

To: Attorney General Liz Murrill
Attn: Department of Justice, Occupational Licensing Review Program

From: Joshua S. Force, Esq.
Counsel
Louisiana Board of Certified Shorthand Reporters

Date: February 26, 2024

Subject: Proposed Amendments to CSR Board Rule 1303, New Whistleblower Reporting Rule, and Interpretation of Code of Civil Procedure art. 1434

The Louisiana Board of Certified Shorthand Reporters (“CSR Board”) has proposed amendments to CSR Board Rule 1303, “Employment Relationships with Court Reporting Firm,” LAC 46:XXI.1303. In connection with amending this rule, the CSR Board has also proposed the adoption of a new whistleblower reporting rule and an interpretation of Code of Civil Procedure article 1434.

To facilitate the Department of Justice’s review of the proposed rules and statutory interpretation, the CSR Board provides answers to the following questions.

1. Describe any relevant factual background to the occupational regulation and the purpose of the occupational regulation?

In August 2016, Veritext Corp. (“Veritext”) sued the members of the CSR Board in their official and/or individual capacities. Veritext challenged the constitutionality of Louisiana Code of Civil Procedure article 1434 (“Article 1434”) and contended that the CSR Board’s enforcement of Article 1434 violated federal antitrust laws. In September 2016, Esquire Deposition Solutions, LLC (“Esquire”) filed a similar lawsuit against the members of the CSR Board. The federal district court later consolidated the two cases for purpose of discovery and possibly for trial—*Veritext Corp. v. Bonin, et al.*, Civil Action No. 16-13903, in the United States District Court for the Eastern District of Louisiana, Sec. B(2), consolidated with *Esquire Deposition Solutions v. Bonin, et al.*, Civil Action No. 17-9877, in the United States District Court for the Eastern District of Louisiana, Sec. B(2) (collectively, the “Litigation”). The federal courts dismissed the constitutionality claims with prejudice, and, in November 2022, the parties settled the remaining antitrust claims. The CSR Board, which was not a party to the Litigation, approved the terms of a settlement agreement resolving the Litigation (the “Settlement Agreement”) before the individual board members signed the agreement.

The Settlement Agreement requires the members of the CSR Board, who were parties to the Litigation, to cause the CSR Board to take certain actions to resolve Veritext’s and Esquire’s antitrust claims, including:

1. “initiate a rulemaking process under the Administrative Procedure Act that will remove the financial disclosure requirements in the rules governing the Safe Harbor Affidavit in § 1303 of Title 46, part XXI, of the Louisiana Administrative Code” (Settlement Agreement ¶ 20);
2. “take formal action to clarify that the CSR Board Defendants interpret Louisiana Code of Civil Procedure article 1434 to permit court reporters to receive assignments from court reporting firms that have agreements with insurance companies to provide court reporting services in lawsuits where the insurance company has not been named as a party to the proceedings” (*Id.*); and
3. “enable persons to ask questions about and report violations of this Agreement and the Antitrust Laws confidentially, to the extent permitted by law, and without fear of retaliation of any kind” (*Id.* ¶ 17).

Consistent with the Settlement Agreement, at its January 13, 2023 public meeting, the CSR Board approved amendments to CSR Rule 1303 to remove provisions requiring court reporters to provide a schedule of charges to the CSR Board and maintain a copy of those charges as a part of the Safe Harbor Affidavit process. The CSR Board also approved an antitrust Whistleblower Policy and a Frequently Asked Question and answer (“FAQ”) addressing the CSR Board’s interpretation of Article 1434 as applied to court reporters receiving assignments from firms that have agreements with insurance companies that are not parties to legal proceedings at issue. Copies of all three documents approved by the CSR Board are attached to this submission. At its December 8, 2023 public meeting, the CSR Board approved promulgating the previously approved Whistleblower Policy as a new rule.

On or about June 20, 2023, the Board submitted a Fiscal and Economic Impact Statement (“FEIS”) for each rule/policy/interpretation document to the Legislative Fiscal Office (“LFO”). The LFO approved the FEIS’s on July 10, 2023. The CSR Board submitted its Notices of Intent/Notice and FEIS’s to the Office of the State Register, and they were published in *Louisiana Register*, Vol. 5, No. 1 (Jan. 20, 2024). The CSR Board did not receive any public comment regarding any of the proposed rules/policy/interpretation before or at the January 13, 2023 meeting, at which they were approved, or by the February 12, 2024 deadline set forth in the Notices of Intent.

2. Is the occupational regulation within the scope of the occupational licensing board's general authority to regulate in a given occupation or industry? If so, identify the law that provides the authority for the rule and describe how the occupational regulation is within the scope.

Yes. With respect to the proposed amendment to CSR Rule 1303, the CSR Board promulgated the rule pursuant to La. R.S. 37:2557(B), 37:2555(G), and 37:2556(D), and the proposed amendment revises that rule in accordance with the Settlement Agreement. With respect to the FAQ, the CSR Board is authorized to (1) enforce, *inter alia*, matters concerning court reporters' relations with the public, including prohibited contractual relationships between reporters and party litigants, La. R.S. 37:2553; (2) revoke or suspend licenses (i.e., certificates) for a court reporter's violation of professional duties and state law and for falsely certifying compliance with Article 1434, La. R.S. 37:2557; (3) fine court reporters for violating La. R.S. 37:2557 or other laws regulating the practice of court reporting, La. R.S. 37:2560; and (4) establish rules and regulations for Article 1434-related safe harbor affidavits, La. R.S. 37:2556(D). In the Litigation, the federal district court expressly held that the CSR Board had authority to enforce Article 1434. The proposed FAQ provides the CSR Board's interpretation of Article 1434 in a particular situation. Lastly, with respect to the whistleblower reporting rule, the proposed rule addresses the conduct of the CSR Board's business in compliance with the terms of the Settlement Agreement. The statutes creating the CSR Board contemplate that it will conduct board meetings and generally "aid" in all matters pertaining to court reporting in Louisiana. See La. R.S. 37:2553(A) and 37:2555(G).

3. Check all of the following that apply as reasons the occupational regulation is subject to review

- Creates a barrier to market competition
- Fixes prices, limits price competition, or results in high prices for a product or service provided by or to a license holder.
- Reduces competition or excludes present or potential competitors from the occupation regulated by the board
- Limits output or supply in this state of any good or service provided by the members of the regulated occupation.
- Reduces the number of providers that can serve a particular set of customers
- Other activity (please describe)

The CSR Board has adopted the proposed amendments to CSR Rule 1303, FAQ, and whistleblower reporting policy/rule pursuant to the settlement of the claims asserted in the Litigation, which alleged that the CSR Board had previously engaged in anticompetitive behavior in violation of the Sherman Act. The proposed actions are intended to comply with the Settlement Agreement and avoid similar claims in the future.

4. Identify the clearly articulated state policy (e.g., health, safety, welfare, or consumer protection) in state statute, or any supporting evidence of the harm the action/proposed action is intended to protect against?

As the United States Court of Appeals for the Fifth Circuit held in the Litigation, Article 1434 provides the clearly articulated state policy underlying the CSR Board's enforcement of Article 1434. In addition, in La. R.S. 37:2556(D), the Legislature instructed the CSR Board to "establish by rule the procedures and representations by which a court reporting firm shall provide the necessary certification to court reporters" in connection with the safe harbor affidavit process under CSR Rule 1303.

5. Do any less restrictive alternatives to the occupational regulation exist for addressing the same harm? If so, include a comparison of the occupational regulation to the alternatives and a justification for not pursuing a less restrictive alternative. If no less restrictive alternatives exist, explain why.

The CSR Board is not aware of any less-restrictive alternatives to the proposed rules and statutory interpretation, all of which are required by the Settlement Agreement.

6. Describe the process that the occupational licensing board followed in developing the proposed rule, including any public hearings held, studies conducted, and data collected or analyzed.

Please see the CSR Board's response to Question No. 1, above.

7. Does the occupational regulation relate to a matter on which there is pending litigation or a final court order?

The proposed rules and policy interpretation address provisions in the Settlement Agreement resolving the Litigation. Following the parties' settlement, the federal district court dismissed the Litigation.

