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The National NOTARY

November 2009



THE MAGAZINE FOR PROFESSIONAL NOTARIES

Going The Extra Mile 14

Signs Of Deception: What To Look For 19

How To Avoid Clashing With Your Boss 27

TOP 5 ISSUES ON YOUR MIND



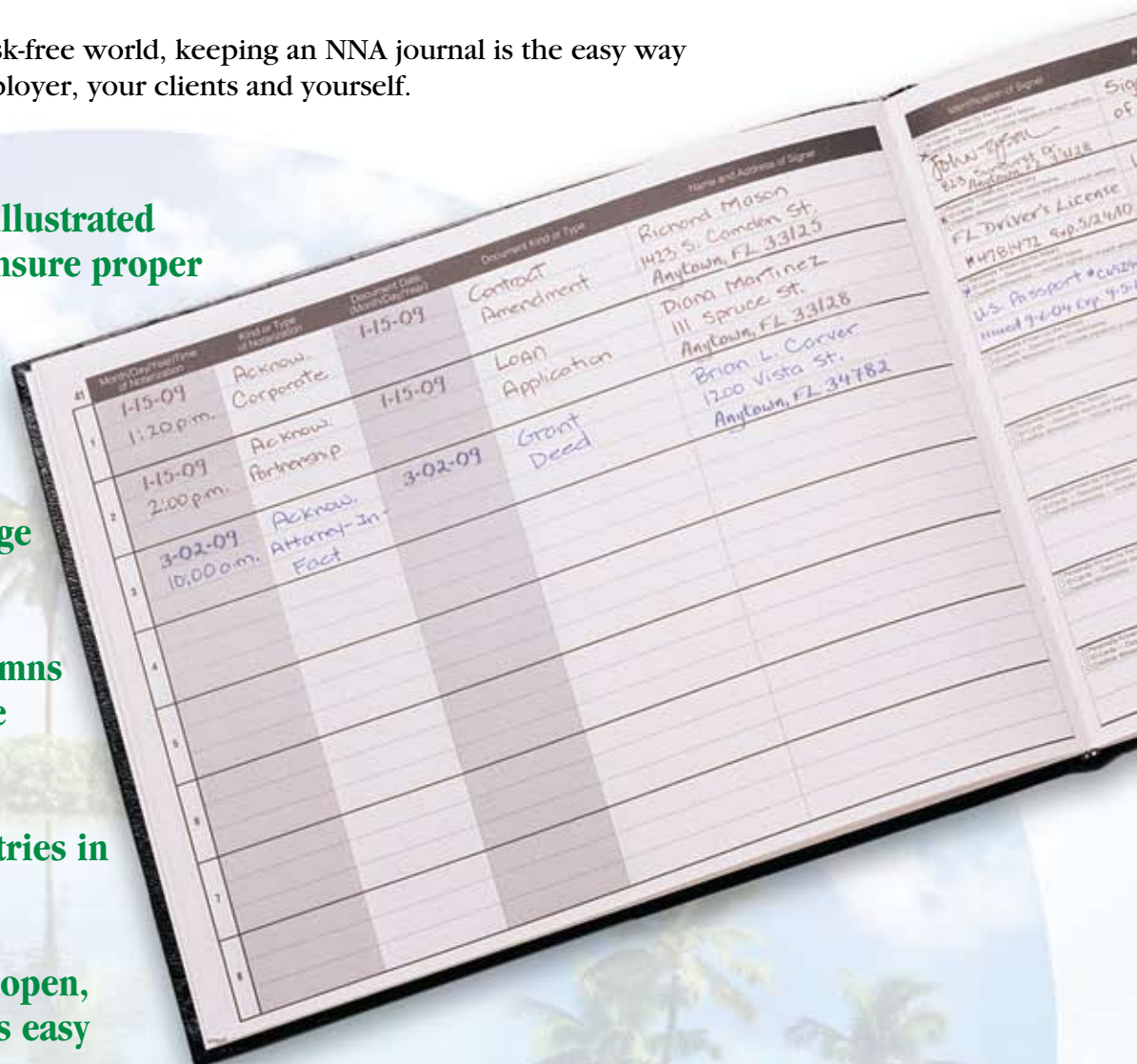
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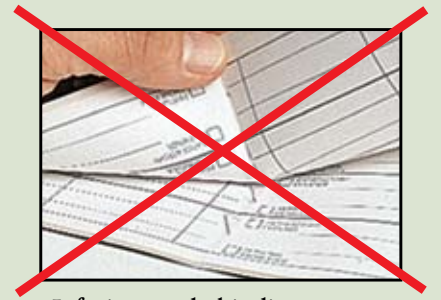
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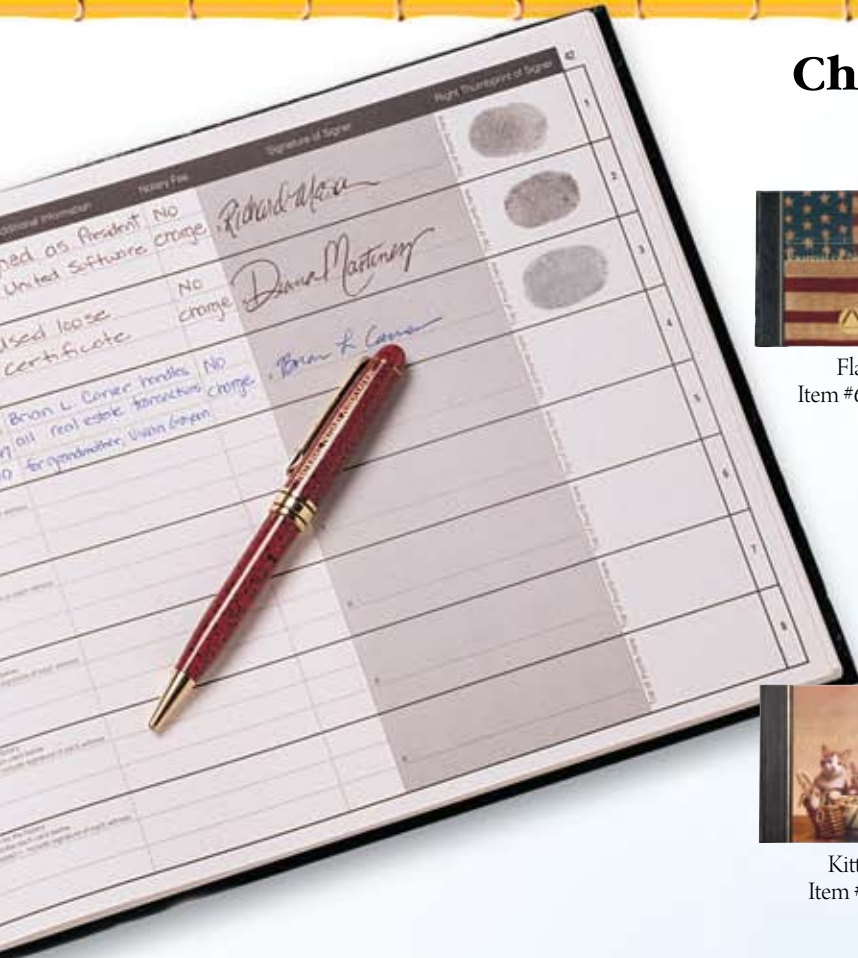
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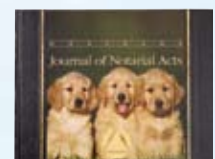
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Editor & Publisher

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Executive Editor

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Editor: A+Large

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PUBLICATION POLICY

The objectives of THE NATIONAL NOTARY are to: (1) publish only quality articles on Notaries, notarization and related subjects; (2) inform our readers of important developments in the field of notarization; and (3) focus on Notary issues and related subjects that are helpful, educational and informative to Notaries and others interested in the field.

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HOW TO CONTACT US

9350 De Soto Ave., P.O. Box 2402, Chatsworth, CA 91313-2402
Telephone: (818) 739-4000, Fax: (818) 700-1942
www.NationalNotary.org

(800) US NOTARY (800-876-6827)

Customer Service: Services@NationalNotary.org • (800) 876-6827
Letters to the Editor: publications@NationalNotary.org • (818) 739-4000
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From The Senior Managing Editor



Rising Importance Means Increased Duty, Recognition

Amid so much uncertainty in the current economy, one thing is certain: The American Notary office is healthier than it has ever been, thanks to a growing respect for the trust, integrity and security that you lend to important transactions.

But with this recognition comes increased duty to be the best, to protect the public and to protect yourself from liability. That's why Notaries, state officials and employers across the nation are discussing — and taking action on — key issues (page 20) to build a more trusted and successful Notary office. Additionally, Notaries are employing professional standards of care to build a solid reputation (page 14), even if they are not required by their states.

In the years to come, the Notary office will grow even healthier if you stay true to these commitments and, at the same time, you will be able to reap the rewards of many emerging opportunities.

Say NO with Confidence!



How to turn away improper notarial requests

Sorry, No Can Do! books explain why you must say NO! when requested to perform improper notarizations. When signers and employers don't understand the laws and procedures, just show them the relevant page and quickly resolve awkward situations.

