

## **Agenda**

### **CERTIFIED COURT REPORTER LICENSING BOARD**

April 16, 2015 – 2:00 p.m.

Room 464

Heber M. Wells Building

160 E. 300 S. Salt Lake City, Utah

*This agenda is subject to change up to 24 hours prior to the meeting.*

#### **ADMINISTRATIVE BUSINESS:**

1. Call Meeting to Order
2. Sign Per Diem
3. Introduction of Jana Johansen
4. Approval of the October 23, 2014 Board Meeting Minutes
5. Jennifer E. Garner, Oath of Office

#### **DISCUSSION ITEMS:**

6. Update to Proposed Rule Change Discussion R156-74-102

#### **NEXT SCHEDULED MEETING:**

October 20, 2015

**Note:** In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify, Dave Taylor, ADA Coordinator, at least three working days prior to the meeting. Division of Occupational & Professional Licensing, 160 East 300 South, Salt Lake City, Utah 84115, 801-530-6628 or toll-free in Utah only 866-275-3675

**MINUTES**

**UTAH  
Certified Court Reporter Board Meeting  
MEETING**

**October 23, 2014**

**Room 2B – 2nd Floor - 2:00 p.m.  
Heber Wells Building  
Salt Lake City, UT 84111**

**CONVENED:** 2:07 p.m.

**ADJOURNED:** 2:35 p.m.

**Bureau Manager:**

Kristina Bean

**Board Secretary:**

Yvonne King

**Board Members Present:**

Catherine Kennedy  
Joleen Van Bibber  
Joseph Liddell  
Diana Kent

**DOPL Staff Present:**

April Ellis, Bureau 1 Manager

**DECISIONS AND RECOMMENDATIONS**

**ADMINISTRATIVE BUSINESS:**

Joseph Liddell, Oath of Office

Ms. Bean gave the Oath of Office to Mr. Liddell as the new Board member.

Introduction of Kristina Bean

Ms. Bean introduced herself to the Board as the new Bureau manager for Bureau 6.

Approval of the April 18, 2013 Board Meeting Minutes

Ms. Van Bibber seconded by Mr. Liddell made a motion to approve the April 18, 2013 Board Meeting Minutes as written. The motion carried unanimously.

Nominations for Chair

Ms. Kennedy seconded by Ms. Van Bibber made a motion to nominate Mr. Liddell as Board Chair. The motion carried unanimously.

**TOPICS FOR DISCUSSION**

, Update to Proposed Rule Change Discussion  
R156-74-102

Ms. Ellis stated that with regards to the new wording in the proposed rule for "verbatim record", the Division determined the statute was too vague due to a decision on a citation which was not upheld. The proposed rule was then never filed.

Ms. Ellis then suggested to go to the associations and urge them to do something or see what happens with this year's legislative session.

The Board determined that they would still like to move forward with the proposed rule change that they originally voted for on April 18, 2013 meeting. It was then noted that the proposed rule change will be discussed with Mr. Steinagel, the Division Director for further input.

2015 Board Meeting Schedule

It was noted that there are two meetings preliminarily scheduled for 2015, April 16, 2015 and October 20, 2015.

Next Scheduled Meeting

April 16, 2015

*Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.*

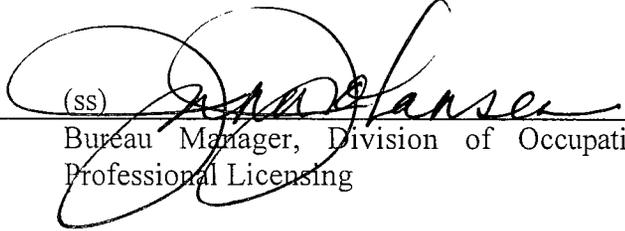
Date Approved

(ss)

  
Chairperson, Certified Court Reporter's Board

4/16/15  
Date Approved

(ss)

  
Bureau Manager, Division of Occupational & Professional Licensing

## Court Reporter Board

The Division's thoughts were that while the statute did not prohibit unlicensed individuals from electronically recording a proceeding, it probably did prohibit them from making a "verbatim" record of the recording (e.g. a transcript).

Since that time a Utah federal court magistrate ruled (2012) that a deposition prepared by an unlicensed person was admissible in a federal case. Also, the Division's own citation hearing officer ruled (2012) that the statute is unclear whether the unlicensed behavior alleged by the Division on a citation was actually required to be licensed. The hearing officer specifically mentioned the vague statutory language and rules or decisions adopted by Utah courts, federal courts, and state agencies.

It was decided that it would be difficult for DOPL to enforce the court reporters licensing law without clarification from the Legislature addressing the behavior it would like regulated. DOPL's position is neutral on this decision. Our only goal is to implement the statute. DOPL needs guidance from the Legislature regarding the path you would like DOPL to take on court reporter licensing. This was discussed at the October 2014 board meeting.

The proposed rule change was presented to Tim Shea with the Administrative Office of the Courts and in June of 2014 the civil procedures committee decided not to recommend amending Rule 30 to require transcription by a licensed court reporter.

At the October 2014 meeting the Board determined that they would still like to move forward with the proposed rule change that they originally voted for on April 18, 2013 meeting. It was then noted that the proposed rule change will be discussed with Mr. Steinagel, the Division Director for further input.

April 2013 proposed rule change: (1) (a) "Verbatim record" as used in sub-section 58-74-102(7) means a word for word record by creating a written transcript; and (b) "Verbatim Record" does not include a record created solely for personal purposes.



Timothy M. Shea  
Appellate Court Administrator

Andrea R. Martinez  
Clerk of Court

## Supreme Court of Utah

450 South State Street  
P.O. Box 140210  
Salt Lake City, Utah 84114-0210

Appellate Clerks' Office  
Telephone (801) 578-3900  
Fax (801) 578-3999

June 16, 2014

Matthew B. Durrant	Chief Justice
Ronald E. Nehring	Associate Chief Justice
Christine M. Durham	Justice
Jill N. Parrish	Justice
Thomas R. Lee	Justice

Frank Pignanelli  
Foxley & Pignanelli  
60 S 600 E Ste 150  
Salt Lake City, UT 84102

Dear Frank:

The civil procedures committee has decided not to recommend amending Rule 30 to require transcription by a licensed court reporter. It appears that, at least in Utah and perhaps more generally, transcripts do not have to be prepared by a licensed reporter.

I found *State v. Menzies*, 845 P.2d 220, 225 (Utah 1992) in which the supreme court recognized the adequacy of a transcript prepared by someone who was not licensed. Judge Evelyn Furse provided us with a copy of a 2012 unpublished decision in *Slaughter v. Boeing Co.*, a case from the United States District Court for Utah, that was to the same effect. And Frank Carney cited *Wright & Miller* on federal practice and procedure (Vol. 8A, Sect. 2117), which states that "the written transcription thus prepared need not be 'official' in any sense; the Committee Note acknowledges that 'counsel often utilize their own personnel to prepare transcripts from audio or video tapes.'"

I realize that this is not the outcome that you and your client desired, but I hope that the committee has been responsive in researching and considering your request.

Sincerely,

Timothy M. Shea  
Appellate Court Administrator