



DEPARTMENT OF CONSUMER AFFAIRS

COURT REPORTERS BOARD

OF CALIFORNIA

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**COURT REPORTERS BOARD OF CALIFORNIA
MINUTES OF OPEN SESSION
MAY 21, 2020**

CALL TO ORDER

Ms. Davina Hurt, chair, called the meeting to order at 9:00 a.m. The public meeting was held via a teleconference platform pursuant to the provisions of Executive Order N-29-20.

ROLL CALL**Board Members Present:**

Davina Hurt, Public Member, Chair
Toni O'Neill, Licensee Member, Vice Chair
Elizabeth Lasensky, Public Member
Carrie Nocella, Public Member
Robin Sunkees, Licensee Member

Staff Members Present:

Yvonne K. Fenner, Executive Officer
Rebecca Bon, Staff Counsel
Dani Rogers, Regulations Counsel
Paula Bruning, Executive Analyst

A quorum was established, and the meeting continued.

1. INTRODUCTION OF NEW BOARD MEMBER – ROBIN SUNKEES

Ms. Hurt welcomed new licensee Board member Robin Sunkees. She has been an official court reporter since 1986 and currently works for the San Diego County Superior Court. She also brings experience from the freelance arena. Ms. Sunkees has a long history of involvement in local, state, and national associations. Her wealth of expertise is further described on page 5 of the Board agenda packet.

Ms. Sunkees thanked the Board for their welcome and expressed her eagerness to work with the Board.

Kimberly D'Urso extended a welcome to Ms. Sunkees.

2. PETITION FOR REINSTATEMENT OF LICENSE – VALERIE WU

Ms. Wu appeared by teleconference before the Board members to petition for reinstatement of her surrendered license.

Administrative Law Judge Heather Rowan and the Board members heard the petition and convened into executive closed session to deliberate the matter. Judge Rowan will prepare the decision.

This public hearing was stenographically reported by Ann Leitz, CSR 9149.

The Board convened into closed session from 10:00 a.m. to 12:30 p.m.

3. CLOSED SESSION

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

The Board took a break at 12:30 p.m. and returned to open session at 12:45 p.m. A quorum was reestablished by roll call.

Ms. Hurt indicated that there was nothing to report from closed session.

4. LICENSE/CERTIFICATION RECIPROCITY

4.1 Discussion and possible action to allow reciprocity with the state of Texas

Ms. Fenner reported that the Board received a request from the Texas Judicial Branch Certification Commission (JBCC) to consider establishing licensing reciprocity for court reporters between the states.

Ms. Hurt welcomed Jeff Rinard, JBCC Director, and Steven Bresnan, Representative of the Texas Court Reporters Association (TCRA).

Mr. Rinard provided an overview of the JBCC and what they have done to address the shortage of court reporters in Texas and across the nation. He indicated that JBCC currently licenses 2,197 court reporters and 322 firms in Texas. A JBCC advisory board recommended endorsement as an option for addressing the shortage, which led to 25 California court reporters becoming certified in Texas. Additionally, legislative changes created an apprentice license and a provisional license. JBCC sent out requests for consideration of reciprocity to the 31 states that license court reporters. At this time, Illinois, Kansas, Oklahoma, and Tennessee are interested in reciprocity with Texas. A handful of other states are also considering their options to engage in reciprocity.

Mr. Bresnan indicated that the number one goal he was charged with by TCRA was to keep standards high while meeting the needs of the courts and attorneys. He stated that his team worked with the TCRA membership to address the Texas Legislature's reporter shortage concerns. The Texas Supreme Court and JBCC were open to the recommendations and worked with his team to put a framework in place. After reviewing the Board's strategic plan and sunset report, he found that California has similar concerns with court reporter shortages and other issues Texas is working to address.

Ms. Hurt inquired if Texas reporters had conveyed any barriers in taking the California license test. Mr. Rinard had not heard of any barriers. Mr. Bresnan indicated that Texas rules allow reporters who have actively engaged in reporting in three of the last five years to bypass the skills exam and only take the Texas procedural exam. He believes reporters can get into the market more quickly if they do not have to take another skills exam.

Ms. Hurt asked if the JBCC found other states to have similarly high standards as Texas and California. Mr. Rinard reported that they found 18 states have standards they could work with and accept. He clarified that he would not expect California to accept a Texas licensee unless they had tested in Texas.

Mike Hensley, Vice President of the California Court Reporters Association (CCRA), asserted that there are no barriers to testing in California and, therefore, there should be no problem for a candidate to come to California to sit for the skills exam to work in the state. He stated that California jobs should be available to and covered by California reporters primarily. He expressed concerns of an imbalance in the resources available between the two states. He further stated that there has been progress in recruiting new reporters in the state that will be available to assist with the perceived shortage. He questioned the intent of the proposal for reciprocity, whether it be for reporters to relocate to another state for coverage or to expand upon remote means of reporting.

Heather Bautista stated that she is also licensed in Texas and expressed her support of reciprocity. She stated that the JBCC took steps to ensure she was qualified, and she passed a written test. She requested clarification on how to determine which state's minimum transcript format standards to follow for remote proceedings. She also suggested each state set up a mentorship program to assist reporters who are newly licensed in the state to become acclimated in their new state.

