machine shorthand writing. Ms. Fenner responded that voice writers practicing in other parts of the country and for the military have been taking advantage of updates in technology for many years just as machine writers do. It was traditionally assumed that voice writers could not work in California until legal opinion determined voice writers qualify under the practice act. What voice writers do is substantially the same as what machine writers do in terms of creating a record of a proceeding basically using their voice to create a shorthand audio file instead of using their hands to produce a stenographic file.

Ms. Fenner indicated that training time for voice writers is significantly reduced and more individuals are able to finish the program. Both technologies are effective. It is not known if it serves the consumer better to have separate licenses or not.

Ms. Hurt asked the Board members if they had any concerns with having one license category for both types of writers. Ms. O'Neill opined that the most important thing is that all those allowed to practice in California pass the California examinations, regardless of which method they will be practicing, instead of merely passing a national exam. Ms. Hurt stated that the single license approach would require all candidates to pass the state examination, but the Board should consider if they want to label the different types of writers even though they basically do the same thing.

Ms. Fenner stated that the Board does not currently have the authority to require current licensees to retest in another method to switch to voice writing. However, the Board would still have authority over the licensee to take enforcement action if warranted. Consumers would not necessarily know which test the licensee took. It's up to the Board to decide if that matters.

Ms. Lasensky stated that if the application requirements, test, and product are all held to the same standard, the technology used to capture the record does not matter. She did not believe a separate category was necessary.

Ms. O'Neill conveyed that testing a writer in the method they will be practicing in to ensure they have basic entry level ability protects the consumer. She feared that a currently licensed machine writer could make the switch to voice writing without proper training and vetting. Ms. Fenner responded that licensees will still want to protect their license, so it was her belief that they will want to be capable before switching.

***The Board took a break at 12:18 p.m. and returned to open session at 12:25 p.m.***

Ms. Fenner indicated that the pool of current licensees who will switch from machine shorthand to voice writing is finite and shrinking. She believed that the growing group of

individuals would be those starting out as voice writers and that group will be tested as they come in. She reported that there would be a lot of work and expense to change something to address that shrinking pool of licensees.

Ms. Hurt reiterated that the Board first needed to determine if they wanted single license or separate license approach. Then, the discussion could focus on certification and transitioning from one practice to another. She stated that this is an exciting new territory to venture into with a multitude of factors to consider. Ms. Hurt called for public comment.

Ms. Pulone shared that the CalDRA board recently discussed the matter and believe there should be a distinction between the two practices. She stated that they do not want to create a hierarchy of one practice over the other, but simply designation with an “S” or “V” so that it is clear which skill the licensee has been tested in. She shared concern that a current machine writer licensee switching to voice writing could do a lot of damage before being caught. She recommended testing all voice writers, whether they were current machine writer licensees or not, to protect California consumers.

Sandy Walden, on behalf of CCRA, asked if the Board was able to determine if the other states who license voice writers require a steno writer to retest in that state when switching to voice writing. Ms. Fenner responded that other states that license voice writers do not even designate which method they’re using; therefore, there would be no reason to test them separately. Ms. O’Neill added that many states that use both methodologies do not have a certification board at all; so the issue is moot.

Ms. O’Neill stated that she believes there are reporters out there that would switch to voice writing without any applicable training. She shared that she has counseled many new reporters who had at least had entry level certification, and they have needed a lot of guidance in becoming proficient. She asserted that entry level certification should be required for both methodologies.

Ms. Hurt contended that both practitioners use machines to create a stenographic record; therefore, it made more sense to have a single license. Ms. O’Neill stated that she did not believe there needed to be separate designations, but that everyone take the same test to become certified. Ms. Fenner indicated that the only practical way to capture which test a person had passed without a separate license was to go with the endorsement approach. Ms. O’Neill agreed an endorsement would solve her concern. Ms. Fenner reiterated that the endorsement would require a legislative change to create an entire scheme for a finite group of people. The consumer may never know the difference in which endorsement their reporter has.

Ms. Lasensky leaned toward the single license approach to move forward with voice writers without delay. Ms. O’Neill also agreed with the single license approach with the understanding that voice writers from other states would be required to take the California examinations. She stated that she now believed the prospect of machine writers moving into voice writing was somewhat miniscule in comparison.

