

**PROPOSED REGULATION OF THE CERTIFIED COURT
REPORTERS' BOARD OF NEVADA**

LCB File No. R193-22

October 24, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1-5, 9 and 10, NRS 656.130; § 6, NRS 622.085 and 656.130; §§ 7 and 8, NRS 656.130, 656.187 and 656.200.

A REGULATION relating to court reporting; requiring a court reporting firm to sever itself from a designated representative of the firm under certain circumstances; requiring court reporters and firms to contemporaneously offer or provide services or products to each party to a proceeding or to the attorney of each party; requiring court reporters and firms to provide certain transcripts and recordings of such transcripts to third-party requesters under certain circumstances; authorizing the Certified Court Reporters' Board of Nevada to consider and admit into evidence certain mitigating and aggravating circumstances in disciplinary proceedings; making various changes relating to the provision of transcripts to parties; requiring each court reporter and designated representative of a court reporting firm to complete at least 15 credits of continuing education every 2 years; making other changes relating to continuing education; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Certified Court Reporters' Board of Nevada to adopt regulations concerning the profession of court reporting and to deny, suspend or revoke a certificate of a court reporter or a license of a court reporting firm under certain circumstances. (NRS 656.130, 656.240, 656.250, 656.253) **Section 2** of this regulation prohibits a firm from conducting business if the certificate of the designated representative of the firm has been suspended or revoked or the license of the firm has been suspended or revoked due to the acts or omissions of a non-certified designated representative of the firm, unless the firm has severed itself from the designated representative. **Section 2**, however, authorizes the designated representative of a firm to resume his or her connection and activities with the firm, or otherwise be reengaged with the firm, upon the reinstatement of the suspended or revoked certificate or license, as applicable.

Existing regulations require, in general, each court reporter and firm to deliver: (1) the original transcript of a deposition to the party who orders the original; and (2) a copy of the transcript to each party who orders a copy. (NAC 656.370) **Section 9** of this regulation expands the requirements to include transcripts of all proceedings. **Section 4** of this regulation authorizes a person who is not a party to a proceeding to request a copy of a transcript of the proceeding

from a court reporter or firm with possession of the transcript. Upon receipt of such a request, **section 4** requires: (1) the court reporter or firm to notify the parties to the proceeding or their attorneys of the request; and (2) the notification to contain certain information. Finally, if the provision of the copy of the transcript is not otherwise prohibited by court order, **section 4** requires the court reporter or firm to provide to the third-party requester, not later than 60 days after providing notice of the request and upon receipt of a reasonable fee prescribed by the court reporter or firm, a copy of the transcript.

Additionally, existing regulations require a court reporter, under certain circumstances, to provide a transcript of a proceeding if: (1) the certificate of the court reporter is suspended or revoked; (2) the court reporter has not prepared a transcript of a proceeding in which the court reporter provided such services before the certificate was suspended or revoked; and (3) a person has requested a transcript of the proceeding. (NAC 656.375) **Section 10** of this regulation repeals such provisions. Instead, **section 9** requires a court reporter whose certificate has been suspended or revoked, or a firm whose license has been suspended or revoked, to deliver: (1) the original transcript of a proceeding that was not transcribed before the suspension or revocation to the party who ordered the original; and (2) a copy of the transcript of any proceeding that was not transcribed before the suspension or revocation to each party who ordered a copy.

Section 9 also provides that regardless of whether the certificate or license of a court reporter or firm has been suspended or revoked, the court reporter or firm is: (1) prohibited from preparing more than one original transcript of a proceeding; and (2) required to take reasonable steps to notify each party or the attorney of each party of a request for a transcript of a proceeding.

Section 3 of this regulation provides that if a court reporter or firm offers or provides a service or product to a party to a proceeding or the attorney of the party, the court reporter or firm must offer contemporaneously or provide such services or products to the other parties to the proceeding or their attorneys.

The Nevada Supreme Court set forth various aggravating and mitigating circumstances that may be considered by a court when deciding what sanction to impose upon an attorney, and authorizes the court to admit such aggravating and mitigating circumstances into evidence at a disciplinary hearing. (S.C.R. 102.5) **Section 5** of this regulation establishes similar aggravating and mitigating circumstances that may be considered and admitted into evidence by the Board in a disciplinary proceeding against the holder of a certificate or license.

