

NOTARY TRAINING

12-55-101, C.R.S., et seq.

OFFICIAL PRESENTATION
OF
THE COLORADO SECRETARY OF STATE
VERSION 29.0

MODULE 1

Colorado Secretary of State - v.29 rev. 01/17/2017

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WHAT THIS PRESENTATION COVERS

- ✦ Introduction
 - + Sources for this presentation and further reading.
 - + Understand the notary's role and how to perform that role.
 - + Review the most recent legal precedent and understand its effect on your commission.
- ✦ Oaths, Affirmations, and Copy Certifications
 - + Understand the most common types of notarizations and how to lawfully perform them.
 - + What are the journal requirements for recording notary transactions.
- ✦ Electronic Notarization
 - + Requirements for becoming an electronic notary.
 - + Understand electronic notarizations and how to perform them lawfully.
- ✦ Best Practices
 - + How to follow best practices when performing notarial duties to stay in accordance with the law as well as protect your liability.
 - + Notarial seals; identify and use a correct notary seal.
- ✦ Important things to know
 - + How to avoid the most common certification errors.
 - + Petition Circulator Notarizations.
 - + Ethical Responsibilities.
 - + Application Requirements.
 - + Successfully apply to be a notary.

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SOURCES FOR THIS PRESENTATION

- ✦ The Notaries Public Act
 - + Section 12-55-101, C.R.S., et seq.
- ✦ Notary Program Rules
 - + Section 8 CCR 1505-11 C.C.R.
- ✦ The Notary Handbook
 - + www.sos.state.co.us/pubs/notary/files/notary_handbook.pdf
- ✦ The Model Notary Act (2010)
 - + Google "Model Notary Act"
- ✦ RULONA – Revised Uniform Law on Notarial Acts
 - + www.uniformlaws.org
- ✦ Widely Accepted Best Practices

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LEGAL LIABILITY

The notary is responsible for performing all notarial acts in conformance with the law as the notary may be the sole person with legal liability for misconduct.

This is shown clearly in the 2008 – 2010 Illinois case **Vancura v. Katris***

Notary Gustavo Albear improperly notarized documents as an employee of a packaging and shipping services store. As a result, the Illinois Appellate and Supreme courts found he engaged in official misconduct during the notarization of documents cited in this case.

The main points to remember:

- ✦ *The notary signed differently on different documents (consistency counts!)*
- ✦ *The notary walked away during the notarization leaving opportunity for fraud to occur.*
- ✦ *The notary left his stamp and journal with his manager when he left the store's employment.*

Illinois notary law provides for employer liability in some instances. (5 ILCS 312/7-102) However, in 2010 the Illinois Supreme Court ruled that Kinko's was not liable.

Liability, Liability, Liability!

*Illinois Appellate Court case 007 N.E.2d 614; Illinois Supreme Court case 939 N.E.2d 328

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WHAT IS A NOTARY?

- ✦ **A Notary is...**
 - + Appointed by the Secretary of State
 - + Responsible to the people of the State of Colorado, not a customer or employer
 - + Has the power to administer oaths and affirmations, take acknowledgements, and perform other duties as permitted by law
 - + Jurisdictional boundaries – Only in Colorado
- ✦ **An Unbiased Witness**
 - + The notary acts as a third-party disinterested witness in all transactions.



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IMPORTANCE OF THE NOTARY

Notaries are the First Line of Defense Against Identity Theft!

Always follow proper procedure for each notarization

An estimated 17.6 million people experienced identity theft in 2014*

- ✗ Victims of fraud may know the perpetrator.
- ✗ Fewer than 1 in 10 incidents is reported to authorities.

Be aware of the type of document being signed!

Quit Claim Deeds, Wills, POA's, Release of Deed of Trust, etc....

*U.S. Department of Justice - Bureau of Justice Statistics, September 2016

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RESPONSIBILITIES

- ✗ Notaries are bound to perform their duties in accordance with the law.
- ✗ Notaries **are** responsible for verifying:
 - + the signer's identity, using satisfactory evidence or personal knowledge
 - + that the signer is a willing participant in the transaction
 - + that the signer has basic awareness of what he/she is signing or transacting.
- ✗ Notaries are **not** responsible for:
 - + Determining if the document is legal or accurate

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MODULE 2

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WHAT ARE A NOTARY'S POWERS?

§ 12-55-110. Powers and limitations

• Three main powers

- + Oaths and affirmations
- + Acknowledgments
- + Copy Certifications

While these are not the only powers of a notary, they are the three most common.



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WHAT ARE A NOTARY'S POWERS?

Typically the breakdown is...
Oaths and affirmations
Acknowledgments
Copy Certifications



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WHAT ARE A NOTARY'S POWERS?

Typically the breakdown is...
65% Oaths and affirmations
Acknowledgments
Copy Certifications



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WHAT ARE A NOTARY'S POWERS?

Typically the breakdown is...

65% Oaths and affirmations
30% Acknowledgments
Copy Certifications



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WHAT ARE A NOTARY'S POWERS?

Typically the breakdown is...

65% Oaths and affirmations
30% Acknowledgments
5% Copy Certifications



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NOTARIAL LANGUAGE

All notarizations include some type of Notarial Language.

- ✗ Text on the document that tells us what is being notarized, how, when, where and by whom.
- ✗ Often times this language is on the document and can trigger recognition of what type of notarization is being performed.
- ✗ If the language is not on the document, it is up to the notary to ensure it is placed on the document before notarization is completed.

We will review different types of notarial language in this module as we learn more about each type of notarial act.

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OATHS AND AFFIRMATIONS § 12-55-119

- ✗ **Jurats** – Notarial language used for oaths and affirmations which means sworn to or affirmed.

Oath = statement sworn to a deity
Affirmation = non-religious sworn statement

+ *Jurats contain the trigger language:*

- ✗ “So help me God”
- ✗ “Under penalty of perjury”

+ *Physically administer the oath or affirmation:*

- ✗ “Raise your right hand, do you swear...”
- ✗ Client must swear to or affirm his identity and that he identifies the document

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OATHS AND AFFIRMATIONS § 12-55-119

The Process . . .

STEP 1

Record the transaction in your journal.

