



DEPARTMENT OF CONSUMER AFFAIRS

COURT REPORTERS BOARD

OF CALIFORNIA

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**COURT REPORTERS BOARD OF CALIFORNIA
MINUTES OF OPEN SESSION
NOVEMBER 15, 2019**

CALL TO ORDER

Ms. Davina Hurt, chair, called the meeting to order at 11:37 a.m. at the DoubleTree by Hilton Hotel Sacramento, 2001 Point West Way, Sacramento Room, Sacramento, CA 95815

ROLL CALLBoard 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

A quorum was established, and the meeting continued.

I. APPROVAL OF JULY 12, 2019, MEETING MINUTES

Ms. Lasensky requested that the word "I" be amended to "is" on the third line of the last paragraph on page 6 of the minutes.

Ms. Lasensky moved to approve the minutes as amended. 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 referred to the expenditure projection for fiscal month three on page 23 of the Board agenda packet. The Board's budget usually breaks even; however, the report is projecting a very slight surplus.

Ms. Fenner then directed attention to page 24 of the Board agenda packet, which included the Board's overall fund condition. The report reflected the estimated fund balance and reserve for the beginning of the next fiscal year.

B. Transcript Reimbursement Fund

Ms. Fenner stated that the Board is on target to be in a position to reopen the Transcript Reimbursement Fund (TRF) beginning July 2020. She encouraged consumers to register for the Board's email subscription list so that they will be notified when the TRF reopens.

C. Enforcement Activities

Ms. Fenner referred to the enforcement statistics starting on page 25 of the Board agenda packet. She indicated that there was nothing notable about the statistics or types of complaints received.

D. Exam Update

Ms. Fenner pointed to the historical examination statistics provided in the Board agenda packet starting on page 27. She reported that were 100 candidates scheduled to take the dictation exam that day, of which 27 are first-time candidates.

Referring to the July 2019 dictation examination, Ms. Hurt stated that it was nice to see that 17 of the 22 first-time candidates, as well as 20 repeat candidates, passed.

E. Business Modernization

Ms. Fenner stated that the Board was still in stage one, defined as the planning process, of its business modernization process. As a result, there will be charges this fiscal year which will be absorbable. The Department of Consumer Affairs (DCA) budget office is working on a fiscal analysis worksheet to assist the Board in understanding its ability to proceed with the project. It is likely the Board will need to submit a Business Change Proposal (BCP) in order to have the spending authority for the project.

Ms. Fenner shared that in the interim, the Board is working on a contract with a vendor who will allow the Board to accept credit card payments.

Ms. Fenner shared that the Board's long-time receptionist and licensing assistant, Jennifer Hauptert, would be retiring at the end of the year. She expressed that Ms. Hauptert would be sorely missed. The Board conveyed its appreciation of Ms. Hauptert and thanked her for her years of service.

Ms. Fenner reported that for a few months staff would be absorbing the duties left by the vacancy but would begin recruiting for a new receptionist in the spring.

Ms. Fenner announced that a new licensee Board member, Robin Sunkees, had been appointed by Governor Newsom the day before the meeting. Ms. Sunkees is an official court reporter in San Diego.

III. DEPARTMENT OF CONSUMER AFFAIRS UPDATE

Ms. Fenner indicated that Kimberly Kirchmeyer was appointed by Governor Newsom on October 8, 2019, as the director of the DCA. She shared that Ms. Kirchmeyer is a proven leader with a wealth of knowledge and experience, having worked in both the DCA Executive Office and as an executive officer of a board.

She stated that a representative from the Executive Office was not able to be in attendance, but that they had submitted a written update which was made available to attendees (see attachment).

IV. ONLINE SKILL TESTING UPDATE

Ms. Fenner reported that in 2016 and 2017, the Online Testing Policy and Procedures Task Force met and drafted policies and procedures for moving the dictation examination online. A contract is now in place with Realtime Coach to offer online skills tests.

At its September 17, 2018, meeting, the Board voted to conduct a two-year trial period for calendar years 2019 and 2020 wherein candidates are read two tests instead of one. The online exam and onsite exam must mirror each other in how they are offered. Due to the additional length of testing time when two tests are offered, the offering of two tests to online candidates would pose security risks. Ms. Fenner requested the Board decide whether to continue the trial project and delay moving to the online test or end the pilot project early.