Mr. Bresnan did not have a formal answer to the jurisdiction question but believed a reciprocity agreement between the states could answer those types of questions.

Ms. Hurt added that any agreements for reciprocity would be subject to the regulatory process where the details would be fleshed out.

Charlotte Mathias shared that she was licensed in Oklahoma in the past. She was not required to take the skills exam in Oklahoma since they viewed the California test as at a higher standard. She believes reciprocity would be good for both Texas and California.

Ms. Hurt inquired if a practicing California CSR is required to be physically located in California. Ms. Fenner responded that that is the expectation under the current law.

Ms. O'Neill did not understand any benefits to reciprocity for either California or Texas, asserting that both states are extremely busy and cannot spare reporters to go to the other state.

Mr. Bresnan acknowledged that reporters are all busy, but not necessarily at the same time. Therefore, broadening the market may afford greater opportunities for all. He

shared that he also represents the Texas Trial Lawyers Association. He believed that as trial lawyers move around the country, the relationships they have with court reporters could help meet the needs of the market wherever they happen to be.

Ms. Lasensky did not see a down side to offering reciprocity.

Ms. O'Neill questioned how the different state boards would handle enforcement issues. Ms. Hurt agreed that there would be many details to expound on.

Ms. Sunkees viewed reciprocity as a positive way to facilitate reporters' ability to move from one state to another by removing the skills exam requirement and retaining the written knowledge exams.

She shared that the Texas skills exam standards are equivalent to the National Court Reporter Association (NCRA) Registered Professional Reporter (RPR) exam, which she believed to be a sufficient exam for entry-level licensees.

Ms. Nocella expressed her support for offering reciprocity.

Ms. Hurt asked for information on the next steps to work with Texas on reciprocity. Mr. Rinard suggested that Texas could get their advisory board and stakeholders involved to start a discussion with a group from California to see where it goes.

Ms. Sunkees stated that taking exams increases anxiety for even the most qualified candidates. And although that may not appear to be a barrier to licensure, removing that factor would increase the number of qualified and professional reporters in different areas for consumers.

Keren Guevara requested clarification on the previous comment that California CSRs must be residents of California. She asked if a California CSR could take a remote deposition while located in another state. Ms. Fenner responded that outside of the current emergency order that allows remote depositions, the statutes require the reporter to be in the presence of the party witness. She offered to answer questions specific to the practice by contacting her directly outside of the Board meeting.

Lucy Carrillo-Grubbs supported reciprocity with Texas. She shared that when attorneys can take their reporter with them across stateliness, it benefits the consumer.

Ms. Bautista added that she obtained a license in Texas in case she takes a case while visiting friends or family in the state.

Ana Costa thanked the presenters from Texas. She stated that the qualified court reporters from Texas would be a welcome addition to California opposed to digital recorders working in the state.

Mr. Hensley, on behalf of CCRA, suggested that with reciprocity there is a potential for more reporters to leave California and go to Texas due to the differing economic climates. He supported opportunities for offering the examination more frequently in California to increase the number of licensees.

Irene Nakamura stated that while trying to recruit other reporters to the state of California, many have reported that they are dissuaded by the new independent contractor and corporation laws enacted under AB 5.

Ms. O'Neill suggested the Board form a task force to expound on the details before deciding whether to move forward with regulatory or legislative changes to make reciprocity feasible. Ms. Hurt and Ms. Lasensky agreed.

Ms. Lasensky moved to create an ad hoc committee (task force) to work with Texas on developing further the concept of reciprocity between the two states. Ms. O'Neill seconded the motion. Ms. Hurt called for public comment.

Ms. Bautista volunteered to sit on the task force.

Mr. Hensley expressed interest to have a CCRA member participate in any committee or study group.

Ms. Carrillo-Grubbs indicated that Texas is already waiving the skills exam for California licensees; therefore, she did not see a downfall to California waiving the skills exam for Texas licensees.

Jennifer Esquivel encouraged the Board to strongly consider reciprocity with Texas to increase labor support in the stenographic field.

A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

Ms. Hurt appointed Ms. O'Neill and Ms. Sunkees as co-chairs of the task force. Those interested in serving on the task force were directed to contact Ms. Bruning.

Ms. Hurt thanked Mr. Rinard and Mr. Bresnan for offering their time, experience, and knowledge with the Board.

4.2 Discussion and possible action to grant CSR certification to holders of the RMR or CRR certification on either a full or provisional basis.

Ms. Fenner indicated that the request from CCRA to waive the skills exam for holders of the NCRA RMR or CRR certifications was back before the Board for the third time.

Ms. Sunkees questioned why the NCRA RPR was not being considered as the testing standard. She stated that it is a good test of entry-level reporting. She added that the Board should then eliminate the written English exam and retain the written professional practice exam.

Ms. Fenner suggested the Board delay its decision on this matter until it knows what it wants to do with the request for reciprocity from Texas since they use the same test model as the RPR. The Board could then accomplish the changes in one regulatory package instead of separate packages.

Mr. Hensley, on behalf of CCRA, indicated that the RMR and CRR have been considered to be a higher standard than the RPR and potentially even the California exam. He stated that CCRA are interested in continuing discussions with the Board to consider using the national exams, which may allow greater access to licensure and an increase in the pool of reporters licensed in California.