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OATHS AND AFFIRMATIONS § 12-55-119

The Process . . .

STEP 2

Identify your client
using “Satisfactory Evidence”

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OATHS AND AFFIRMATIONS § 12-55-119

The Process . . .

STEP 3

Physically administer the oath

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OATHS AND AFFIRMATIONS § 12-55-119

The Process . . .

STEP 4

Watch the client sign the document
in your physical presence



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OATHS AND AFFIRMATIONS § 12-55-119

The Process . . .

STEP 5

Complete the notarial certificate

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OATHS AND AFFIRMATIONS § 12-55-119

The Process . . .

Oath and Affirmations Check List

- ☐ Record the transaction in your journal
- ☐ Identify the client using "Satisfactory Evidence"
- ☐ Administer Oath
- ☐ See client sign the document
(in your physical presence)
- ☐ Complete notarial certificate

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THE MODEL NOTARY ACT SAYS . . .



- ❖ Read aloud any provided affirmation wording and have the principal assent
- ❖ Proper affirmation requires a positive and unequivocal response by the signer
- ❖ The response is preferred to be verbal but can be non-verbal (e.g., nodding head)
- ❖ The Notary Handbook provides suggested verbiage for administering the oath
 - ❖ Located on our website www.sos.state.co.us

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JURAT FOR OATH OR AFFIRMATION

State of Colorado

City and County of Denver } ss

Subscribed and sworn to (or affirmed) before me this 1st day of June, 2011 by John Q. Adams.


Michael L. Smith

Michael L. Smith
Notary Public

Stamp of Seal

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 **ACKNOWLEDGMENTS § 12-55-207**

- ✦ **Unsworn statements** – The principal is acknowledging in the presence of the notary that s/he signed the document.
 - + Notarial certificates contain the trigger language:
 - ✦ "Acknowledged before me"
 - ✦ "Acknowledged on this date"
 - + Document has been previously signed by the client
 - ✦ Principal does not have to sign in front of notary, however must still be physically present at time of notarization
 - ✦ Most often performed on real property transactions
 - ✦ Also can be performed on documents previously notarized incorrectly

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ACKNOWLEDGMENTS § 12-55-207

The Process...

STEP 1

Record the transaction in your journal

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ACKNOWLEDGMENTS § 12-55-207

The Process...

STEP 2

Identify the client using "Satisfactory Evidence"



**ID Verification very important when document is already signed*

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ACKNOWLEDGMENTS § 12-55-207

The Process...

STEP 3

 Signer acknowledges ***in your physical presence***  that document was signed by him

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ACKNOWLEDGMENTS § 12-55-207

The Process...

STEP 4

Complete notarial certificate

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ACKNOWLEDGMENTS § 12-55-207

Acknowledgments Check List

- ☒ Record the transaction in your journal
- ☒ Identify the client using "Satisfactory Evidence"
 - *ID Verification very important when document is already signed*
- ☒ Signer acknowledges ***in your physical presence*** that document was signed by him
- ☒ Complete notarial certificate

***Best Practice:** Verify that the signature on the previously signed document matches the signature on the identification and the signature in your journal*

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THE MODEL NOTARY ACT SAYS . . .



- ✗ The principal does not make any statement regarding the truthfulness or accuracy of the document
- ✗ The acknowledgement speaks to the fact that the document was signed *voluntarily* for the purpose of validating the document

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NOTARIAL CERTIFICATE FOR ACKNOWLEDGEMENT

State of Colorado

} ss

County of Larimer

The foregoing instrument was acknowledged before me this 1st day of January, 2011 by Robert Jones.

John B. Anderson

John B. Anderson
Notary Public

Stamp of Seal


My Commission expires: _____

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COPY CERTIFICATIONS § 12-55-120

✗ Not all documents can be copy certified in Colorado.

- + The document cannot be obtained **within Colorado** 
from a Clerk and Recorder, Clerk of Court, Vital Records Section, or Custodian of Records in Colorado
 - ✗ i.e., no Colorado Birth, Death, Marriage, Divorce certificates, or records filed with the Secretary of State's office
 - ✗ These offices have their own methods of certification
- + A Colorado drivers license or U.S. Passport is permitted
- + A document from another state's Vital Records office or Custodian of Records is permitted
- + The reproduction/certification does not violate federal law

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COPY CERTIFICATIONS § 12-55-120

The Process...

STEP 1

Record the transaction in your journal

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COPY CERTIFICATIONS § 12-55-120

The Process...

STEP 2

Identify the client using
"Satisfactory Evidence"

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COPY CERTIFICATIONS § 12-55-120

The Process...

STEP 3

Obtain written request

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Power #3 COPY CERTIFICATIONS § 12-55-120 (1)

Written Request for a Copy Certification

I, Name of client, have requested that Name of notary, a Notary in and for the State of Colorado, certify the attached Name or type of document, as a certified copy or facsimile of the document cannot be obtained from the office of any clerk and recorder of public documents or custodian of documents in Colorado; and the production of a facsimile, preparation of a copy, or certification of a copy of the document does not violate any state or federal law.

Signature

Date

- This is a sample of the written request which should be filled out by the client and kept in the notary's journal.
- It states that the document the notary is being asked to copy certify is one that is legal to be copy certified in the state of Colorado.
- This is a step built in to help protect the notary from liability.

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Power #3 COPY CERTIFICATIONS § 12-55-120

The Process...

STEP 4

See the original document

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Power #5 COPY CERTIFICATIONS § 12-55-120

The Process...

STEP 5

Receive or make* *two* copies of the document

- ✓ One for your journal
- ✓ One to certify for the client

**Best practice is for the notary to make the copies.*

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Power #5 COPY CERTIFICATIONS § 12-55-120

The Process...

STEP 6

Verify that the copies are complete, exact facsimiles of the original document presented

**If the best practice in step 5 is followed, this is not needed*

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Power #5 COPY CERTIFICATIONS § 12-55-120

The Process...

