WEST VIRGINIA CODE CHAPTER 47 ARTICLE 27

WV Legislature

§47-27-1. Fair trade standards for use of court reporter services.

(a) The purpose of this article is to ensure the integrity of the use of court reporter services by establishing standards for private court reporters and entities providing or arranging for court reporting services. It is declared the policy of the State of West Virginia that fair, ethical and impartial selection and use of court reporting services are integral to the equitable administration of justice.

(b) For purposes of this article, "court reporter" means private court reporters providing court reporting services, as well as businesses, entities or firms that provide or arrange for court reporting services, and "original transcript" means the original transcription requested by a party along with a certified copy of same for purposes of filing with a court.

(c) The provisions described in this article apply to court reporting services performed in this state that are:

(1) Provided by a court reporter, wherever based, in connection with a legal proceeding commenced or maintained in this state; and

(2) Provided by a court reporter based in this state, whether the parties appear in person or by remote means.

(d) The provisions of this article do not apply to the conduct of official court reporters or their substitutes, appointed by judges pursuant to section one, article seven, chapter fifty-one of this code, when acting in their official capacities, reporters of government proceedings not relating to a legal proceeding, local or federal courts, providing real-time services for hard-of-hearing litigants, the provision of pro bono services to litigants who would qualify for the same through West Virginia Legal Aid or other similar organizations, workers' compensation proceedings or legal proceedings recorded with sound-and-visual devices. A legal proceeding includes, but is not limited to, the following:

(1) A court proceeding;

(2) A deposition;

(3) An arbitration hearing; and

(4) An examination under oath.

(e) Court reporters, businesses, entities, insurers or firms providing or arranging for court reporting services are subject to the provisions of this section even if the businesses, entities, insurers or firms are not subject to registration or other regulatory oversight in the state.

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§47-27-2. Prohibited conduct.

(a) A legal proceeding may not be reported by:

(1) An individual who engages in a prohibited action as provided in this section;

(2) A party to the action;

(3) A relative, employee or attorney of one of the parties;

(4) Someone with a financial interest in the action or its outcome; or

(5) A relative, employee or attorney of someone with a financial interest in the action or its outcome.

(b) Court reporters may not:

(1) Base the compensation for the court reporting services on the outcome of the proceeding or otherwise giving the court reporter or court reporting business, entity or firm a financial interest in the action. Court reporters or businesses, entities or firms providing or arranging for court reporting services may not offer or provide court reporting services where payment for those services will be made contingent on the outcome of the action.

(2) Enter into an agreement, whether formal or informal, for court reporting services which restricts the noticing attorney or party to a legal proceeding from selecting and using the court reporter of his or her own choosing or otherwise requires the noticing attorney or party to a legal proceeding to select or use a court reporter not of his or her own choosing. Before accepting an assignment for court reporting services, the court reporter is obligated to make reasonable efforts to ascertain whether any arrangement exists which is prohibited under this article .

(3) Allow the format, content or body of the transcript as certified by the court reporter to be manipulated in a manner that increases the cost of the transcript.

(4) Charge a fee for the electronic copy or paper copy of a transcript that is more than fifty-five percent of the cost of the original transcript, except by agreement of all parties to a legal proceeding. This prohibition does not apply to real-time court reporting services or accelerated transcript delivery requests made by the party requesting a copy of the transcript when the party requesting the original has not requested accelerated delivery.

(5) Require the attorney purchasing the original or a copy of the transcript to purchase extra services that were neither ordered nor desired from the court reporter as a condition for the sale of the transcript.

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§47-27-3. Disclosure and limitations on practices.

(a) Prior to the commencement of a legal proceeding, and at any time during or following the conclusion of a legal proceeding, an attorney or a party to that legal proceeding has the right to an itemized statement of all rates and charges for all services that have been or will be provided by the court reporter or business, entity or firm providing or arranging for court reporting services to any party to the legal proceeding.

(b) A court reporter shall certify on the certification page of each transcript of a legal proceeding, the following: "I certify that the attached transcript meets the requirements set forth within article twenty-seven, chapter forty-seven of the West Virginia Code."

(c) Each transcript of a legal proceeding shall conform to the following minimum standards:

(1) No fewer than twenty-four typed lines on standard 8-1/2 by 11 inches pages.

(2) No fewer than nine characters to the typed inch.

(3) A full line of text shall be no less than fifty-six characters and/or spaces unless timestamping is used, in which case no fewer than forty-eight characters and/or spaces shall be used on a full line of text.

(4) Timestamping may only be printed on a transcript under any of the following circumstances: (A) When a deposition is videotaped; (B) when requested by counsel on the record; and (C) when a transcript will have not less than forty-eight characters per line.

(5) The page numbers, headers and footers do not count as a line of text. Line numbers and the spaces preceding text do not count as a character.

(6) Each question and answer to begin on a separate line.

(7) Each question and answer to begin no more than five spaces from the left-hand margin with no more than five spaces from the question and answer to the text.

(8) Carry-over question and answer lines to begin at the left-hand margin.

(9) Colloquy material to begin no more than fifteen spaces from the left-hand margin, with carryover colloquy to the left-hand margin. In colloquy, text shall begin no more than two spaces after the colon following speaker identification.

(10) Quoted material to begin no more than fifteen spaces from the left-hand margin, with carry-over lines to begin no more than ten spaces from the left-hand margin.

(11) Parentheticals and exhibit markings to begin no more than fifteen spaces from the left-hand margin, with carry-over lines to begin no more than fifteen spaces from the left-hand margin.

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(d) The provisions of sections one, two or three of this article may not be waived or otherwise modified.

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§47-27-4. Penalties for violations; civil actions; and damages.

A court reporter or the entity that produces and bills for the transcript which violates the provisions of sections two or three of this article is subject to civil penalty in a court of competent jurisdiction as follows: Any party to a civil action, a court reporter, attorney or other person who has been subject to a violation of the provisions of sections two or three of this article may recover, payable to the prevailing party, a civil penalty for any willful violation of this section and the court shall assess a civil penalty of no less than $2,500 for each violation: Provided, That no more than one civil penalty under this section may be assessed in any one matter pending before the court; and if the court finds that the court reporter has engaged in a course of repeated and willful violations of this section, it may assess an additional civil penalty of up to $5,000 for each violation of this section. For any action filed pursuant to this section, the court, in its discretion, may award all or a portion of the costs of litigation, including reasonable attorney fees, court costs and fees, to the prevailing party.

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