Ms. Bautista expressed that she believed RMR and CRR certificate holders should be required to take the written knowledge exams before being granted licensure in California. Ms. Carrillo-Grubbs agreed.

Ms. Mathias stated that the RPR is a different type of test but believed it to be comparable to the California skills exam.

Aimee Edwards-Altadonna supported the proposal to waive the skills exam for RMR and CRR certificate holders. She stated that they are advanced certifications.

Ms. O'Neill moved to have the newly-formed Reciprocity Task Force consider the possibility of granting licensure to certificate holders of the RPR, RMR, or CRR, or a combination thereof. Ms. Sunkees seconded the motion.

Ms. Sunkees supported the continuance of the written knowledge test for California licensure. Ms. Hurt added that there are other factors for the Board to consider, such requiring at least a year of experience before granting reciprocity.

Ms. Hurt called for public comment.

Francine Dais suggested the Board use the RPR as its license exam if it considers it a reciprocal exam. She agreed that retaining the written knowledge test is critical to ensuring the candidate is familiar with the state's rules and regulations.

A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

5. APPROVAL OF NOVEMBER 15, 2019, 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. Nocella, Ms. O'Neill, Ms. Sunkees, and Ms. Hurt
Opposed: None
Absent: None
Abstain: None
Recusal: None

MOTION CARRIED

The Board took a break at 2:20 p.m. and returned to open session at 2:25 p.m. A quorum was reestablished by roll call.

6. REPORT OF THE EXECUTIVE OFFICER

Ms. Fenner reported that Ms. Hurt had been reappointed for another four-year term.

6.1 CRB Budget Report

Ms. Fenner referred the Board to its budget report found on page 29 of the Board agenda packet.

6.2 Transcript Reimbursement Fund

Ms. Fenner directed the Board's attention to the fund condition on page 30 of the Board agenda packet. She indicated that the Board is projected to have 6.2 months in reserve starting fiscal year 2020/21. This may be an adequate reserve to make a \$100,000 transfer to the Transcript Reimbursement Fund (TRF). However, the projections are relatively close to the six-month threshold; therefore, she recommended the Board wait to make a transfer until the final budget numbers for the year are available in the fall.

Ms. Hurt agreed with the recommendation to wait for final budget numbers, commenting that the Board worked hard to minimize spending and regain a reserve fund balance after working with previous miscalculations. The Board supported this direction.

Ms. Mathias inquired how the TRF is funded. Ms. Fenner responded that the TRF is funded solely by court reporter licensing fees.

6.3 Enforcement Activities

Ms. Fenner referred to the enforcement statistics starting on page 31 of the Board agenda packet. She indicated that there was nothing notable about the statistics or types of complaints received.

6.4 Exam Update

Ms. Fenner indicated that the historical examination statistics were provided in the Board agenda packet starting on page 33.

Ms. Fenner stated that the next dictation exam was scheduled for July 10, 2020. She indicated that due to COVID-19, there was a prohibition of gatherings of more than 10 individuals. She reported that the Board could wait until the first of June to determine if the exam could still be held based on any restrictions in place at that time. She described safety measures that staff would use if the in-person test went forward.

She believed, however, offering the test online was a viable alternative since the Board already has a contract in place with Realtime Coach (RTC). The Board previously elected to wait until after the November 2020 exam to start online testing.

Ms. Lasensky shared her hesitation to put staff and candidates in a position where they would need to travel and meet in a large group setting. Ms. Sunkees added that candidates may be fearful of taking the examination in person. She favored the online exam option.

Ms. O'Neill agreed it would be better to offer the test online and asked what steps staff needed to take to go forward. Ms. Fenner responded that the Board has some tests already written, but they need to be video recorded and sent to RTC. The candidates would then be notified what date window they can schedule a proctor for their exam.

Ms. Nocella agreed that accommodating candidates with an online format made sense. She preferred to avoid any potential liability by exposing candidates to COVID-19 during an in-person test. Ms. Hurt agreed, adding that an online test is better than no test at all.

Ms. Fenner clarified that two tests cannot be offered online, therefore, the two year, two-test trial period would be interrupted or discontinued. Additionally, the online test is set up for transcription time to be limited to two-and-a-half hours instead of the three hours that is allowed during the onsite test. She stated that candidates would be allowed to withdraw their application for the exam if they wanted to hold out for an onsite exam at a later date.

Ms. Lasensky moved to make the next test online and to not offer an onsite test. The online test will be limited to one test instead of two, and the transcription time will be a maximum of two-and-a-half hours. 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. Nocella, Ms. O'Neill, Ms. Sunkees, and Ms. Hurt
Opposed: None
Absent: None
Abstain: None
Recusal: None

MOTION CARRIED

6.5 CRB Today Newsletter, Spring 2020

Ms. Fenner reported that the Spring 2020 edition of the Board's newsletter was published online. She invited ideas for articles to be emailed to Ms. Bruning or herself.

Mr. Hensley, on behalf of CCRA, encouraged the Board to draft a document to clarify the use of parentheses and/or certifications to address audio issues on video conference platforms where all parties are appearing remotely for a deposition.

6.6 Business Modernization

Ms. Fenner stated that the Board opted out of cohort two of the business modernization project due to budget considerations.