STEP 7

Certify the client's copy with a complete notarial certificate

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Power #5 COPY CERTIFICATIONS § 12-55-120

Copy Certifications Check List

- ☐ Record the transaction in your journal
- ☐ Identify the client using "Satisfactory Evidence"
- ☐ Obtain written request
- ☐ See the original document
- ☐ Verify that the copies are exact
- ☐ Certify the client's copy

Best Practice: Notary makes the two copies

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NOTARIAL CERTIFICATE FOR COPY CERTIFICATION

State of Colorado }
County of Boulder } ss

I, Jane J. Jefferson, a Notary Public in and for said state, do certify that on July 1, 2011, I carefully compared with the original the attached facsimile of the University of Colorado diploma awarded to Anne Austin on May 25, 2010 and the facsimile I now hold in my possession. They are complete, full, true, and exact facsimiles of the document they purport to reproduce.

Jane J. Jefferson
Jane J. Jefferson
Notary Public

Stamp of Seal

Best Practice: Include specific language. What was the original document? To whom was it issued? On what date? This ensures this certificate is only relevant to this original document and its certified copy.

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NOTARIAL CERTIFICATES REQUIREMENTS & BEST PRACTICES

Every notarization requires a complete notarial certificate!

The document might not arrive with one printed on it. The notary may work with the client to determine the correct certificate. This includes providing examples of different certificate wording. **However, the notary must not choose the certificate for the client.** It is part of the client's duty of basic awareness to understand what type of notarization they require.

What is a complete Certificate?

- ✦ Who, What, When & Where
- ✦ Notary seal
- ✦ Notary's official signature
- ✦ Commission expiration date

Best Practice: Use specific language. What is the title of the document? To whom was it issued? Who (if anyone) is signing? On what date? This ensures a certificate is only relevant to its original document and/or its certified copy. Especially important when using *loose certificates*.

Loose certificate: Certificate written, typed or stamped on a separate piece of paper and affixed to document being notarized. Always use a staple, not a paperclip.

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NOTARIAL CERTIFICATE EXAMPLES

This document has been submitted and affirmed before me in the County of _____, State of Colorado, on _____ day of _____, 20____.

My Commission Expires: _____

Notary Public
STATE OF COLORADO
NOTARY & EXPIRATION
MY COMMISSION EXPIRES: _____

Subscribed and affirmed before me in the County of La Plata,
State of Colorado, this 19th day of December 2015.

Notary Public
STATE OF COLORADO
NOTARY & EXPIRATION
MY COMMISSION EXPIRES: _____

State of Colorado
County of _____

I, _____, a Notary Public in and for said state, do certify that on _____ day of _____, 20____, I carefully compared with the _____ attached facsimile of _____ and the facsimile I now hold in my possession. They are complete, full, true and exact facsimiles of the document they purport to reproduce.

Official signature: _____

My commission expires: _____

You may add or remove information from pre-printed notary language. Always initial and date any changes made.

Notarial certificates can be typed, stamped or even handwritten on a document.

You may purchase blank notarial certificate stamps or have blank loose certificates prepared for various notarial acts.

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WHAT IS AN AUTHENTICATION?

A certificate signed by the Secretary of State that the notary has been commissioned and that the commission is current.

- ✦ This enables documents to travel between two countries government agencies.
- ✦ Attached to notarized documents destined for use outside the USA.
- ✦ The Secretary of State receives 2,000 documents per month that need to be authenticated.
 - + **Nearly 25% are defective.**
 - + **Results of receiving defective notarization – can severely impact customer's international transaction, adoption, work, study, etc.**

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WHAT IS AN AUTHENTICATION?

Two Types of Authentication

Both can only be issued by the Secretary of State

- ✦ **Apostille** – goes to countries that are members of Hague Convention of 1961
 - + The Hague Convention is an agreement between various nations that said, among other things, that they would grant full faith and credit to documents from other signee countries so long as an apostille was attached. Countries including Germany, France, and the UK signed the Hague Convention.
- ✦ **Certificate of Magistracy** – goes to all other countries
 - + For countries that did not sign the Hague Convention, such as Canada or Iran, the Secretary of State attaches Certificates of Magistracy.

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MODULE 3

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ELECTRONIC NOTARIZATION § 12-55-106.5

Electronic notarization is used for documents **which are to remain electronic only.**

They will be signed electronically by the customer thus would require an electronic signature from a Colorado notary if one wished to certify such a document.

E-Notarization does **NOT** mean remote notarization

- + Physical presence still applies
- + Watch the client place their electronic signature

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ELECTRONIC NOTARIZATION § 12-55-106.5

All the requirements of a traditional notarization must be met:

- + Physical Presence - Both client and notary must be in the same room. The notary must watch the client place their electronic signature on the document.
- + Notary Certificate - Must use a complete notarial certificate with appropriate notarial language.
- + Requirements/Best practice - The same process must be followed for an e-notarization as you would for a traditional notarization.

Notary must be given additional approval to notarize electronically:

- + **Must** be a current commissioned Colorado notary
- + An e-notary commission expires with the notary's regular commission
- + Apply online at www.sos.state.co.us by logging into your notary record
- + No additional fee -- just submit application online

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EXAMPLE ELECTRONIC NOTARIZATION APPLICATION

Notary Information: Name, Address, Phone, Email

Client Information: Name, Address, Phone, Email

Notary to fill out: I am applying for approval to notarize electronically. I have read and understand the requirements of the Colorado Notary Public Act and the rules of the Colorado Board of Notary Public. I agree to comply with the rules and regulations of the Colorado Board of Notary Public. I agree to maintain my commission and to renew it as required. I agree to provide my notary services in accordance with the rules and regulations of the Colorado Board of Notary Public. I agree to provide my notary services in accordance with the rules and regulations of the Colorado Board of Notary Public. I agree to provide my notary services in accordance with the rules and regulations of the Colorado Board of Notary Public.

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ELECTRONIC NOTARIZATION § 12-55-106.5

The Process...

STEP 1

Record the transaction in your journal

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ELECTRONIC NOTARIZATION § 12-55-106.5

The Process...

STEP 2

Identify the client using
"Satisfactory Evidence"

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ELECTRONIC NOTARIZATION § 12-55-106.5

The Process...

STEP 3

Signer acknowledges his/her signature on document

or

Notary administers oath/affirmation

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ELECTRONIC NOTARIZATION § 12-55-106.5

The Process...

