

OREGON REVISED STATUTES

CHAPTER 194 — NOTARIES PUBLIC NOTARIES PUBLIC MISCELLANEOUS MATTERS

NOTARIES PUBLIC (Definitions)

194.005 Definitions for ORS 194.005 to 194.200

(Appointment and Commission)

- 194.010 Appointment of notary public; Certificate of Authorization; office may be nonlucrative; functions not official duties; rules
- 194.012 Term of office
- 194.014 Application for appointment and commission
- 194.020 Fee for application
- 194.022 Qualifications; written examination
- 194.024 Investigation of applicant; consent
- 194.028 Notary public education courses; rules
- 194.031 Notarial seal; exception for notarization of certain plats; filing of sample imprint; replacement seal; rules
- 194.040 Record of appointments and commissions; Secretary of State's power to certify status of notary
- 194.043 Scope of appointment and commission
- 194.045 County clerk's power to certify status of notary
- 194.047 Change of address
- 194.052 Change of name; fee; rules
- 194.063 Application for new commission; resignation

(Commercial Paper)

- 194.070 Protesting commercial paper
- 194.090 Record of protest; effect as evidence
- 194.100 Powers of notary connected with corporation; limitations
- 194.130 Disposition of records on vacancy in office; penalty for failure to properly dispose of records or for destroying or altering records
- 194.150 Recovery of forfeitures

(Duties; Prohibitions)

- 194.152 Journal of notarial acts; rules; disclosure
- 194.154 Disposition of seal and notarial journal upon resignation, revocation or expiration of commission; rules
- 194.156 Disposition of seal and notarial journal upon death of notary; rules
- 194.158 Prohibited acts

194.162 Misrepresentation of notarial powers; notice of notarial powers and fees

(Fees for Notarial Acts)

194.164 Maximum fees for notarial acts; exception; rules

(Refusal to Appoint; Revocation and Suspension of Commissions)

194.166 Grounds for refusal to appoint; revocation or suspension of commission

194.168 Hearing on refusal to issue, suspension or revocation of commission

194.200 Action for damages or injunction for violation of ORS 194.166; attorney fees and costs; employer's liability

(Enforcement)

194.330 Attorney General to investigate or prosecute violation; payment of expenses

(Rules)

194.335 Rules

UNIFORM LAW ON NOTARIAL ACTS

194.505 Definitions for ORS 194.005 to 194.200 and 194.505 to 194.595

194.515 Notarial acts

194.525 Who may perform notarial acts; acts performed under federal authority

194.535 Notarial acts in other jurisdictions of the United States

194.545 Notarial acts under federal authority

194.555 Foreign notarial acts

194.558 Notarial acts under tribal government authority

194.565 Certificate of notarial acts

194.575 Short forms

194.578 Use of signature stamp by blind or disabled person; rules

194.582 Use of electronic signatures; rules

194.585 Uniformity of application and construction

194.595 Short title

FUNDING

194.700 Disposition of moneys

PENALTIES

194.980 Civil penalties; factors; notice; hearing; rules

194.985 Official Warning to Cease Official Misconduct

194.990 Criminal penalties

NOTARIES PUBLIC

(Definitions)

194.005 Definitions for ORS 194.005 to 194.200. As used in ORS 194.005 to 194.200:

- (1) “Commercial paper” means such instruments as are within the scope of ORS chapter 73, including drafts, checks, certificates of deposit and notes.
- (2) “Commission” means to empower to perform notarial acts and the written authority to perform those acts.
- (3) “Good moral character” means character other than that which reflects moral turpitude and conduct which would cause a reasonable person to have substantial doubts about an individual’s honesty, fairness and respect for the rights of others and for the laws of the state and the nation. To be relevant to deciding whether a person is of “good moral character,” conduct of questionable good moral character must be rationally connected to the applicant’s fitness to be a notary public.
- (4) “Notarial act” and “notarization” have the meaning given those terms under ORS 194.505.
- (5) “Notarial certificate” and “certificate” mean the part of, or attachment to, a notarized document for completion by the notary and bearing the notary’s signature and official seal.
- (6) “Notarial journal” means the journal described under ORS 194.152.
- (7) “Notary public” and “notary” mean any person commissioned to perform notarial acts under ORS 194.005 to 194.200.
- (8) “Official misconduct” means a notary’s performance of or failure to perform any act prohibited or mandated respectively by ORS 194.005 to 194.200 or 194.505 to 194.595, or any rule adopted under ORS 194.005 to 194.200 or 194.505 to 194.595, or any other law governing notarization. [1967 c.541 §12; 1983 c.393 §12a; 1989 c.976 §1]

(Appointment and Commission)

194.010 Appointment of notary public; Certificate of Authorization; office may be nonlucrative; functions not official duties; rules. (1) Upon application as prescribed under ORS 194.014, the Secretary of State shall appoint and commission individual persons as notaries public.

(2) Upon appointment as a notary public, the Secretary of State shall send to the person appointed a notarial commission and a Certificate of Authorization with which the person appointed shall obtain an official seal.

(3) The notary public shall retain the commission during the term of appointment.

(4)(a) Only upon presentation by the notary public of the Certificate of Authorization is a vendor authorized to provide the notary with the official seal described under ORS 194.031.

(b) A vendor of official seals shall make note of the receipt of a Certificate of Authorization by a signature of the vendor or an authorized representative of the vendor upon the Certificate of Authorization.

(c) Subject to the procedures set forth under ORS 194.980, any vendor of official seals who furnishes an official seal to any person in violation of paragraph (a) of this subsection may incur a civil penalty in an amount, established by rule of the Secretary of State, that is within the limits set forth under ORS 194.980 (2)(a). Once incurred, the penalty shall be treated in all respects as a civil penalty incurred under ORS 194.980.

(5) Each notary public may file with the Secretary of State a statement waiving the fees specified under ORS 194.164 (1); and in such case the office of notary public is

considered nonlucrative.