Ms. Fenner reported that the Board is starting the beta testing process with DCA to enable credit card payments. There was a minor delay due to the need to find a new vendor.

6.7 COVID-19 Related Changes RE CRB

Ms. Fenner thanked DCA Director Kimberly Kirchmeyer for speedily and regularly relating information from the Governor's Office and Business, Consumer Services and Housing Agency. She added that the DCA Office of Information Services acted quickly to seamlessly implement teleworking capabilities for DCA staff. She related that DCA HR staff also worked to adjust teleworking agreements in consideration for those lacking childcare.

Ms. Fenner shared that the Board office has remained open during normal business hours. Staff continue to work on incoming complaints, exam applications, license renewals, etc. She expressed her appreciation to staff for stepping up despite all the stress that has come from the interruption in daily living.

Ms. Fenner indicated that a link was added to the Board website regarding the emergency orders issued by Judicial Council. Some of the orders affect the ability for licenses to perform jobs remotely. A COVID-19 information banner was also added to the home page to link consumers and licensees to updates related to impacts on services.

Ms. Hurt expressed appreciation to all staff for working through the pandemic and keeping the level of service high. Ms. Lasensky joined in appreciation of staff for their grace and efforts.

7. DEPARTMENT OF CONSUMER AFFAIRS UPDATE

Ms. Fenner 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 found on pages 40 – 42 of the Board agenda packet.

8. RESOLUTION FOR ELIZABETH LASENSKY

Ms. Hurt referred to Ms. Lasensky as a pillar of the Board. She read aloud the resolution prepared for Ms. Lasensky found on page 44 of the Board agenda packet.

Ms. O'Neill expressed her sadness to see Ms. Lasensky, an exemplary member, leave the Board. She stated that it had been a privilege and honor working together over the years.

Ms. O'Neill stated that she often depended on Ms. Lasensky's input with an eye toward consumer protection.

Ms. Nocella conveyed that Ms. Lasensky would be sorely missed. She expressed her appreciation for her candor, honesty, and humor.

Ms. Fenner relayed that it has been an honor and a privilege to have served with such a committed consumer advocate. The Board has benefitted from Ms. Lasensky's passion for public service for many years.

The Board and staff wished her much success going forward.

Ms. O'Neill moved to adopt the resolution honoring Elizabeth Lasensky. Ms. Nocella seconded the motion. Ms. Hurt called for public comment.

Mr. Hensley, on behalf of CCRA, thanked Ms. Lasensky for her time and service to the profession of court reporting and its oversight. He wished her the best in her future.

Ms. Guevara also thanked Ms. Lasensky for her hard work, dedication to the profession, and personal attention she provided to everyone.

Ms. Lasensky shared that she joined the Board in 2007 while Ms. Fenner was on the Board along with Ms. O'Neill. She stated that it has been her honor and privilege to serve alongside the other members. She added that she had learned so much from Board members, staff, and the profession.

A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

9. LEGISLATION

Ms. Fenner reported that legislators have been asked to only put forward essential legislation due to the pandemic.

The summaries of legislative bills that staff was following were included on pages 45 through 49 of the Board agenda packet. The bills that are of particular interest to the Board or the industry were identified with three asterisks. The language of these bills was also included in the Board agenda packet.

Ms. Fenner thanked DCA legislative analyst Bianca Angulo for assistance with researching the status of these bills.

- 9.1 AB 424 (Gabriel) – Ms. Fenner reported that the author’s office indicated that they are not likely to move the bill forward but were undecided. The bill would make it clear that if a transcript of an audio or video recording is being offered into evidence, it must be prepared by a certified shorthand reporter.

Ms. Sunkees suggested the Board send a letter of support for the bill. The Board members concurred. Ms. Sunkees shared that judges can, at their discretion, waive the rule governing transcription of audio recordings being entered into court, which usually ends up in disaster. She also emphasized the importance of the transcript being prepared by a CSR.

Ms. Sunkees moved that the Board write a letter of support for AB 424. Ms. O’Neill seconded the motion. Ms. Hurt called for public comment.

Ms. Mathias inquired if the language in the bill that required the CSR to be certified in California had been removed from the bill. Ms. Fenner responded that the bill indicates that the transcript should be prepared by a certified shorthand reporter but does not specify California. As a California bill, it is presumed that it would be a California CSR.

A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

- 9.2 AB 613 (Low) – Ms. Fenner stated that this bill would allow the DCA board and bureaus to increase license fees every four years without going to the Legislature provided the increase was within the range of the Consumer Price Index.

Ms. Lasensky supported the concept and the bill. Ms. O’Neill agreed.

Ms. Sunkees moved that the Board write a letter of support for AB 613. 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. Nocella, Ms. O’Neill, Ms. Sunkees, and Ms. Hurt

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

- 9.3 AB 1263 (Low) – Ms. Fenner shared that this bill would prohibit licensees from adding a clause to contracts or written agreements that would limit a consumer’s ability to file a complaint with their licensing board.

Ms. O’Neill moved that the Board write a letter of support for AB 1263. 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. Nocella, Ms. O’Neill, Ms. Sunkees, and Ms. Hurt

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

- 9.4 AB 1385 (Santiago) – No discussion.

- 9.5 AB 1469 (Low) – Ms. Fenner stated that this bill would require firm registration of entities offering court reporting services, which the Board has already supported. The bill is awaiting referral to committee.