8. Please identify the board members voting in favor of this rule, and state whether the member is an active market participant.

The following CSR Board members voted in favor of the amendment to Rule 1303, the FAQ interpreting Code of Civil Procedure article 1434, and the Whistleblower Policy on January 13, 2023:

Ms. Lori Ceasar — active-market participant
Ms. Andrea Davis — active-market participant

Ms. Rosa Manale — holder of CDR and CCR licenses but employed as judicial administrator and not practicing court reporting

Ms. Janet McBride — active-market participant

Ms. Celeste Ware — active-market participant

The following CSR Board members voted in favor of promulgating the Whistleblower Policy as a new rule on December 8, 2023:

Ms. Lori Ceasar — active-market participant

Ms. Andrea Davis — active-market participant

Ms. Rosa Manale — holder of CDR and CCR licenses but employed as judicial administrator and not practicing court reporting

Ms. Celeste Ware — active-market participant

9. Is there anything else that the occupational licensing board would like the Department to know about the proposed rule?

No.

Attachments:

1. Notice of Intent for Amendment to CSR Board Rule 1303
2. Approved FEIS for Amendment to CSR Board Rule 1303
3. Proposed Amendment to CSR Board Rule 1303 (underline/strikethrough version)
4. Notice for FAQ re Board Interpretation of Code of Civil Procedure art. 1434
5. Approved FEIS for FAQ re Board Interpretation of Code of Civil Procedure art. 1434
6. Proposed FAQ re Board Interpretation of Code of Civil Procedure art. 1434
7. Notice of Intent for Adoption of Whistleblower Reporting Rule
8. Approved FEIS for Adoption of Whistleblower Policy
9. Proposed Whistleblower Policy
10. Proposed Whistleblower Reporting Rule

NOTICE OF INTENT

Office of the Governor

Board of Examiners of Certified Shorthand Reporters

Employment Relationship with Court Reporting Firm (LAC 46:XXI.1303)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:953(A), the Louisiana Board of Examiners of Certified Shorthand Reporters (CSR Board) proposes to amend LAC 46:XXI.1303. The proposed amendment will remove provisions from LAC 46:XXI.1303 requiring court reporters obtaining a safe harbor affidavit from having to submit a schedule of charges to the CSR Board and to maintain a copy of the schedule. In particular, the amendments will delete provisions in Subsection B, delete Paragraph 4 of Subsection E, delete provisions in the final paragraph, and delete provisions in the reporter's certification. The CSR Board has authority to amend this Section pursuant to R.S. 37:2557(B), R.S. 37:2555(G), and R.S. 37:2556(D).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 13. Safe Harbor Requirements

§1303. Employment Relationship with Court Reporting Firm

A. ...

B. Safe Harbor. A licensed Louisiana court reporter may accept employment from a court reporting firm and shall not be considered an "employee" for purposes of Code of Civil Procedure article 1434 upon furnishing to the board a certification, on a form approved by the board, from an authorized and knowledgeable officer of the court reporting firm that the firm has no prohibited employment or contractual relationship, direct or indirect, under Code of Civil Procedure article 1434 with a party litigant in the matter for which the reporter was retained to provide services. The reporter must file with the board a copy of the certification within 30 days after the date of the deposition. The Louisiana

court reporter shall immediately notify the board, in writing, if a safe harbor request was made upon a court reporting firm and the firm refused or failed to provide the requested certification. The reporter shall include the name of the court reporting firm and the date the request was made.

C. - D. ...

E. Certification Affidavit of Court Reporting Firm

CERTIFICATION AFFIDAVIT OF COURT REPORTING FIRM

STATE OF _____
PARISH OR COUNTY OF _____

BEFORE ME, the undersigned authority, duly qualified to take acknowledgments and administer oaths within the state and locality inscribed above, personally appeared _____ ("Affiant"), who is representing _____, a _____ [state] corporation [or limited liability company or other form of business organization] that is doing business in Louisiana as a court reporting firm as defined by Acts 2014, No. 839 (hereinafter, "Court Reporting Firm"). The physical address of the entity's principal place of business is _____ [street and suite number, if any] in _____ [city], State of _____, Zip _____, Telephone: () _____, Email _____.

After being duly sworn, Affiant did attest as follows:

1. Affiant is a knowledgeable representative who is authorized to act on behalf of the Court Reporting Firm in executing this Certification Affidavit.
2. The Court Reporting Firm has engaged a Louisiana licensed court reporter to perform court reporting services in connection with the deposition(s) of _____ [identify by name each deponent covered by this certification; attach additional sheets if necessary] to be taken in the following proceeding: _____ vs. _____, pending in the _____ Court under matter number _____.
3. Affiant certifies, after performing due diligence, that the Court Reporting Firm has no prohibited employment or contractual relationship, direct or indirect, under Louisiana Code of Civil Procedure Article 1434 with a party litigant in the matter for which the court reporter's services have been engaged. Affiant further acknowledges affiant's duty to provide information and will provide information promptly to the Louisiana Board of Examiners of Certified Shorthand Reporters (hereinafter, "CSR Board") regarding any change in these relationships or in Affiant's knowledge of these relationships.
4. Affiant further states that Affiant is familiar with the nature of an oath and with penalties as provided by applicable state laws for falsely swearing to statements made in an instrument of this nature. Affiant further certifies that Affiant has read and understands the full facts and content of this Affidavit.

SIGNATURE OF AFFIANT: _____
Sworn before me this _____ day of _____, 20__

Notary Public _____
Print name:
My commission expires:
Form 10/15 Effective July 1, 2016

Each completed Firm Certification Affidavit in the foregoing form must be filed with the CSR Board by the taking court reporter within 30 days of the date of the deposition.

I, a Louisiana Licensed Court Reporter, as the officer who took the depositions(s), hereby submit this certification affidavit via _____ [facsimile/e-mail] within 30 days of the date of the depositions to which this certification applies.

I have read and confirmed that the language of the certification affidavit conforms with the form promulgated by the CSR Board. I have listed below or on additional pages, if necessary, the name and contact information for each taking attorney.

Signature

Date

Printed Name

LA CCR NO.

Taking Attorney Name: _____

Firm Name: _____

Address: _____

Phone: _____ Email: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2557(B), R.S. 37:2555(G), and R.S. 37:2556(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 41:335 (February 2015), amended LR 42:868 (June 2016), LR 50:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed amended rule on the family has been considered. This proposed amended Rule is not anticipated to have an impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed amended Rule is not anticipated to have an impact on poverty as defined by R.S. 49:473.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed amended rule.

This proposed amended Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed amended rule is not anticipated to have an impact on providers of services as described in HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written comments, through February 12, 2024, to Judge Kimya M. Holmes, Chair of the Louisiana Board of Examiners of Certified Shorthand Reporters, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. The Chair is responsible for responding to inquiries regarding this proposed amended rule.

Judge Kimya M. Holmes
Chair

Fiscal and Economic Impact Statement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)

There is no impact on the expenditures of state or local governmental entities as a result of the proposed rule change. The Certified Shorthand Reporters (CSR) Board proposes to revise the CSR Board Rule 1303 (LAC 46:XXI.1303) to remove the requirement that court reporters must file a schedule of charges with the Safe Harbor Affidavit submitted to the CSR Board pursuant to that rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collections of state or local governmental units as a result of the proposed rule revision.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule revision will not result in any increase in costs to court reporters and will not provide any economic benefits directly to court reporters. The proposed rule revision might result in a negligible reduction in costs to court reporters because they will no longer be required to file a schedule of charges in submitting the Safe Harbor Affidavit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	<u>Victoria Nhung Nguyen</u>	Dept.:	<u>Office of the Governor</u>
Phone:	<u>504-568-2650</u>	Office:	<u>La. Board of Examiners of Certified Shorthand Reporters</u>
Return Address:	<u>1450 Poydras Street</u>	Rule:	<u>Employment Relationship with Court Reporting Firms: Safe Harbor Requirements</u>
	<u>Ste. 630</u>	Date Rule Takes Effect:	<u>Upon promulgation</u>
	<u>New Orleans, LA 70112</u>		