Ms. O'Neill inquired how soon the online testing would be available. Ms. Fenner indicated that it would be available for the March 2020 examination.

Charlotte Mathias, CSR, suggested the Board continue the two-test pilot project. She stated that it has been a good project thus far and believed the Board would glean more information if it continued for the full trial period.

Ms. Lasensky stated that the statistics thus far did not reflect that the two tests have made a difference in the pass rate. She shared that she wants to see the transition to online testing as soon as possible, but that she wants to see the pilot project through to have solid statistics.

Ms. Hurt believed having two tests gives candidates a chance to calm their nerves and have a greater opportunity to pass the test. She desired to see the pilot project through the two years. She also suggested the Board work to increase its test bank.

Ms. O'Neill did not consider there to be enough data yet to determine if two tests were beneficial. She stated that online testing has benefits for the candidates and was leaning toward moving that direction.

Ms. Fenner clarified that if the Board decided to move to online testing, there would be a continuation of onsite testing for a two-year period. Therefore, the candidate would be able to choose in which format they wanted to take the exam. At the end of the two years, the Board would then evaluate which format to adopt.

Mike Hensley, Vice President of the California Court Reporters Association (CCRA), stated that he supported seeing the project through to have full data. He also favored online testing for convenience of candidates in and out-of-state.

Lorri Doll, Argonaut Court Reporting School, asked if the online testing came with a shorter transcription time. Ms. Fenner confirmed that once the test is moved online, the transcription period would be shorted from three hours to two-and-a-half hours for both the online and onsite tests.

Ms. O'Neill asked what the cost would be to offer both testing formats until November 2020. Ms. Fenner responded that the online testing cost is minimal because the applicant pays for most of the cost.

Ms. Hurt inquired if the budget presented to the Board took into consideration both modes of testing. Ms. Fenner responded that it only reflected the projected costs of onsite testing.

Ms. Lasensky moved to continue the present two-test pilot project for the onsite exam and begin online testing in November 2020. Ms. O'Neill seconded the motion. Ms. Hurt called for public comment.

Suzy Metcalf, South Coast College, requested an explanation of when the two-test onsite pilot project would end and when the online exams would begin. Ms. Fenner explained that the two-year, two-test pilot project would continue through November 2020. She added that when the online testing begins, it will also be a pilot project where the onsite tests continue for two years and candidates have a choice of online or onsite testing.

Ms. Lasensky amended the motion to remove "begin online testing in November 2020." Ms. O'Neill seconded the amendment.

The motion was reread as follows:

Ms. Lasensky moved to continue the current two-test pilot at the onsite exam through November 2020. Ms. O'Neill seconded the motion. Ms. Hurt called for public comment on the amendment. No further 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

V. SUNSET REVIEW

Ms. Fenner reported that AB 1520 (Low) was signed, which extended the Board's sunset date to January 1, 2024. She stated that the language for the two issues that were added as a last-minute amendment to the bill were ultimately removed and needed attention. This includes voice writing and firm registration.

A. Voice Writing

Ms. Hurt referred to the two options presented in the Board agenda packet:

Option 1: Offer the exam to voice writers who qualify under existing law; and
Option 2: Work with the Legislature to make statutory changes to the practice act.

Ms. Hurt stated that the Board was hopeful the Legislature would clarify whether there needed to be a differentiation between steno machine writers and voice writers, but that did not happen. She summarized the options by stating that the Board could choose to continue interpreting the practice act as allowing voice writers or going to the Legislature to refine the practice act even more. Ms. Hurt indicated that licensing voice writers may aid in the shortage of court reporters and give more people an opportunity to work in the industry.

Ms. Lasensky asked if there was a down side to Option 1. Ms. Fenner referred to the exam qualifications listed on page 60 of the Board agenda packet. She indicated that the exam entry paths were geared toward steno machine writers, which would limit voice writers to those who qualify with out-of-state experience or RPR certificate holders. This would restrict the pool of eligible candidates.