Ms. Bautista stated that non-licensee owned venture capitalist firms should not be allowed to operate in California.

Ms. Mathias suggested that reporter in charge designees be required to take a written test. Additionally, she believed each reporter in charge should be required to pay the same annual fee that licensees pay instead of \$500 per firm.

Cindy Gebbie agreed with the previous public comments.

Ms. D’Urso agreed with the previous public comments and stated that she believed the bill needed further work on the language.

Harry Palter agreed with the previous public comments.

Ms. Guevara agreed that the Board has been working on this issue for a long time and requested the Board communicate a sense of urgency to the Legislature.

Joy Hollbrook agreed with the previous public comment made by Ms. Bautista.

Kelly Shainline inquired if passage of this bill would have any impact on foreign corporations sending out digitals.

- 9.6 AB 1616 (Low) – No discussion.

- 9.7 AB 1850 (Gonzalez) – No discussion.

- 9.8 AB 1925 (Oberholte) – No discussion.

9.9 AB 1928 (Kiley and Menendez) – No discussion.

9.10 AB 2028 (Aguilar-Curry) – Ms. Fenner indicated that this bill would require state bodies subject to the Bagley-Keene Open Meeting Act to post, in addition to the agenda, all relevant background documents online at least 10 days prior to a public meeting. The bill was scheduled to be heard by the Assembly Appropriations Committee on May 26, 2020.

Ms. Hurt inquired if that was something staff believed to be feasible. Ms. Fenner responded that although difficult, staff was able to post the materials for this meeting only one day after the agenda was posted. If the Board believed it to be helpful to consumers and aid in transparency, she believed they should support it.

Ms. Hurt shared that some comments on the bill indicated that the deadline may make it impossible to have the most up-to-date materials and information that affect decisions. Ms. Fenner added that it would prohibit information being distributed at Board meetings for consideration, such as updated budget reports.

Ms. Nocella moved that the Board remain neutral on AB 2028. Ms. O'Neill seconded the motion. Ms. Hurt called for public comment. No comments were offered regarding AB 2028. Since the Board is not taking action on this item, Ms. Nocella withdrew her motion.

9.11 AB 2113 (Low) – No discussion.

9.12 AB 2185 (Patterson) – Ms. Fenner stated that this bill would allow license reciprocity to active U.S. military personnel and their spouse if they meet certain requirements. She stated that the bill was heard by the Assembly Business & Professions Committee on the day of the meeting, but the vote was not yet available.

Ms. Sunkees moved that the Board write a letter of support for AB 2185. Ms. O'Neill seconded the motion.

Ms. Hurt commented that supporting the bill may suggest that the Board is okay with accepting the different standards set by other states.

Ms. Hurt called for public comment.

Ms. Bautista indicated that if the Board was going to grant reciprocity to Texas or any of the NCRA certifications the same courtesy should be offered to active military and their spouses.

Kyung Lee-Green suggested that the written test continue to be required to ensure the candidate has knowledge specific to California.

A vote was conducted by roll call.

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

MOTION FAILED

9.13 AB 2214 (Carrillo) – No discussion.

9.14 AB 2631 (Cunningham) – No discussion.

9.15 AB 2748 (Fong) – No discussion.

9.16 AB 2978 (Ting) – No discussion.

9.17 AB 3045 (Gray) – No discussion.

9.18 AB 3087 (Brough) – No discussion.

9.19 AB 3136 (Voepel) – Ms. Fenner reported that the author's office indicated that they are pursuing the bill, but it is not set for hearing. This bill would carve out court reporting from the Dynamex decision regarding independent contractors.

Ms. Sunkees moved that the Board write a letter of support for AB 3136. Ms. O'Neill seconded the motion. Ms. Hurt called for public comment.

Ms. Lee-Green supported the bill, indicating that it is crucial to court reporters in the state to support impartiality.

A vote was conducted by roll call.

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

MOTION CARRIED

9.20 SB 16 (Roth) – No discussion.

9.21 SB 873 (Jackson) – No discussion.

9.22 SB 875 (Grove and Jones) – No discussion.

9.23 SB 878 (Jones) – No discussion.

9.24 SB 891 (Chang) – No discussion.

9.25 SB 900 (Hill) – No discussion.

9.26 SB 926 (Hill) – No discussion.

9.27 SB 937 (Hill) – No discussion.

9.28 SB 991 (Gonzalez) – Ms. Fenner indicated that this bill was withdrawn by the author's office since it does not comply with the request to move forward only essential legislation due to the pandemic.

9.29 SB 1106 (Gonzalez) – Ms. Fenner stated that this bill had also been withdrawn by the author's office for the same reason given for SB 991.

9.30 SB 1146 (Umberg) – Ms. Fenner reported that the bill sought to place the So Cal Stip language into law; however, that language was amended out. Instead the bill now seeks to make a permanent statute out of the Judicial Council's emergency order that removes the requirement for the witness to be in the presence of the court reporter.

Mr. Hensley shared that CCRA is in the process of talking with the author's office and sponsors regarding amendments for the bill. He stated that no Board action is necessary at this time.

9.31 SB 1324 (Allen) – Ms. Fenner stated that the bill's referral to the Veterans Affairs Committee was rescinded due to the shortened 2020 legislative calendar.