Existing law requires regulatory bodies to develop and implement a process by which a person with a criminal history can petition the regulatory body to determine if the criminal history of the petitioner will disqualify the petitioner from being licensed by the regulatory body. (NRS 622.085) **Section 6** of this regulation establishes the process for: (1) a person to file such a petition with the Board to determine whether he or she may be certified as a court reporter; and (2) the Board to review and respond to any such petition.

Existing law requires each court reporter and designated representative of a court reporting firm to satisfy continuing education requirements. (NRS 656.187, 656.200) Existing regulations require, with certain exceptions, each court reporter and designated representative of a court reporting firm to complete at least 15 hours of continuing education every 2 years. (NAC 656.210) Existing regulations also authorize the Board to determine the number of hours of credit each participant is entitled to receive for attending or participating in a continuing education program or course of study. (NAC 656.240) **Section 7** of this regulation requires each court reporter or designated representative of a court reporting firm to instead complete at least

15 credits of continuing education every 2 years. Similarly, **section 8** of this regulation authorizes the Board to determine the number of credits each participant is entitled to receive for attending or participating in a continuing education program or course of study.

Section 1. Chapter 656 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. 1. If the certificate of the designated representative of a court reporting firm has been suspended or revoked by the Board for any reason or if the license of a court reporting firm has been suspended or revoked by the Board due to the acts or omissions of the non-certified designated representative of the court reporting firm, the court reporting firm shall not conduct business, unless the designated representative of the court reporting firm who caused the certificate or license to be suspended or revoked, as applicable, is severed from the court reporting firm.

2. The designated representative of a court reporting firm who caused a certificate or license to be suspended or revoked as described in subsection 1 may resume his or her connection and activities with, or be otherwise reengaged by, the court reporting firm upon the reinstatement of the certificate of the designated representative of the court reporting firm or the license of the court reporting firm, as applicable.

3. As used in this section:

(a) “Non-certified designated representative of the court reporting firm” means a designated representative of a court reporting firm who has passed the examination described in NAC 656.261 and has been appointed as the designated representative of a court reporting firm.

(b) “Severed from the firm” means:

*(1) Terminating the interest of the designated representative of the court reporting firm;
and*

(2) Prohibiting the designated representative of the court reporting firm from acting on behalf of the firm.

Sec. 3. Any service or product offered or provided in a proceeding by a court reporter or firm to any party to the proceeding or to an attorney of any party to the proceeding must be offered contemporaneously to each party or to the attorney of each party.

Sec. 4. 1. Any person who is not a party to a proceeding may request a copy of a transcript of the proceeding from the court reporter or firm with possession of the transcript.

2. Upon receipt of a request described in subsection 1, the court reporter or firm shall notify each party to the proceeding or the attorney of each party to the proceeding of the following:

(a) That a copy of the transcript of the proceeding is being sought by a third-party requester; and

(b) The name of the third-party requester.

3. Unless an order prohibiting the provision of the transcript of the proceeding to the third-party requester is served on the court reporter or firm, not later than 60 days after the notification described in subsection 2, the court reporter or firm shall, upon receipt of a reasonable fee prescribed by the court reporter or firm, provide a copy of the requested transcript of the proceeding to the third-party requester.

Sec. 5. 1. The Board may consider any aggravating circumstance or mitigating circumstance in deciding what discipline to impose on the holder of a certificate or license,

and any such aggravating circumstance or mitigating circumstance may be admitted into evidence at a disciplinary proceeding.

2. As used in this section:

(a) “Aggravating circumstance” means any consideration or factor that may justify an increase in the degree of discipline imposed by the Board, including, without limitation, any of the following considerations or factors:

- (1) Any prior discipline by the Board;*
- (2) A dishonest or selfish motive;*
- (3) A pattern of misconduct;*
- (4) The commission of multiple disciplinary offenses;*
- (5) Any obstruction or delay in the disciplinary proceeding that occurred as a result of bad faith, including, without limitation, the respondent intentionally failing to comply with any applicable rule, regulation or order;*
- (6) The submission of any false evidence or false statement to the Board or the commission of any other deceptive practice in conjunction with the investigation or disciplinary proceedings of the Board;*
- (7) The refusal of the respondent to acknowledge the wrongful nature of the conduct;*
- (8) A history of substantial experience in the practice of court reporting;*
- (9) An indifference on the part of the respondent to making restitution; and*
- (10) Any illegal conduct by the respondent, including, without limitation, the use of a controlled substance.*

(b) “Chemical dependency” includes, without limitation, an alcohol or other substance use disorder.