SUMMARY
(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on the expenditures of state or local governmental entities as a result of the proposed rule change. The Certified Shorthand Reporters (CSR) Board proposes to revise CSR Board Rule 1303 (LAC 46:XXI.1303) to remove the requirement that court reporters must file a schedule of charges with a Safe Harbor Affidavit submitted to the CSR Board pursuant to that rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collections of state or local governmental units as a result of the proposed rule revision.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule revision will not result in any increase in costs to court reporters and will not provide any economic benefits directly to court reporters. The proposed rule revision might result in a negligible reduction in costs to court reporters because they will no longer be required to file a schedule of charges in submitting a Safe Harbor Affidavit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

 Signature of Agency Head or Designee	 Legislative Fiscal Officer or Designee
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Judge Kimya M. Holmes, Chair by Victoria N. Nguyen, Administrator

Typed Name & Title of Agency Head or Designee

07/07/23

Date of Signature

7/10/2023

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The CSR Board proposes to revise CSR Board Rule 1303 (LAC 46:XXI.1303) to remove the requirement that court reporters must file a schedule of charges with a Safe Harbor Affidavit submitted to the CSR Board pursuant to that rule.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The CSR Board proposes to take this action to comply with the settlement agreement into which it entered, on or about November 21, 2022, to resolve litigation entitled *Veritext Corp. v. Borin, et al.*, Civil Action No. 16-13903, in the United States District Court for the Eastern District of Louisiana, Sec. B(2), consolidated with *Esquire Deposition Solutions v. Borin, et al.*, Civil Action No. 17-9877, in the United States District Court for the Eastern District of Louisiana, Sec. B(2).

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ NO. If no, provide justification as to why this rule change should be published at this time

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

The proposed rule change will not result in any implementation costs (or savings) to state or local governmental units other than those one-time costs directly associated with the publication and dissemination of this rule.

COSTS	FY 24	FY 25	FY 26
Personal Services	\$0	\$0	\$0
Operating Expenses	\$0	\$0	\$0
Professional Services	\$0	\$0	\$0
Other Charges	\$0	\$0	\$0
Equipment	\$0	\$0	\$0
Major Repairs & Constr.	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.
Not applicable.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 24	FY 25	FY 26
State General Fund	\$0	\$0	\$0
Agency Self-Generated	\$0	\$0	\$0
Dedicated	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0
Other (Specify)	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The proposed rule change will not result in any implementation costs other than those one-time costs directly associated with the publication and dissemination of this rule. The CSR Board has sufficient funds to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no anticipated cost or savings to local governmental units as a result of the proposed rule change.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

Not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

There is no anticipated effect on revenue collections of state and local governmental units as a result of the proposed rule change

REVENUE INCREASE/DECREASE	FY 24	FY 25	FY 26
State General Fund	\$0	\$0	\$0
Agency Self-Generated	\$0	\$0	\$0
Dedicated Funds*	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule change.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL
BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There is no anticipated impact on receipts and/or income to directly affected persons or non-governmental groups as a result of the proposed rule change.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

Not applicable.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There is no anticipated impact on competition and employment as a result of the proposed rule change.

CSR Board Revisions to Rule 1303 Safe Harbor Requirements

§1303. Employment Relationship with Court Reporting Firm

* * *

B. Safe Harbor. A licensed Louisiana court reporter may accept employment from a court reporting firm and shall not be considered an "employee" for purposes of Code of Civil Procedure article 1434 upon furnishing to the board a certification, on a form approved by the board, from an authorized and knowledgeable officer of the court reporting firm that the firm has no prohibited employment or contractual relationship, direct or indirect, under Code of Civil Procedure article 1434 with a party litigant in the matter for which the reporter was retained to provide services. The reporter must file with the board a copy of the certification within 30 days after the date of the deposition. ~~The reporter shall obtain and maintain, for a minimum of three years, the schedule of all charges and other disclosures, which shall be obtained by the reporter concurrently with the original certification from the court reporting firm. Upon request, the reporter shall provide to the board a copy of the schedule of all charges and other disclosures.~~ The Louisiana court reporter shall immediately notify the board, in writing, if a safe harbor request was made upon a court reporting firm and the firm refused or failed to provide the requested certification ~~or the schedule of all charges and other disclosures~~. The reporter shall include the name of the court reporting firm and the date the request was made.

* * *

E. Certification Affidavit of Court Reporting Firm

* * *

~~4. Affiant attaches hereto the schedule of all charges and other disclosures that the court reporter must have available at the time of taking the deposition.~~

~~5. Affiant further states that Affiant is familiar with the nature of an oath and with penalties as provided by applicable state laws for falsely swearing to statements made in an instrument of this nature. Affiant further certifies that Affiant has read and understands the full facts and content of this Affidavit.~~

* * *

Each completed Firm Certification Affidavit in the foregoing form must be filed with the CSR Board by the taking court reporter within 30 days of the date of the deposition. ~~The filing does not need to include the schedule of charges.~~

* * *

I, a Louisiana Licensed Court Reporter, as the officer who took the depositions(s), hereby submit this certification affidavit via _____ [facsimile/e-mail] within 30 days of the date of the depositions to which this certification applies. ~~I further certify that I have received the required schedule of all charges and other disclosures from the Court Reporting Firm in connection with this certification and acknowledge my obligation to maintain the schedule for a minimum of three years.~~

* * *

NOTICE OF INTENT

Office of the Governor

Board of Examiners of Certified Shorthand Reporters

Board Interpretation of Code of Civil Procedure art. 1434

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:953(A), the Louisiana Board of Examiners of Certified Shorthand Reporters (CSR Board) proposes to adopt an interpretation of Louisiana Code of Civil Procedure article 1434 (Article 1434) as applied to court reporters receiving assignments from firms that have agreements with insurance companies that are not parties to legal proceedings at issue. The CSR Board proposes to provide the interpretation through a “Frequently Asked Question” or “FAQ.” The underlying purposes of the CSR Board’s proposed action are to clarify the application of Article 1434 to a particular situation confronting court reporters and to comply with the provisions of the agreement settling the claims asserted in litigation entitled *Veritext Corp. v. Bonin, et al.*, Civil Action No. 16-13903, in the United States District Court for the Eastern District of Louisiana, Sec. B(2), consolidated with *Esquire Deposition Solutions v. Bonin, et al.*, Civil Action No. 17-9877, in the United States District Court for the Eastern District of Louisiana, Sec. B(2). The CSR Board has authority to take this action interpreting Article 1434 because the CSR Board is authorized to (1) enforce, *inter alia*, matters concerning court reporters’ relations with the public, including prohibited contractual relationships between reporters and party litigants, La. R.S. 37:2553; (2) revoke or suspend licenses (i.e., certificates) for a court reporter’s violation of professional duties and state law and for falsely certifying compliance with Article 1434, La. R.S. 37:2557; (3) fine court reporters for violating La. R.S. 37:2557 or other laws regulating the practice of court reporting, La. R.S. 37:2560; and (4) establish rules and regulations for Article 1434-related safe harbor affidavits, La. R.S. 37:2556(D).

FAQ Regarding Assignments from Firms That Have Agreements with Insurance Companies

Q: May a court reporter accept assignments from a court reporting firm that has an agreement with an insurance company to provide court reporting services in a lawsuit in which the insurance company has not been named as a party?

A: Yes, because this question explicitly states that the insurance company is *not a party litigant* in the lawsuit.

The key consideration for court reporters under Code of Civil Procedure article 1434 (see below, emphasis added) is whether a party litigant has a prohibited contractual relationship with the court reporter (either directly or indirectly, such as through a court reporting firm):

Art. 1434. Person before whom deposition taken

A. (1) A deposition shall be taken before an officer authorized to administer oaths, who is **not an employee** or attorney of any of the parties or otherwise interested in the outcome of the case.

(2) For purposes of this Article, an employee includes **a person who has a contractual relationship with a party litigant** to provide shorthand reporting or other court reporting services and also includes **a person employed part or full time under contract or otherwise by a person who has a contractual relationship with a party litigant** to provide shorthand reporting or other court reporting services. A party litigant does not include federal, state, or local governments, and the subdivisions thereof, or parties in proper person.