10. REGULATIONS FOR AB 2138 IMPLEMENTATION

Ms. Rogers, DCA Regulations Counsel, introduced modifications to the text of sections 2470 and 2471 of the California Code of Regulations. She indicated that the amendments were proposed primarily for clarity.

Ms. Lasensky moved to approve the revised language and direct staff to offer the amended language to the public for a 15-day comment period. If no substantive comments are received, staff should continue with the final submission to the Office of Administrative Law. Ms. Sunkees seconded the motion. Ms. Hurt called for public comment. No comments were offered. A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

11. DISCIPLINARY GUIDELINES

Ms. Rogers referred to the modified disciplinary guidelines from the California Code of Regulations section 2472 as found starting on page 92 of the Board agenda packet. She indicated that the further edits had been proposed since the distribution of the agenda packet materials, as follows:

- Page 12, Item 2, paragraph starting with “Maximum”
 - Change: “if applicable” to “**as** applicable”.
- Page 13, Item 4, paragraph starting with “Minimum”
 - Change to: “Minimum: Suspension – stayed and probation for either three years or the same period of time applied to the criminal conviction, whichever is longer.”
- Page 20, Item 5. Residency Outside of The State, fourth line
 - Change “1,095-day period” to “**three-year** period”
- Page 21, Section 14. Advertising Approval, fourth line
 - Add “**such**” between “Any” and “copy” (“Any **such** copy”)
- Page 21, Item 1. Notify Employer/Firm, third line
 - Change “subcontracted **in** in the decision” to “subcontracted **of** the decision”
- Page 22, Item 3. Medical Evaluation/Treatment
 - Add abstention paragraph: “If respondent is determined to be unable to practice safely, the licensed physician making this determination shall immediately notify the board and respondent by telephone and the board shall request that the Attorney General’s Office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the board. During this period of nonpractice respondent shall not engage in any practice for which a license issued by the board is required until the board has notified respondent that a medical determination permits respondent to resume practice. This period of nonpractice will not apply to the reduction of this probationary time period.”
- Page 22, Item 4. Psychological Evaluation
 - Add abstention paragraph: “If respondent is determined to be unable to practice safely, the licensed mental health care practitioner making this determination shall immediately notify the board and respondent by telephone and the board shall request that the Attorney General’s Office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the board. During this period of nonpractice respondent shall not engage in any practice for which a license issued by the board is required until the board has notified respondent that a mental health determination permits respondent to resume practice. This period of nonpractice will not apply to the reduction of this probationary time period.”
- Page 23, Item 6. Abstain from Practice
 - Strike entire paragraph/item

Ms. Sunkees moved to approve the proposed language as amended and direct staff to proceed with the pre-approval process for the regulations with the authority to make nonsubstantive changes. If there are no substantive changes, staff is directed to submit the regulations package to the Office of Administrative Law. 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. Nocella, Ms. O'Neill, Ms. Sunkees, and Ms. Hurt
Opposed: None
Absent: None
Abstain: None
Recusal: None

MOTION CARRIED

12. EXAM FEES

Ms. Fenner stated that the Board charges \$25 for each of the three portions of its license examination each time it is taken. The Board is permitted to charge up to \$75 per exam portion. Increasing the test fee would help offset the increasing prices of administering the exams. She indicated that the Board discussed this matter at a previous meeting and requested it be brought back before them.

Ms. Hurt believed there were benefits to raising the fee for cost recovery but hesitated to do so during the climate of unknowns caused by the pandemic.

Mr. Hensley, on behalf of CCRA, thanked Ms. Hurt for recognizing the needs of the population during the crisis. He asked that the Board consider implementing a gradual increase over time instead of a sudden jump in fees. Additionally, he requested the Board consider increasing the fee of only skills portion of the exam and not the written portions.

Ms. Mathias agreed that this is not the best time to increase fees.

Ms. Sunkees acknowledged that the onsite skills examination is costly and asked if the Board needed to increase fees if offering the skills examination online. Ms. Fenner responded that the cost for the online skills examination is less expensive. The initial proposal was drafted before the test was moving online to offset the significant cost the Board incurs from the onsite exam.

Ms. Fenner shared that the court reporting schools reported that the low fee was allowing candidates to initially take the test as a sort of practice session, and they believed increasing the exam fees would cause candidates to be more committed to passing the exam the first time. This was also a consideration prior to the current economic climate.

Ms. Hurt indicated that the current \$25 fee is nowhere close to covering the cost of the onsite exam. She shared that Texas charges \$75 for their written exam and \$125 for the skills exam. She believed this item should be tabled for a future meeting.

Ms. O'Neill moved to table consideration of increasing the examination fees until the next Board meeting. Ms. Sunkees seconded the motion. Ms. Hurt called for public comment. No comments were offered. A vote was conducted by roll call.

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

MOTION CARRIED

13. STRATEGIC PLAN

13.1 Discussion and possible action on consumer protection publication re advantages of using Certified Shorthand Reporters

Ms. Fenner shared that the Board received reports of attorneys using alternate methods of reporting the official record. As a result, staff worked with the DCA Office of Public Affairs to create an educational piece regarding the advantages of using a CSR. She referred to the draft document titled "Five Reasons for Using a Licensed Court Reporter" on page 120 of the Board agenda packet. She requested input from the Board and the public before sending up the chain for legal approval at DCA.