'Sorry, No Can Do!' 1 Item #5372
'Sorry, No Can Do!' 2 Item #5385
'Sorry, Boss, No Can Do!' 3 Item #5387
'Sorry, Borrower, No Can Do!' 4 Item #5389

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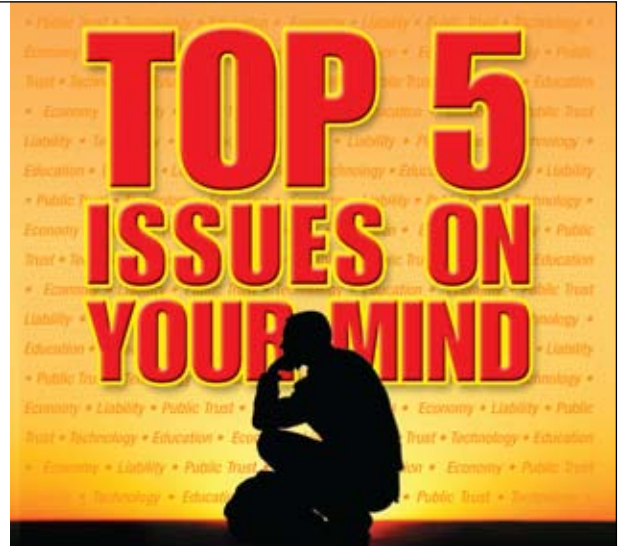
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COVER STORY

20 • Top 5 Issues On Your Mind

THE NATIONAL NOTARY spoke with scores of Notaries and state Notary officials across the nation — in a variety of industries — to discover the central concerns on their minds, and the key issues affecting and influencing their professional lives today. Interestingly, the responses fell into five major categories and, despite the differences in state laws and procedural requirements, they shared the same concerns. This shared vision provides an important platform for action to improve the American Notary Public office.



FEATURES



14 • Going The Extra Mile

By adhering to high standards of conduct, you earn a sterling reputation. People trust that you will do things the right way, even if it requires looking up the answer in a book or calling an expert for guidance.

19 • Body Language: A Silent Advantage

Body language can provide crucial, non-verbal clues to a signer's honesty.



24 • A Door To Opportunity

Notaries across the nation are finding ways to combine their public duties with other valuable services to build new revenue streams.

27 • Policies Create Office Harmony

With a little planning and cooperation, Notaries and their employers can work together to ensure workplace notarizations are done correctly.

29 • Facing The New Notary Frontier



Richard Garriott has pursued several amazing careers in his lifetime and — with the help of his Notary assistant — officiated the first-ever weightless wedding above Florida.

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ON THE WEB

Appellate Court Again Holds Notary And Employer To Higher Standards

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OUR MISSION

The National Notary Association is committed to the education and service of Notaries throughout the United States. As the foremost authority on the American Notary office, we are dedicated to imparting knowledge, understanding and unity among all Notaries, and instilling in them only the highest ethical standards of conduct and sound notarial practice.

OUR READERS' RIGHT

'Vancura v. Katris'

When the *Vancura v. Katris* court decision first appeared, I made a copy of the court's decision as the NNA reported on it, along with *The Notary Public Code of Professional Responsibility* and took it to my boss with the words, "You need to be aware of your vulnerability when I am acting as a Notary Public."

Thank you for keeping everyone informed!

Beverly Van Orden, Vancouver, Washington

More information on the Vancura v. Katris court decision and how it affects Notaries can be found at NationalNotary.org/il/lawchanges/appellate.cfm. — The Editors

Foreign IDs

I would like to congratulate you for your article "Are Foreign IDs Acceptable IDs?" in the July 2009 magazine. It answered all the questions I had on this topic.

In my training to become a Notary Public, I was taught that the *matricula consular* cards issued by Mexican consulates are not to be used as primary IDs for notarization in California. I have declined many customers on various occasions for of this reason. I want to follow the law, but it upsets me so much that there are travel agencies that offer Notary services that accept *matricula consular* cards as IDs (and charge an additional fee) to gain that customer. Should I report this to the proper authorities?

Hector Baez, Hayward, California

Accepting improper IDs and charging additional fees to do so are violations of California Notary law. If you suspect such a violation is taking place, you can report it to the Secretary of State's Office. — The Editors

Thanks For Good Service

I just wanted to take a moment to compliment the NNA on its service. I became a Notary recently through your organization; the process was seamless, quick and easy. I also placed an order for a journal and was impressed with your eMail response and being able simply to click on a link that allows me to track my package on your Web site. Thank you so much for all the hard work you've done to make things easy for your members.

Brittany S. Price, Fort Myers, Florida

Letters To THE NATIONAL NOTARY

We welcome letters, comments and questions from you and reserve the right to edit for space and clarity.

Contact us at publications@nationalnotary.org or by fax at (818) 700-1942. Mail can also be sent to National Notary Association, Editorial Department, 9350 De Soto Ave., P.O. Box 2402, Chatsworth, CA 91313-2402.



Computers Cannot Provide The Personal Touch We Can

There is something about the future that is both frightening and inspiring. This is not news to any of us. Many books have been written and studies conducted on whether it's

possible to know the future by interpreting subtle physical signs in the present or the past.

In most visions of the future, computers and technology are increasingly instrumental and integral to the smooth functioning of human society. Already, both have changed the Notary environment and will only continue to alter how we operate as Notaries.

In his book, "The Next Hundred Years," political scientist George Friedman suggests that "since the computer reduces all information — music, film and the written word — to a number, it is also a unique way of looking at reason."

After a brief explanation of binary theory, which maybe we all should have paid more attention to in high school or college, he points out that, to a computer, everything is a number and while everything — from great literature to beautiful music — is accessible on the computer, in the end it is all reduced to zeroes and ones.

Of the computer, Friedman writes, "It can play music, but it cannot write it (not well at least), or explain its beauty. It can store poetry but cannot explain its meaning. It is superb at what it can do, but it excludes a great deal of what the human mind is capable of doing.

"It seduces people into thinking that other aspects of knowledge are either unreal or unimportant."

"Unreal" or "unimportant" is how many people view notarization. Its value is questioned, its purpose challenged. Our critics argue that technology is advanced

and secure enough to enable it to replace the notarial act.

If there is anything we should take into the new year, it is a reminder that as Notaries we are both doers and thinkers.

We enable the legal and business communities to function securely by the acts we perform and the application of an intellect and an understanding that cannot be achieved by any scanner or computer program. Friedman, with his insight into American culture, writes that we "value getting things done and not worrying too much about why whatever thing you are doing is important."

As Notaries, we both value getting things done and understanding its importance.

Verifying identity and helping to thwart fraud through our personal presence during the critical moments of an important transaction affords a great deal more security than do complex passwords and a list of security questions.

The next time we reflect on how technology has enhanced our lives, we should also recognize that, while there are number of things it can do, it has certain limitations and will not replace the fruits of a rationality that come only from the human mind.

As Notaries, we may not boast the sizzle of the latest iPod or the speed of the hottest new laptop, but we can contribute an irreplaceable security component to any sensitive transaction by virtue of our very human ability to reason.

Deborah M. Thaw can be reached at dmtbaw@nationalnotary.org

Facial Recognition Tech Means No Smiling For ID Photos

States across the nation are implementing facial recognition technology to make identification documents more secure for those that rely upon them. And Notaries are benefiting from this new technology by making the IDs presented to them more reliable.



enforcement and motor vehicle divisions — have found that that their facial recognition software is less effective when ID holders smile for their photographs.

Facial recognition technology uses sophisticated mathematical formulas to match photos on driver's licenses against those in motor vehicle, police and other government databases. It has been effective in catching identity thieves intent on using fraudulently obtained government-issued identity documents. All told, 37 states are using facial recognition to make the IDs they issue harder to fake or alter.

But the technology comes with an odd new twist: motorists in many states are no longer allowed to smile for their driver's license photos.

That because authorities in Arkansas, Indiana, Nevada and Virginia — who have most recently been testing and implementing the systems in their law

States, Industries Taking Ethical Standards Seriously

In a move to reverse economic shortfalls and renew efforts to protect the public and avoid liability based on recent court rulings involving Notaries, state officials and certain industry sectors are taking ethics and best practices more seriously than ever.

Notaries have already seen a renaissance in ethical standards, bolstered recently when Hawaii

formally adopted the *The Notary Public Code of Professional Responsibility* as law, and American Samoa began providing the *Code* to new Notary applicants as part of their mandatory training. Other jurisdictions — most recently Delaware, Illinois and Rhode Island — have also taken similar steps to strengthen Notary best practices and ensure professionalism.

Notaries are not alone in this trend. Among the most notable set of new standards is the Home Valuation Code of Conduct for real estate appraisals, adopted last year by Fannie Mae and Freddie Mac, which helped stabilize the mortgage market and Notary Signing Agents rebuild their businesses.



By The Numbers

30

Number of minutes it typically takes for police in Minnesota to get arrest warrants electronically signed, notarized and issued under its pilot eCharge program.

Number of minutes it often takes for police in Minnesota to get arrest warrants processed under the old paper-based system. **480**

\$10,000

Amount the **plaintiff** in the Illinois *Vancura v. Katris* case suffered in losses due to a Notary's careless behavior.

\$30,000

Amount the Illinois **Notary** in *Vancura v. Katris* agreed to pay in liability for the case.

\$5,000

The **minimum** required surety bond for Notaries in Illinois.

Get Paid Quicker Using PayPal

Notary entrepreneurs often face difficulties or significant lag time when receiving a payment for a signing. But some Notaries have begun using the well-established PayPal online payment system to speed up their accounts receivable process.

According to several Notaries at Mobile Austin Notary of Texas, using a PayPal account makes it easy and safe for clients to pay promptly. Instead of waiting days or longer for a check to arrive by mail, the Notary service noted that it receives same-day

payments from some mortgage companies.

Some 70 million consumers and businesses use the online payment system, which is owned by eBay Inc. PayPal stores a customer's financial payment information such as a credit card or bank account and, when customers pay online, PayPal acts as an intermediary, much like an escrow agent. As another added benefit, payments are sent and received without consumers exposing sensitive financial information. For more information visit PayPal.com.



Industries Turn To Certification To Restore Consumer Trust

One of the biggest casualties of the economic crisis has been consumer confidence. So certain industries are turning to professional certification programs to help rebuild public trust.

Notaries and those who employ them, for example, are relying on the National Notary Association's Trusted Notary™ Certification Program to assure customers that their notarizations are conducted professionally, ethically and as securely as possible. Courts are beginning to hold businesses responsible for the actions of their Notary employees. So employers now must make sure their Notary employees follow the requirements of state law and broadly accepted notarial principles, an assurance that the program provides.