Ms. Hurt stated that a limited pool may benefit the Board in gathering data to see if there are issues with licensing voice writers, which could later be brought to the Legislature for tailored language. Ms. O'Neill agreed, adding that seeking legislation takes a long time to put into place.

Ms. Hurt clarified that with Option 1, the Board would issue a CSR number to successful exam candidates. The license would not specify whether they are a steno machine writer or voice writer. Ms. Hurt added that voice writers would be required to meet the minimum standards of practice and provide stenographic notes to the Board upon request.

Diane Freeman, President of the Deposition Reporters Association of California (CalDRA), addressed the issue of one license covering both steno machine writers and

voice writers. She argued that she is not qualified to make a record by means of voice writing and believed the Board should differentiate between the two.

Mr. Hensley, on behalf of CCRA, opposed Option 1 and any authorization for anyone to practice voice writing in California without being tested by the Board on voice writing equipment. He asserted that the Board had not yet developed an exam for testing voice writers. He stated that the Legislature adopted legislation that prohibits the issuing of voice writing authority until they adopt a protocol to license voice writers in 2020. He indicated that CCRA has confirmed the intent of this language with the legislative offices involved with drafting the bill. He contended that Option 1 would violate the law and urged the Board to reject it. Failure to wait for full and specific protocols as intended would put the Board in the position of violating its responsibility to protect consumers.

Ms. Fenner stated that the Board has never indicated that it would license voice writers without testing them. Voice writers would be taking the same test that steno machine writers take. Ms. Hurt added that the voice writers would have to be proficient in their skills to take and pass the exams.

Ms. O'Neill requested clarification of the language found in Business and Professions Code (BPC) 8016.5(a) wherein it states, "The Board shall not issue a certificate for the practice of shorthand reporting by means of voice writing...". Ms. Fenner stated that the legal interpretation of the language is that the Board cannot differentiate between a voice writer and a steno machine writer. She indicated that the Board can test individuals on their ability to report a proceeding and produce an accurate transcript within a specified amount of time.

Jason Buktenica, Maverick Reporting, asked under which existing law mentioned previously that voice writers would receive a certificate. Ms. Fenner referred to BPC 8020, exam eligibility requirements found on page 60 of the Board agenda packet.

Mr. Buktenica asked if the Board's motivation for licensing voice writers was due to the perceived shortage of court reporters. Ms. Hurt responded that it is one factor, but not the only reason.

Mr. Buktenica expressed his fear that licensing individuals who cannot meet the rigorous licensing requirements that current licensees have to meet would be watering down the profession and opening the door to several detrimental problems. He shared that transcripts affect people's lives, business, and families and that there are far-reaching ramifications on the decision the Board is facing. He requested the Board form a committee of stakeholders that can create an alternative solution to fill the gap of the perceived shortage. He believed analyzing examination statistics to discover where candidates are falling short would help.

Ms. Hurt clarified that voice writers would have to meet the same rigorous requirements and take the same exam as steno machine writers, just utilizing different equipment. She reiterated that the Board's mission is protecting consumers, therefore, the decisions made by the Board are in that light.

Kimberly D'Urso, on behalf of Protect Your Record Project (PYRP), inquired as to how many individuals had expressed interest in taking a test to become a voice writer. Ms. Fenner responded that the National Verbatim Reporters Association requested the Board consider licensing voice writers and provided a demonstration at the Board's July 2018 meeting. Although the Board later found voice writing to fall under the Board's scope of practice, there was only a two-week period until the March 2019 exam application deadline; therefore, no applications were received. She indicated that the Board then began working with the Legislature regarding voice writing and thus did not make voice writing an option for the next test.

Ms. D'Urso indicated that it was represented to her organization by the author's office that voice writing would not be allowed in California. She requested clarification as to the Board's legal interpretation of the same language. Ms. Fenner responded that the straightforward legal reading of the language is not saying that voice writers cannot be licensed, but that the Board cannot issue a license specific to voice writing. Since voice writers use machines to make a record with shorthand symbols, they fall within the Board's scope of practice and are, therefore, eligible to take the Board's exam. The Board cannot differentiate by which means the reporter is making the record.

Ms. D'Urso supported the idea offered by Mr. Buktenica to wait for more information before deciding. She stated that PYRP opposed Option 1.

