





TO: The Honorable the Members of the Board of Regents

FROM: Douglas E. Lentivech


SUBJECT: Proposed Amendment of Section 71.3 of the Regulations of the Commissioner of Education Relating to the Licensing Examination Requirements for Certified Shorthand Reporters

DATE: July 5, 2016


AUTHORIZATION(S):


SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents amend section 71.3 of the Regulations of the Commissioner of Education relating to the licensing examination requirements for certified shorthand reporters?

Reason for Consideration

Review of policy.

Proposed Handling

The proposed rule will be presented to the Full Board for adoption at the July 2016 meeting of the Board of Regents. A copy of the proposed rule is attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

Procedural History

The proposed amendment was discussed by the Professional Practice Committee at the April 2016 Board of Regents meeting. A Notice of Proposed Rule Making was published in the State Register on May 4, 2016 for a 45-day public comment period. The Department received no comments on the proposed amendment.

Therefore, an Assessment of Public Comment is not required and no changes to the proposed amendment are recommended at this time.

Background Information

Currently, in order to become licensed as a certified shorthand reporter in New York State, a candidate must pass a five part licensing examination. Pursuant to subdivision (a) of section 71.3 of the Regulations of the Commissioner of Education, such examination consists of: (1) a transcription test which requires candidates to write from dictation, in shorthand, selected court proceedings for seven minutes and to transcribe all or a portion of such dictation; (2) an oral test which requires candidates to read aloud a portion of such dictated matter; (3) a medical reporting test which requires candidates to write from dictation, court testimony on a medical subject for five minutes and to transcribe all or a portion of such dictation; (4) a legal terminology and procedure test which includes written questions on legal terminology and procedures, rules of evidence and court structure; and (5) an English test which includes written questions about grammar, word usage, vocabulary and punctuation.

The examination is created by the State Board for Certified Shorthand Reporting and the Office of Professions' testing manager. Due to Department resource issues, the examination has not kept pace with the technology available to the shorthand reporting profession. For example, the examination requires that a printed transcript be presented, while most shorthand reporters record their transcripts electronically and then submit them in an electronic format. Additionally, the lack of candidates for licensure in this profession has resulted in a significant strain on Department resources to annually create and administer a paper examination that is outmoded and no longer reflects the current practices of the profession. The Department has issued a total of 18 certified shorthand reporting licenses since 2011 as follows; 2011 – 8; 2012 – 4; 2013 – 4; and 2014 – 2. In 2015, the Department held the examination for one candidate but no licenses were issued that year. It should be noted that this is a title-only profession and does not have a protected scope of practice. A certified shorthand reporting license is not required to practice this profession in New York State.

The proposed amendment to section 71.3 of the Regulations of the Commissioner of Education addresses the aforementioned situation by removing the Department created and administered five part licensing examination requirement and replacing it with language that permits the Department to accept a passing score on an examination determined by the State Board for Certified Shorthand Reporting to be acceptable for licensure as a certified shorthand reporter.

In addition, the State Board for Certified Shorthand Reporting has recommended to the Department that the Registered Professional Reporter (RPR) examination offered and conducted by the National Court Reporters Association (NCRA) be accepted as meeting the examination requirements for licensure as a certified shorthand reporter. The RPR examination consists of two parts: (1) a written knowledge test that consists of questions in the areas of technology, reporting practices and professional practices; and (2) a skills test which evaluates skills in the areas of literary, jury charge and testimony/ questions and answers. The format of the current examination prepared by the

Department is different than the format of the RPR examination; however, the testing content areas are comparable.

The RPR examination is accepted in twenty-two states as meeting the examination requirement for licensure as a shorthand/court reporter. Examination scores will be validated through the NCRA. The written examination is conducted at national testing centers. The skills tests are conducted via software that is administered by the NCRA and is downloaded onto the candidates' computers. These testing practices align more closely with the advances in technology within the shorthand reporting profession.

Additionally, unlike the examination created and administered by the Department, which is only offered once a year, the RPR examination is held throughout the year and offers more opportunity for the applicants to meet the examination requirement for licensure. Without the acceptance of the RPR examination, applicants will not be able to satisfy the examination requirement for licensure. Since the RPR examination is nationally recognized, an increase in the number of applicants for licensure is anticipated.

Recommendation

It is recommended that Board of Regents take the following action:

VOTED: That section 71.3 of the Regulations of the Commissioner of Education be amended, as submitted, effective July 27, 2016.

Timetable for Implementation

If adopted at the July 2016 Board of Regents meeting, the proposed amendment will take effect on July 27, 2016.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 7501, and 7504 of the Education Law

Section 71.3 of the Regulations of the Commissioner of Education is amended, effective July 27, 2016, as follows:

Section 71.3 Licensing examinations.

[(a) Content. The examination shall consist of five parts:

(1) Transcription test. Candidates will be required to write, from dictation, in manual shorthand or on a shorthand writing machine, such court proceedings as may be selected by the State Board for Certified Shorthand Reporting for seven minutes, at speeds varying from 175 to 225 words a minute and to transcribe all or a portion of such dictation.

(2) Oral test. Candidates will be required to read aloud, within a specified time, such portion of such dictated matter as the examiners may specify.

(3) Medical reporting test. Candidates will be required to write, from dictation, court testimony on a medical subject given at a rate of 175 words a minute for five minutes and to transcribe all or a portion of such dictation. Candidates may use a medical dictionary for assistance in this test.

(4) Legal terminology and procedure test. Written questions will be asked on legal terminology and procedures, rules of evidence and court structure.

(5) English test. Written questions will be asked about grammar, word usage, vocabulary and punctuation.

(b) Passing score. To qualify for licensure, a candidate shall pass all parts of the examination. The passing score shall be 95.0 for the transcription test, the oral test and the medical reporting test. The passing score shall be 75.0 on the legal and English tests. Candidates will be rated on the accuracy of the transcription, on their speed and

accuracy in reading notes orally, and on the spelling, punctuation and arrangement of the transcripts. Candidates shall pass the transcription and oral tests at a single examination before the other tests will be scored.

(c) Retention of credit. A candidate who passes both the transcription and oral tests at a single examination shall retain credit for those tests and any other parts passed at that examination or at subsequent examinations.

(d) Creation of transcript. Transcripts created during the examination shall be on paper 8 1/2 inches by 11 inches and all transcripts shall be double-spaced. Candidates may write shorthand with either pen or pencil, or may use shorthand writing machines, and shall transcribe their shorthand notes on a typewriter or on transcription equipment which is acceptable to the State Board for Certified Shorthand Reporting based upon a determination that such transcription equipment uses technology and/or software in common usage in the practice as a certified shorthand reporter and would not provide the candidate with an unfair advantage over other candidates who would use during the examination transcription equipment that uses technology and/or software in common usage in the practice as a certified shorthand reporter. Transcription of shorthand notes in longhand shall be acceptable only in the event that a candidate's transcription equipment fails or malfunctions during the administration of the examination.

(e) Materials. Candidates shall be responsible for bringing to the examination materials that they plan to use during the examination, which shall include any of the following materials: notepaper or notebooks, stationery, medical dictionary, shorthand writing machines, pens, pencils, typewriters and transcription equipment.]

The department may accept a passing score on an examination determined by the State Board for Certified Shorthand Reporting to be acceptable for licensure as a certified shorthand reporter.