Another industry coalition — the Fair Mortgage Collaborative — has also launched a campaign to certify participating lenders as safe, fair and free of predatory lending practices. The Collaborative is part of a nationwide trend to improve professional standards and ethics across all industries. To date, 21 financial institutions with annual mortgage originations of \$520 million have been certified.



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Stimulus Scams Have Unexpected Victims

The federal government's stimulus program has spawned a surge in fraud cases, and, in some cases, Notaries are being caught in the crossfire.

A Notary in Mercersburg, Pennsylvania, was an unwitting pawn in a recent identity theft scam that tried to lure a homeowner with the promise of stimulus money. When the Notary arrived at the appointment, the police were waiting. Fortunately, authorities quickly determined that the Notary had nothing to do with the scam.

But certainly this case won't be the last. FBI Director Robert Mueller recently told Congress that the Bureau expects economic crimes to "skyrocket" as a result of the unprecedented infusion of stimulus money into the economy, and that crackdowns will continue.

The best defense for Notaries is always to follow best practices — such as keeping a journal even if the state doesn't require it — and cooperate with police to the fullest extent.



Battling Mortgage Fraud With 19th Century Technology

Government and industry leaders alike are looking for any edge they can find to combat the epidemic of identity and mortgage fraud. But one of the newest fraud-fighting trends is a technology that dates back to the 19th century: fingerprints.

Indiana is the latest state to consider requiring Notaries to take thumbprints when notarizing signatures on real estate documents. The move comes in the wake of a number of fraud cases in which properties were stolen by criminals using fake IDs, who then took out loans on the property. One of the more sensational cases occurred when a news reporter in Fort Wayne, Indiana, doctored

documents — including a fake Notary seal — to "steal" the state's iconic Lincoln Tower to demonstrate how easy fraud can be.

State Attorney General Greg Zoeller has joined forces with the Indiana Recorders Association and the Association of Indiana Counties to push for the fingerprint legislation.

Earlier this year next-door neighbor Illinois launched a four-year pilot program requiring Notaries to take a thumbprint record for certain real estate transactions in Cook County.

Authorities in California already have used thumbprint records in Notary journals to track, arrest and prosecute mortgage fraud suspects.

The Devil's In The Details

Performing notarial duties correctly can mean everything to your clients. With the public demanding greater accountability and professionalism from Notaries, even the smallest, most innocuous detail can make all the difference in the world.

Just ask the backers of a widely publicized smoking ban petition in South Dakota, which was removed from the ballot because 29 different Notaries included the wrong commission expiration on notarized petition signature sheets.

The mistakes led state election officials to reject 2,000 petition signatures, which left the measure 200 signatures shy of the requirement to put it to a public vote.

In another recent case, a contractor in Augusta, Georgia, lost a \$1.1-million contract to build the city's new firehouse because a Notary forgot to date several notarizations.

Both issues have landed in court and underscore just how important the details are to every notarization.



Feds Seeking To Stem Loss Of Mortgage Records

The federal government is beginning to realize how important records of loan transactions are when it comes to investigating mortgage fraud. But too many of those records — from applications to settlement statements to Notary journal entries — are being lost or destroyed before a fraud is ever uncovered.

Rita Glavin, acting head of the U.S. Department of Justice's (DOJ) criminal division, recently told Congress that investigators often can't find these crucial documents because so many lenders, brokers and title companies have gone out of business; about half of the top 10 U.S. subprime mortgage originators that existed in 2006 have been shuttered. That's why the DOJ is seeking legislation to require mortgage companies to keep records for 10 years.

Because Notary Signing Agents play such an integral role in loan closings, their journals and other records could be among those documents that must be retained for that crucial decade. In some states the journal is already a highly valued piece of evidence. California and Illinois, for example, have stringent journal requirements for real estate transactions.

Use Of Digital Identity Credentials Growing

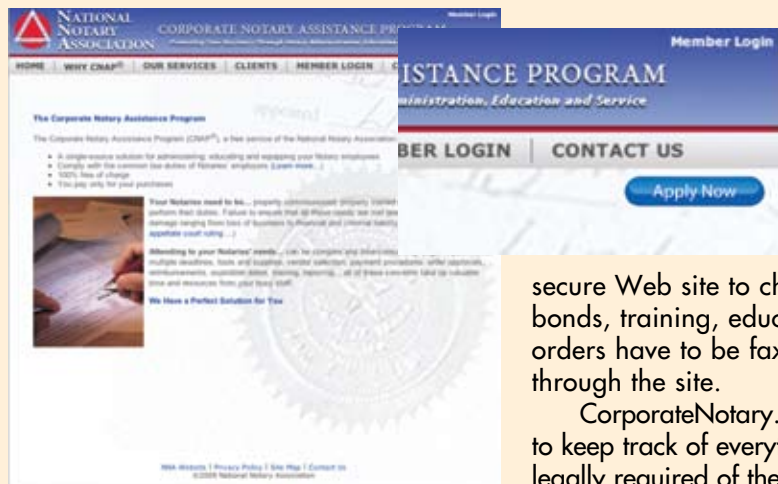
Digital identity credentials — the electronic equivalent to a traditional ID or driver's license — are becoming the identity security measure for the 21st century and could soon become as common as cell phones or Twitter accounts.

Digital credentials electronically verify that the people using them are who they say they are, and SAFE-BioPharma, a non-profit organization that securely issues these credentials on behalf of the biopharmaceutical industry, recently reported that more than 20 global pharmaceutical companies, regulatory agencies and research organizations are now using them.

They are utilized for everything from signing electronic laboratory notebooks and sending confidential eMails to accessing sensitive databases and executing purchasing agreements.



CorporateNotary.org Launches To Meet Your Needs



It's now easier than ever for members of the NNA's Corporate Notary Assistance Program to make sure they have everything needed to carry out their duties.

CorporateNotary.org is a new, free, automated service. It's a one-stop shop for a company's Notaries and Notary administrators. Either can go online to the NNA's

secure Web site to check on the status of Notary commissions, bonds, training, education and supplies. No longer do supply orders have to be faxed in. Instead, they can be ordered directly through the site.

CorporateNotary.org allows Notary administrators and Notaries to keep track of everything needed and legally required of them from A to Z.



eLab: From Conference To Your Keyboard



The eNotarization developments unveiled at the NNA's 2009 Conference can still be experienced firsthand with a few mouse clicks. Several

tutorials on using the ENS® (Electronic Notary Signature) are available on the NNA Web site in user-friendly, easy-to-understand formats.

As more states adopt the enhanced security of eNotarization, these tutorials can help position Notaries to take advantage of new opportunities.

The topics covered in the tutorials include: Activating Your ENS, Completing Your ENS Profile, Purchasing Your ENS, Using Your ENS to Sign a PDF Document and Using Your ENS to Sign a Word Document. The last two ENS tutorials take the user step-by-step through interactive practice eNotarizations. The tutorials are presented in Flash format, and users can go through each one at their own pace. These are the same presentations made at Conference sans the instructor.



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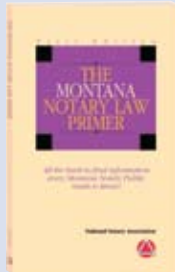
Montana Law Primer: A Pocket Guide To State Notarial Laws

To help you stay up to date on Montana's new law, Senate Bill 299, the NNA has published its first-ever Notary law primer for the state.

SB 299, signed by Governor Brian Schweitzer on April 18, establishes both a recordkeeping and mandatory education requirement for Montana Notaries. From now on the state's Notaries must keep an official journal for all notarial acts. The new law also requires use of an inking seal alone as the official seal, among other things.

NNA law primers are user-friendly and make it easy to find all the important information every Notary needs to know.

Montana's recordkeeping requirement took effect on October 1. Education and residency requirements are effective July 1, 2010.



www.nationalnotary.org/supplies



Looking For Notary Shining Stars

The National Notary Association is now accepting nominations for the 2010 Notary of the Year — that person who embodies the best of what it means to be a Notary Public.

If you know someone who demonstrates the highest level of conduct, ethics and integrity, and seeks to inspire others, then it is time for them to be recognized.

In addition to an expense-paid trip to the 2010 Conference in Chicago, the Notary of the Year will be profiled in an issue of THE NATIONAL NOTARY, the official magazine of the NNA. Visit NationalNotary.org/noty and submit a nomination today.

Your Benefits: My NNA Profile

A powerful tool to help you manage your commission with the touch of a button is available through My NNA Profile. The service is free to members and non-members alike.

Found in the upper right-hand corner of NationalNotary.org, it's a consolidation of your NNA information.

You can see at a glance your NNA publications and professional certifications. Your bond and insurance information are kept up-to-date, as are all-important expiration dates you need to know.

Further, you can view recent NNA orders, update your contact information, send a question to an NNA Notary Hotline counselor, eMail an NNA customer service representative or receive NNA technical support. Important NNA contact numbers are listed there as well.



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A36490

Going The Extra



A Notary's Conduct In A Single Moment Can Make Or Break A Career For A Lifetime

There are far too many Notaries who fail to handle their official acts with the level of responsibility and accountability that is born out of following the professional standards of care.

The misguided excuses are countless: "My state doesn't require recordkeeping," "I do too many notarizations to require personal appearance every time," "My boss and other company officials are too busy to provide their identification to me for their notarizations," and "I just didn't know what to do and didn't understand the implications."

Notaries who fall into these traps face a ticking time bomb that could cause persons relying on their notarizations to lose their identities, assets, bank accounts and homes. Notaries and the companies that employ them could also face severe liability claims, simply because a Notary failed to obtain satisfactory evidence of identification or require personal appearance.

It could be years after a long-forgotten notarization that you discover you have been named in a lawsuit. You'll have to hire an attorney, which can be expensive and frightening, your job could be put at risk, your commission could face revocation, and your reputation put on the line. The process can drag on for months or years, causing mental anguish, time away from work and even financial ruin.