STEP 4

Complete the notarial certificate

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ELECTRONIC NOTARIZATION § 12-55-106.5

The Process...

STEP 5

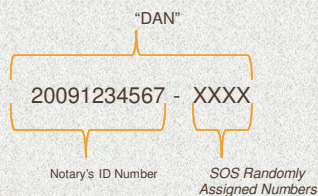
Attach a "DAN"
Document Authentication Number

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THE "DAN" - DOCUMENT AUTHENTICATION NUMBER

- ✦ Legal equivalent of using a notary stamp.
- ✦ Acts as the commissioned e-notary's electronic signature.
- ✦ 50 "DAN"s are assigned to each e-notary by the Secretary of State's Office to start and more can be requested online, if needed, by logging in on the Secretary of State's website.
- ✦ Electronic signature software may be used, however a "DAN" must still be applied.
- ✦ Composition:



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ELECTRONIC NOTARIZATION § 12-55-106.5

Electronic Notarization Check List

- ☐ Record the transaction in your journal
- ☐ Identify the client using "Satisfactory Evidence"
- ☐ Signer acknowledges his/her signature on document or Notary administers oath/affirmation
- ☐ Complete the notarial certificate
- ☐ Attach a "DAN" – Document Authentication Number

Remember Physical Presence!

E-Notary does NOT mean remote notarization!

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MODULE 4

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"SATISFACTORY EVIDENCE" § 12-55-110 (4) (b)

There are several ways for a notary to properly identify a client.

On occasions where there is no ID present such as nursing homes, various social services situations, even some work place notarizations.

A Notary may use:

- ✦ **Personal knowledge**
 - + The notary knows the client directly (First and last names)
 - + Notary has seen sufficient ID previously
 - + Record this in the journal entry
- ✦ **The sworn statement of a credible witness**
 - + The witness personally knows both the notary and the client
 - + Can be written or verbal
 - + Record this in the journal entry

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"SATISFACTORY EVIDENCE" § 12-55-110 (4) (b)

The preferred method is a physical form of identification issued by a state or federal governmental entity.

In Colorado statute that is defined as:

- ✦ A current identification card or document issued by a federal or state governmental entity:

- ✦ containing a photograph; and
- ✦ signature of the individual who is so named
- ✦ You may use this site as a resource:
<https://www.colorado.gov/pacific/sites/default/files/DR2300.pdf>

What constitutes acceptable ID?

Secure and Verifiable ID ("SVID") - Standards developed by the State of Colorado for establishing identification.

- ✦ Common Forms:

- ✦ Current Colorado driver's license or Colorado ID
- ✦ Current U.S. passport
- ✦ Valid U.S. Military I.D.
- ✦ Driver's license from another state (Be careful!)
 - ✦ Not every state require photograph and signature

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"SATISFACTORY EVIDENCE" § 12-55-110 (4) (b)

Unacceptable Primary ID

Here some types of ID which can never be used as "Satisfactory Evidence".

- ✦ Matricula Consular (not US federal or state)
 - ✦ ID issued by the Mexican Consulate offices to nationals residing out side of Mexico
- ✦ Birth Certificate
 - ✦ There is no picture or signature
- ✦ Latest version of military ID
 - ✦ Some new types of ID cards have no signature
- ✦ Border Crossing Cards (from Mexico)
 - ✦ No Visa or I-94 is required in the first 30 days for this ID to be issued
- ✦ Rent or utility receipts
 - ✦ No picture, signature, not issued by any government agency
 - ✦ There is an exception to this when notarizing a Colorado petition circulator's affidavit

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"SATISFACTORY EVIDENCE" § 12-55-110 (4) (b)

Identification Best Practice

Get your ducks in a row



- ✦ Turn it over and check the back for authenticity
- ✦ Compare the physical description on ID to person appearing in front of you
- ✦ Check date of birth
- ✦ Check the ID for evidence of alteration or fraud
- ✦ Record type and/or number of ID in your journal
 - ✦ Protection from Liability, Liability, Liability

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NOTARY JOURNAL § 12-55-111



- ✦ Required for every notarial act as of July 1, 2009
 - ✦ Exception – If the document being notarized is retained by the notary's firm or employer in the regular course of business
 - ✦ Pitfalls of Exception – The notary becomes liable for documents that are misfiled, lost, destroyed or otherwise unrecoverable
 - ✦ Note: Should the notary leave their place of business, they remain responsible for obtaining or retaining all documents for which they have performed a notarial act.
- ✦ Record lost journals with Secretary of State
 - ✦ Record lost journals with Secretary of State immediately or within 30 days. The notary owns the journal and is always responsible for maintaining and keeping it safe, not the employer.

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NOTARY JOURNAL § 12-55-111

Why do I record?

- ✦ Protect myself from unfounded complaints
- ✦ Provide best evidence in the event of a lawsuit

- ✦ What must I record?

- ✦ Date of notarial act
- ✦ Type of notarial act (oath, affirmation, acknowledgement)
- ✦ Title or type of document (deed, POA, etc.)
 - ✦ date of the document if different from date of notarization
- ✦ Name and address of signer and any witnesses
- ✦ Signature of signer and any witnesses
- ✦ Any other information the notary considers appropriate to record
 - ✦ Best Practice – have customer sign journal first
 - ✦ Best Practice – type of identification; **not** full number
 - ✦ Best Practice – record canceled or refused transactions
 - ✦ Optional Best Practice – thumbprint of signer

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NOTARY JOURNAL § 12-55-111

There are times where a copy of a journal entry may be requested.

- ✦ Authorized to provide certified copies of a journal entry or a certificate as to a notarial act by § 12-55-110(1)(c)
 - ✦ May charge regular notarial fee as set in statute
- ✦ May also be required to do so in response to a complaint or inquiry to our office § 12-55-111(1)

Model Notary Act says:

- ✦ Requesting party should identify the transaction with specific information – no blanket requests to view or copy a journal
- ✦ Confirm the identity of the requester and record the transaction in your journal, as with any other service
- ✦ Ensure the requester is only given access to the identified transaction – cover or redact other entries on the same page

Best Practice: Redact personally identifying information not required by statute (i.e., ID numbers, thumbprints, etc).