Kay Reindl, Humphreys University, asked how voice writers fit into the regulations that require stenographic notes to be the official record. Ms. Fenner indicated that voice writing software companies have created a technical fix by translating English to stenographic notes. Although it is not optimal from an enforcement viewpoint to collect the translated stenographic notes versus the original voice file, it would allow the Board to start gathering data. Ms. Reindl expressed that it would not make a level playing field.

Veronica Guerrero, on behalf of CalDRA, stated that although not opposed to voice writing, the association wants a clear distinction between a stenographic reporter and voice writing reporter. She indicated that as a stenographic reporter she cannot perform adequately as a voice writing reporter and did not believe there was protection of the consumer to allow her to do so and then discipline her after the fact.

Ms. Hurt requested staff legal counsel to explain how voice writers are understood to be a part of the Board's practice act and how the Board has authority to implement Option 1. Ms. Bon responded that voice writing fits within the definition of reporting. She added that the language in AB 1520 talks about not differentiating or distinguishing on the license or certificate what method is used. She stated that both methods of reporting are in the practice act and practitioners of either method must still meet the minimum standards. It is presumed that a licensee would not jeopardize their license by using a method for which they did not meet the minimum standards. She stated that there is historical legislative information that led to this interpretation, including different iterations of the bill discussing distinction between the two methods. She indicated that the Board has more maneuverability and control over the situation because it will be able to gather information on what legal clarifications might be needed or how many individuals are even interested in practicing voice writing. Information may also be

gleaned about what changes are needed for the exam. The Board may be able to hone its needs through regulatory changes instead of legislative changes.

Kelly Shainline, PYRP, indicated that a lot of the codes that govern CSRs contain the word “stenographic”; therefore, she questioned where a voice writer would work. She quoted Civil Code of Procedure 2025.330(b). Ms. Fenner reiterated that the voice writers software can create stenographic notes. Ms. Bon advised that the Board has purview over its own practice act and licensing, not employment or hiring laws. She stated that having a certificate and being guaranteed employment are two separate issues.

Ms. Mathias asserted that the Board is changing the definition of the word “stenographic,” which means shorthand. Ms. Bon responded that the Board’s practice act has its own definition of shorthand reporter and some enforcement laws and regulations may use the word “stenographic” regarding what may be requested, but that does not mean it’s changing the definition of the word in practice.

Sandy Bunch VanderPol, CSR, applauded the Board for being forward thinking and considering the needs of consumers by allowing voice writing. She shared that competent voice writers are working nationally. She stated that it is not the modality of the record that protects the consumer, it is the professional making the record that protects the consumer. Although she believes stenographic reporting is the gold standard, there is a true shortage of court reporters and help is needed.

The Board took a break at 12:58 p.m. and returned to open session at 1:16 p.m.

Ms. Hurt indicated that the topic of voice writing had been before the Board for nearly a year and a half. She recapped the earlier discussion, including the need for competent and capable court reporters, which voice writers have proven to be nationally. She reiterated that voice writers meet the requirements set in the Board’s practice act and that they would be required to take and pass the same test as steno machine writers.

Ms. Hurt expressed that she preferred Option 1, which would provide an opportunity for the Board to gather important data and information which the Board could use to educate the Legislature on whether voice writing has been good for consumers or not. The Board may elect to stop licensing voice writers in the future.

Ms. O’Neill agreed, adding that consumers would benefit by having the option of using a licensee reporter.

Ms. Lasensky stated that if voice writers cannot be employed as suggested by public comment, then the Board is not solving the court reporter shortage issue. Ms. Hurt responded that this could be another point of data gathering to use for advocacy with the Legislature at a later time.

Ms. Lasensky indicated that the Board already has the authority to allow voice writers to sit for its test. She supported Option 1, believing that court reporting needs to move forward.

Ms. Hurt summarized that all Board members supported Option 1. She welcomed the opportunity to work with stakeholders who wished to move forward with sponsoring a bill specific to this issue.

The Board directed staff to put the option of examination by voice writing back on the examination application.

B. Firm Registration

Ms. Hurt reported that she and Ms. Fenner worked with the author's office to find a different path for the firm registration language. The language was moved from the Board's sunset bill into AB 1469 (Low). She indicated that the Board needs to set up a task force to work with the Legislature and various stakeholders. Ms. Hurt requested feedback on the bill language and clear direction to provide to the task force.