But there is a simple solution to these scenarios that will keep the public, Notaries and their employers out of harm's way while, at the same time, growing the Notary's reputation of professionalism and availing them of opportunities for career growth and a secure future.

That solution is embracing education and training, and following professional standards of care that often go beyond what state laws require.

Taking pride in your work and doing it with integrity achieves much more than just making you feel good. It protects the public from countless fraudulent misdeeds, and Notaries from liability. All it takes is just one Notary willing to look the other way or shirk his or her responsibility to facilitate fraud.

By conscientiously adhering to high standards of professional conduct, you earn a sterling reputation. People trust that you will do things the right way, even if it requires looking up the answer in a book or calling an expert for guidance.

The Ordinary Doing The Extraordinary

Doing the right thing — and adhering to professional standards of care — does not have to await enactment of a law or executive order. In most cases, it's just the everyday practice

Mile

By Chris Wolski
cwolski@nationalnotary.org



of people who exhibit professionalism and pride in their work and understand the significance of their actions.

And, while you may perform hundreds — even thousands — of notarizations and never hear about them again, you never know when that one official act will make a significant difference.

Consider the case of the San Francisco Notary who notarized a real estate document for an accused murderer and mortgage fraud ringleader — a signer who looked just as ordinary as everyone else. The Notary followed proper California procedures and captured the signer's thumbprint. It was later discovered that the signer used false identification, and is alleged to be a member of a mortgage fraud ring accused of murdering a Palm Springs homeowner and assuming his identity to steal his residence and assets. Realizing he left incriminating thumbprint evidence in the Notary's journal, the accused con man attempted to return and steal the journal, but failed. The journal and thumbprint led police directly to the con man and his associates, who are now awaiting trial on multiple counts of murder and fraud.

But what about the everyday moments when you feel you may have to cut a corner or bend the rules? Do you give into the misguided dictates of a boss who signs your paycheck? Do you stand up for what's right, no matter the cost? Or do you prepare yourself for these situations and know where to turn for help in addressing such misguided dictates?

Important Resources For NNA Members

Because you are a valued member, the following resources and benefits are at your disposal. For more information about these and other valuable membership benefits, visit NationalNotary.org or call (800) 876-6827.

- **Nationwide Educational Programs** — Members have complete access to unmatched educational programs provided by the only accredited post-secondary educational institution specializing in programs for Notary professionals.
- **The Notary Hotline** — Speak with expertly trained counselors who can assist you with any notarization issue by calling (888) 876-0827.
- **E&O Insurance** — State-required bonds protect the public — not Notaries — so the NNA offers comprehensive Errors & Omissions insurance to protect you against a costly lawsuit. Members receive discounted premiums.
- **Supplies and Tools** — The NNA is ready to assist you in obtaining all the supplies and tools you need to perform your duties professionally and with care.

If you're Joan Sampson of Sheridan, California, you prepare yourself and do what's right. Several years ago, Sampson was working for a real estate agency when her boss asked her to notarize an incomplete loan document. She refused even though her boss accused her of "insubordination." Sampson was fired a few months later, but that was only a short-term inconvenience. She found another job and ever since has made it clear to employers that she will never do anything unethical, no matter the consequences. Nearly a quarter-century later, her unflinching adherence to doing right was recognized when she was named the National Notary Association's 2007 Notary of the Year.

Sampson's actions illustrate how important it is to educate your employer about professional standards of care when they request something illegal or unethical. The National Notary Association guide used by thousands of Notaries called, "Sorry, Boss, No Can Do," clearly states: "As state officials, Notaries must always obey the laws of notarization — even when they conflict with the wishes and orders of an employer ... Violation of these notarial rules can result in criminal penalties against the Notary and any person who influences the Notary to break the law."

The Costs To Notaries And Employers

By not taking simple steps to follow professional standards of care, Notaries and their employers put the public at serious

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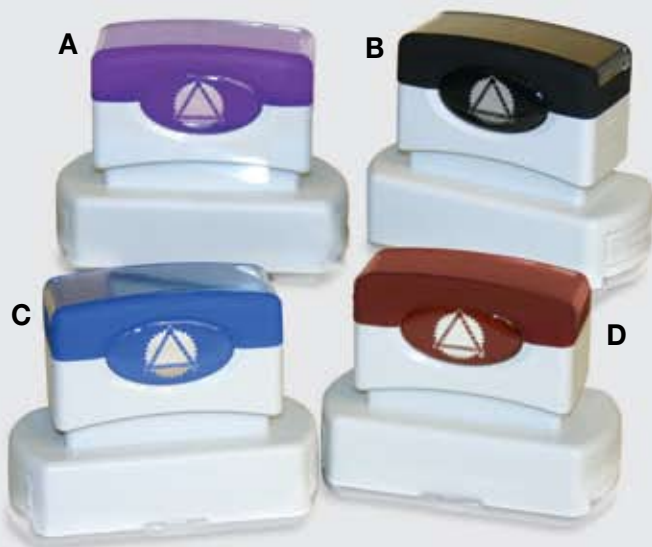
Elite Stamp Handle Color Choices:

Rectangular

- A Violet Item #5270V
- B Jet Black Item #5270JB
- C Royal Blue Item #5270RB
- D Crimson Item #5270C

Round (not shown)

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- Jet Black Item #5409JB
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*Round seals are not permitted in all states; round seals are required and available for HI, MS, OH, and TN and also available for FL, PR and SC. Black ink; not recommended for onionskin or Mylar® documents.



risk and open themselves up to liability claims.

More than a decade ago, a careless Notary at an Illinois copy shop unwittingly notarized a fraudulent document that resulted in the loss of more than \$100,000 for the victim. The Notary was subsequently held liable for \$30,000 in damages. The Notary paid a costly price for his carelessness and the case ultimately resulted in an appeals court ruling that validated the notarial standards of professionalism that are defined in the *Model Notary Act*. The ruling in the case — called *Vancura v. Katris* — underscores the fact that Notaries and their employers can be held accountable to rules that do not necessarily appear in state statutes.

In another pending case, a Notary-employee at an Illinois branch of Bank of America is being sued for damages by a man who claims his estranged wife forged his signature on loan documents, and the signature was then notarized without satisfactory evidence of identity. The man — whose house is in foreclosure — is claiming his wife obtained \$64,000 in loans without his permission, and is countersuing the bank, putting the Notary directly in the middle of a contentious battle.

As attorneys Arthur F. Silbergeld and Dawn Irizarry of Proskauer Rose LLP noted in their analysis of the *Vancura* case: “Compliance with a statutory or administrative requirement is merely evidence of having met a minimum standard of conduct and does not preclude a finding of negligence for having failed to follow professional codes or common-law requirements.”

Professionalism Codified

Fortunately, there are clear guidelines Notaries can use to navigate the ethical and professional issues of their day-to-day work. These guidelines, clearly detailed in the *Model Notary Act* and *The Notary Public Code of Professional Responsibility*, give explicit, detailed guidance for Notaries seeking help with thorny ethical issues, and they are exactly the guidelines courts have recently turned to when state laws fall short.

More than 40 states and U.S. territories have adopted all or

part of the *Model Notary Act*. Hawaii made history last year when it became the first state to hold Notaries accountable for failure to adhere to *The Notary Public Code of Professional Responsibility* and American Samoa is now testing Notary applicants about their knowledge of the *Code*.

Governor Donald L. Carcieri of Rhode Island recently signed an executive order establishing a set of Notary conduct standards — reflecting, in large part, the best practices found in the *Model Notary Act*. Increasingly, best practice standards are being embraced in the laws and mandates of the states.

Long-Term Benefits

When Joan Sampson lost her job for doing the right thing, a shortsighted outsider could have told her she made a bad decision. But her unemployment was short-lived and she is now an acknowledged paragon of the Notary Public office. Such persons who stand on principle can look themselves in the mirror every day and be proud.

While your boss might pressure you to forego a signer’s personal appearance or proper identification, the short-term benefits will evaporate in a heartbeat if the notarization is successfully challenged in court. All that’s left at that point is the reality of liability.

Ultimately, one of the most important benefits of adhering to best practices and not giving in to unethical or illegal requests is this: your reputation.

Those misguided excuses will become a thing of the past because it won’t matter if your state doesn’t require recordkeeping or you didn’t understand what to do or the implications. With the proper training, support and dedication to follow professional standards of care, your clients, your employers, the public, and you will be protected.

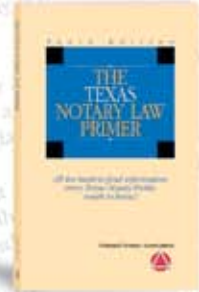
And, as your reputation grows as an ethical and conscientious Notary, the opportunities for career advancement will open up.

As Benjamin Franklin said, “It takes many good deeds to build a good reputation, and only one bad one to lose it.”





Get the Right Answer Right Now



Never scramble to find the information you need again. Keep your state's Notary Law Primer on your desk or bookshelf and enjoy instant access to crucial information, including:

- Requirements for every notarial act
- Certificate wording for every notarization
- Wording for oaths and affirmations
- How to renew your commission
- All laws that regulate Notaries in your state, including text from the official state handbook

Arizona	Item #5130
California	Item #5120
Colorado	Item #5143
Florida	Item #5121
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Missouri	Item #5122
Montana	Item #5161
Nebraska	Item #5147
Nevada	Item #5134
New Hampshire	Item #5151
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Body Language: A Silent Advantage



SOMETIMES WHAT YOU DON'T SAY IS LOUDER THAN what you do.

One of the primary reasons for verifying your clients' identities and screening for willingness and awareness, is to make sure they aren't trying to pull a fast one. The answers they give to a few basic questions can be very telling. But body language can provide crucial, non-verbal clues to a signer's honesty.

"Our words only make up 25 percent of all communication. That's why body language and non-verbal clues are so much more important," said Kevin Hogan, author of "The Secret Language of Business: How to Read Anyone in 3 Seconds or Less."