(c) “Mitigating circumstance” means any consideration or factor that may justify a decrease in the degree of discipline imposed by the Board, including, without limitation, any of the following considerations or factors:

- (1) The absence of prior discipline by the Board;*
- (2) The absence of a dishonest or selfish motive;*
- (3) Any personal or emotional problem of the respondent;*
- (4) A timely, good-faith effort to make restitution or to rectify the consequences of the misconduct;*
- (5) A full and free disclosure to:*
 - (I) The Board;*
 - (II) The staff of the Board; or*
 - (III) An investigator employed by the Board;*
- (6) A cooperative attitude in the disciplinary process;*
- (7) Inexperience in the practice of court reporting;*
- (8) The good character or reputation of the respondent;*
- (9) A physical disability of the respondent;*
- (10) The mental disability or chemical dependency of the respondent if:*
 - (I) There is medical evidence that the respondent is affected by the mental disability or chemical dependency;*
 - (II) The mental disability or chemical dependency of the respondent caused the misconduct;*

(III) The recovery of the respondent from the mental disability or chemical dependency is demonstrated by a meaningful and sustained period of successful rehabilitation;

(IV) The recovery of the respondent from the mental disability or chemical dependency arrested the misconduct; and

(V) The misconduct is unlikely to reoccur;

(11) Any delay in the disciplinary proceedings which was not caused by the respondent;

(12) Any interim rehabilitation on the part of the respondent;

(13) The imposition of any other penalty or sanction on the respondent;

(14) The remorse of the respondent; and

(15) The remoteness of any prior discipline on the respondent by the Board.

3. The terms “aggravating circumstance” and “mitigating circumstance,” respectively, do not include:

(a) Any forced or compelled restitution;

(b) Any agreement to the demand of a client for improper behavior;

(c) The withdrawal of a complaint against the respondent;

(d) The resignation of the respondent before the completion of the disciplinary proceedings;

(e) Any recommendation by the complainant concerning the form of discipline; and

(f) A failure of an injured party to make a complaint.

Sec. 6. 1. A person wishing to apply for a certificate may petition the Board to review his or her criminal history to determine if the criminal history would disqualify the petitioner from being certified by the Board.

2. *A petition submitted pursuant to subsection 1 must be completed on a form prescribed by the Board.*

3. *Upon receiving a petition submitted pursuant to subsection 1, the Executive Secretary of the Board shall send the petitioner a packet containing:*

(a) A form which, when signed by the petitioner, authorizes the Board to possess and review the criminal history of the petitioner; and

(b) A letter informing the petitioner that the Board cannot process the petition until the petitioner submits to the Board:

(1) A report of the criminal history of the petitioner from:

(I) The Central Repository for Nevada Records of Criminal History; and

(II) The Federal Bureau of Investigation;

(2) The form described in paragraph (a), signed by the petitioner; and

(3) A fee in the amount of \$50 in the form of a money order, cashier's check or certified check which is payable to the Board.

4. *At the next meeting of the Board, but not later than 90 days after receiving the documents and fee described in paragraph (b) of subsection 3, the Board will, at a session of the meeting closed to the public, review the documents and, upon such a review, the Board will, at a session of the meeting open to the public, orally render a determination regarding the petition. The Board will notify the petitioner in writing of the determination so rendered at the meeting.*

5. *If the Board determines pursuant to subsection 4 that the petitioner is disqualified from being certified, the Board:*

(a) Will provide the petitioner with instructions concerning any remedies for the disqualification; and

(b) May rescind the disqualifying determination at any time.

6. A petitioner may not:

(a) Earlier than 6 months after receiving instructions pursuant to subsection 5, submit a revised petition; or

(b) Earlier than 2 years after receiving a determination by the Board pursuant to subsection 4, submit a new petition.

7. A petitioner shall not submit a petition which contains false or misleading information to the Board.

Sec. 7. NAC 656.210 is hereby amended to read as follows:

656.210 1. Except as otherwise provided in subsection 5, each court reporter and designated representative of a court reporting firm shall, every 2 years, complete at least 15 ~~hours~~ *credits* of continuing education relating to the practice of court reporting, at least two of which must include a review of the applicable laws, regulations, and court and procedural rules governing the practice of court reporting in this State.

2. The Board will provide each court reporter and designated representative of a court reporting firm with the means to obtain two credits which include a review of the applicable laws, regulations, and court and procedural rules governing the practice of court reporting in this State other than by personal attendance.