(6) The functions of a notary public are not considered official duties under section 1, Article III of the Oregon Constitution. [Amended by 1961 c.498 §1; 1967 c.541 §1; subsection (2) enacted as 1967 c.541 §8; 1975 c.161 §3; 1977 c.128 §1; 1983 c.393 §13; 1985 c.487 §1; 1989 c.976 §2]

194.012 Term of office. The term of office of a notary public is four years commencing with the effective date specified in the notarial commission. A notary public may perform notarial acts during the term of the commission, or until the commission is revoked, but may not perform notarial acts during any period when the commission is suspended. [1989 c.976 §6]

194.014 Application for appointment and commission. Every individual person, before entering upon the duties of a notary public, shall file with the Secretary of State a completed application for appointment and commission as a notary public. Application shall be made on a form prescribed by the Secretary of State and shall include an oath of office, the legal name and an official signature. Each applicant for appointment and commission as a notary public shall swear, under penalty of perjury, that the answers to all questions on the application are true and complete to the best of the applicant's knowledge, and that the applicant is qualified to be appointed and commissioned as a notary public. The application process shall be ordered or arranged so that applications may be readily submitted by mail. [1989 c.976 §4]

194.020 Fee for application. (1) To defray costs incurred by the Secretary of State to process the application made under ORS 194.014, each applicant for appointment as a notary public shall pay in advance to the Secretary of State a nonrefundable application fee not to exceed \$20.

(2) Any fee received by the Secretary of State under subsection (1) of this section shall be deposited in the State Treasury and credited to the Operating Account under ORS 56.041, and is in lieu of any fee charged under ORS 177.130. [Amended by 1957 s.s. c.7 §1; 1967 c.541 §3; 1983 c.393 §16; 1989 c.976 §9; 1993 c.66 §10]

194.022 Qualifications; written examination.

(1) A person appointed and commissioned as a notary public shall:

- (a) Be 18 years of age or older at the time of appointment.
- (b) Be a resident of this state at the time of appointment, or be a resident of an adjacent state and be regularly employed or carry on a trade or business within this state at the time of appointment.
- (c) Be able to read and write the English language at the time of appointment.
- (d) Be of good moral character.
- (e) Not have had a notary commission revoked for official misconduct during the five-year period preceding the date of application.
- (f) Not have been convicted of a felony, or of a lesser offense incompatible with the duties of a notary public, during the 10-year period preceding the date of application.
- (g) Have satisfactorily completed a written examination prescribed by the Secretary of State to determine the fitness of the person to exercise the functions of the office of notary public.
- (h) Have satisfactorily completed a three-hour notary public education course that:

(A) Includes, but is not limited to, instruction on the laws, rules, practices and procedures relating to notaries public; or

(B) If the person is employed, includes, but is not limited to, instruction on the laws, rules, practices and procedures relating to the notary public functions to be performed by a notary public in the course of employment.

(2) The Secretary of State shall:

(a) Make the written examination required by subsection (1) of this section a part of the application form.

(b) Furnish study materials relating to the written examination without charge upon request of the applicant. [1989 c.976 §7; 2005 c.733 §3]

194.024 Investigation of applicant; consent. (1) To assist in determining the identity of an applicant for notary public, or if the applicant has been convicted of a felony or of a lesser offense incompatible with the duties of a notary public, upon consent of the person making application for appointment as notary public and upon request of the Secretary of State, the Department of State Police shall furnish to the Secretary of State any information that the department may have in its possession from its central bureau of criminal identification, including but not limited to manual or computerized information and any information to which the department may have access, including but not limited to the Law Enforcement Data System established in ORS 181.730. For purposes of receiving the information described in this subsection, the Secretary of State is a “criminal justice agency” under ORS 181.010 to 181.560 and 181.715 to 181.730 and the rules adopted under ORS 181.555.

(2) A person making application for appointment as notary public shall be deemed, upon signing or with signature upon the application filed under ORS 194.014, to have given the consent necessary for purposes of subsection (1) of this section. [1989 c.976 §8; 1993 c.188 §14]

194.028 Notary public education courses; rules. (1) The Secretary of State:

(a) Shall offer one or more notary public education courses each calendar year.

(b) May certify providers of notary public education courses, including employers of notaries public, to provide the courses required by this subsection if the secretary determines that the provider offers an education program curriculum similar to the education program curriculum offered by the secretary.

(c) Shall adopt rules establishing the requirements for certification as a provider of notary public education courses.

(2) A person may satisfy the notary public education requirement under ORS 194.022 by taking a course offered by the secretary or by a provider of notary public education courses certified by the secretary. [2005 c.733 §2]

194.030 [Amended by 1961 c.498 §2; repealed by 1967 c.541 §5 (194.031 enacted in lieu of 194.030)]

194.031 Notarial seal; exception for notarization of certain plats; filing of sample imprint; replacement seal; rules. (1) The official seal of a notary public shall be a stamp made of rubber or some other substance capable of making a legible imprint on paper in black ink. The imprint must legibly reproduce under photographic methods.

(2) The Secretary of State shall adopt rules prescribing the size and form of the imprint

of the official seal to promote uniformity, legibility and permanency.

(3) Except as provided in subsection (4) of this section, the attempt to notarize an instrument required to be notarized shall be of no effect unless it bears an imprint of the official seal of the notary who performed the notarization made in the manner required under subsections (1) and (2) of this section.

(4) The imprint of the official seal of a notary public shall not be required to effectuate a notarization of a subdivision or partition plat required under ORS 92.010 to 92.190 or a condominium plat required under ORS 100.115, or any replat, supplement or amendment thereto, if the following appear below the notary's signature:

- (a) The printed name of the notary public;
- (b) The words "NOTARY PUBLIC - OREGON";
- (c) The words "COMMISSION NO." immediately followed by the notary public's commission number; and

(d) The words "MY COMMISSION EXPIRES" immediately followed by the date the notary public's commission expires, expressed in terms of the month, by name not abbreviated, two-digit date and complete year.

(5) Upon delivery of an official seal to a notary public, the notary public shall cause an imprint of the official seal to be filed in the office of the Secretary of State, together with any other information that is by rule required. The filing shall be done in the manner and within the time prescribed by rule.

(6) Any notary whose official seal is lost, misplaced, destroyed, broken, damaged or that is otherwise unworkable shall immediately mail or deliver written notice of that fact to the Secretary of State. The Secretary of State shall issue a Certificate of Authorization which the notary public may use to obtain a replacement seal.