Ms. Fenner referred to the proposed language for BPC 8050 (f) on page 62 of the Board agenda packet. She proposed that the Board request to change the civil fine remedy into an administrative fine remedy, which would be comparable to the existing actions that the Board takes on individual licensees. The Board expressed support of this proposal.

Ms. Fenner expressed that the language included with the reporter-in-charge (RIC) model found in BPC 8051(a)(2) makes it ineffective. The language requires that the Board prove that the RIC had knowledge of or knowingly participated in the misconduct.

Ms. Lasensky shared concern that the RIC is left to shoulder a lot of burden of any misconduct. Ms. Fenner clarified that the RIC is a person hired to keep the corporation on track, not the reporter who reports the proceeding. She compared it to a broker in a real estate transaction. Ms. Hurt added that the Board can pull the entity's authorization to practice if there are violations, so not only just the RIC would be penalized.

Ms. Fenner stated that if AB 1469 passes, the Board would create regulations to make certain aspects specific, such as the fee for the registration, the due process for the firm, and the individual fines.

Ms. Hurt stated that the bill analysis indicates the registration would be valid for five years, which seemed inappropriate since individual licensees currently renew annually. Ms. Fenner indicated that the only reference to five years that she found in the actual bill language was in reference to the period of time before the registration is submitted (BPC 8051(b)(3)).

Ms. Mathias expressed that there are already laws in place that indicate that court reporters must follow the law. She stated that foreign corporations are already breaking the laws, and she does not believe these entities will start following a new law. Ms. Fenner responded that the Board would publish a list on its website of corporations that are in good standing, including licensee-owned firms that are already established under BPC 8040. Licensees would be prohibited from working for any entity that is not registered, thus drying up the labor source for non-compliant entities.

Ms. Freeman, on behalf of DRA, supported AB 1469 stating that it offers stronger consumer protection than previous bills that were sponsored and/or supported by the Board and the associations. She indicated that the bill differs by requiring prescreening of unlicensed entities who apply for registration to determine whether there are any disciplinary actions or civil lawsuits against the entity, similar to how the Board can deny a license to a reporter. The bill would also mandate revocation of the registered entity for certain violations, such as invading the scope of licensees. Ms. Freeman highlighted the proposed requirement that only a licensee can oversee another licensee, which would be in line with all other DCA license types. She asserted that firm registration with a RIC prevents the Legislature from characterizing licensees as unnecessary to consumer protection.

Ms. D'Urso stated that she was told that Assemblymember Low would not be bringing firm registration forward in another bill. She also expressed concern that the author's office did not consult the Board and its staff as the enforcement entity. She asserted that more stakeholders needed to be afforded an opportunity to give input and bring facts and statistics forward. She volunteered to be on the committee or task force as a stakeholder representing PYRP and indicated that everyone should have a seat at the table instead of just one entity.

Ms. Hurt stated that the Board has discussed firm registration and trying to level the playing field for a while, which the author is aware of. She stated that the Board is always open to receiving comments on what stakeholders find important for proposed bill language. She acknowledged Ms. D'Urso's position and request to be involved.

Ms. D'Urso stated that she found it impossible for the Board to physically and monetarily enforce firm registration when its already stretched thin in both aspects. She also indicated that PYRP has issues with the RIC model and did not believe it had been thought out. She stated that the comparison to the pharmacist-in-charge model was comparing apples to oranges.

Ms. Fenner indicated that part of the fee for firm registration will go toward enforcement oversight.

Ms. Mathias stated that there is no point in having an RIC if they have an "out" by claiming to not have knowledge or knowingly participated in misconduct.

Ms. Guerrero thanked the Board for having done research and acknowledging that it has a seat at the table.

Ms. Hurt requested volunteers from the Board to be on a subcommittee to carry out the Board's position on the firm registration bill by working with the Legislature. Ms. O'Neill volunteered to work on the subcommittee. Ms. Lasensky did not feel she had the proper background to lend to this project and would be terming off the Board in June. Thus, Ms. Hurt appointed Ms. O'Neill and herself to the two-person subcommittee.