Ms. Hurt suggested that brief headings be added to the five bullet points to provide a visual break up.

13.2 Discussion and possible action on next meeting of Best Practices Task Force

Ms. Fenner stated that if the Board chose to reconstitute the Best Practice Pointers Task Force, a chair would need to be appointed. She indicated that the meetings could be held online.

Ms. Hurt appointed Ms. O'Neill and Ms. Sunkees as co-chairs of the task force. Those interested in serving on the task force or providing suggestions for topics to be addressed by the task force were directed to contact Ms. Bruning.

13.3 Update on Action Plan

Ms. Fenner referred the Board to the Action Plan timeline on page 121 of the Board agenda packet. She invited revisions to the target dates presented.

Ms. Hurt requested the status on the captioning standards and role of enforcement action items. Ms. Fenner responded that neither item had been started at this time.

14. RSR CERTIFICATION AS EXAM ELIGIBILITY

Ms. Fenner reported that the Board received a request to allow the use of NCRA's newest entry-level certification, RSR, as a basis for eligibility to take the CSR examination. She shared that there are three five-minute tests that must be transcribed at 95% accuracy. She added that the RSR exam speeds are slower than the RPR exam speeds.

Ms. Fenner indicated that during the Board sunset review, Business and Professions Code (BPC) section 8020 (c) was amended to allow candidates to qualify for the CSR exam with

any NCRA certification. However, the amendment was made when the RPR was the first-level certification and before NCRA introduced the RSR.

She requested the Board decide if it will allow the lower certification of the RSR as exam eligibility or move to adopt regulatory language to make it clear that the RPR is the minimum NCRA certification allowed as eligibility.

Ms. Hurt asked how new the RSR certification was. Ms. Fenner responded that it was rolled out within the last 12 to 18 months.

Ms. Sunkees did not believe the Board was facing an issue of needing more individuals to sit for the test and asserted that the standards should not be lowered by allowing the RSR.

Ms. O'Neill agreed, adding the RPR has been a qualifier test for those who did not attend a California court reporting program. She asked if there would be any advantage to the Board waiting until the Reciprocity Task Force has gathered additional information to decide if it will move its skills exam to the RPR. Ms. Fenner indicated that since the current language in the code would allow RSR certificate holders to qualify for the exam now, the Board may not want to wait to make that decision.

Ms. Hurt believed the RSR certification was too new to have enough information about whether the certificate holders could pass the CSR exam.

Ms. Sunkees moved to adopt regulatory language to exclude the RSR from BPC 8020(c). Ms. O'Neill seconded the motion. Ms. Hurt called for public comment.

Ms. Bautista agreed with the comments made by the Board. She believed that lowering the qualifications should not be accepted. Ms. Carrillo-Grubbs and Ana Costa agreed.

Ms. Esquivel questioned if the opposition to the RSR is that the 200-wpm portion of the examination is two-voice instead of CSR's four-voice requirement. She stated that the CSR exam is not consistently 200 wpm.

A vote was conducted by roll call.

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

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

15. FUTURE MEETING DATES

Ms. Fenner indicated that the Board would generally meet next when it needs to move a particular project forward. She estimated the Board would want to meet in the fall. She stated that she would poll the Board members for their availability when a meeting is necessary.

16. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Some of the following public comments were offered during the discussion of Agenda Item 13.1 but were not pertinent to that item and were, therefore, chronicled here.

(During 13.1 – for internal reference)

Ms. Bautista stated that she has paid the license fee annually and has never received any disciplinary actions since her license was issued in 1998 after spending seven years to meet the minimum requirements. She asserted that the Board takes the position that it does not have jurisdiction over digital reporters. She expressed her dismay regarding the bait-and-switch practices occurring in the industry wherein unlicensed digital recorders are sent by venture capitalist firms to depositions under the guise of a court reporter. These individuals and firms are not held to any minimum requirements, examinations, ethics, or licensing. She asserted that the Board should be invested in providing title protection of those who have met those requirements. She questioned what would happen to the Board if court reporters ceased paying the annual fee and continued to work as stenographers.

Ms. Shainline, on behalf of herself and the Protect Your Record Project (PYRP), emphasized her concern about the bait-and-switch fraud practice. She contended that it is the duty of the Board to swiftly handle all complaints filed regarding notaries public representing themselves as court reporters.

Ms. D'Urso stated that the publication highlighting the advantages of using a CSR is too late. She suggested the Board add a banner to its website warning consumers about the bait-and-switch scheme.

Ms. Esquivel inquired if the Board ever revisited and approved a voluntary oath as was discussed a few years back. She believed it was a way for reporters to solidify or reaffirm their dedication to produce accurate verbatim transcripts.

(During 16 – for internal reference)

Mr. Palter shared that when he was licensed over 30 years ago, his certificate was issued by the Certified Shorthand Reporters Board. He said it seems like just about everyone is calling themselves court reporters lately, licensed or not, and licensed CSRs are concerned. He questioned the purpose of giving examinations and issuing licenses if someone with a notary license can walk into a deposition with recording equipment and claim to be a reporter. He also expressed concern that recorded proceedings may be sent out anywhere around the world to be transcribed, increasing the risk of information leaks.