(7) A seal embosser may be used as an adjunct to the official seal. The use of the seal embosser shall be in compliance with any rules adopted by the Secretary of State. [1967 c.541 §6 (enacted in lieu of 194.030); 1983 c.393 §17; 1989 c.976 §10; 2001 c.63 §1]

194.040 Record of appointments and commissions; Secretary of State's power to certify status of notary. (1) The Secretary of State shall keep a record of appointment and commission of each notary public. The Secretary of State may certify as to the term of office of such notary public and imprint upon all instruments requiring a notarial certificate.

(2) Full faith and credit shall be given to all protestations, attestations and other instruments of publication of all notaries public appointed under ORS 194.010. [Amended by 1967 c.541 §9; 1983 c.393 §18; 1989 c.976 §11]

194.043 Scope of appointment and commission. Each notary public appointed and commissioned by the Secretary of State may perform notarial acts anywhere within this state. A notary public so appointed and commissioned may not perform notarial acts in another state, but may notarize a document originating in another state if the notarization is performed in this state. [1989 c.976 §5]

194.045 [Amended by 1969 c.394 §§2,3,4; 1977 c.641 §1; 1983 c.393 §19; 1989 c.976 §16; repealed by 2005 c. 68 § 1]

194.047 Change of address. Any person appointed and commissioned as a notary public whose residential or business address is changed shall, within 30 days after the change,

mail or deliver a notice of address change to the Secretary of State. The notice shall include the old address and the new address. [1989 c.976 §13]

194.050 [Amended by 1961 c.498 §3; 1967 c.541 §4; repealed by 1983 c.393 §26]

194.052 Change of name; fee; rules. (1) A notary public with a change of name under ORS 33.410 to 33.440 or otherwise may continue to use the current commissioned name until the expiration date of the commission. If the notary, however, wishes to use the new name in performing a notarial act, the notary must apply for an amended commission by completing a Change of Name Form and submitting the required fee for amended commission, as adopted by rule. The Secretary of State shall send an amended notarial commission to the person appointed, together with a Certificate of Authorization with which the notary shall obtain a new seal, the new seal to be as described under ORS 194.031.

(2) If a notary public whose name is changed does not wish to change the commission to the new name, the notary public shall, in any case, within 30 days after the change is effective, mail or deliver a notice of name change to the Secretary of State. The notice shall include the old name and the new name. [1989 c.976 §14; 2005 c.733 §4.]

194.060 [Repealed by 1967 c.541 §22]

194.063 Application for new commission; resignation. (1) A person may not be automatically reappointed as a notary public.

(2) Prior to expiration of a commission, a notary public may apply for a new commission in the manner provided by ORS 194.005 to 194.200 except that the person is not required to take the notary public education course described in ORS 194.022.

(3) A person shall resign a notarial commission by mailing or delivering a letter of resignation indicating the effective date of the resignation to the Secretary of State, if:

(a) The person no longer desires to be commissioned as a notary public;

(b) The person ceases to reside in Oregon, or if the person is a nonresident notary, ceases to be regularly employed or to carry on a trade or business within Oregon; or

(c) The person becomes unable to read or write. [1967 c.541 §11; 1977 c.128 §2; 1983 c.393 §21; 1985 c.487 §2; 1989 c.976 §17]

194.067 [1967 c.541 §18; repealed by 1989 c.976 §37]

(Commercial Paper)

****194.070 Protesting commercial paper. (Effective Until January 1, 2010)** Each notary public who protests any commercial paper shall take such actions as are required by ORS 73.0505. [Amended by 1967 c.541 §13; 1993 c.545 §123]

****194.070 Protesting commercial paper. (Effective January 1, 2010)** (1) A notary public may protest commercial paper if the notary public is:

(a) An officer or employee of a financial institution as defined in ORS 706.008 or an investment company, or a person serving under the direct supervision of the officer or employee; or

(b) An active member of the Oregon State Bar, or a person serving under the direct supervision of an active member of the Oregon State Bar.

(2) Each notary public who protests any commercial paper shall take the actions required by ORS 73.0505.

(3) A notary public may not protest any commercial paper owned or held for collection by a financial institution or investment company if the notary is individually a party to the commercial paper.

[Amended by 1967 c.541 §13; 1993 c.545 §123; 2009 c.123 §1]

194.080 [Repealed by 1967 c.541 §22]

****194.090 Record of protest; effect as evidence. (Effective Until January 1, 2010)**

Each notary public shall cause a record to be kept of all protests of commercial paper made by the notary public under ORS 73.0505. Such record is competent evidence to prove notice of dishonor for purposes of ORS 73.0505. [Amended by 1967 c.541 §14; 1993 c.545 §124]

****194.090 Record of protest; effect as evidence. (Effective January 1, 2010)** Each notary public described in ORS 194.070 shall keep a record of all protests of commercial paper made by the notary public under ORS 73.0505. The record is competent evidence to prove notice of dishonor for purposes of ORS 73.0505. [Amended by 1967 c.541 §14; 1993 c.545 §124; 2009 c.123 §2]

****194.100 Powers of notary connected with corporation; limitations. (Effective Until January 1, 2010)** (1) A notary public who is a stockholder, director, officer or employee of a bank or trust company or other corporation may:

(a) Take the acknowledgment of any party to any written instrument executed to or by such corporation;

(b) Administer an oath to any other stockholder, director, officer, employee or agent of such corporation; and

(c) Protest commercial paper owned or held for collection by such corporation.

(2) A notary public shall:

(a) Take the acknowledgment of an instrument executed by or to a bank or trust company or other corporation of which the notary is a stockholder, director, officer or employee, if the notary is a party to such instrument, either individually or as a representative of such corporation; or

(b) Protest any commercial paper owned or held for collection by such corporation, if the notary is individually a party to the instrument. [Amended by 1967 c.541 §15]

****194.100 Powers of notary connected with corporation; limitations. (Effective January 1, 2010)** (1) A notary public who is a stockholder, director, officer or employee of a bank or trust company or other corporation may:

(a) Take the acknowledgment of any party to any written instrument executed to or by such corporation; or

(b) Administer an oath to any other stockholder, director, officer, employee or agent of such corporation.