While it takes practice to pick out deceptive body language signs, there are a few basic actions and movements that act as lie-broadcasters, according to Hogan. Knowing what these are — which you can hone quickly with experience — can increase your intuition.

HANDS

Your clients' hands and fingers can be very revealing, says Hogan. Perspiring hands indicate anxiety, which could come from deception. Signers who pick at their fingers and play with their hands as you pose questions indicates that they may want out of the conversation.

Cold hands are another sign of anxiety. They don't necessarily signal a lie, but likely that your client is anxious about something. But it's still a good idea to pay attention when shaking hands with your signers.

When people are telling the truth, they often naturally and subconsciously make hand gestures to the rhythm of their speech, experts say. People who are lying, on the other hand, tend to keep such gestures to an absolute minimum.

NERVOUSNESS

Perspiration and/or heavy breathing also can indicate deception. Of course, a signer might be sweating on a hot day or be out of breath after walking up a hill to your office. So be sure to judge the non-verbal clues within the context of the situation.

The eyes are generally thought to be the window to the soul — but they're also the barometer of honesty. Typically, dishonest people won't look you in the eye.

BEING FAMILIAR WITH THE BASICS CAN

BE A USEFUL TOOL FOR SPOTTING DECEPTION

Liars are likely to lack frontal alignment, says Joseph Buckley, president of John E. Reid & Associates, a firm that has provided interview and interrogation training to more than 500,000 law enforcement agents.

Here are a few other telltale signs that could signify you're being told a whopper: eye rolling, excessive blinking and winking...or even sunglasses. Ironically, excessive eye contact could also be a sign that your signer is a liar. This type of contact is really the liar's attempt to gauge if you're accepting his or her story and as a way to build rapport.


MANNERISMS

Mannerisms are another way to tell if someone is lying to you. For instance, signers who touch their face, throat or mouth excessively may not be honest. This also goes for those who scratch their noses or behind their ears. One mannerism should be particularly telling for Notaries: Typically, liars won't touch their chest or heart with an open hand.

Even those who think they're good at lying often give themselves away for a simple reason: People generally don't like to lie. The practice makes them uncomfortable and even surly. "While a truthful person is concerned, composed and sincere, a liar is often defensive, guarded and less cooperative," says Buckley.

Suspicious body language alone might not be sufficient to refuse a notarization. Understanding how to read it, however, is helpful in making an overall determination regarding a client's truthfulness. Buckley cautions that seemingly dishonest behaviors also can be a cultural trait and not a sign of a liar. For instance, in some cultures it is considered rude to make eye contact.

However, if a client's body language and other non-verbal clues raise a red flag, ask more questions and take a closer look at the signer's identity documents. Ask about the information on the primary ID — such as the address or date of birth — or discrepancies between IDs.

Ultimately, as a Notary, it is up to you to make a commonsense judgment, combining your observations about non-verbal clues and ID information to decide if a client is on the up-and-up. 

TOP 5 ISSUES ON YOUR MIND

By David S. Thun
dthun@nationalnotary.org

As we approach the second decade of the 21st century, the American Notary office is more respected and professional than it has been since the founding of the National Notary Association in 1957; and the new roles opening up for Notaries have never been more numerous and promising.

But with this progress comes new challenges. New state laws, emerging technologies, challenging economic conditions and judicial mandates for professional standards of practice all add up to a world in which Notaries must be at their best — primarily by embracing the twin pillars of high standards of care and education.

As we enter this exciting and challenging time, **THE NATIONAL NOTARY** spoke with scores of Notaries, their employers and state Notary officials across the nation — in a variety of industries — to discover the central concerns on their minds, and the key issues affecting and influencing their professional lives today.

The questions were asked in open-ended fashion, with no categories or restrictions placed upon the responses.

But, interestingly, the responses fell into five major categories. Despite the differences in state laws and procedural requirements, Notaries across the country, as well as the public officials responsible for supervising them, share the same concerns. This shared vision provides an important platform for action: commitment to accept responsibility to perform under the new standard of care. For Notaries, the result is protection from liability and demonstration of competence and quality which will ensure Notaries' relevance and viability. For public officials, the result will be greater degree of protection from harm for the public. Of course, for the public, it means the peace of mind and confidence that their transactions and identities are safe. The answers, in the respondents' own words, follow.

We invite you to join in the conversation at NationalNotary.org.

1 Education And Basic Training Must Be A Priority

Our respondents strongly believe that, across the board, there is a nationwide need for Notaries to pursue education and professional development. From Colorado to Montana, Florida to Indiana, there are serious concerns about under-trained Notaries who do not understand basic principles of conduct, like requiring personal appearance, satisfactory evidence of identity and recordkeeping. Fortunately, it's not the lack of opportunity for training that's the problem, but rather that more Notaries need to take advantage of it.

Carol Salter of Longmont, Colorado, said she has attended countless Notary education seminars and, in all cases, has been astonished by the lack of basic knowledge shown by some Notaries who don't realize they are breaking serious rules and putting the public and themselves at risk. She has noticed particular difficulties with Notaries who don't understand how to handle differences in state laws.

"Some use rubber stamps; some use embossers. Some states allow you to perform marriages, some don't. There is a huge lack of consistency that Notaries cannot necessarily fix, but they need to understand to operate professionally," said Salter, who was honored as the NNA's 2005 Notary of the Year. "I think it would be in the country's best interest if we could standardize



"It's absolutely critical to go to continuing education and keep up with new developments in your business."

— Daniel Lewis, Carmel, Indiana

Notary rules across the board with meaningful legislation to prevent that inconsistency from state to state."

In other areas, most Notaries want to do things the right way, but they simply just don't know what that "way" is, said Lori Hamm, Notary compliance and training specialist with the Montana Secretary of State's office.

"We were having a big problem with Notaries getting mixed messages on how to do their job from different sources — bosses, friends, co-workers," she said. "We found a huge number of documents being notarized incorrectly."

That was one of the primary reasons Montana enacted mandatory education for its Notaries this year, Hamm said. Prompted by the new law, local Notaries are eagerly enrolling in educational seminars and receiving valuable information and training. "Many tell us they wish the classes were longer!" she said.

"None of us are born with Notary genes. But the office of a Notary Public is very important and has incredible real-world implications. It can't be done haphazardly or unprofessionally or without knowledge of its rules and requirements. It's critically important you understand what you do and do it right," Hamm added.

2 The Economic Downturn: Tough But Not Impossible

Closely following education issues in importance, the effect of the slumping national economy concerned many Notaries. But they also noted that with ingenuity and business acumen Notaries can find new opportunities and strengthen their bottom lines.

Notary Signing Agents (NSAs) are among those most seriously hit by the downturn and upheavals in the real estate industry. Daniel Lewis of Carmel, Indiana, said that banks in his area are not processing checks to Signing Agents as quickly as they used to, and that has devastated many local independent signing businesses.

"You can put a check into your account and it won't clear for five days," Lewis said. "It slows down the cash flow — I've seen it put some Notaries out of business." Fortunately, he says, switching to direct deposit banking helps him avoid the cash-flow problems other local Notaries are suffering.

It also has gotten harder to find assignments, said Dany Victory, an experienced NSA in Los Angeles, California. Victory said that lenders have tightened their lending standards so much that it is limiting their mortgage business. "They were too lenient a few years ago, now I think they've gone too far in the other direction," Victory said. To help offset the slowdown, Victory is diversifying. Instead of working exclusively with escrow officers as he used to, he's offering his Notary services to local CPAs, attorneys and business managers.

While things are tough in Indiana, Lewis says he has remained successful by adapting to — and keeping up with — new developments in his profession, and taking the initiative by turning to teaching other Notaries. For example, when Indiana started requiring Signing Agents to take a title producer training class — costing from \$350 to \$700 — many Notaries were put out of business. Lewis trained as a title producer, developed his own curriculum and had it approved by the state so he could start teaching Notaries for more affordable rates.

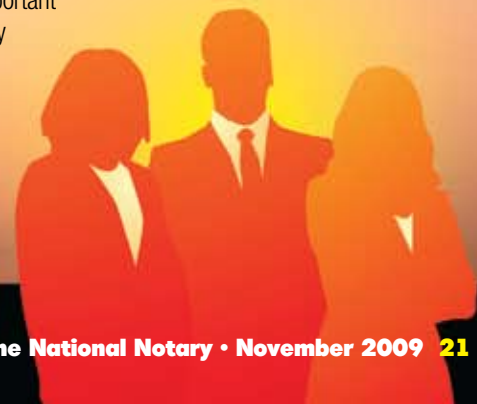
"It's absolutely critical to go to continuing education classes and keep up with new developments in your business," he said. But, like Salter and Hamm, he thinks more basic education for Notaries is urgently needed.

"I'd love to see more classes in my state geared toward Notary basics," he said. "There are around 1,000 Notaries in my county, and many aren't educated. You'd be surprised by how many Notaries don't know what an acknowledgment is."

During this challenging time of high unemployment and fewer jobs, a commission can help Notaries strengthen their resume and set them apart from other candidates. Rich Saxelid with FDI Collateral Management in Sacramento, California, said it is highly beneficial for a job applicant to have a Notary commission.

"Having a Notary commission is definitely a plus for my firm — and for many others — when we look for prospective employees," he said.

"In the legal field where notarization is relied upon regularly, it is always a plus when a job applicant holds a Notary commission," said Keith Zimmet, a finance and commercial law attorney, and the managing shareholder at the Los Angeles-based Lewitt Hackman law firm. "Notaries play an important role in our firm and we rely on them to be professional and ethical when handling important legal documents."



3 Liability And Employer Issues

One thing Notaries are acutely aware of, however, is liability. Even the most scrupulous Notary can end up on the wrong side of a lawsuit, but one of the key strategies for protecting oneself — errors and omissions (E&O) insurance — also happens to be easy and relatively inexpensive.