Ms. Fenner clarified that the Board is not locked into their decision forever and this would be treated like any decision the Board makes with the information that is available at the time of the meeting. Currently, voice writers can comply with the practice act because their software has the ability to create stenographic notes. However, she stated that she would

work with legal counsel to review the practice act and recommend changes to make the act more practical and relevant for both types of writers. She will also work with legislative staff to determine if changes would be timely and not too controversial to include in the Board's sunset review bill.

Ms. Fenner indicated that the National Association of Verbatim Reporters offered technical assistance at the Board's dictation examination to train staff on what to look for and how to grade tests taken by voice writers.

Ms. Bruning asked if current licensees were now able to switch to voice writing. Ms. Bon responded that the law technically already allowed for them to do so.

*Ms. O'Neill moved to not attempt any changes in current law and continue with a single-license approach and direct staff to make minor clarifications to the law as needed to go along and support that approach. Ms. Lasensky seconded the motion. Ms. Hurt called for public comment. No comments were offered.*

A vote was conducted by roll call.

For: Ms. Lasensky, Ms. O'Neill, and Ms. Hurt

Opposed: None

Absent: Ms. Nocella

Abstain: None

Recusal: None

### ***MOTION CARRIED***

Ms. Hurt stated that she will closely monitor the enforcement activity moving forward.

## **VI. STRATEGIC PLAN**

Ms. Hurt placed before the Board the review and adoption of the Board's draft strategic plan, the Board's roadmap through 2023.

Ms. Fenner stated that the document was drafted by DCA SOLID Training and Planning Solutions facilitators that assisted the Board in its strategic planning process. Once adopted, she will meet with the facilitators to draft the action plan timeline.

Ms. Lasensky requested the word "is" be changed to "are" in the second line of the second paragraph of the Message from the Board Chair. Ms. Fenner indicated that she would update "CSR Board" to "CRB" in the first line under About the Board.

*Ms. Lasensky moved to approve the strategic plan as amended. Ms. O'Neill seconded the motion. Ms. Hurt called for public comment.*

Ms. Walden asked if there was any foreseeable action regarding certifying CART/Captioners by the Board. Ms. Fenner noted that the plan contains higher level goals and concepts, but that the action plan would contain individual steps that can be tracked.

A vote was conducted by roll call.



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

***MOTION CARRIED***

VII. FUTURE MEETING DATES

Ms. Fenner indicated that she did not anticipate a need for the Board to meet until late summer 2019.

VIII. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Dean Grafilo, DCA Director, provided highlights of the numerous meetings and workgroups held in 2018. The activities promoted open dialogue among DCA and its boards and bureaus, as well as collaboration to further DCA's mission in protecting the consumers of California. He thanked the Board members and staff for participating in these meetings.

He congratulated the Board on the chaptering of the bill it sponsored, AB 2084 (Kalra). Ms. Hurt thanked the director for his assistance in the matter.

Director Grafilo encouraged the Board to visit DCA's website to review its 2018 annual report. The report contains statistical and financial records of the work accomplished by DCA and its board and bureaus.

He shared that DCA is working with staff from the transition team of the newly sworn in Governor regarding current board vacancies and pending reappointments. He also stated that DCA hosted a teleconference following the release of the Governor's budget wherein budget proposals specific to DCA and its board and bureaus were discussed with board leadership, executive officers, and bureau chiefs. The DCA Fiscal Operations Unit scheduled meetings with each program. This Board had its meeting on January 15, 2019.

Director Grafilo reported that his first quarterly meeting of the year would be held on February 25. At that time, an update would be provided regarding DCA's regulations unit, the executive office salary study, and several division updates. The quarterly meetings provide an opportunity for him to hear important issues facing the boards and bureaus.

He indicated that 2019 is a mandatory year for Sexual Harassment Prevention training. All Board members and employees are required to complete the training this year, even if it was completed last year. The training is online, interactive, and can be completed at the trainee's convenience.

As one of the ten programs undergoing sunset review this year, the director offered support and assistance with anything needed during the process.

Ms. Pulone, on behalf of CalDRA, asserted that there are now two court decisions regarding foreign professional corporations illegally providing court reporting services in California. She respectfully requested the Board work to prevent the activity from continuing.

Ms. Hurt directed that the matter be put on the agenda for the next Board meeting. She stated that she reached out to the Board's legal counsel to evaluate the case.

IX. CLOSED SESSION

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

*This item was deferred.*

ADJOURNMENT

Ms. Hurt adjourned the meeting at 1:17 p.m.

  
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DAVINA HURT, Board Chair

7/12/2019  
DATE

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

7/12/2019  
DATE