(2) A notary public may not take the acknowledgment of an instrument executed by or to a bank or trust company or other corporation of which the notary is a stockholder, director, officer or employee, if the notary is a party to such instrument, either individually or as a representative of such corporation. [Amended by 1967 c.541 §15];

2009 c.123 §3]

194.110 [Repealed by 1989 c.976 §37]

194.120 [Amended by 1961 c.498 §4; repealed by 1989 c.976 §37]

194.130 Disposition of records on vacancy in office; penalty for failure to properly dispose of records or for destroying or altering records. (1) Whenever the office of a notary public becomes vacant, the record referred to in ORS 194.090 kept by the notary public, together with all the papers relating to such record, shall be deposited in the office of the Secretary of State. Any notary public neglecting for the space of three months after resignation or removal from office to deposit such record and papers in the Secretary of State's office, or any executor or administrator of a deceased notary public neglecting for the space of three months after the acceptance of that trust to lodge in the Secretary of State's office such record and papers as come into the hands of the notary public, shall forfeit not more than \$500.

(2) If any person knowingly destroys, defaces, materially alters or conceals any record or paper of a notary public, that person shall forfeit not more than \$500, and shall be liable to an action for damages by the party injured. [Amended by 1967 c.541 §19]

194.140 [Repealed by 1989 c.976 §37]

194.150 Recovery of forfeitures. All forfeitures under ORS 194.130 shall be recovered in a civil action in any court having jurisdiction of the same in the county where the notary public resides or is employed or is carrying on business. One-half shall be paid to the person bringing the action and one-half shall be paid to the State Treasurer to be credited to the General Fund. [Amended by 1967 c.541 §20; 1985 c.487 §3]

(Duties; Prohibitions)

****194.152 Journal of notarial acts; rules; disclosure. (Effective Until January 1, 2010)** (1) Each notary public shall provide, keep, maintain and protect one or more chronological journals of notarial acts performed by the notary public except for administering an oath or affirmation or certifying or attesting a copy.

(2) The Secretary of State shall adopt rules prescribing the form of the notarial journal to promote uniformity and establish the retention or disposition of the notarial journal and other notarial records, and prescribe rules to provide for exceptions to the notarial journal.

(3) A notary public who is an employee may enter into an agreement with the employer pursuant to which agreement the notarial journal or journals of the notary, in compliance with rules adopted under subsection (2) of this section, are retained or disposed of by the employer upon termination of employment.

(4) A notarial journal in the possession of a notary public who is not a public official or employee is exempt from disclosure under ORS 192.410 to 192.505. A notarial journal in the possession of the Secretary of State, or in the possession of a notary public who is a public official or employee, is not exempt from disclosure under ORS 192.410 to 192.505 unless the Secretary of State or other custodian determines that the public interest in disclosure is outweighed by the interests of the parties in keeping the journal record of

the notarial act confidential. A determination by the Secretary of State or other custodian under this subsection is subject to review under ORS 192.410 to 192.505.

(5) This section does not apply to the record of protests of commercial paper which shall be as provided in ORS 194.090. [1989 c.976 §15]

****194.152 Journal of notarial acts; rules; disclosure. (Effective January 1, 2010)** (1)

Each notary public shall provide, keep, maintain and protect one or more chronological journals of notarial acts performed by the notary public except for administering an oath or affirmation or certifying or attesting a copy.

(2) The Secretary of State shall adopt rules prescribing the form of the notarial journal to promote uniformity and establish the retention or disposition of the notarial journal and other notarial records, and prescribe rules to provide for exceptions to the notarial journal.

(3) A notary public who is an employee may enter into an agreement with the employer pursuant to which agreement the notarial journal or journals of the notary, in compliance with rules adopted under subsection (2) of this section, are retained or disposed of by the employer upon termination of employment.

(4) A notarial journal in the possession of a notary public who is not a public official or employee is exempt from disclosure under ORS 192.410 to 192.505. A notarial journal in the possession of the Secretary of State, or in the possession of a notary public who is a public official or employee, is not exempt from disclosure under ORS 192.410 to 192.505 unless the Secretary of State or other custodian determines that the public interest in disclosure is outweighed by the interests of the parties in keeping the journal record of the notarial act confidential. A determination by the Secretary of State or other custodian under this subsection is subject to review under ORS 192.410 to 192.505.

(5) This section does not apply to the record of protests of commercial paper required under ORS 194.090. [1989 c.976 §15; 2009 c.123 §4]

194.154 Disposition of seal and notarial journal upon resignation, revocation or expiration of commission; rules. (1)(a) A notary public whose notarial commission is resigned or revoked shall deliver the official seal to the Secretary of State within the time specified under subsection (2) of this section for disposition of the notarial journal and records.

(b) Upon normal expiration of a notarial commission, the notary public shall destroy the official seal as soon as is reasonably practicable.

(2) Except as provided under subsection (3) of this section, a notary public whose notarial commission is resigned, revoked or expired shall dispose of the notarial journal and records pursuant to rules adopted by the Secretary of State within 30 days after the effective date of the resignation, revocation or expiration, whichever occurs first.

(3) A former notary who intends to apply for a new commission need not dispose of the notarial journal and records within 30 days after commission expiration, but must do so within three months after expiration unless newly commissioned within that period. [1989 c.976 §19]

194.156 Disposition of seal and notarial journal upon death of notary; rules. If a notary dies during the term of commission, the notary's heirs or personal representative, as soon as reasonably practicable after death, shall:

(1) Deliver the official seal to the Secretary of State; and

(2) Notify the Secretary of State in writing of the date of death and of the manner in

which the notarial journal and records have been disposed. Disposition, after death, of the notarial journal and records shall be as provided by rule. [1989 c.976 §20]

194.158 Prohibited acts. (1) A notary public may not perform a notarial act if the notary is a signer of or named in the document that is to be notarized.

(2) A notary may not indorse or promote any product, service, contest or other offering if the notary's title or seal is used in the indorsement or promotional statement. [1989 c.976 §§21, 22]

194.160 [Amended by 1967 c.541 §16; repealed by 1989 c.976 §37]

194.162 Misrepresentation of notarial powers; notice of notarial powers and fees. (1) A notary public may select notarial certificates pursuant to ORS 194.005 to 194.200 and 194.505 to 194.595.

(2) A notary may not make representations to have powers, qualifications, rights or privileges that the office of notary does not have including the power to counsel on immigration matters.

(3) A notary who is not licensed to practice law in this state and who advertises notarial services in a language other than English shall include in the advertisement, notice or sign, in the same language and in English, the following:

(a) A statement, prominently displayed: "I am not licensed to practice law in the State of Oregon and I am not permitted to give legal advice on immigration or other legal matters or accept fees for legal advice."; and

(b) The fees for notarial acts specified under ORS 194.164.