VI. LEGISLATION

Ms. Fenner referred to the summaries of the legislative bills that the Board followed in the last year, which were found on pages 65 through 67 of the Board agenda packet. Those that were marked “Chaptered” had been signed into law by the Governor. Other bills had been vetoed. She indicated that the bills that were neither chaptered not vetoed became two-year bills, and no further action will be taken until the beginning of 2020.

AB 253 (Stone) – Ms. Hurt noted that the word “remove” in the agenda packet summary should say “remote.”

The Board took a break at 2:04 p.m. and returned to open session at 2:08 p.m.

VII. REGULATIONS FOR AB 2138 IMPLEMENTATION

Ms. Fenner reported that the regulations package was still in the pre-approval process.

VIII. STRATEGIC PLAN

A. Update on idea of educational outreach to the State Bar of California re the “So. Cal stip”; purview of the Board

Ms. Fenner referred to the background summary on page 71 of the Board agenda packet. She reported that the Board spent a lot of time in town hall meetings in an attempt to discover if consumer harm existed. The Board did not take a position in the matter; however, a suggestion was made to potentially reach out to the State Bar Association to educate its members on the topic. She reported that workload had not allowed staff to move forward with the suggestion. Ms. Lasensky questioned the Board’s jurisdiction in the matter.

Ms. Mathias reported that in the time since the Board had discussed the So Cal stip, a judge in Kern County issued an order rejecting unsealed original deposition transcripts due to potential harm. She stated that consumers are being harmed in situations where attorneys stipulate but the judge will not allow the transcript to be used. She requested the Board revisit the So Cal stip issue and have the Attorney General’s (AG) Office review the legal opinions. She stated that the Board would never receive a complaint on the issue because the complainant would have to be one of the attorneys that agreed to the stipulation. She indicated that the rules were written to protect the integrity of the transcript, which is in the Board’s purview.

She added that attorneys need a comprehensive education about the role of the court reporter and their duties, including those under Civil Code of Procedure section 2025. She stated that many times court reporters are requested to carry out secretarial-type duties and to make inappropriate changes to transcripts.

Mr. Buktenica stated that consumers are best protected when the sealed hard copy original transcript is maintained in the proper custody of the non-biased party throughout its lifespan. Otherwise, the door is opened for tampering of the transcript. He indicated that there is a divide in the state where Northern California attorneys follow the code and Southern California has accepted the stipulation for 40 years. He noted,

however, that the Southern California attorneys who travel to Northern California do not even try to engage the So Cal stip, which indicates that they have a clear understanding of the code and where they can and cannot disregard it. He requested the Board support court reporters in their efforts to follow the code to protect the original and to unify the state with a consistent practice.

Mr. Hensley, on behalf of CCRA, also supported the concept of unification across the state so that consumers receive consistent services. He added that the duties as the impartial officer of the court include upholding the code that governs their profession. He requested the Board consider issuing an updated opinion regarding the So Cal stip in line with following the code.

Ms. Hurt thanked everyone for their comments. She indicated that it is an issue for the Legislature due to conflicting codes of which the Board does not have authority to change.

Ms. Hurt asked if the Board had penalized any licensee for not following the So Cal stip. Ms. Fenner responded that all complaints are handled on a case-by-case basis. Even one factor can change the outcome of an investigation. There had not been anyone that was sanctioned for simply following the code; however, there may have been cases where a violation occurred in conjunction with refusing to go by the So Cal stip. In general, it would be difficult for the Board to take action against a court reporter for following the code.

Ms. Mathias indicated that attorneys in Southern California say there is a code that allows them to stipulate, but the attorneys in Northern California have stated that the code regarding stipulations does not apply to the court reporter. She requested that the current AG look at it and see if it applies. She asserted that the code governing the handling of the transcript is the Board's to enforce.

Ms. Fenner indicated that a judge is needed to interpret the law. Whether a judge will accept an unsealed original transcript or not is key.

Ms. Bon clarified that she works for DCA Legal Affairs as counsel for the Board, not the AG's Office. She indicated that just because an issue is important does not mean that it is for the Board to resolve or to become involved with. She stated that the point that complaints would not come before the Board regarding the So Cal stip perfectly illustrated why the matter is not within the Board's jurisdiction and practice act.