B. "Officer" as used in this Article means a certified shorthand or general reporter currently holding a valid certificate issued by the Board of Examiners of Certified Shorthand Reporters pursuant to the provisions of R.S. 37:2551 et seq., and an official court reporter, and a deputy official court reporter, as defined in R.S. 37:2555(B)(1) and (2).

If an insurance company is not a party in the lawsuit, then the reporter may accept the assignment from a court reporting firm.

In Louisiana, a Direct Action Statute (R.S. 22:1269) allows a plaintiff to proceed directly against both an insurance company and its insured. If the insurance company has been sued, a court reporter may not receive an assignment from a court reporting firm that has an agreement with the insurance company to provide court reporting services in the lawsuit; the insurance

company is then a “party litigant” in the lawsuit, which creates a prohibited contractual relationship under Article 1434.

Before accepting an assignment, therefore, each court reporter must determine whether the assignment comes from a court reporting firm that has a prohibited contractual relationship with an insurance company named as a party in the lawsuit. To assist court reporters, Louisiana law provides a “safe harbor” procedure by which court reporters can determine whether or not the court reporting firm has a prohibited contractual relationship with a party litigant. See R.S. 37:2557(D) and CSR Rule 1303(B). Court reporters can request certification from a “court reporting firm that the firm has no prohibited contractual relationship, direct or indirect, under Code of Civil Procedure article 1434 with a party litigant in the matter for which the reporter was retained to provide services.” A court reporter who obtains and promptly files such a certification with the CSR Board will not be considered an “employee” and will not be in violation of Code of Civil Procedure art. 1434. If a reporter requests a safe harbor certification and the court reporting firm refuses or fails to provide the requested certification, the court reporter must immediately notify the CSR Board in writing. More information about the safe harbor procedure can be found on the CSR Board website via the link to “New Rules and Forms Effective on July 1, 2016.”

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement: Victoria Nhung Nguyen Dept.: Office of the Governor
 Phone: 504-568-2650 Office: L.A. Board of Examiners of Certified Shorthand Reporters
 LAC 46:XXI.1303
 Return Address: 1450 Poydras Street Rule: Employment Relationship
 Title: with Court Reporting Firm
Ste. 630
New Orleans, LA 70112 Date Rule Takes Effect: Upon promulgation

SUMMARY
(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on the expenditures of state and local governmental units as a result of the proposed rule "FAQ Regarding Assignments from Firms That Have Agreements with Insurance Companies." The FAQ is intended to provide greater clarity on the application of CCP Article 1434 regarding whether a court reporter may accept assignments from a court reporting firm that has an agreement with an insurance company to provide court reporting services in a lawsuit in which the insurance company has not been named as a party.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in any increase in costs to court reporters and will not provide any economic benefits directly to court reporters although it may assist court reporters in determining their compliance with state law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

Judge Kimya M. Holmes, Chair by Victoria N. Nguyen, Administrator Signature of Agency Head or Designee
Debra Thomas, Deputy Fiscal Officer Legislative Fiscal Officer or Designee

Judge Kimya M. Holmes, Chair by Victoria N. Nguyen, Administrator

Typed Name & Title of Agency Head or Designee

07/07/23
Date of Signature

7/10/2023
Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The CSR Board proposes to provide an interpretation of Louisiana Code of Civil Procedure (CCP) Article 1434 in the form of a "Frequently Asked Question" or "FAQ." A copy of the proposed "FAQ Regarding Assignments from Firms That Have Agreements with Insurance Companies" is attached. CSR Board Rule 1303 (LAC 46:XXI.1303) addresses compliance with CCP Article 1434. The FAQ is intended to provide greater clarity on the application of CCP Article 1434 regarding whether a court reporter may accept assignments from a court reporting firm that has an agreement with an insurance company to provide court reporting services in a lawsuit in which the insurance company has not been named as a party.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The CSR Board proposes to take this action to comply with the settlement agreement into which it entered, on or about November 21, 2022, to resolve litigation entitled *Veritext Corp. v. Bonin, et al.*, Civil Action No. 16-13903, in the United States District Court for the Eastern District of Louisiana, Sec. B(2), consolidated with *Esquire Deposition Solutions v. Bonin, et al.*, Civil Action No. 17-9877, in the United States District Court for the Eastern District of Louisiana, Sec. B(2).

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ NO. If no, provide justification as to why this rule change should be published at this time

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

There is no anticipated cost or savings to state agencies as a result of the proposed rule change.

COSTS	FY 24	FY 25	FY 26
Personal Services	\$0	\$0	\$0
Operating Expenses	\$0	\$0	\$0
Professional Services	\$0	\$0	\$0
Other Charges	\$0	\$0	\$0
Equipment	\$0	\$0	\$0
Major Repairs & Constr.	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0

POSITIONS (#)

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

Not applicable.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 24	FY 25	FY 26
State General Fund	\$0	\$0	\$0
Agency Self-Generated	\$0	\$0	\$0
Dedicated	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0
Other (Specify)	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The proposed rule change will not result in any implementation costs other than those one-time costs directly associated with the publication and dissemination of this rule. The CSR Board has sufficient funds to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no anticipated cost or savings to local governmental units as a result of the proposed rule change.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

Not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

There is no anticipated effect on revenue collections of state and local governmental units as a result of the proposed rule change.

REVENUE INCREASE/DECREASE	FY 24	FY 25	FY 26
State General Fund	\$0	\$0	\$0
Agency Self-Generated	\$0	\$0	\$0
Dedicated Funds*	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

Not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL
BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups as a result of the rule change.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

Not applicable.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There is no anticipated impact on competition and employment as a result of the proposed rule change.

**FAQ Regarding Assignments from Firms
That Have Agreements with Insurance Companies**

Q: May a court reporter accept assignments from a court reporting firm that has an agreement with an insurance company to provide court reporting services in a lawsuit in which the insurance company has not been named as a party?

A: Yes, because this question explicitly states that the insurance company is *not a party litigant* in the lawsuit.

The key consideration for court reporters under Code of Civil Procedure article 1434 (see below, emphasis added) is whether a party litigant has a prohibited contractual relationship with the court reporter (either directly or indirectly, such as through a court reporting firm):

Art. 1434. Person before whom deposition taken

A. (1) A deposition shall be taken before an officer authorized to administer oaths, who is **not an employee** or attorney of any of the parties or otherwise interested in the outcome of the case.

(2) For purposes of this Article, an employee includes **a person who has a contractual relationship with a party litigant** to provide shorthand reporting or other court reporting services and also includes **a person employed part or full time under contract or otherwise by a person who has a contractual relationship with a party litigant** to provide shorthand reporting or other court reporting services. A party litigant does not include federal, state, or local governments, and the subdivisions thereof, or parties in proper person.

B. "Officer" as used in this Article means a certified shorthand or general reporter currently holding a valid certificate issued by the Board of Examiners of Certified Shorthand Reporters pursuant to the provisions of R.S. 37:2551 et seq., and an official court reporter, and a deputy official court reporter, as defined in R.S. 37:2555(B)(1) and (2).

If an insurance company is not a party in the lawsuit, then the reporter may accept the assignment from a court reporting firm.

In Louisiana, a Direct Action Statute (R.S. 22:1269) allows a plaintiff to proceed directly against both an insurance company and its insured. If the insurance company has been sued, a court reporter may not receive an assignment from a court reporting firm that has an agreement with the insurance company to provide court reporting services in the lawsuit; the insurance company is then a "party litigant" in the lawsuit, which creates a prohibited contractual relationship under Article 1434.

Before accepting an assignment, therefore, each court reporter must determine whether the assignment comes from a court reporting firm that has a prohibited contractual relationship with an insurance company named as a party in the lawsuit. To assist court reporters, Louisiana law

provides a “safe harbor” procedure by which court reporters can determine whether or not the court reporting firm has a prohibited contractual relationship with a party litigant. *See* R.S. 37:2557(D) and CSR Rule 1303(B). Court reporters can request certification from a “court reporting firm that the firm has no prohibited contractual relationship, direct or indirect, under Code of Civil Procedure article 1434 with a party litigant in the matter for which the reporter was retained to provide services.” A court reporter who obtains and promptly files such a certification with the CSR Board will not be considered an “employee” and will not be in violation of Code of Civil Procedure art. 1434. If a reporter requests a safe harbor certification and the court reporting firm refuses or fails to provide the requested certification, the court reporter must immediately notify the CSR Board in writing. More information about the safe harbor procedure can be found on the CSR Board website via the link to “New Rules and Forms Effective on July 1, 2016.”