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A SAMPLE NOTARY JOURNAL CAN BE FOUND AT
www.sos.state.co.us

Act: Mo/Day/Yr/Time	Act: Kind or Type	Doc: Mo/Day/Yr	Doc: Kind or Type	Signature of Person
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				

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A SAMPLE NOTARY JOURNAL CAN BE FOUND AT
www.sos.state.co.us

Address of Person	Identification of Person	Additional Information/Notes	Fee
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			

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NOTARY SEAL § 12-55-112 C.R.S.

- ✗ **Rubber stamp only**
- ✗ A notary shall not provide, keep or use a seal embosser
 - + (§12-55-112 (4), C.R.S.)
- ✗ Rectangular border or outline is required
- ✗ Information required within the outline:
 - + Official Name – as on official certificate
 - + State of Colorado
 - + Notary Public
 - + Notary ID Number
 - + Commission Expiration Date

Best Practices

- ✗ We suggest blue or red ink to help distinguish an original from a copy
- ✗ Do not order your stamp until after you have printed your commission certificate.

✗ **Record lost seals with Secretary of State**

- + Ownership of seal is with the notary

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MOST COMMON NOTARY SEAL PROBLEMS

- ✗ Name misspelled or does not match official name on record with the Secretary of State
- ✗ Omits one of required items or has the expiration date outside of the outline
- ✗ Commission expiration date or ID number incorrect
- ✗ Seal stamped over signatures
- ✗ Use of an embosser, round ink stamper, or other non-complaint seal.

! All of the above can result in admonishment for the notary and/or rejection of your client's document at its destination. !

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CORRECT SEAL EXAMPLE

JOHN Q. SAMPLE
 NOTARY PUBLIC
 STATE OF COLORADO
 NOTARY ID 20121234567
 MY COMMISSION EXPIRES AUGUST 8, 2016

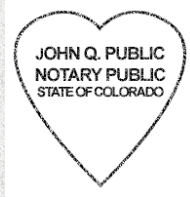
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INCORRECT SEAL EXAMPLES

SHIRLEY L. SMITH
 NOTARY PUBLIC
 STATE OF COLORADO
 MY COMM. EXP. 05/29/2020

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ANY PROBLEMS?



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15 MINUTE BREAK!

- ✗ You will not receive credit for this course should you choose not to return!



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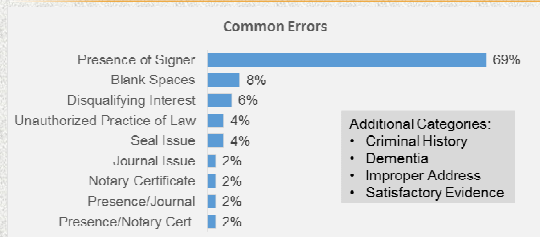
74

MODULE 5

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COMMON ERRORS



Clearly the most commonly filed complaint with the Secretary of State's office is that the client was not present when the document was notarized. The best way to protect yourself is to be sure to accurately record every transaction in your journal. This ensures you will have the best evidence available to protect against liability.

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PHYSICAL PRESENCE § 12-55-110 (4) (a)



The principal must always appear in the physical presence of the notary:

- + You can't notarize a signature that you recognize if signer isn't in your presence
- + You can't notarize a signature where your boss says that he just saw the client sign
- + You can't notarize a document where the client is on the phone with you from another location
- + You can't perform an e-notarization without the signer present

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DISQUALIFYING INTEREST §12-55-110 (2)

COLORADO NOTARY LAW: You may not legally notarize documents in which you have a disqualifying interest

- ✗ The C.R.S. states a notary has disqualifying interest in a transaction if they (1) receive directly, and as result of the notarization, any advantage, right, title, interest, cash, or property exceeding in value the sum of any fee received or (2) is named as a party in the transaction.
 - + Do not notarize a document where you stand to gain from the transaction; or
 - + Are named as a party to the transaction



Model Notary Act : do not notarize for

- + Close family members
- + In-laws, "half," "step," domestic partners

Revised Uniform Law on Notarial Acts (RULONA):

- + Notaries may not notarize a record to which the notary or notary's spouse or civil partner is a party to or has a direct beneficial interest in.

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FOREIGN LANGUAGE DOCUMENTS §12-55-119

As with anything you are notarizing: whether witnessing a signature, giving an oath, performing a copy certification, or an acknowledgment the notary is NOT approving the contents of the document.

However . . .

- + A notary must be able to communicate directly with the signer to determine the individual's identity, willingness to sign, and basic awareness
- + The notary must understand the notarial certificate
 - × If it is in a foreign language the notary can read that is fine, however for U.S. authentication purposes, it must also be in English.
- + A notary may not rely on a third-party (translator) to communicate with the signer

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WHAT YOU CANNOT DO

Never Notarize Without Using a Notarial Certificate

- + Sample notary certificates can be found in the Notaries Public Act
 - × § 12-55-119 - Affirmations
 - × § 12-55-120 - Copy Certifications
 - × § 12-55-208 - Acknowledgments

AND

- + The Notary Handbook
 - × See page 16 for examples

- + Both are available at www.sos.state.co.us

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WHAT YOU CANNOT DO

Do Not Notarize A Document Containing Blank Spaces

§12-55-107(g), C.R.S.

Notarizing a blank document is like writing a blank check!

There are a few types of blank spaces encountered by notaries.

The first most common are large unfinished areas where a picture, or other attachment is to be added.

- × You may have your client place their initials and date in these areas to indicate they were blank at the time of signature.

- + e.g., Parenting plans, Deeds, etc.

The second would be Signature Banks where even though more than one individual will be signing, you may only be notarizing one signature leaving multiple lines blank for future use.

- + In this case include as much additional specific information as you can in your notarial certificate to identify the person for whom the notarization was performed.

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PETITION CIRCULATOR NOTARIZATIONS §1-40-111

* Specific Requirements in §1-40-111, C.R.S.– Be Aware!

- + Circulator signs in the physical presence of notary.
- + Circulator has fully completed attached affidavit.
- + Circulator presents a specific form of identification.
- + Notary records type of ID presented.