Ms. Shainline asked if reporters would jeopardize their license by not following the code and by instead going with the So Cal stip. Ms. Bon reiterated that enforcement is a case-by-case basis. There may be some conflict in the law, which means the investigator would look to whether the court reporter is meeting their minimum standards under the law. Ms. Fenner added that the Board looks at the consumer harm. She advised that court reporters should decide on how they are going to practice based on their knowledge of the law and how it will affect the consumer. Ms. Bon stated that the Board does not provide legal advice to the public; therefore, individual reporters may want to consult with their own counsel.

B. Update on Action Plan

Ms. Fenner referred the Board to the Action Plan timeline on page 85 of the Board agenda packet. She invited revisions to the target dates presented.

Ms. Hurt noted that expanding the Best Practice Pointers had a target date of January 2020. Ms. Fenner stated that it was not likely that the target would be met. She shared that the Board's office lease had recently been renewed, which resulted in the scheduling of tenant improvements. The improvements will require staff to pack up the entire office and cause the computer and phone systems to be down intermittently between December 4 through 6. She indicated that staff could look at scheduling a Best Practice Pointer task force meeting in the spring. Ms. Hurt advised interested licensee members to contact Ms. Bruning to volunteer for the task force.

IX. LICENSE/CERTIFICATE RECIPROCITY

Ms. Fenner indicated that the Board heard a request from CCRA at its July 12, 2019, asking that holders of the Registered Merit Reporter (RMR) and Certified Realtime Reporter (CRR) certifications from National Court Reporters Association (NCRA) not be required to take the skills portion of the examination. A change to the licensing requirements would necessitate a regulatory amendment.

Ms. Hurt asked how many reporters this would make eligible at this time. Ms. Fenner responded that 1,809 reporters hold the RMR certification and 2,474 reporters hold the CRR certification. Of those certificate holders, 168 RMRs and 287 CRRs currently reside in California.

Ms. Fenner noted that the cost of the test is not high and, therefore, the only savings in waiving the skills exam is \$25. She stated that the aforementioned national certifications make the holders eligible to take the Board's exams. She did not believe there to be a barrier to the exam.

Mr. Hensley, on behalf of CCRA, stated that the group is attempting to further analyze the proposal with facts, figures, and statistics that may enhance the discussion. He asked that the request be deferred until further data is gathered.

Ms. Mathias stated that other states do not require that a licensee from California take the skills exam to gain a reciprocal license. She believed reciprocity could help with the shortage of court reporters.

Ms. Bruning stated that the regulatory process to effectuate the change would take approximately 12 to 24 months. Since the Board plans to move to an online skills exam, the cost and inconvenience of traveling to California for the skills test will be removed well before the changes to the regulations would take effect.

Ms. O'Neill stated that it was not foreseeable to know how many of these certificate holders were even interested in working in California. Ms. Hurt agreed and added that she did not see any barriers to individuals coming to take the test at this time. Ms. Lasensky would also like to defer the request until more data is received.

The Board directed CCRA to request to go back on a future meeting agenda when they are ready with additional information.

X. FUTURE MEETING DATES

Ms. Fenner stated that no future meetings were scheduled yet. She estimated the Board would want to meet in the spring to take a position on the firm registration bill.

XI. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Ms. Freeman, on behalf of DRA, suggested that licensees laminate their pocket card license and show it to attorneys to prove they are licensed. She thought it might be a good subject for the best practice pointers.

Mr. Buktenica stated that both large and small court reporting agencies are sending out non-licensed individuals to depositions under the façade that they are licensed CSRs. The testimony is later transcribed and certified by a licensee. The agencies are using this as a solution to the perceived shortage of court reporters. He asserted that the consumer is paying for and believing that they are receiving services from a licensee, but they are not. He requested the Board to visit this issue and discuss if there is a need for discipline and a path to eliminate this unlicensed work in the industry. Ms. Fenner encouraged him to contact her directly with information on the activity.

XII. 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 2:50 p.m.



DAVINA HURT, Board Chair 5/21/2020
DATE



YVONNE K. FENNER, Executive Officer 5/21/2020
DATE