NOTICE OF INTENT

Office of the Governor

Board of Examiners of Certified Shorthand Reporters

Whistleblower Reporting (LAC 46:XXI.1305)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:953(A), the Louisiana Board of Examiners of Certified Shorthand Reporters (CSR Board) proposes to adopt a whistleblower rule for alleged antitrust violations. The CSR Board requires that CSR Board members, committee members, employees, and contractors observe high ethical standards in the conduct of their duties and responsibilities and that they comply with all applicable laws and regulatory requirements, including, but not limited to, the Sherman Act, 15 U.S.C. § 1 *et seq.*, Clayton Act, 15 U.S.C. § 12 *et seq.*, and Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.* (collectively, Antitrust Laws). The underlying purpose of this rule is to support the CSR Board's goal of legal compliance and to comply with the provisions of the agreement settling the claims asserted in litigation entitled *Veritext Corp. v. Bonin, et al.*, Civil Action No. 16-13903, in the United States District Court for the Eastern District of Louisiana, Sec. B(2), consolidated with *Esquire Deposition Solutions v. Bonin, et al.*, Civil Action No. 17-9877, in the United States District Court for the Eastern District of Louisiana, Sec. B(2). The CSR Board has authority to issue this rule pursuant to the statutes creating the CSR Board, including R.S. 37:2551, R.S. 37:2553, and R.S. 37:2555. which contemplate that it will conduct board meetings and generally "aid" in all matters pertaining to court reporting in Louisiana.

Title 46

Professional and Occupational Standards

Chapter 13. Code of Ethics

§1305. Whistleblower Reporting

A. Purpose. The board requires that board members, committee members, employees, and contractors observe high ethical standards in the conduct of their duties and responsibilities and that they comply with all applicable laws and regulatory requirements, including, but not limited to, the Sherman Act, 15 U.S.C. §1 *et seq.*, Clayton Act, 15 U.S.C. §12 *et seq.*, and Federal Trade Commission Act, as amended, 15 U.S.C. §41 *et seq.* (collectively the "Antitrust Laws"). The

underlying purpose of this Section is to support the board's goal of legal compliance.

B. Reporting Responsibility. Any board member, committee member, employee, contractor, or member of the public may report concerns about possible fraudulent or dishonest conduct or violations of the antitrust laws or other laws and regulatory requirements. Concerns should be reported to the chair of the board or any officer of the board.

C. No Retaliation. The board will strive to protect a whistleblower from retaliation or reprisal. A board member or committee member who retaliates against someone who has reported a violation in good faith is subject to appropriate disciplinary action. An employee or contractor who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. This Section is intended to encourage and enable persons to raise serious concerns with the board. Whistleblowers who believe that they have been retaliated against may submit a complaint to the chair or another officer of the board. Any complaint of retaliation will be investigated, and appropriate corrective measures will be taken if the allegation of retaliation is substantiated.

D. Requirement of Good Faith. Anyone making a complaint concerning a suspected violation of statutory or regulatory requirements must act in good faith. For the purpose of this Section, *good faith* means the complainant has reasonable grounds for believing that the information reported is true and indicates a violation and that the complaint has not been made out of malice, spite, jealousy, for personal gain, or for any other improper motive. The board will view any allegations that proves unsubstantiated and not made in good faith as a serious disciplinary offense.

E. Confidentiality. Reports of suspected violations and the investigations of those reports will be kept confidential to the extent possible and permitted by law, consistent with the need to conduct an adequate investigation, to take remedial action, or for other appropriate reasons.

F. Handling of Reported Violations. The board will acknowledge receipt of the reported violation to the complainant in writing. The board will make and

maintain a record of its receipt of all reported violations. All reports will be investigated in a confidential manner, and appropriate corrective action will be taken if warranted by the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2553(A) and R.S. 37:2555(G).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 50:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed policy on the family has been considered. This proposed policy is not anticipated to have an impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed policy is not anticipated to have an impact on poverty as defined by R.S. 49:473.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed policy.

This proposed policy is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed policy is not anticipated to have an impact on providers of services as described in HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written comments, through February 12 2024, to Judge Kimya M. Holmes, Chair of the Louisiana Board of Examiners of Certified Shorthand Reporters, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. The Chair is responsible for responding to inquiries regarding this proposed policy.

Judge Kimya M. Holmes
Chair

Fiscal and Economic Impact Statement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule will permit Certified Shorthand Reporters (CSR) Board members, committee members, employees, contractors, and members of the public to report concerns about possible fraudulent or dishonest conduct or violations of the Antitrust Laws or other laws and regulatory requirements without fear of retaliation. The rule is not anticipated to increase costs associated with the reporting of complaints, if any, to the CSR Board and the CSR Board's handling of any such complaints.

The CSR Board requires that Board members, committee members, employees, and contractors observe high ethical standards in the conduct of their duties and responsibilities and that they comply with all applicable laws and regulatory requirements, including, but not limited to, the Sherman Act, 15 U.S.C. § 1 *et seq.*, the Clayton Act, 15 U.S.C. § 12 *et seq.*, and the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.* (collectively the "Antitrust

Laws”). The underlying purpose of this policy is to support the CSR Board’s goal of legal compliance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed policy will not result in any increase in costs to court reporters and will not provide any economic benefits directly to court reporters.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement: Victoria Nhung Nguyen Dept.: Office of the Governor
 Phone: 504-568-2650 Office: La. Board of Examiners of Certified Shorthand Reporters
 Return Address: 1450 Poydras Street Rule: New Policy
Ste. 630 Title: Antitrust Whistleblower Policy
New Orleans, LA 70112 Date Rule Takes Effect: Upon promulgation

SUMMARY
(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule will permit Certified Shorthand Reporters (CSR) Board members, committee members, employees, contractors, and members of the public to report concerns about possible fraudulent or dishonest conduct or violations of the Antitrust Laws or other laws and regulatory requirements without fear of retaliation. The rule is not anticipated to increase costs associated with the reporting of complaints, if any, to the CSR Board and the CSR Board's handling of any such complaints.

The CSR Board requires that Board members, committee members, employees, and contractors observe high ethical standards in the conduct of their duties and responsibilities and that they comply with all applicable laws and regulatory requirements, including, but not limited to: the Sherman Act, 15 U.S.C. § 1 *et seq.*, the Clayton Act, 15 U.S.C. § 12 *et seq.*, and the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.* (collectively the "Antitrust Laws"). The underlying purpose of this policy is to support the CSR Board's goal of legal compliance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collections of state or local governmental units as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule.

Judge Kimya M. Holmes, Chair by Victoria N. Nguyen, Administrator Deputy Fiscal Officer
 Signature of Agency Head or Designee Legislative Fiscal Officer or Designee

Judge Kimya M. Holmes, Chair by Victoria N. Nguyen, Administrator

Typed Name & Title of Agency Head or Designee
07/07/23

7/10/2023

Date of Signature

Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The CSR Board requires that Board members, committee members, employees, and contractors observe high ethical standards in the conduct of their duties and responsibilities and that they comply with all applicable laws and regulatory requirements, including, but not limited to, the Antitrust Laws. The underlying purpose of this policy is to support the CSR Board's goal of legal compliance. The proposed Whistleblower Policy establishes a procedure for the reporting and handling of concerns about possible fraudulent or dishonest conduct or violations of the Antitrust Laws or other laws and regulatory requirements.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The CSR Board proposes to take this action to comply with the settlement agreement into which it entered, on or about November 21, 2022, to resolve litigation entitled *Veritext Corp. v. Bonin, et al.*, Civil Action No. 16-13903, in the United States District Court for the Eastern District of Louisiana, Sec. B(2), consolidated with *Esquire Deposition Solutions v. Bonin, et al.*, Civil Action No. 17-9877, in the United States District Court for the Eastern District of Louisiana, Sec. B(2).