* Specific ID Standards

- + Examples: Colorado driver's license, U.S. Passport, copy of utility bill, bank statement, etc.
- + See §1-1-104 (19.5), C.R.S., for a full list of acceptable identification.
- + Personal knowledge is not acceptable for these notarizations.
- + If the ID contains an address, it must be a Colorado address.

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PETITION CIRCULATOR NOTARIZATIONS §1-40-111

The Process...

STEP 1

Record the transaction in your journal.

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PETITION CIRCULATOR NOTARIZATIONS §1-40-111

The Process...

STEP 2

Check that circulator has fully completed the affidavit.

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PETITION CIRCULATOR NOTARIZATIONS §1-40-111

The Process...

STEP 3

Circulator presents a specific form of identification

- ✦ See 1-1-104(19.5), C.R.S. for full list

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PETITION CIRCULATOR NOTARIZATIONS §1-40-111

The Process...

STEP 4

Circulator signs in the physical presence of the notary.

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PETITION CIRCULATOR NOTARIZATIONS §1-40-111

The Process...

STEP 5

Notary records on affidavit the type of ID presented.

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PETITION CIRCULATOR NOTARIZATIONS §1-40-111

The Process...

STEP 6

Complete notarial certificate.

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Example Petition Circulator Affidavit

I understand that the entire petition section may be executed if any portion of the circulator affidavit is illegitimate, and I understand that I am required to provide my permanent residence address and the temporary street address, which I am staying in Colorado if I am not a Colorado resident.

Circulator Name (please print): _____

Last Name _____ First Name _____

Permanent Residence Address (no location if homeless): _____

Street name and number (no P.O. Boxes) _____ City/Town _____ County _____ State _____ Zip Code _____

Temporary Colorado Address (if you are not a Colorado Resident): _____

Street name and number (no P.O. Boxes) _____ City/Town _____ County _____ State _____ Zip Code _____

Sign and Date in the Presence of a Notary

Signature of Circulator _____ Date of Signature _____

A NOTARY PUBLIC MUST COMPLETE THE FOLLOWING SECTION:

STATE OF COLORADO

COUNTY OF _____

Subscribed and sworn to before me this _____ day of _____, 20____, at _____, Colorado.

Type of ID provided by circulator: _____ (ID provided must be from "Acceptable Forms of Identification" list. "Personally Known" is not an acceptable entry)

Signature (and Title if Notary) _____

My Commission Expires: _____

([not])

(Revised 1/30/2015) Section # (insert number here) Proposed Initiative # (insert number here)

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ABUSE OF PERSONS AT RISK

Decreasing abuse of persons at risk is a high crime priority for the Secretary of State and the Attorney General.

- ✦ **Dementia** is a general term that describes a group of symptoms - such as loss of memory, judgment, language, complex motor skills, and other intellectual function - caused by the permanent damage or death of the brain's cells.
 - + One or more of several disease, including Alzheimer's disease, can cause dementia
- ✦ **Beware of Wills, Power of Attorneys, Real Property Instruments, especially quit claim deeds.** It is these type of documents where fraud is most commonly attempted.

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ABUSE OF PERSONS AT RISK

- ✖ **Ask family members to leave the room**
 - + This helps ensure that while screening for basic awareness and willingness to sign, you are assessing the client alone without the stress, help, or coercion of any additional individuals.
- ✖ **Ask if they understand the document they are signing**
 - + Not only does this clarify willingness to sign but also speaks to the client's faculties at the time of signing. If there is any confusion on behalf of the signer, do not proceed.
- ✖ **Engage in conversation**
 - + If there is any question about the lucidity of your client, engage them in conversation. At that point you will be in a much better position to determine whether or not to proceed with a notarial act.
- ✖ **If basic awareness and willingness are not present do not notarize.**
 - + Dementia can be different day-to-day, and affected by medication, and many other factors. It is reasonable to suggest that this notarial act be performed at another time. In home care providers, retirement homes, and hospice facilities have notaries on staff who may be accustomed to performing notarial acts for this type of client.

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RESULT OF VIOLATING THE NOTARY LAW

- ✖ **Administrative** – These are actions that the Secretary of State can take as an Administrative Office.
 - + Admonition letter, suspension of commission
 - + Revocation (permanent loss) of commission
- ✖ **Civil** – These are proceedings brought before a court by a member of the public.
 - + A notary may be found monetarily liable for proximate damages. "Proximate" means the damages occurred as a direct result of the notary's misconduct. Crucially, while the notary's misconduct must be a substantial factor, it need not be the only factor for the notary to still be held liable.
- ✖ **Criminal** – These are charges brought by a Colorado State or a Federal Department of Justice for committing criminal conduct.
 - + Possible felony charges, e.g., taking advantage of the elderly, forgery, etc.

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NOTARY INVESTIGATIONS § 12-55-107

There are two ways in which the SOS Office begins a Notary Investigation

- ✖ **Upon A Signed Complaint** – a client or interested party submits a signed and notarized complaint form documenting a violation of notary law.
 - + Lack of physical presence, blanks, incorrect notarial certificate, disqualifying interest, etc.
- ✖ **Upon the Initiative of the Secretary of State** – a notarized document is received by the Secretary of State's office for review and is found to be in violation.
 - + Address is not up to date, notarization missing commission expiration date, seal issue, etc.

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YOUR NOTARY COMMISSION

It is your name on the seal and your signature!

✖ Yours and yours alone

- + The fact that your employer may have paid for your commission or supplies is irrelevant
- + Commission runs with the notary

The consequences are yours!

✖ You are accountable to the People of Colorado

- + Criminal sanctions for violating the law
- + Criminal action extends to any person (including employers) who influences a notary to break the law or acts as an accomplice to a crime.

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ETHICAL RESPONSIBILITY

The following are ethical responsibilities that are not codified in law, but are still important to remember.

- ✖ As public servants, **notaries public are encouraged to provide a notarization for anyone who makes a lawful and reasonable request.**
- ✖ *The Notaries Public Act does not require notaries to provide notarial services.*
- ✖ Notaries may also be subject to other laws prohibiting discrimination.
 - + Check with your employer or legal counsel if you have questions about your obligations to the public.
 - + Complaints alleging discrimination by notaries are referred to the Civil Rights Commission.
- ✖ **Best Practice:** If you refuse a request to notarize, record the event in your journal, including the reason why.