(4) The notary shall post the notice required under subsection (3) of this section in a conspicuous place in the notary's place of business.

(5) A person may not use the term "notario publico" or any equivalent non-English term, in any business card, advertisement, notice, sign or in any other manner that misrepresents the authority of a notary public. [1989 c.976 §23]

(Fees for Notarial Acts)

194.164 Maximum fees for notarial acts; exception; rules. (1) The Secretary of State shall adopt by rule a schedule fixing the maximum fees that a notary public may charge for performing notarial acts. The schedule shall include, but not be limited to, maximum fees for the following notarial acts:

(a) Acknowledgments.

(b) Oaths or affirmations without a signature.

(c) Verifications upon oath or affirmation.

(d) Copy certifications.

(e) Protesting commercial paper, except that no fees shall be allowed for protesting a check because of the insolvency of the financial institution upon which the check was written.

(2) A notary public may charge an additional fee for traveling to perform a notarial act if:

(a) The notary explains to the person requesting the notarial act that the fee is in addition to the fee specified under subsection (1) of this section and is not required by law; and

(b) The person requesting the notarial act agrees in advance upon the amount of the additional fee.

(3) Notaries shall display an English-language schedule of fees for notarial acts, as specified under subsection (1) of this section. [1989 c.976 §24; 1997 c.631 §424]

**** 194.164 Maximum fees for notarial acts; exception; rules. (Effective January 1, 2010)** (1) The Secretary of State shall adopt by rule a schedule fixing the fees that a notary public may charge for performing notarial acts. A fee may not exceed \$10 per notarial act. The schedule shall include, but not be limited to, fees for the following notarial acts:

(a) Acknowledgments.

(b) Oaths or affirmations without a signature.

(c) Verifications upon oath or affirmation.

(d) Copy certifications.

(e) Protesting commercial paper, except that a notary public may not charge a fee for protesting a check because of the insolvency of the financial institution upon which the check was written.

(2) A notary public may charge an additional fee for traveling to perform a notarial act if:

(a) The notary explains to the person requesting the notarial act that the fee is in addition to the fee specified under subsection (1) of this section and is not required by law; and

(b) The person requesting the notarial act agrees in advance upon the amount of the additional fee.

(3) A notary public shall display an English-language schedule of fees for notarial acts, as specified under subsection (1) of this section.

(4) A notary public who is employed by a private entity may enter into an agreement with the entity under which fees collected by the notary under this section are collected by and accrue to the entity.

(5) For purposes of defraying costs incurred by the public body for providing notarial services, a public body as defined in ORS 174.109 may collect the fees described in this section for notarial acts performed in the course of employment by notaries public who are employed by the public body. [1989 c.976 §24; 1997 c.631 §424; 2009 c.338 §2]

(Refusal to Appoint; Revocation and Suspension of Commissions)

**** 194.166 Grounds for refusal to appoint; revocation or suspension of commission. (Effective Until January 1, 2010)** The Secretary of State may refuse to appoint any person as notary public or may revoke or suspend the commission of any notary public upon any of the following grounds:

(1) Failure to meet or maintain the qualifications required under ORS 194.005 to 194.200 or refusal of the consent described under ORS 194.024.

(2) Substantial and material misstatement or omission of fact in the application submitted to the Secretary of State.

(3) Engaging in official misconduct.

(4) Conviction of a felony, or of a lesser offense incompatible with the duties of a notary public.

(5) Revocation, suspension, restriction or denial of a professional license issued by a governmental entity, if the revocation, suspension, restriction or denial was for misconduct, dishonesty or any cause substantially relating to the duties or responsibilities of a notary public.

(6) When adjudged liable for damages in any suit grounded in fraud or misrepresentation or in any suit based upon a failure to discharge fully and faithfully the duties as notary public.

(7) The use of false or misleading advertising wherein the notary public has represented that the notary public has powers, qualifications, rights or privileges that the office of notary does not have, including the power to counsel on immigration matters.

(8) Engaging in the unauthorized practice of law.

(9) Charging more than the maximum fees adopted by the Secretary of State by rule under ORS 194.164.

(10) Failure to comply with ORS 194.162 (3) and (4).

(11) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another or substantially injure another.

(12) Failure to complete an acknowledgment at the time the notary's signature and official seal are affixed to the document.

(13) Execution of any certificate as a notary public containing a statement known to the notary public to be false.

(14) Using officially an official seal, seal embosser or other device making an imprint or impression that does not conform to ORS 194.031 or to the rules of the Secretary of State.

(15) Failure to give notice of change of address as required under ORS 194.047 or apply for, or give notice of, a change of name as required under ORS 194.052. [1989 c.976 §25; 2009 c.123 §5]

****194.166 Grounds for refusal to appoint; revocation or suspension of commission. (Effective January 1, 2010)** The Secretary of State may refuse to issue a commission as notary public or may revoke or suspend the commission of any notary public upon any of the following grounds:

(1) Failure to meet or maintain the qualifications required under ORS 194.005 to 194.200 or refusal of the consent described under ORS 194.024.

(2) Substantial and material misstatement or omission of fact in the application submitted to the Secretary of State.

(3) Engaging in official misconduct.

(4) Conviction of a felony, or of a lesser offense incompatible with the duties of a notary public.

(5) Revocation, suspension, restriction or denial of a professional license issued by a governmental entity, if the revocation, suspension, restriction or denial was for misconduct, dishonesty or any cause substantially relating to the duties or responsibilities of a notary public.

(6) When adjudged liable for damages in any suit grounded in fraud or misrepresentation or in any suit based upon a failure to discharge fully and faithfully the duties as notary public.

(7) The use of false or misleading advertising wherein the notary public has represented that the notary public has powers, qualifications, rights or privileges that the office of notary does not have, including the power to counsel on immigration matters.