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ NO. If no, provide justification as to why this rule change should be published at this time

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

The proposed rule is not anticipated to result in any costs (or savings) to state or local governmental units other than those one-time costs directly associated with the publication and dissemination of this rule. To the extent the policy results in an increase in complaints to the CSR Board, the board may experience an insignificant increase in costs associated with the reporting of complaints.

COSTS	FY 24	FY 25	FY 26
Personal Services	0	0	0
Operating Expenses	0	0	0
Professional Services	0	0	0
Other Charges	0	0	0
Equipment	0	0	0
Major Repairs & Constr.	0	0	0
TOTAL	\$0	\$0	\$0

POSITIONS (#)

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

Not applicable.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 24	FY 25	FY 26
State General Fund	0	0	0
Agency Self-Generated	0	0	0
Dedicated	0	0	0
Federal Funds	0	0	0
Other (Specify)	0	0	0
TOTAL	\$0	\$0	\$0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The proposed rule will not result in any implementation costs other than those one-time costs directly associated with the publication and dissemination of this rule. The CSR Board has sufficient funds to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no anticipated cost or savings to local governmental units as a result of the proposed rule.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

Not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

There is no anticipated effect on revenue collections of state and local governmental units as a result of the proposed rule

REVENUE INCREASE/DECREASE	FY 24	FY 25	FY 26
State General Fund	\$0	\$0	\$0
Agency Self-Generated	\$0	\$0	\$0
Dedicated Funds*	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There is no anticipated impact on receipts and/or income to directly affected persons or non-governmental groups as a result of the proposed rule.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

Not applicable.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There is no anticipated impact on competition and employment as a result of the proposed rule.

Louisiana Board of Examiners of Certified Shorthand Reporters – Whistleblower Policy
(provisionally approved on January 13, 2023)

1. Purpose: The Louisiana Board of Examiners of Certified Shorthand Reporters (the “Board”) requires that Board members, committee members, employees, and contractors observe high ethical standards in the conduct of their duties and responsibilities and that they comply with all applicable laws and regulatory requirements, including, but not limited to, the Sherman Act, 15 U.S.C. § 1 *et seq.*, Clayton Act, 15 U.S.C. § 12 *et seq.*, and Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.* (collectively the “Antitrust Laws”). The underlying purpose of this policy is to support the Board’s goal of legal compliance.

2. Reporting Responsibility: Any Board member, committee member, employee, contractor, or member of the public may report concerns about possible fraudulent or dishonest conduct or violations of the Antitrust Laws or other laws and regulatory requirements. Concerns should be reported to the Chair of the Board or any officer of the Board.

3. No Retaliation: The Board will strive to protect a whistleblower from retaliation or reprisal. A Board member or committee member who retaliates against someone who has reported a violation in good faith is subject to appropriate disciplinary action. An employee or contractor who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. This Whistleblower Policy is intended to encourage and enable persons to raise serious concerns with the Board. Whistleblowers who believe that they have been retaliated against may submit a complaint to the Chair or another officer of the Board. Any complaint of retaliation will be investigated, and appropriate corrective measures will be taken if the allegation of retaliation is substantiated.

4. Requirement of Good Faith: Anyone making a complaint concerning a suspected violation of statutory or regulatory requirements must act in good faith. For the purpose of this policy, “good faith” means the complainant has reasonable grounds for believing that the information reported is true and indicates a violation and that the complaint has not been made out of malice, spite, jealousy, for personal gain, or for any other improper motive. The Board will view any allegations that proves unsubstantiated and not made in good faith as a serious disciplinary offense.

5. Confidentiality: Reports of suspected violations and the investigations of those reports will be kept confidential to the extent possible and permitted by law, consistent with the need to conduct an adequate investigation, to take remedial action, or for other appropriate reasons.

6. Handling of Reported Violations: The Board will acknowledge receipt of the reported violation to the complainant in writing. The Board will make and maintain a record of its receipt of all reported violations. All reports will be investigated in a confidential manner, and appropriate corrective action will be taken if warranted by the investigation.

Title 46
Professional and Occupational Standards
Chapter 13. Code of Ethics

§1305. Whistleblower Reporting

A. Purpose. The board requires that board members, committee members, employees, and contractors observe high ethical standards in the conduct of their duties and responsibilities and that they comply with all applicable laws and regulatory requirements, including, but not limited to, the Sherman Act, 15 U.S.C. §1 et seq., Clayton Act, 15 U.S.C. §12 et seq., and Federal Trade Commission Act, as amended, 15 U.S.C. §41 et seq. (collectively the “Antitrust Laws”). The underlying purpose of this Section is to support the board’s goal of legal compliance.

B. Reporting Responsibility. Any board member, committee member, employee, contractor, or member of the public may report concerns about possible fraudulent or dishonest conduct or violations of the antitrust laws or other laws and regulatory requirements. Concerns should be reported to the chair of the board or any officer of the board.

C. No Retaliation. The board will strive to protect a whistleblower from retaliation or reprisal. A board member or committee member who retaliates against someone who has reported a violation in good faith is subject to appropriate disciplinary action. An employee or contractor who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. This Section is intended to encourage and enable persons to raise serious concerns with the board. Whistleblowers who believe that they have been retaliated against may submit a complaint to the chair or another officer of the board. Any complaint of retaliation will be investigated, and appropriate corrective measures will be taken if the allegation of retaliation is substantiated.

D. Requirement of Good Faith. Anyone making a complaint concerning a suspected violation of statutory or regulatory requirements must act in good faith. For the purpose of this Section, *good faith* means the complainant has reasonable grounds for believing that the information reported is true and indicates a violation and that the complaint has not been made out of malice, spite, jealousy, for personal gain, or for any other improper motive. The board will view any allegations

that proves unsubstantiated and not made in good faith as a serious disciplinary offense.

E. Confidentiality. Reports of suspected violations and the investigations of those reports will be kept confidential to the extent possible and permitted by law, consistent with the need to conduct an adequate investigation, to take remedial action, or for other appropriate reasons.

F. Handling of Reported Violations. The board will acknowledge receipt of the reported violation to the complainant in writing. The board will make and maintain a record of its receipt of all reported violations. All reports will be investigated in a confidential manner, and appropriate corrective action will be taken if warranted by the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2553(A) and R.S. 37:2555(G).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 50:

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This public document is published in accordance with R.S. 49:954.1. The publication date for this issue of the *Louisiana Register* is January 20, 2024. The Office of the State Register is the official state entity for all certified copies of the *Louisiana Register* and the content contained herein.

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Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested parties may submit written comments to the Louisiana Board of Veterinary Medicine, Attention: Jared B. Granier, Executive Director, via U.S Mail at 5825 Florida Blvd, Baton Rouge, LA 70806 or via e-mail attachment to director@lsbvm.org or via hand delivery. Comments will be accepted until 3:00 p.m. on Friday, February 9, 2024. All written comments must be dated and must include the first and last name, email address, mailing address, phone number, and the original signature of the person submitting the comments.

Public Hearing

Interested parties may submit a written request to conduct a public hearing to the Louisiana Board of Veterinary Medicine, Attention: Jared B. Granier, Executive Director, via U.S Mail at 5825 Florida Blvd, Baton Rouge, LA 70806 or via e-mail attachment to director@lsbvm.org or via hand delivery; however, such request must be received by no later than 3:00 p.m. on Friday, February 9, 2024. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, a public hearing

will be conducted at 1:00p.m. on Thursday, February 29, 2024 at 5825 Florida Blvd, Baton Rouge, LA 70806. To confirm whether or not a public hearing will be held, interested parties should visit www.lsbvm.org/rulemaking-projects on or after Monday, February 12, 2024. If a public hearing is to be held, all interested parties are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in front of the Department of Agriculture and Forestry Building at 5825 Florida Blvd, Baton Rouge, LA 70806.

Jared B. Granier
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Meetings

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units, except for the cost associated with publishing the proposed rule change. This cost is normally included in the annual operating budget of the Board of Veterinary Medicine (Board), which is estimated at \$750 in FY 2024.