Ms. Bautista, continuing from her previous comment, stated that the Board has an obligation to oversee the court reporting profession and honor the commitment licensees have made to California consumers to be professional, fair, and competent, especially after raising licensing fees.

Ms. D'Urso, on behalf of herself and PYRP, said the Board's position that it lacks jurisdiction over unlicensed persons calling themselves court reporters is contradictory to the Board's own historical statements and publications. She said the Board changed its name to Court Reporters Board in 1994. She quoted the Board's mission statement and

the latter portion of BPC section 8018. She believed the words “court reporter” were protected by the code. Consumers expect to receive a licensed CSR when they hire a court reporter.

Ms. Shainline, on behalf of herself and PYRP, continued from her previous comment. She requested the Board send cease-and-desist letters to the offending notaries and companies. She also requested that an immediate warning be posted on the Board’s website regarding this bait-and-switch scheme. She also quoted a portion of BPC 8018 and echoed the comments made by Ms. D’Urso regarding the protection of the words “court reporter.” She stated that the Board uses the words “court reporter” in publications indicating or intending to indicate it is referring to a licensed certified shorthand reporter.

Ms. Gebbie commented about digital reporters taking jobs in California while posing as CSRs. She shared that the Contractors State License Board said they would go after unlicensed individuals calling themselves contractors. Additionally, the Medical Board reported that they would pursue an individual holding themselves out as a medical doctor and practicing medicine. Yet, the Board claims to have no jurisdiction over someone presenting themselves to the public as a court reporter unless they use the title certified shorthand reporter even though the words “court reporter” are in the name of the Board. She asserted that the Board’s inaction against fake reporters is putting the public at risk. She questioned the incentive for licensees to maintain their licensure.

Ceagal Shachar requested the Board consider her case at their next Board meeting. She indicated that she started court reporting school in July 2009 and graduated in July 2016. She then took and passed the two written examination immediately. She added that she has taken every skills exam offered since qualifying and although she has come close, she has not passed. After taking the November 2019 skills exam, she was three errors over the allowed limit. She was awarded two points back as a result of an appeal, leaving her with a score of 51. She believes herself to be a well-trained reporter who will be an asset to the profession. She asks that the Board reconsider the third point that she appealed as she believes she has a strong basis for being correct. Additionally, she has the support of her English teacher who will verify that she wrote the sentence as taught as her Board-recognized court reporting program.

Ms. Dais supported the comments made before her regarding reporters who are not licensed CSRs appearing with audio or video recording equipment. She added that she has seen transcripts produced by these recorders that are only 21 lines per page and are reduced in width by one-and-a-half inches, resulting in nearly double the page count. She asserted that the recorders are then able to charge for more pages than she as a licensee can.

Ms. Mathias reported that on February 20, 2020, the PYRP requested the Board to put on its next meeting agenda the issue of digital court reporters. The Board declined the request stating that the issue was not under the Board’s jurisdiction. She related that she contacted the Attorney General’s Office and was told they would refer complaints about unlicensed court reporting activity to the Board. She stated that the Board uses the words “court reporter” on its website and publications, including the draft document titled Five Reasons for Choosing a Licensed Court Reporter which was considered at the meeting. Ms. Mathias shared that she conducted an online search for court reporting jobs and found that courts in 17 California counties were all hiring “court reporters.” Many court websites

also refer to how attorneys can contact court reporters. She requested the Board reconsider the request to put the matter of digital court reporters on its next meeting agenda so the Board may have a full discussion on the harmful activity. She reported that the Secretary of State's notary public program administrator committed to attending a meeting if the item was put on the agenda.

Ms. Guevara supported the request made by Ms. Shachar. She then switched gears to address unlicensed activity. She asserted that people like judges, attorneys, and venture capitalist agencies would like to see court reporters gone because the profession is predominately women. Additionally, they grab for a cut of the money by sending out tape recorders and claiming they are court reporters. She shared that she contacted the AG's Office, Judicial Council, DCA, and the San Diego presiding judge's office, all of whom told her it is the Board's job to police unlicensed activity. She asserted that the Board may not have a career to govern within the next four years.

Ms. Kuziora requested the Board put on the agenda for its next meeting the digital recorder issue and digital recorders using the title court reporter at depositions and on deposition transcripts. She stated that attorneys she works with believe the title "court reporter" falls within BPC 8018 by using words intending to indicate they are licensed.



Summer Jimenez expressed that it is unfair that licensed court reporters are being disciplined for not turning in transcripts in a timely manner while digital recorders are walking into depositions to push buttons. She questioned who will protect the stenographers. She also believed a human factor to be essential for an accurate record.

Ms. D'Urso reiterated that it is the Board's job to protect consumers. She requested the Board interpret BPC 8018 to mean that using the term court reporter is an intent to indicate that someone is certified. She again requested the Board provide licensees title protection as court reporters.

Ms. Bautista stated her belief that it is disingenuous for the Board to say it is too costly to pursue action against venture capitalist firms but yet have funds to discipline CSRs for late transcripts.

ADJOURNMENT

Ms. Hurt adjourned the meeting at 5:38 p.m.

	11/20/2020		11/20/2020
DAVINA HURT, Board Chair	DATE	YVONNE K. FENNER, Executive Officer	DATE