- (8) Engaging in the unauthorized practice of law.
- (9) Charging more than the fees adopted by the Secretary of State by rule under ORS 194.164.
- (10) Failure to comply with ORS 194.162 (3) and (4).
- (11) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another or substantially injure another.
- (12) Failure to complete an acknowledgment at the time the notary's signature and official seal are affixed to the document.
- (13) Execution of any certificate as a notary public containing a statement known to the notary public to be false.
- (14) Using officially an official seal, seal embosser or other device making an imprint or impression that does not conform to ORS 194.031 or to the rules of the Secretary of State.
- (15) Failure to give notice of change of address as required under ORS 194.047 or apply for, or give notice of, a change of name as required under ORS 194.052.
- (16) Violation of ORS 194.070. [1989 c.976 §25; 2009 c.123 §5; 2009 c.338 §3]

194.168 Hearing on refusal to issue, suspension or revocation of commission. (1) If the Secretary of State proposes to refuse to issue, or to suspend or revoke, a commission of a notary public, opportunity for hearing shall be accorded as provided in ORS chapter 183 for a contested case. If the notary public does not request a hearing, revocation or suspension of the commission shall be effective 10 days after service of the Secretary of State's order.

(2) Judicial review of orders under subsection (1) of this section shall be as provided under ORS chapter 183 for a contested case. [1989 c.976 §26]

194.170 [Amended by 1983 c.393 §20; repealed by 1989 c.976 §37]

194.180 [1961 c.91 §1; repealed by 1971 c.250 §1]

194.190 [1983 c.506 §3; repealed by 1989 c.976 §37]

194.200 Action for damages or injunction for violation of ORS 194.166; attorney fees and costs; employer's liability. In addition to other remedies provided by law:

(1) A person injured by a violation of ORS 194.166 (7), (8), (10) or (11) may bring an individual action in an appropriate court to recover actual damages or \$200, whichever is greater. The court or the jury, as the case may be, may award punitive damages and the court may provide such equitable relief as it deems necessary or proper. In addition to any other remedies awarded by the court, the prevailing party may be awarded attorney fees and costs and disbursements, at trial and on appeal.

(2) The Secretary of State or any private individual injured by a violation of ORS 194.166 (7), (8), (10) or (11) may bring a civil suit to enjoin the violation. In addition to any other remedies awarded by the court, the prevailing party may be awarded attorney fees and costs and disbursements, at trial and on appeal.

(3) An employer of a notary is liable to the notary for all damages recovered from the notary as a result of official misconduct that was coerced by threat of the employer, if the threat, such as that of demotion or dismissal, was made in reference to the particular notarization. [1983 c.506 §4; 1989 c.976 §29]

194.210 [Repealed by 1969 c.394 §5]

194.220 [Repealed by 1969 c.394 §5]

194.310 [Amended by 1961 c.498 §5; 1981 c.11 §4; 1983 c.506 §1; repealed by 1989 c.976 §37]

194.320 [Amended by 1981 c.11 §5; repealed by 1989 c.976 §37]

(Enforcement)

194.330 Attorney General to investigate or prosecute violation; payment of expenses. If, in the opinion of the Secretary of State, any alleged violation of ORS 194.005 to 194.200, 194.505 to 194.595 or 194.990 is not being investigated or prosecuted, the Secretary of State may direct the Attorney General to take full charge of the investigation or prosecution. If so directed, the Attorney General shall take full charge of the investigation or prosecution and the provisions of ORS 180.070, 180.080 and 180.090 shall apply. Notwithstanding ORS 180.070 (3), expenses associated with the Attorney General's investigation or prosecution shall be paid from the Operating Account under ORS 56.041. [1983 c.393 §23; 1989 c.976 §30; 1993 c.66 §11]

(Rules)

194.335 Rules. Subject to ORS chapter 183, the Secretary of State may adopt rules to carry out the purposes of ORS 194.005 to 194.200 and 194.505 to 194.595. [1989 c.976 §32]

194.410 [Amended by 1963 c.428 §1; repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 194.410)]

194.420 [Repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 194.420)]

194.430 [Repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 194.430)]

194.500 [1977 c.404 §11 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

UNIFORM LAW ON NOTARIAL ACTS

194.505 Definitions for ORS 194.005 to 194.200 and 194.505 to 194.595. As used in ORS 194.005 to 194.200 and 194.505 to 194.595, unless the context requires otherwise:

(1) An "acknowledgment" is a statement by a person that the person has executed an instrument for the purposes stated therein and, if the instrument is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein.

(2) "In a representative capacity" means:

(a) For and on behalf of a corporation, partnership, trust or other entity, as an authorized officer, agent, partner, trustee or other representative;

(b) As a public officer, personal representative, guardian or other representative, in the capacity recited in the instrument;

(c) As an attorney-in-fact for a principal; or

(d) In any other capacity as an authorized representative of another.

(3) A “notarial act” or “notarization” is any act that a notary public of this state is authorized to perform, and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument.

(4) “Notarial officer” means a notary public or any other officer authorized to perform notarial acts.

(5) “Oath” and “affirmation” mean a notarial act or part thereof in which a notary certifies that a person made a vow in the presence of the notary on penalty of perjury.

(6) A “verification upon oath or affirmation” is a statement by a person who asserts it to be true and makes the assertion upon oath or affirmation. [1983 c.393 §2; 1989 c.976 §33; 1997 c.185 §1]

194.510 [1977 c.404 §10 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

****194.515 Notarial acts. (Effective Until January 1, 2010)** (1) In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument.

(2) In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

(3) In witnessing or attesting a signature the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named therein.

(4) In certifying or attesting a copy of a document or other item, the notarial officer must determine that the proffered copy is a full, true and accurate transcription or reproduction of that which was copied.

(5) In making or noting a protest of a negotiable instrument a notarial officer must determine the matters set forth in ORS 73.0505.

(6) A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document if that person:

(a) Is personally known to the notarial officer;

(b) Is identified upon the oath or affirmation of a credible witness personally known to the notarial officer; or

(c) Is identified on the basis of identification documents.

(7) For purposes of this section, ‘personally known’ means familiarity with a person resulting from interactions with that person over a period of time sufficient to eliminate every reasonable doubt that the person has the identity claimed.

(8) For purposes of subsection (6)(c) of this section, a notarial officer has satisfactory evidence upon which to identify a person if:

(a) The person produces at least one current document issued by the federal government or a state, county, municipal or other local government and containing the person's photograph, signature and physical description;

(b) The person produces at least two current documents, each issued by an institution, a business entity, the federal government or a state, county, municipal or other local government and each containing the person's signature; or

(c) The person is confined in a correctional facility and has been positively identified through examination or comparison of official government documents or records.