The proposed rule change is to meet the requirements of Act No. 393 of the 2023 Regular Session by setting forth guidance for public participation for members of the public and board members who have disabilities recognized by the Americans with Disabilities Act (ADA).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will help make meeting participation more accessible for members of the public or the board who have ADA-recognized disabilities. The proposed rule may result in travel savings to certain members of the public with disabilities as they can now participate in the meeting virtually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

Jared B Granier, MBA
Executive Director
2401#041

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Examiners of Certified Shorthand Reporters

Employment Relationship with Court Reporting Firm
(LAC 46:XXI.1303)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:953(A), the Board of Examiners of Certified Shorthand Reporters (CSR Board) proposes to amend LAC 46:XXI.1303. The proposed amendment will

remove provisions from LAC 46:XXI.1303 requiring court reporters obtaining a safe harbor affidavit from having to submit a schedule of charges to the CSR Board and to maintain a copy of the schedule. In particular, the amendments will delete provisions in Subsection B, delete Paragraph 4 of Subsection E, delete provisions in the final paragraph, and delete provisions in the reporter's certification. The CSR Board has authority to amend this Section pursuant to R.S. 37:2557(B), R.S. 37:2555(G), and R.S. 37:2556(D).

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXI. Certified Shorthand Reporters

Chapter 13. Safe Harbor Requirements

§1303. Employment Relationship with Court Reporting Firm

A. ...

B. Safe Harbor. A licensed Louisiana court reporter may accept employment from a court reporting firm and shall not be considered an "employee" for purposes of Code of Civil Procedure article 1434 upon furnishing to the board a certification, on a form approved by the board, from an authorized and knowledgeable officer of the court reporting firm that the firm has no prohibited employment or contractual relationship, direct or indirect, under Code of Civil Procedure article 1434 with a party litigant in the matter for which the reporter was retained to provide services. The reporter must file with the board a copy of the certification within 30 days after the date of the deposition. The Louisiana court reporter shall immediately notify the board, in writing, if a safe harbor request was made upon a court reporting firm and the firm refused or failed to provide the requested certification. The reporter shall include the name of the court reporting firm and the date the request was made.

C. - D. ...

E. Certification Affidavit of Court Reporting Firm

**CERTIFICATION AFFIDAVIT OF COURT
REPORTING FIRM**

STATE OF _____
PARISH OR COUNTY OF _____

BEFORE ME, the undersigned authority, duly qualified to take acknowledgments and administer oaths within the state and locality inscribed above, personally appeared

_____, who is representing

a _____ [state] corporation [or limited liability company or other form of business organization] that is doing business in Louisiana as a court reporting firm as defined by Acts 2014, No. 839 (hereinafter, "Court Reporting Firm"). The physical address of the entity's principal place of business is _____ [street and suite number, if any] in _____ [city], State of _____, Zip _____, Telephone: () _____, Email _____.

After being duly sworn, Affiant did attest as follows:

1. Affiant is a knowledgeable representative who is authorized to act on behalf of the Court Reporting Firm in executing this Certification Affidavit.

2. The Court Reporting Firm has engaged a Louisiana licensed court reporter to perform court reporting services in connection with the deposition(s) of _____ [identify by name each deponent covered by this certification; attach additional sheets

if necessary] to be taken in the following proceeding: _____ vs. _____, pending in the _____ Court under matter number _____.

3. Affiant certifies, after performing due diligence, that the Court Reporting Firm has no prohibited employment or contractual relationship, direct or indirect, under Louisiana Code of Civil Procedure Article 1434 with a party litigant in the matter for which the court reporter's services have been engaged. Affiant further acknowledges affiant's duty to provide information and will provide information promptly to the Louisiana Board of Examiners of Certified Shorthand Reporters (hereinafter, "CSR Board") regarding any change in these relationships or in Affiant's knowledge of these relationships.

4. Affiant further states that Affiant is familiar with the nature of an oath and with penalties as provided by applicable state laws for falsely swearing to statements made in an instrument of this nature. Affiant further certifies that Affiant has read and understands the full facts and content of this Affidavit.

SIGNATURE OF AFFIANT: _____
Sworn before me this _____ day of _____, 20__

Notary Public _____
Print name:
My commission expires:

Form 10/15 Effective July 1, 2016

Each completed Firm Certification Affidavit in the foregoing form must be filed with the CSR Board by the taking court reporter within 30 days of the date of the deposition.

I, a Louisiana Licensed Court Reporter, as the officer who took the depositions(s), hereby submit this certification affidavit via _____ [facsimile/e-mail] within 30 days of the date of the depositions to which this certification applies.

I have read and confirmed that the language of the certification affidavit conforms with the form promulgated by the CSR Board. I have listed below or on additional pages, if necessary, the name and contact information for each taking attorney.

Signature _____ Date _____

Printed Name _____ LA CCR NO. _____

Taking Attorney Name: _____

Firm Name: _____

Address: _____

Phone: _____
Email: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2557(B), R.S. 37:2555(G), and R.S. 37:2556(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 41:335 (February 2015), amended LR 42:868 (June 2016), LR 50:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed amended Rule on the family has been considered. This proposed amended Rule is not anticipated to have an impact

on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed amended Rule is not anticipated to have an impact on poverty as defined by R.S. 49:473.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed amended rule.

This proposed amended Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed amended Rule is not anticipated to have an impact on providers of services as described in HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written comments, through February 12, 2024, to Judge Kimya M. Holmes, Chair of the Louisiana Board of Examiners of Certified Shorthand Reporters, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. The chair is responsible for responding to inquiries regarding this proposed amended Rule.

Judge Kimya M. Holmes
Chair

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Employment Relationship
with Court Reporting Firm**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no impact on the expenditures of state or local governmental entities as a result of the proposed rule change. The Certified Shorthand Reporters (CSR) Board proposes to revise the CSR Board Rule 1303 (LAC 46:XXI.1303) to remove the requirement that court reporters must file a schedule of charges with the Safe Harbor Affidavit submitted to the CSR Board pursuant to that rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no impact on revenue collections of state or local governmental units as a result of the proposed rule revision.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR
NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule revision will not result in any increase in costs to court reporters and will not provide any economic benefits directly to court reporters. The proposed rule revision might result in a negligible reduction in costs to court reporters because they will no longer be required to file a schedule of charges in submitting the Safe Harbor Affidavit.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no anticipated effect on competition and employment as a result of the proposed rule change.

Judge John J. Lee, Jr.
Chair
2401#010

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Examiners of Certified Shorthand Reporters**

Whistleblower Reporting (LAC 46:XXI.1305)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:953(A), the Board of Examiners of Certified Shorthand Reporters (CSR Board) proposes to adopt a whistleblower Rule for alleged antitrust violations. The CSR Board requires that CSR Board members, committee members, employees, and contractors observe high ethical standards in the conduct of their duties and responsibilities and that they comply with all applicable laws and regulatory requirements, including, but not limited to, the Sherman Act, 15 U.S.C. § 1 et seq., Clayton Act, 15 U.S.C. § 12 et seq., and Federal Trade Commission Act, as amended, 15 U.S.C. § 41 et seq. (collectively, Antitrust Laws). The underlying purpose of this proposed Rule is to support the CSR Board's goal of legal compliance and to comply with the provisions of the agreement settling the claims asserted in litigation entitled *Veritext Corp. v. Bonin, et al.*, Civil Action No. 16-13903, in the United States District Court for the Eastern District of Louisiana, Sec. B(2), consolidated with *Esquire Deposition Solutions v. Bonin, et al.*, Civil Action No. 17-9877, in the United States District Court for the Eastern District of Louisiana, Sec. B(2). The CSR Board has authority to issue this proposed Rule pursuant to the statutes creating the CSR Board, including R.S. 37:2551, R.S. 37:2553, and R.S. 37:2555, which contemplate that it will conduct board meetings and generally "aid" in all matters pertaining to court reporting in Louisiana.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Chapter 13. Code of Ethics

§1305. Whistleblower Reporting

A. Purpose. The board requires that board members, committee members, employees, and contractors observe high ethical standards in the conduct of their duties and responsibilities and that they comply with all applicable laws and regulatory requirements, including, but not limited to, the Sherman Act, 15 U.S.C. §1 et seq., Clayton Act, 15 U.S.C. §12 et seq., and Federal Trade Commission Act, as amended, 15 U.S.C. §41 et seq. (collectively the "Antitrust Laws"). The underlying purpose of this Section is to support the board's goal of legal compliance.