E&O Insurance is different from a state-required Notary bond. Bonds protect the public from financial loss resulting from an improper official act, and the surety company that issues the bond, can seek reimbursement from the Notary if it pays out any damages. E&O insurance, on the other hand, protects the Notary and claims do not need to be paid back if the Notary is found liable for damages. Additionally, many E&O policies also include assisting the Notary with a legal defense and its cost, up to the policy limit.

“Notaries have always been liable for their actions,” said Wanda Bengoechea, a recently retired Notary from Carmichael, California. But that concern today is greater than ever. “Today, a \$15,000 or \$20,000 bond won’t come close to covering possible damages, which makes E&O insurance that much more valuable as one of the Notary’s protective tools.”



Bengoechea first became a Notary in 1961 and maintained her commission over the course of four decades, retiring only this year. She kept her commission because it was necessary for her work in the title industry. It also helped that she and her employers over the years trusted each other, especially because she adhered to best practices and professional standards of care — the Notary’s number one protection against liability. If an accusation of negligence had ever come up, she said, her employers believed in her integrity so much they would have backed her all the way to court.

However, many Notaries do not have the luxury of knowing their employers will stand by them if a mistake is made. That’s why Notaries should be proactive in protecting themselves by obtaining their own insurance, and asking their employers about the company’s insurance policies and what they will cover.

More than ever, Bengoechea says a two-way support structure should exist between Notaries and their bosses. Notaries have to follow high professional standards, but, in return, employers need to support their Notaries with education, insurance and sound ethical policies for notarizing at the workplace. Bengoechea says she was fortunate because her employers never asked her to do anything unethical.

The problem arises when an employer fails to support the need for Notary education, and declines to bear the costs. In such cases it remains incumbent upon the Notary to seek out the proper training

alone. The only way to ensure you are following professional standards of care is through education and training.

The NNA has been contacted by thousands of Notaries who have come under pressure to bend or break rules in order to expedite a supervisor’s needs. One Notary even had to call for advice after being asked to perform an improper notarial act by a police officer!

Dishonest practices can’t succeed in today’s environment, says Bengoechea. “Notaries have to understand the hazards if they’re careless and don’t follow the law,” she said. “Learn the law and use it at all times. Best practices are the best defense against a lawsuit.”

Notaries aren’t the only ones being held to higher standards. Employers are also being sent a message: They are responsible for ensuring that the Notaries they employ to perform official acts for the public are properly trained and supervised.

For example, earlier this year, a Notary accused of skirting identity requirements ignited a legal battle between one of the world’s largest banks — Bank of America — and a southern Illinois man who claims the improper notarization cost him

more than \$64,000. An Illinois Appellate Court, ruling on the side of professional standards of practice to protect the public, has cleared the way for the victim to sue the bank and the Notary for damages.

In another recent case, called *Vancura v. Katris*, an appellate court held a national photocopy chain directly liable for the misconduct of a Notary employee because the business failed to properly train and supervise him — even though state law imposed no such requirement. The Notary also came under fire, and settled his portion of the case by paying \$30,000 out of his own pocket.

“Companies need to have a process in place if Notaries have questions. Not only to educate and provide information, but to support Notaries if they do the right thing and someone challenges the notarization,” Bengoechea said.

4 Increased Public Awareness And Demand

In recent years, the general public’s awareness of Notaries and their responsibilities has increased dramatically — a situation that has had both positive and negative effects on business, Notaries say.

“Public perception of us has changed for the better in recent years,” said Donna Armbrister, who has worked for eight years as a Notary in Cerritos, California. She has seen an increase in different types of documents requiring notarization, as well as a growing public concern about identity theft and forgery that is making signers more aware of just how important a Notary’s role is in preventing fraud.



“I think it would be in the country’s best interest if we could standardize Notary rules across the board.” — **Carol Salter, Longmont, Colorado**



At the same time, the public is expecting far more from Notaries, and there are many people who think that a Notary's increased visibility means they have the authority to perform acts that are, in fact, prohibited by state law.

"People expect us to be like some kind of quasi-legal consultant, able to explain about signatures or give them legal advice, but we're not lawyers," Armbrister said. "I find myself having to explain a Notary's limitations, but they say 'You should know that.'"

Armbrister would like to see more efforts to educate the public about the role of Notaries so that signers don't get frustrated trying to ask Notaries for services they can't legally provide. "I think making resources available to the general public to teach them about Notaries would be quite helpful," she said.

While the public's perception of Notaries has changed, recent nationwide concerns over identity theft have many people wondering if they can trust the Notaries they go to for services, said Tanya Morrison, a Notary from Gainesville, Florida. "In the mortgage industry, more and more signers are asking for my identification as a Notary," she said. "I think Notaries need to be prepared for these new concerns and these issues warrant attention."


While very few states issue identification cards to Notaries, the NNA recommends keeping a copy of your commission certificate — or any other proof that you are a commissioned Notary — on hand to allay the concerns of signers.

5 Embracing Notary Technology

While the economy has made things tougher in some ways for many Notaries, Morrison is excited about branching into new specialties — especially eNotarization.

"We're not just witnessing signatures and taking oaths anymore," she said. "The face of notarization is changing; I think that's awesome. I think eNotarization is a very positive step. It's moving us quickly toward a paperless society."

Many Notaries Morrison knows are suffering from "techno-stress" or fear of adopting electronic technology in their work — something they will need to overcome. "I see Notaries losing opportunities because of this," she said. "Companies are not only asking if we can receive documents by eMail, but also notarize them electronically. Those are things I see happening here in Florida."

One former Notary who isn't suffering from "techno-stress" is Bengoechea. The veteran retired California Notary said electronic documents and signatures are a fascinating change to the profession. "If I renewed my commission, I'd do so to try eNotarization," she said. 



"... Some people expect us to be like some kind of quasi-legal consultant, able to explain about signatures or give them legal advice, but we're not lawyers." — Donna Armbrister, Cerritos, California

What's On Your Mind?

Join in the conversation at NationalNotary.org

These are just some of the important concerns on the minds of Notaries today. We know that many of you face other challenges and issues, and we want to hear about what's affecting you and what you need to help you do the best job you can as Notaries Public.

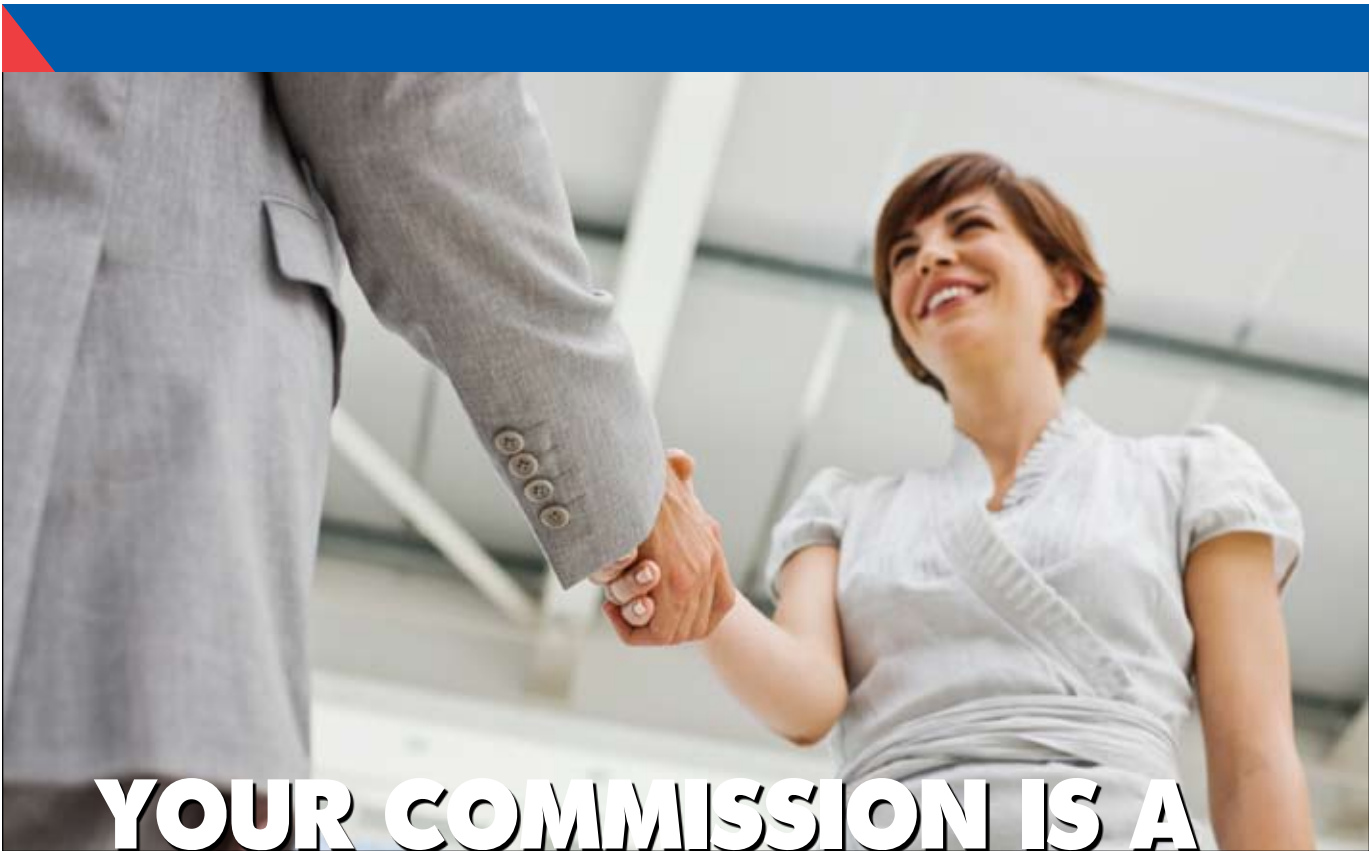
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You can also contact us at the following address:

National Notary Association

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YOUR COMMISSION IS A DOOR TO OPPORTUNITY

NOTARIES HAVE SKILLS AND TRAITS THAT ARE IDEAL FOR
A VARIETY OF EXCITING AND LUCRATIVE ENDEAVORS

AS A NOTARY, YOU HAVE A REPUTATION FOR personal integrity, professional competence and lending trust to any endeavor. You are also known for attention to detail and strong record-keeping skills — valuable traits in just about any undertaking. Notaries across the nation are finding ways to combine their public duties with other valuable services to build successful new careers. Here are a few examples.