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MODULE 6

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APPLICATION RULES § 12-55-104

- ✖ A Colorado resident
- ✖ Must be 18 years of age.
- ✖ Able to read and write the English language
- ✖ The addresses and telephone numbers of the applicant's business and residence are in Colorado.
- ✖ Never had a notary commission revoked.
- ✖ Never had been convicted of a felony or, in prior five years, a misdemeanor involving dishonesty.

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APPLYING FOR A NOTARY COMMISSION § 12-55-104

The entire application and renewal processes will be completed online
"Use a personal e-mail address when registering for 24/7 access to your Notary login"

NEW AND RENEWING NOTARIES

START THE SAME WAY

- ✖ Prepare and scan your documents
 - + New Notary – Affirmation, ID, Training Certificate, Testing Certificate
 - + Renewing Notary
 - ✖ On time renewal with no changes? No attachments
 - ✖ Expired more than 30 days ago? Affirmation, ID, Training Certificate and Testing Certificate
 - ✖ Name or citizenship changes? Affirmation and ID
- ✖ Go to www.sos.state.co.us and click on "Notary Public"
- ✖ Under the heading "New & Renewing Notaries" it will ask "Have you ever been a Colorado notary?"
- ✖ Answer the question
 - + New Notaries: click "No, become a notary"
 - + Renewing Notaries: click "Yes, login in to renew"

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APPLYING FOR A NOTARY COMMISSION § 12-55-104

New Notaries - The Process

Clicking "No, become a notary" will begin the application process.

- ✖ Read the screen detailing attachments and click "Continue" at the bottom.
- ✖ You must review the qualifications and check the box confirming that you are qualified to become a notary public in the state of Colorado.
- ✖ Fill out the application online form and click "Continue".
- ✖ Confirm all of your information was entered correctly and click "Continue".
- ✖ Answer the citizenship question on the next screen and click "Continue", if non-citizen, you will need to upload additional ID.
- ✖ Attach your scanned documents – This will be a series of screens.
 - + Beginning with your affirmation, the screen will prompt you for each document to be attached.
 - + Click "Add file" and browse to files location. Highlight the correct file and click "open".
 - + You may preview the attached file by clicking its link. If the document isn't correct you may delete it by clicking "delete" If it is correct click "Continue".
 - + Do this for each document (Affirmation, Identification, Training Certificate, Exam Certificate).
- ✖ You will now review your entire application submission carefully to ensure everything was correctly entered and attached.
- ✖ Pay the fee using a debit or credit card.
- ✖ Your notary ID will be sent via email.
- ✖ Wait for approval or reject notice via email.
- ✖ After approval, log on to print your notary commission certificate.

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APPLYING FOR A NOTARY COMMISSION § 12-55-104

Renewing Notaries - The Process

After clicking "Yes, login in to renew"

- ✖ This will take you to a Login page.
- ✖ Enter your notary ID and password or click "Register now" to get online access if you have never logged in before and a password will be sent to you.
- ✖ Once logged into your record under the "Actions" sections click "Renew" to begin the process.
- ✖ Read the screen detailing attachments and click "Continue" at the bottom.
- ✖ You must review the qualifications and check the box confirming that you are qualified to become a notary public in the state of Colorado.
- ✖ Fill out the application online form and click "Continue".
- ✖ Confirm that all of your information was entered correctly and click "Continue".
- ✖ The documents required for this next step depend on your renewal needs.
 - + If you have changed your name or citizenship you will need to complete a new affirmation and scan the appropriate ID.
 - + If your commission has been expired more than 30 days you will need to attach affirmation, ID, as well as your training and testing certificates.
- ✖ Attach your scanned documents – This will be a series of screens.
 - + Beginning with your affirmation, the screen will prompt you for each document to be attached.
 - + Click "Add file" and browse to files location. Highlight the correct file and click "open".
 - + You may preview the attached file by clicking its link. If the document isn't correct you may delete it by clicking "delete" If it is correct click "Continue".
 - + Do this for each document (Affirmation, Identification, Training Certificate, Exam Certificate).
- ✖ You will now review your entire application submission carefully to ensure everything was correctly entered and attached.
- ✖ Pay the fee.
- ✖ Wait for approval or reject notice via email.
- ✖ After approval, log on to print your notary commission certificate.

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APPLYING FOR A NOTARY COMMISSION § 12-55-104

Preparing your documents for submission

Our largest reason for rejection of notary applications for both new and renewals is improperly attached or missing documents.

The best way to prevent this is to have your documents prepared before logging in.

Do you know what you need?

- + New Notary – Affirmation, ID, Training Certificate, Testing Certificate
- + Renewing Notary
 - ✖ On time renewal with no changes? No attachments
 - ✖ Expired more than 30 days? Affirmation, ID, Training Certificate and Testing Certificate
 - ✖ Name or citizenship changes? Affirmation and ID

Are the files named so that you can recognize them?

- + When scanning and saving your documents to your pc take the extra time to name the documents something easy to distinguish (i.e. notary affirmation, notary ID, etc.) This ensures when uploading attachments there is less confusion as to which is the correct file to select.

Are they clear, legible, and right side up?

- + Take a moment after saving and scanning your files to preview them. If they are fuzzy, turned the wrong way, or in some way unreadable correct the issue before attaching them to your submission.

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APPLICANT'S AFFIRMATION § 12-55-105

The Affirmation Form and a Notary's Official Signature

The affirmation form asks for your name twice

- ✖ The notary's printed legal name
- ✖ the notary's official signature

What's the difference?

- ✖ Printed legal name must match the first and last name on the identification being submitted when applying for a new commission or renewal. This is also how you should type your name into the application online as this is how your name should be read on your notary stamp.
- ✖ Official signature is the way you will be signing your name every time you perform a notarization and what will be kept on record for comparison.

The Secretary of State's office suggests the when applying you should sign the affirmation form using the signature you use most commonly such as when signing checks, receipts, paperwork, or the touchpad at a retail store. This would be the signature that comes most naturally to you and is easily repeatable. This maintains consistency throughout your notarizations.