(9) If a notarial officer is also an employee of a financial institution, as defined in ORS 706.008, and the person to be identified is a customer of the financial institution, one of the two current documents required under subsection (8)(b) of this section may be a signature card signed by the customer and held by the financial institution in connection with the financial institution's transactions with the customer. [1983 c.393 §3; 1993 c.545 §125; 1997 c.185 §2; 1999 c.59 §49; 2003 c.533 §1.]

****194.515 Notarial acts. (Effective January 1, 2010)** (1) In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument.

(2) In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

(3) In witnessing or attesting a signature the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named therein.

(4) In certifying or attesting a copy of a document or other item, the notarial officer must determine that the proffered copy is a full, true and accurate transcription or reproduction of that which was copied.

(5) In making or noting a protest of a negotiable instrument a notarial officer must determine the matters set forth in ORS 73.0505.

(6) A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document if that person:

(a) Is personally known to the notarial officer;

(b) Is identified upon the oath or affirmation of a credible witness personally known to the notarial officer; or

(c) Is identified on the basis of identification documents.

(7) For purposes of this section, "personally known" means familiarity with a person resulting from interactions with that person over a period of time sufficient to eliminate every reasonable doubt that the person has the identity claimed.

(8) For purposes of subsection (6)(c) of this section, a notarial officer has satisfactory evidence upon which to identify a person if the person:

(a) Produces a current driver license or current identity card issued by any state;

(b) Produces a current United States passport or a current officially recognized passport of a foreign country;

(c) Produces a current United States military identification card;

(d) Produces a current identity card issued by a federally recognized Indian tribe;

(e) Produces at least one current document, other than a document described in

paragraphs (a) to (d) of this subsection, issued by the federal government or a state, county, municipal or other local government and containing the person's photograph, signature and physical description; or

(f) Is confined in a correctional facility and has been positively identified through examination or comparison of official government documents or records. [1983 c.393 §3; 1993 c.545 §125; 1997 c.185 §2; 1999 c.59 §49; 2003 c.533 §1; 2009 c.338 §1.]

194.520 [1977 c.404 §3 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.525 Who may perform notarial acts; acts performed under federal authority.

(1) A notarial act may be performed within this state by the following persons:

- (a) A notary public of this state; or
- (b) A judge, clerk or deputy clerk of any court of this state.

(2) Notarial acts performed within this state under federal authority as provided in ORS 194.545 have the same effect as if performed by a notarial officer of this state.

(3) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title. [1983 c.393 §4]

194.530 [1977 c.404 §4 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.535 Notarial acts in other jurisdictions of the United States. (1) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if performed in another state, commonwealth, territory, district or possession of the United States by any of the following persons:

- (a) A notary public of that jurisdiction;
- (b) A judge, clerk or deputy clerk of a court of that jurisdiction; or
- (c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

(2) Notarial acts performed in other jurisdictions of the United States under federal authority as provided in ORS 194.545 have the same effect as if performed by a notarial officer of this state.

(3) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(4) The signature and title of an officer listed in subsection (1)(a) or (b) of this section conclusively establish the authority of a holder of that title to perform a notarial act. [1983 c.393 §5]

194.540 [1977 c.404 §5 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.545 Notarial acts under federal authority. (1) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed anywhere by any of the following persons under authority granted by the law of the United States:

- (a) A judge, clerk or deputy clerk of a court;
- (b) A commissioned officer on active duty with the military services of the United

States;

(c) An officer of the foreign service or consular officer of the United States; or

(d) Any other person authorized by federal law to perform notarial acts.

(2) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and title of an officer listed in subsection (1)(a) to (c) of this section conclusively establish the authority of a holder of that title to perform a notarial act.

[1983 c.393 §6]

194.550 [1977 c.404 §6 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.555 Foreign notarial acts. (1) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:

(a) A notary public or notary;

(b) A judge, clerk or deputy clerk of a court of record; or

(c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

(2) An "Apostille" in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the designated office.

(3) A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, conclusively establishes any matter relating to the authenticity or validity of the notarial act set forth in the certificate.

(4) An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the designated title.

(5) An official stamp or seal of an officer listed in subsection (1)(a) or (b) of this section is prima facie evidence that a person with that title has authority to perform notarial acts.

(6) If the title of office and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, it conclusively establishes the authority of an officer with that title to perform notarial acts. [1983 c.393 §7]

194.558 Notarial acts under tribal government authority.

(1) A notarial act has the same effect under the law of this state as though performed by a notarial officer of this state if performed anywhere by any of the following persons under authority granted by a federally recognized American Indian tribal government located within the United States:

(a) A notary public of the tribal government.

(b) A judge, clerk or deputy clerk of any court of the tribal government.

(c) Any other person authorized by the law of the tribal government to perform notarial acts.

(2) The signature and title of a person performing a notarial act under this section are prima facie evidence that the signature is genuine and that the person holds the

designated title.

(3) The signature and title of an officer listed in subsection (1)(a) or (b) of this section conclusively establish the authority of a holder of that title to perform a notarial act. [2007 c. 63 § 4]

194.560 [1977 c.404 §7 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.565 Certificate of notarial acts. (1) A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate must include identification of the jurisdiction in which the notarial act is performed and the title of the office the notarial officer holds and may include the official stamp or seal of office. If the officer is a notary public, the certificate must also indicate the date of expiration, if any, of the commission of office, but omission of that information may subsequently be corrected. If the officer is a commissioned officer on active duty with the military services of the United States, it must also include the officer's rank.

(2) A certificate of a notarial act is sufficient if it meets the requirements of subsection (1) of this section and it:

- (a) Is in the short form set forth in ORS 194.575;
- (b) Is in a form otherwise prescribed by the law of this state;
- (c) Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or
- (d) Sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

(3) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by ORS 194.515. [1983 c.393 §8]

194.570 [1977 c.404 §8 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.575 Short forms. The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by ORS 194.565 (1):

- (1) For an acknowledgment in an individual capacity:

State of _____
County of _____

This instrument was acknowledged before me on _____ (date) by _____ (name(s) of person(s))

(Signature of notarial officer)
(Seal, if any)

Title (and Rank)
My commission expires: _____

- (2) For an acknowledgment in a representative capacity:

State of _____
County of _____

This instrument was acknowledged before me on _____ (date) by
_____ (name(s) of person(s)) as _____ (type of
authority, e.g., officer, trustee, etc.) of _____. (name of party on behalf of
whom instrument was executed)

(Signature of notarial officer)
(Seal, if any)

Title (and Rank)
My commission expires: _____

(3) For a verification upon oath or affirmation:

State of _____
County of _____

Signed and sworn to (or affirmed) before me on _____ (date)
by _____. (name(s) of person(s) making statement)

(Signature of notarial officer)
(Seal, if any)

Title (and Rank)
My commission expires: _____

(4) For witnessing or attesting a signature:

State of _____
County of _____

Signed or attested before me on _____ (date) by _____.
(name(s) of person(s))

(Signature of notarial officer)
(Seal, if any)

Title (and Rank)
My commission expires: _____

(5) For attestation of a copy of a document:

State of _____
County of _____

I certify that this is a true and correct copy of a document in the possession
of _____.