WEDDINGS

In Florida, Maine and South Carolina, Notaries are authorized to perform marriages. While it is technically a notarial act, it also is a way to leverage your commission to bring in more income. Notaries in each of these states have thriving wedding businesses. The York Wedding Chapel in York, South Carolina, saw more than 100,000 couples exchange vows between 1930 and 1979. The original owner was so busy, his daughter became a Notary to help out.

Notaries in other states have found other innovative alternatives to prosper in the wedding business. Chris Robinson, a Notary, lawyer and owner of officiantguy.com in Los Angeles, has been performing marriages for more than 15 years. He can do so because he became an ordained minister in the Universal Life Church and combined that with a unique California Notary credential that allows him to issue confidential marriage certificates. In fact, he advertises that he is both an ordained non-denominational minister and a Notary Public.

VEHICLE REGISTRATION SERVICES

In Pennsylvania, Notaries can become licensed to process vehicle registrations and fulfill other duties for the state Department of Motor Vehicles. For the past 20 years, Karen Juskowich has run a prosperous Notary business in Finleyville handling motor-vehicle-related requests. Among the duties her Juskowich Notary Service carries out are transferring

titles, renewing driver's licenses and processing requests for government background checks.

In Florida, Notaries are empowered to verify a vehicle identification number by making a physical inspection. California Notaries also may help process vehicle registrations.

MULTI-TASKING

Some Notary entrepreneurs find ways to combine several types of services. Muthiah Nachiappan of Los Angeles, California, started out offering fingerprinting and Notary services and was interested in expanding. So he branched into the passport business and started taking passport photos and notarizing applications. Today he has combined all of these services into his thriving A1 Live Scan, Notary & Passport Photo Services.

The field's potential is huge. The U.S. State Department alone issued 16.2 million passports in 2008 and 18.4 million in 2007. And Nachiappan isn't restricted to clients seeking U.S. passports. He gets customers from many countries.

Fingerprints are becoming the biometric of choice for industries and organizations that need a reliable, indelible way to identify employees and others who have access to their facilities. Many school districts, for example, require teacher applicants to provide a set of fingerprints for background screening. In some states, schools also take the fingerprints of their students to use for identification. And many businesses also require fingerprints from prospective employees.

Most of these organizations do not have fingerprinting operations of their own, so they contract with outside professionals. As trusted public officials, Notaries familiar with fingerprinting can segue into this line of work.

PRIVATE CONCIERGE

Most people associate a concierge with high-end hotels. But that is no longer the case. The idea of providing a range of personal services has moved well beyond the hotel industry. Today, a concierge is another word for personal assistant, says Katharine C. Giovanni, president and co-founder of Triangle Concierge (triangleconciierge.com) in Wake Forest, North Carolina.

The concierge/errand business requires many of the same skills Notaries possess, including being highly organized, attentive to detail and keeping good records. Typically, concierges make travel and transportation arrangements, restaurant recommendations and reservations;

pick up dry cleaning; go grocery shopping and handle pet services. They also can provide limited senior care and modified house sitting services, as well as traditional business services, such as planning meetings and client and celebratory events. And, of course, provide Notary services, often at the last minute.

There is no limit to the type of services a concierge can offer, Giovanni says. You can parlay experience in one industry — such as law, real estate or the medical field — and market yourself as serving the specialized needs of those professionals. You also can market your concierge services to your existing Notary clients and your Notary services to your concierge clients. The best part is that you can pursue this kind of work virtually anywhere — in a large city or a small town.


FUTURE POSSIBILITIES

As more government and business organizations are making identification and background screening of employees a priority, Notaries are likely to see new job specialties opening up for them in this area. The federal government's growing E-Verify Program may turn into one of those opportunities.

The program is a free, online system that employers can use to verify a job applicant's eligibility to work in the United States. It compares the personal information recorded on the I-9 Employment Eligibility Verification Form to government databases and is a central element of the nationwide effort to curtail the hiring of undocumented workers and reduce identity theft.

Because many small and mid-sized employers have limited resources, the federal government allows independent contractors to work as E-Verify Third Party Agents. These agents contract with companies to process E-Verify submissions. Third-party agents can set their own fees and, since the forms are submitted electronically, work from anywhere. An agent in Alaska, for example, can handle E-Verify assignments in Florida.

There is no notarization involved in the process, but, because verifying identification is their stock in trade, Notaries make ideal third party agents. While the program is still in its early stages, the future potential is huge.

Currently, only about 138,000 U.S. employers are using the system, but there are nearly 6 million employers in the nation with approximately 115 million employees. If all of them end up using the system — which is the goal of the federal government — there will be a lot of work for third party agents. 

**As more...
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making identification and
background screening
of employees a priority,
Notaries are likely to
see new job specialties
opening up...**

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 - Jurat with Affiant Statement — #5924

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 - NEW!** • Jurat with Affiant Statement — #15924
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Policies Create Office Harmony



IT'S NOT UNCOMMON FOR NOTARIES TO FIND THEMSELVES caught between the demands of their employers and the legal requirements of their commission. While cutting corners at the behest of a boss might be expedient at the time, it could — thanks to recent court rulings — open businesses and their Notaries to serious liability.

But there doesn't have to be a conflict. In fact, with a little planning and cooperation, Notaries and their employers can work together to ensure workplace notarizations are done correctly, efficiently and with little fuss.

ESTABLISHING POLICIES

The first step is to establish a policy on notarization. The policy should set the rules for how notarizations are handled in the office. While some Notaries and their employers might balk at formalizing the office's notarial practices, "I tell businesses that it's the best way to limit liability," said Tom Wrosch, Commercial Registries Manager in the Corporation Division of the Oregon Secretary of State's office.

A business policy should always comply with the laws relevant to the Notary's jurisdiction — for example, the policy should never direct Notaries to ignore personal appearance or ID requirements for signers, which would be against the law. The policy should cover how seals and journals are stored, if or how notarial services will be limited during work hours, and how fees will be charged and collected. This way there are no surprises or conflicts during a last-minute notarization.

In order to make a policy effective in practice, Notary-employees have to "remember which hat they're wearing," said Wrosch. In other words, when performing a notarization, the employee's duties as a public official supersede loyalty to an employer.

Wrosch recommends that the policy clearly allow the Notary to refuse a notarization. It shouldn't be up to the employer to make notarial decisions.

Once a policy is established, says Wrosch, the key is educating the staff so everyone involved with a notarization will know what to expect.

Susan Fiege, an office administrator at the Boeing Company's Chicago, Illinois, headquarters, oversees a cadre of 295 Notaries spread across 13 states. She helped shape Boeing's corporate culture to be conducive to Notary best practices.

WORKING WITH AN EMPLOYER TO MAKE SURE NOTARIZATIONS ARE DONE RIGHT LIMITS LIABILITY

COMMITTING TO EDUCATION

For Fiege and Boeing, a key priority to avoiding problems and notarizing documents properly is making sure all of her Notaries are trained according to the laws of their jurisdiction.

Fiege developed the company's Notary program eight years ago, and is continuously looking to improve the way her employees fulfill requests for notarizations. She does this by keeping up with current developments in notarial law — she is particularly aware of the implications raised by an important Illinois Appellate Court case, which found another Illinois business liable for the actions of its employee Notary. Fiege said the National Notary Association's June Conference was particularly helpful to her as an administrator. For instance, in light of new recordkeeping requirements in Illinois, all of the company's Notaries will now take a thumbprint as a matter of course. "That way you treat everyone equally," she said.

To keep Boeing's Notary-employees up on the latest notarial trends and developments, Fiege is in the process of leveraging an existing internal social media site. She plans to send out regular reminders about best practices on it. Fiege also plans to use the site to exchange communications with her Notary staff.

Boeing utilizes the NNA's Corporate Services assistance on a daily basis to answer issues that may arise.

REMEMBERING LIABILITY

In light of today's increased scrutiny of business and political transactions, Wrosch recommends employers have clear guidelines regarding liability. Staff Notaries need to know whether they will be covered in the event they make an unintentional error.

Even if an employer does cover the employee through its insurance, it still is a good idea for Notary-employees to carry their own errors and omissions (E&O) policy as added protection.

The key to effectively working as a Notary-employee is to focus on knowing your duties, performing them correctly and taking your commission seriously.

— Chris Wolski



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Facing The New Notary Frontier



NOTARIES ARE FACING NEW CAREER FRONTIERS. Whether they are looking to branch into eNotarization, identity proofing or tackling a new career path in a challenging economy, it's hard to know when taking a chance on something new is wise or simply rash. If there's someone who knows how to take a chance on new careers and succeed, it's Richard Garriott. Garriott created some of the first and most successful videogame series of the 1980s. But he didn't stop there. The son of an astronaut, he traveled into space himself with a Russian Soyuz crew — and, with the help of his Notary assistant, he officiated the first-ever weightless wedding in a specially-designed aircraft above Florida. Garriott recently spoke with *THE NATIONAL NOTARY* about how Notaries can best meet the challenges of a rapidly changing future.

Many Notaries want to branch into new career fields and interests — what helped you succeed in doing so?

I think there are two factors that have led me to succeed in diverse areas. One, I enjoy all forms of discovery of our universe. As I've gotten older, my compulsion has moved me to math, science, sociology, religion. The other factor is my belief about opportunities and the importance of taking advantage of them. Opportunities appear to people in a constant stream. But people make numerous small decisions every day that can have a big effect on success: Do I spend the evening watching TV or do I tackle a self-study course and pursue my new interest? Those little choices that people let pass by have a bigger effect than they realize.