3. Credit for continuing education may not be carried forward for any reporting period.

4. The reporting period for continuing education begins on May 16 of each odd-numbered year and ends on May 15 of the subsequent odd-numbered year.

5. If the original issuance of a certificate or a license is less than 6 months before May 15 of an odd-numbered year, the Board will waive the requirements for continuing education set forth in this section for the court reporter or designated representative of a court reporting firm, as applicable, for that reporting period.

Sec. 8. NAC 656.240 is hereby amended to read as follows:

656.240 1. A sponsor of a program or course of study for continuing education may submit to the Board, on a form provided by the Board, a request for accreditation of the program or course. The form may be submitted either before or after the program or course has been offered.

2. A court reporter or designated representative of a court reporting firm who attends a course of instruction not accredited by the Board may submit, on a form provided by the Board, a request for accreditation of the course.

3. The Board will determine whether programs or courses of study offered by a sponsor or taken by a court reporter or designated representative of a court reporting firm are to receive accreditation, and the Board will set forth the terms and conditions for the accreditation of the programs or courses of study.

4. The Board will determine the number of ~~hours of credit~~ *credits* each participant is entitled to receive for attendance or participation in a program or course of study.

5. The Board will approve courses of study, upon written request, at the next open meeting of the Board after receipt of the request.

6. To be approved, a course of study must directly relate to the skills and knowledge required to engage competently in the practice of court reporting and must be made available to

each court reporter and designated representative of a court reporting firm in this State. Such courses of study may relate to:

(a) Strengthening the participant's understanding of the English language, including, but not limited to, the following areas:

- (1) Reading;
- (2) Spelling;
- (3) Vocabulary; and
- (4) Medical and legal terminology;

(b) Increasing speed;

(c) Technological advances in the field of court reporting;

(d) The applicable laws, regulations, and court and procedural rules governing the practice of court reporting in this State;

(e) Ethics and professionalism in the field of court reporting;

(f) Substance abuse;

(g) Management of the business affairs and the economics of court reporting; or

(h) Any other subject which the Board determines to be appropriate.

7. Each court reporter or designated representative of a court reporting firm who completes a program or course of study offered or approved by the National Court Reporters Association, the National Verbatim Reporters Association or a sponsor designated or approved by the Board as an accredited sponsor is entitled to receive credit for continuing education.

Sec. 9. NAC 656.370 is hereby amended to read as follows:

656.370 1. ~~{Each}~~ *Except as otherwise provided in subsection 2, each* court reporter and firm shall, in accordance with any applicable statute, rule or order:

(a) Deliver the original transcript of a ~~{deposition}~~ *proceeding* to the party *to the proceeding* who orders the original; and

(b) Deliver a copy of the transcript to each party *to the proceeding* who orders such a copy.
~~{The court reporter or firm shall not prepare more than one original transcript of a deposition.}~~

2. *Unless otherwise instructed by the Board, a court reporter whose certificate has been suspended or revoked, and a firm whose license has been suspended or revoked, shall, in accordance with any applicable statute, rule or order, deliver:*

(a) *The original transcript of any proceeding that was not transcribed before the suspension or revocation to the party to the proceeding who orders the original; and*

(b) *A copy of the transcript of any proceeding that was not transcribed before the suspension or revocation to each party to the proceeding who orders such a copy.*

3. If a court reporter or firm receives a request for a transcript of a proceeding or a portion of a transcript of a proceeding ~~{}~~ *pursuant to subsection 1 or 2*, the court reporter or firm shall take reasonable steps to notify each party to the proceeding or each attorney who represents a party to the proceeding of the request in a timely manner that allows a party *to the proceeding* or his or her attorney to order a copy of the transcript that was requested.

4. *A court reporter or firm shall not prepare more than one original transcript of a proceeding pursuant to subsection 1 or 2.*

Sec. 10. NAC 656.375 is hereby repealed.

TEXT OF REPEALED SECTION

656.375 Conditions under which provision of transcript is required. (NRS 656.130)

Unless otherwise instructed by the Board, a court reporter shall provide a transcript of a proceeding if:

1. The court reporter's certificate is suspended or revoked;
 2. The court reporter has not prepared a transcript of a proceeding in which the court reporter provided services as a court reporter before the certificate was suspended or revoked;
- and
3. A person has requested a transcript of the proceeding.