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APPLICANT'S AFFIRMATION § 12-55-105

Affirmation for Appointment and Commission as a Notary Public

Colorado Secretary of State
Notary Training
1100 Lawrence, Ste. 200
Denver, CO 80202 Phone: (303) 866-3333 Email: notary@sos.state.co.us

I, _____, a _____, voluntarily, under the penalty of perjury in the second degree, as defined in section 18-6-103, Colorado Revised Statutes, that I have carefully read the rules for this state, and I understand and am committed as a notary public, I will faithfully perform, to the best of my ability, all notarial acts in conformance with this law.

I am (check one):

☐ A United States citizen

☐ Not a U.S. citizen, but am a legal permanent resident of the United States

☐ Not a U.S. citizen or legal permanent resident, but am lawfully present in the United States pursuant to federal law.

I understand that this sworn statement is required by law (section 18-6-103, Colorado Revised Statutes). I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further understand that knowingly violating these provisions or fraudulent statement or representation in this sworn statement is punishable under the criminal laws of Colorado as perjury in the second degree under section 18-6-103, Colorado Revised Statutes, and it may constitute a separate criminal offense each time a public benefit is received based on such statement or representation.

Signature (print name) _____

Subscribed and affirmed before me in the county of _____ state of Colorado, this _____ day of _____, 20____.

(Notary Signature) _____

Notary Public

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APPLYING FOR A NOTARY COMMISSION § 12-55-104(4)

Lawful presence is required

The state is prohibited from granting benefits or issuing business or professional licenses to those not in the U.S.A. legally.

- Acceptable Photo ID
 - + Colorado Driver's License or Colorado Non-Driver ID
 - + Non-Colorado Driver's license from a lawful presence state
 - + U.S. Military or Dependent ID card
 - + U.S. Merchant Mariner Card
 - + Native American Tribal ID
 - + U.S. Passport

On the Affirmation form you answered a question regarding citizenship

➤ Oath under penalty of perjury that applicant is:

- + a U.S. Citizen, or
- + a Permanent Resident, or
- + Lawfully present under federal law

If you are not a U.S. citizen then you must also provide a copy of Visa/Permanent Resident card or other documentation with your application.

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APPLYING FOR A NOTARY COMMISSION § 12-55-104

Most Common Reasons for Rejection and How to Avoid Them

- ✖ Improperly attached documents
 - + Incorrect ID – Check the previous slide to be sure you are using the correct form of ID and include citizenship documentation if required.
 - + No affirmation – All new notaries and renewing notaries who have made name changes must download and printout the Affirmation form, sign it in front of a Colorado notary, and include it in their submission.
 - + No exam certificate – after training is complete go to <http://cosos.learnercommunity.com/> register for access and complete the Colorado notary exam. Print the completion certificate and include it with submission.
- ✖ Name typed into online application does not match name printed on affirmation
 - + The name printed on your affirmation must match the name you typed into the application and also must match the first and last name on your ID. This is how the Secretary of State confirms your legal name and lawful presence before issuing a notary commission.
- ✖ Affirmation incorrectly notarized
 - + After completing training, you will know what a complete correct notarization looks like. Do not do a disservice to yourself by settling for an incorrect notarization. If the notary witnessing your signature has made a mistake, print a clean copy of the affirmation form and start again.
- ✖ Name changed but no affirmation completed and no new ID or proof of legal name change submitted
 - + When you change your name, the SOS office will need a new affirmation form on file to indicate a new official signature to use for comparison, as well as a new ID or proof of legal name change. You will not be approved for commission without this.
- ✖ All commissioned notaries name and address changes must be filed within 30 days per § 12-55-114, C.R.S.

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You must resubmit all documents each time you are rejected!

COLORADO NOTARY PUBLIC EXAMINATION

All new notaries and any notary whose commission has been expired more than thirty days must...

Take The Colorado Notary Public Examination

- ✖ After training is complete go to <http://cosos.learnercommunity.com/>
- ✖ Register for access
- ✖ Click "Catalog"
- ✖ Select "Colorado Notary Public Examination"
- ✖ Read the introduction and instructions
- ✖ Complete the exam
- ✖ Print your completion certificate

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KEEPING YOUR INFORMATION CURRENT § 12-55-114

- ✖ **It's required by law!**
- ✖ You must notify the Secretary of State of any changes to your name, and home or work address, within 30 days.
- ✖ **Best Practice: Notify the Secretary of State of changes to your email address within 30 days.**
- ✖ Login online to file changes.
 - + www.sos.state.co.us
 - + The same place you login to renew
- ✖ No fee – It's free!!!!!!!

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REAPPOINTMENT / RESIGNATION

- ✖ Term length – 4 years
- ✖ Renewal accepted 90 days or less before expiration
 - + Courtesy reminder notice sent by e-mail
 - + Another reason to make sure we have your current e-mail
- ✖ If you...
 - + Do not intend to renew at the expiration of your commission...
 - + Choose to resign your commission...
 - + Move out of state...
- ✖ Then you must...
 - + Send a letter of resignation to the Secretary of State and
 - + Send your seals, journals, and related papers to the Secretary of State

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CLOSING THOUGHTS

- ✦ Be aware of the type of document that is being notarized! – How is it affecting your client? Have you done your part to prevent fraud?
 - ✦ Instrument affecting the title to real property
 - ✦ Power of Attorney
 - ✦ Will
- ✦ Is the signer accompanied by another person? Will they be signing the document? Acting as a credible witness? Does the family member or friend need to be present for the notarization or can they wait outside?
- ✦ Does the signer appear to be confused about the document s/he is signing?
- ✦ Call our office if you don't know what to do!!! We are here to answer questions on procedure and process.

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THANK YOU FOR ATTENDING!

- ✦ Make sure you have signed in to receive credit for attending.
- ✦ Remember your Certificate of Completion.
- ✦ Training certificates will expire six months from the date of issuance.

CONTACT US:

Colorado Secretary of State
Notary Section
1700 Broadway, Suite 200
Denver, CO 80290

By e-mail: notary@sos.state.co.us

Notary Help Line: 303-894-2200, Option 4,
then 1

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