I can look back on hundreds of times I let opportunities walk by. Had I taken advantage of them, I might have improved a particular game I was working on or been successful on a different career arc.

Is it important for Notaries to pursue new technological opportunities like working with eDocuments and eNotarization?

With electronic documents, my first and biggest concern is not only ensuring they are tamper-proof, but also include a forensic history showing any changes to the documents.

A SPACE AND TECHNOLOGY PIONEER DISCUSSES CAREER CHOICES AND ACHIEVING NEW DREAMS

That said, I think there is no question it's essential for Notaries to embrace electronic documents. As part of the electronic document process, Notaries can help make sure that eDocs are signed and managed properly. Notaries can serve as an important link in the chain to make sure electronic security solutions are good and implemented properly.

Do you see Notaries as an important part of business in the future?

My assistant is a Notary and I work with her on a regular basis. I think people who don't interact with Notaries often don't appreciate the services they provide. Notaries put their reputation and credibility on the line so that business people like myself can move forward with transactions. In these complicated times, Notaries are feeling the pinch as much as those in other economic sectors. But the role of Notaries will remain a centerpiece.

Is making time to go after new opportunities enough?

It's also important to realize that even your second or third attempt to grasp a new opportunity may fail. People often give up at that point. Instead, they should analyze what happened and use it to try again. I can point at both my computer gaming and space careers and see many failures. But I can also tell you how my strategy to succeed changed after I learned from my failures. It taught me how to get closer to my goals, which a lot of people would say were fairly audacious — if not impossible!

You put a lot of effort into realizing your goal of space travel. What was it like to accomplish that?

It was a life-changing experience. There are profound things you realize when you see Earth from space, such as how occupied it is. Since I've been back, I've invested more in environmental projects and causes.

— *David S. Thun*

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THE U.S. CONSTITUTION REQUIRES EACH STATE TO ACCEPT THE OFFICIAL ACTS AND RECORDS OF ALL OTHER STATES. THIS MEANS THAT NOTARIES CAN HANDLE DOCUMENTS FOR USE IN OTHER STATES, AS LONG AS THEY COMPLY WITH ALL APPROPRIATE NOTARIAL LAWS AND PROCEDURES.

IDENTIFICATION

Notaries must always follow the laws of the state in which they are commissioned. For example, while many states allow a Notary to identify a signer based on personal appearance, California does not. California Notaries must identify signers based on the methods outlined in their state's Notary statutes — such as an acceptable identification document (*e.g.*, a driver's license) or credible identifying witness — even when a notarized document will be sent to or filed in another state. Even if a signer insists that the state where a document will be filed does not have the same identification requirements as yours, you must follow the notarization rules of your state or refuse the notarization.

If a signer presents an identification document that doesn't conform to the rules of your state, you must ask for an acceptable alternate form of identification — again based on your state's statutes — or refuse the notarization.

THE NOTARIAL CERTIFICATE

Read out-of-state notarial certificate wording very carefully. In many cases, you can notarize a document using another state's certificate wording. In some instances, however, it may be necessary to substitute your own state's wording. This is particularly true in California, which allows a Notary to use out-of-state acknowledgment wording for documents sent outside California, as long as the wording does not certify the capacity — such as the president of a corporation — of a signer. California also prohibits a Notary from notarizing an out-of-state jurat certificate under any circumstances.

Occasionally, an attached notarial certificate comes with information such as a venue already filled in for a different location. If that is the case, cross out the incorrect elements, correct the information and initial and date the change or attach a loose certificate instead.

VITAL RECORDS

You may receive a request to certify a birth or death certificate that is needed by an authority in another state or country. Regardless of where you live, it is illegal to certify a vital record. If you receive this request, you must refer the signer to the keeper of the original vital record — typically the bureau of vital statistics for the state or the county where the birth or death occurred.

LOCALIZED POWERS

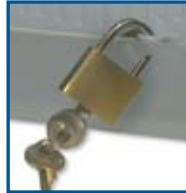
On rare occasions, you may be asked to perform a notarization that is allowed in only a handful of jurisdictions, but nowhere else. These include certifying an event (Washington state only) or officiating a marriage (Florida, Maine and South Carolina only). Unless you live in one of these states, these requests must be refused with an explanation that you are prohibited by the laws of your jurisdiction from performing the act.

The U.S. Constitution brings a level of flexibility to the conduct of legal and business affairs. Without Article IV, it would be difficult to handle interstate commerce or legal affairs half a continent away. But keep in mind that, while you can accept any reasonable request, you must conform to the rules of your own jurisdiction first and foremost, no matter what your signer or a receiving agency demands.

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Mortgage Document Certificates Must Be Handled With Care

By Terilynn Garrett
NNA Hotline Counselor
tgarrett@nationalnotary.org



Sometimes even the most straightforward notarizations can come with complications — some of which are trickier to deal with than others. Loan documents are a prime

example, as they are complex and typically require multiple signatures. If you're not used to these types of documents you could find yourself not knowing how to proceed. That's where our Hotline comes in to help you sort through these challenges. **T.W. of Jacksonville, Florida**, discovered the value of our help when he asked: **Are there certain mortgage documents to which you have to attach a loose acknowledgment certificate, and, if so, do you attach it with a staple?**

As with any other document and/or loan packet, you may have to attach a notarial certificate with a staple: if there is no notarial wording or if the supplied notarial certificate has incorrect wording.

When performing loan signings, most lenders and title companies generally include an acknowledgment or jurat on each document to be notarized, making it easier for Notary Signing Agents to perform their duties. But you should examine the wording to be sure it is acceptable in your state.

It is never the decision of the Notary to select the type of notarization if there is no notarial wording. The lender or title company must be contacted for such information.

I have a customer who wants to notarize an ID theft affidavit. The claim is for the customer's 8-year-old son. Will we need the minor to sign and is it his thumbprint that would go in my journal entry? Both parents are available and they do have a passport for their son.

S.P., Northridge, California

Generally, persons must reach the age of majority before they can handle their own legal affairs and sign documents for themselves. In California, the age of majority is 18. Normally, parents or guardians will sign on a minor's behalf. In certain cases, where minors are engaged in business transactions or serving as court witnesses, they may lawfully sign documents and have their signatures notarized.

When notarizing for a minor, the Notary should ask the signer to write his or her age next to the signature. The Notary is not required to verify the minor signer's age. The method for identifying a minor is the same as that for an adult. In this specific case, because the minor has a valid passport, this could be used for identification purposes.

Does refinancing fall under the new Illinois law regarding the conveyance of property for Cook County? Can we notarize an employee's refinancing documents without a thumbprint or sending the information (and fee) to the Cook County recorder of deeds?

S.M., Villa Park, Illinois

Senate Bill 546 requires an Illinois Notary to complete a notarial record for a notarization on every document of conveyance transferring title to residential real property located in Cook County. Since refinancing does not involve transferring title, a notarial record is not required. While the law may not require it, keeping a record of the transaction and obtaining a thumbprint are a recommended practice.

You can reach Terilynn and all our experienced Notary Hotline counselors at

1-888-876-0827

5 a.m. to 5 p.m. PST
Monday through Friday.

Hotline answers are based on laws in the state where the question originated and may not reflect the laws of other states. If in doubt, always refer to your own state statutes.
— The Editors



In-Person ID Checks Reduce Online Risks

Hardly a day goes by without a report of a sensational computer hack, data breach or cyber theft. And crooks, con artists and terrorists rely on several

common means to steal data from business and government, Jeff Nigriny, President and Chief Operating Officer of CertiPath, told delegates during the National Notary Association's 2009 Conference. Each has its particular trademark, and all could be stopped by one thing, Nigriny says — digital credentials backed by face-to-face vetting by an identity manager like a Notary.

“Virtually everything goes away when you have face-to-face identification,” said Nigriny.

Virtually every computer connected to the Internet is under a constant barrage of increasingly sophisticated cyber attacks. Computer experts call them “advanced persistent threats.”

Socially engineered eMail. One of the newer cyber attack trends is the socially engineered eMail attack. This sophisticated assault is perpetrated by individuals — from anywhere in the world — who send authentic-looking eMails that appear to come from within an organization or business. They include details about recent interactions and are sent to specific targets within an organization. “It’s very difficult for the recipient not to reply to the message,” said Nigriny.

Man-in-the-mailbox. Basically, criminals monitor — or “sit in” — an eMailbox waiting to snatch messages containing important information from under the user’s nose.

Reuse of technology. Reuse of technology — which Nigriny labeled as the worst type of attack — occurs when criminals discover an effective method of stealing data and simply go from company to company, government to government, perpetrating the same ruse until it no longer works.

While there is no “magic bullet” that will stop these advanced persistent threats 100 percent of the time, there is a method that will significantly blunt these data breaches: high-assurance, digital identity credentials that authenticate the user, giving them access to a computer network

One of the biggest aids to cyber criminals is the anonymity that permeates the Internet. Criminals can launch their attacks with little fear of being identified.

That’s where digital identity credentials and Notaries come in. Digital credentials allow bearers to exchange sensitive eMails, access confidential and secure databases and engage in secure transactions. They are the online version of a driver’s license or other ID card in that they make it possible to verify the people we deal with via the Internet.

But the first step to creating a trustworthy digital identity is through face-to-face identity vetting by another person of trust. Notaries have been performing identity-vetting assignments for workers in the defense and aerospace industries. Positively identifying a digital identity credential applicant has essentially the same effect as positively identifying the signer of a paper document — the deterrence of fraud.

The vetting is the most crucial phase of online authentication — a fact that underlies the federal government’s commitment to cyber security.

There’s another reason to use electronic credentials today. They’re backed by the oldest and most reliable form of authentication: face-to-face identification.



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