B. Reporting Responsibility. Any board member, committee member, employee, contractor, or member of the public may report concerns about possible fraudulent or

dishonest conduct or violations of the antitrust laws or other laws and regulatory requirements. Concerns should be reported to the chair of the board or any officer of the board.

C. No Retaliation. The board will strive to protect a whistleblower from retaliation or reprisal. A board member or committee member who retaliates against someone who has reported a violation in good faith is subject to appropriate disciplinary action. An employee or contractor who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. This Section is intended to encourage and enable persons to raise serious concerns with the board. Whistleblowers who believe that they have been retaliated against may submit a complaint to the chair or another officer of the board. Any complaint of retaliation will be investigated, and appropriate corrective measures will be taken if the allegation of retaliation is substantiated.

D. Requirement of Good Faith. Anyone making a complaint concerning a suspected violation of statutory or regulatory requirements must act in good faith. For the purpose of this Section, *good faith* means the complainant has reasonable grounds for believing that the information reported is true and indicates a violation and that the complaint has not been made out of malice, spite, jealousy, for personal gain, or for any other improper motive. The board will view any allegations that proves unsubstantiated and not made in good faith as a serious disciplinary offense.

E. Confidentiality. Reports of suspected violations and the investigations of those reports will be kept confidential to the extent possible and permitted by law, consistent with the need to conduct an adequate investigation, to take remedial action, or for other appropriate reasons.

F. Handling of Reported Violations. The board will acknowledge receipt of the reported violation to the complainant in writing. The board will make and maintain a record of its receipt of all reported violations. All reports will be investigated in a confidential manner, and appropriate corrective action will be taken if warranted by the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2553(A) and R.S. 37:2555(G).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 50:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed policy on the family has been considered. This proposed policy is not anticipated to have an impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed policy is not anticipated to have an impact on poverty as defined by R.S. 49:473.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed policy.

This proposed policy is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed policy is not anticipated to have an impact on providers of services as described in HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written comments, through February 12 2024, to Judge Kimya M. Holmes, Chair of the Louisiana Board of Examiners of Certified Shorthand Reporters, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. The Chair is responsible for responding to inquiries regarding this proposed policy.

Judge Kimya M. Holmes
Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Whistleblower Reporting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule will permit Certified Shorthand Reporters (CSR) Board members, committee members, employees, contractors, and members of the public to report concerns about possible fraudulent or dishonest conduct or violations of the Antitrust Laws or other laws and regulatory requirements without fear of retaliation. The rule is not anticipated to increase costs associated with the reporting of complaints, if any, to the CSR Board and the CSR Board's handling of any such complaints.

The CSR Board requires that Board members, committee members, employees, and contractors observe high ethical standards in the conduct of their duties and responsibilities and that they comply with all applicable laws and regulatory requirements, including, but not limited to, the Sherman Act, 15 U.S.C. § 1 *et seq.*, the Clayton Act, 15 U.S.C. § 12 *et seq.*, and the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.* (collectively the "Antitrust Laws"). The underlying purpose of this policy is to support the CSR Board's goal of legal compliance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed policy will not result in any increase in costs to court reporters and will not provide any economic benefits directly to court reporters.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

Judge John J. Lee, Jr.
Chair
2401#013

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

Potpourri

POTPOURRI

Office of the Governor

Board of Examiners of Certified Shorthand Reporters

Board Interpretation of Code of Civil Procedure Article 1434

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:953(A), the Louisiana Board of Examiners of Certified Shorthand Reporters (CSR Board) proposes to adopt an interpretation of Louisiana Code of Civil Procedure article 1434 (Article 1434) as applied to court reporters receiving assignments from firms that have agreements with insurance companies that are not parties to legal proceedings at issue. The CSR Board proposes to provide the interpretation through a “Frequently Asked Question” or “FAQ.” The underlying purposes of the CSR Board’s proposed action are to clarify the application of Article 1434 to a particular situation confronting court reporters and to comply with the provisions of the agreement settling the claims asserted in litigation entitled *Veritext Corp. v. Bonin, et al.*, Civil Action No. 16-13903, in the United States District Court for the Eastern District of Louisiana, Sec. B(2), consolidated with *Esquire Deposition Solutions v. Bonin, et al.*, Civil Action No. 17-9877, in the United States District Court for the Eastern District of Louisiana, Sec. B(2). The CSR Board has authority to take this action interpreting Article 1434 because the CSR Board is authorized to (1) enforce, *inter alia*, matters concerning court reporters’ relations with the public, including prohibited contractual relationships between reporters and party litigants, La. R.S. 37:2553; (2) revoke or suspend licenses (i.e., certificates) for a court reporter’s violation of professional duties and state law and for falsely certifying compliance with Article 1434, R.S. 37:2557; (3) fine court reporters for violating R.S. 37:2557 or other laws regulating the practice of court reporting, R.S. 37:2560; and (4) establish rules and regulations for Article 1434-related safe harbor affidavits, La. R.S. 37:2556(D).

FAQ Regarding Assignments from Firms

That Have Agreements with Insurance Companies

Q: May a court reporter accept assignments from a court reporting firm that has an agreement with an insurance company to provide court reporting services in a lawsuit in which the insurance company has not been named as a party?

A: Yes, because this question explicitly states that the insurance company is *not a party litigant* in the lawsuit.

The key consideration for court reporters under Code of Civil Procedure article 1434 (see below, emphasis added) is whether a party litigant has a prohibited contractual relationship with the court reporter (either directly or indirectly, such as through a court reporting firm):

Art. 1434. Person before whom deposition taken

A.(1) A deposition shall be taken before an officer authorized to administer oaths, who is not an employee or

attorney of any of the parties or otherwise interested in the outcome of the case.

(2) For purposes of this Article, an employee includes a person who has a contractual relationship with a party litigant to provide shorthand reporting or other court reporting services and also includes a person employed part or full time under contract or otherwise by a person who has a contractual relationship with a party litigant to provide shorthand reporting or other court reporting services. A party litigant does not include federal, state, or local governments, and the subdivisions thereof, or parties in proper person.

B. "Officer" as used in this Article means a certified shorthand or general reporter currently holding a valid certificate issued by the Board of Examiners of Certified Shorthand Reporters pursuant to the provisions of R.S. 37:2551 et seq., and an official court reporter, and a deputy official court reporter, as defined in R.S. 37:2555(B)(1) and (2).

If an insurance company is not a party in the lawsuit, then the reporter may accept the assignment from a court reporting firm.

In Louisiana, a Direct Action Statute (R.S. 22:1269) allows a plaintiff to proceed directly against both an insurance company and its insured. If the insurance company has been sued, a court reporter may not receive an assignment from a court reporting firm that has an agreement with the insurance company to provide court reporting services in the lawsuit; the insurance company is then a “party litigant” in the lawsuit, which creates a prohibited contractual relationship under Article 1434.

Before accepting an assignment, therefore, each court reporter must determine whether the assignment comes from a court reporting firm that has a prohibited contractual relationship with an insurance company named as a party in the lawsuit. To assist court reporters, Louisiana law provides a “safe harbor” procedure by which court reporters can determine whether or not the court reporting firm has a prohibited contractual relationship with a party litigant. See R.S. 37:2557(D) and CSR Rule 1303(B). Court reporters can request certification from a “court reporting firm that the firm has no prohibited contractual relationship, direct or indirect, under Code of Civil Procedure article 1434 with a party litigant in the matter for which the reporter was retained to provide services.” A court reporter who obtains and promptly files such a certification with the CSR Board will not be considered an “employee” and will not be in violation of Code of Civil Procedure art. 1434. If a reporter requests a safe harbor certification and the court reporting firm refuses or fails to provide the requested certification, the court reporter must immediately notify the CSR Board in writing. More information about the safe harbor procedure can be found on the CSR Board website via the link to “New Rules and Forms Effective on July 1, 2016.”

Judge Kimya M. Holmes
Chair

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