Dated: _____

(Signature of notarial officer)
(Seal, if any)

Title (and Rank)
My commission expires: _____ [1983 c.393 §9]

194.578 Use of signature stamp by blind or disabled person; rules. (1) As used in this section, “blind person” and “visually impaired individual” have the meanings given those terms in ORS 346.110.

(2) Notwithstanding any provision of ORS 194.005 to 194.200 or ORS 194.505 to 194.595:

(a) A blind person, a visually impaired individual or a person with a disability who is unable to sign any document because of the disability may use a signature stamp whenever the signature of the person is required on any document presented for notarization;

(b) In performing any notarial act involving the signature of a person described in paragraph (a) of this subsection, a notarial officer, in the manner prescribed by the Secretary of State by rule, shall witness the use of the signature stamp and accept the stamp in lieu of the signature of the person; and

(c) The notarial certificate of an act signed with a signature stamp shall contain the phrase “signed by stamp before me” or words to that effect. [1999 c.333 §2]

194.580 [1977 c.404 §9 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.582 Use of electronic signatures; rules. (1) As used in this section, “electronic signature” has the meaning given that term in ORS 84.004.

(2) Notwithstanding any provision of ORS 194.005 to 194.200 or 194.505 to 194.595:

(a) A person may use an electronic signature in the manner prescribed by the Secretary of State by rule whenever the signature of the person is required on any electronic document presented for notarization;

(b) In performing any notarial act involving an electronic signature of a person described in paragraph (a) of this subsection, a notarial officer, in the manner prescribed by the Secretary of State by rule, shall accept the electronic signature of the person; and

(c) In addition to the requirements of ORS 194.505 to 194.595, the notarial certificate of an act signed with an electronic signature shall be attached electronically by the notarial officer in the manner prescribed by the Secretary of State by rule and shall contain the phrase “signed by electronic signature” or words to that effect.

(3) The Secretary of State shall adopt rules necessary to implement this section. [1999 c.718 §5; 2001 c.535 §29]

194.585 Uniformity of application and construction. ORS 194.505 to 194.575 shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of ORS 194.505 to 194.575 among states enacting it. [1983 c.393 §11]

194.595 Short title. ORS 194.505 to 194.595 may be cited as the Uniform Law on

FUNDING

194.700 Disposition of moneys. All moneys received by the Secretary of State under this chapter shall be paid into the State Treasury and credited to the Operating Account under ORS 56.041. [1983 c.393 §15; 1993 c.66 §9]

PENALTIES

194.980 Civil penalties; factors; notice; hearing; rules. (1) In addition to any other penalty provided by law, any notary public who is found to have performed an act of official misconduct may incur a civil penalty in the amount adopted under subsection (2) of this section, plus any costs of service or recording costs.

(2)(a) The Secretary of State shall by rule establish the amount of civil penalty that may be imposed for a particular act of official misconduct. A civil penalty shall not exceed \$1,500 per act of official misconduct.

(b) In imposing a penalty authorized by this section, the Secretary of State may consider the following factors:

(A) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any official misconduct.

(B) Any prior acts of official misconduct.

(C) The gravity and magnitude of the official misconduct.

(D) Whether the official misconduct was repeated or continuous.

(E) Whether the cause of the official misconduct was an unavoidable accident, negligence or an intentional act.

(F) Any relevant rule of the Secretary of State.

(G) The notary's cooperativeness and efforts to correct the act of official misconduct.

(c) The penalty imposed under this section may be paid upon those terms and conditions as the Secretary of State determines to be proper and consistent with the public benefit. Upon request of the notary incurring the penalty, the Secretary of State shall consider evidence of the economic and financial condition of the notary in determining whether a penalty shall be paid.

(3) Imposition or payment of a civil penalty under this section shall not be a bar to any action or suit described in ORS 194.200, to a criminal proceeding or to a proceeding under ORS 194.168.

(4) A civil penalty shall not be imposed under this section until the notary public incurring the penalty has been given notice in writing from the Secretary of State specifying the violation. The notice is in addition to the notice required under ORS 183.745 and shall be served in the same manner as the notice required under ORS 183.745.

(5)(a) After initial notice as provided in subsection (4) of this section, a civil penalty may be imposed in the manner provided in ORS 183.745.

(b) The Secretary of State may delegate to a hearings officer appointed by the Secretary of State, upon such conditions as deemed necessary, all or part of the authority to conduct hearings required under ORS 183.745.

(6) Notwithstanding ORS 180.070 (3), expenses incurred by the Secretary of State or Attorney General under subsections (1) to (5) of this section or under ORS 194.200 (2) shall be paid from the Operating Account under ORS 56.041.

(7) All civil penalties and costs recovered under this section shall be paid into the Operating Account under ORS 56.041. [1989 c.976 §28; 1991 c.734 §11; 1993 c.66 §12]

194.985 Official Warning to Cease Official Misconduct. In lieu of a civil penalty imposed under ORS 194.980, the Secretary of State may deliver a written Official Warning to Cease Official Misconduct to any notary whose actions are judged by the Secretary of State to be official misconduct. [1989 c.976 §27]

194.990 Criminal penalties. (1) If punishment therefor is not otherwise provided for:

(a) A notary who knowingly and repeatedly performs or fails to perform any act prohibited or mandated respectively by ORS 194.005 to 194.200 or 194.505 to 194.595, or rules adopted thereunder, is guilty of a Class B misdemeanor.

(b) Any person not a notary public who knowingly acts as or otherwise impersonates a notary public is guilty of a Class B misdemeanor.

(c) Any person who knowingly obtains, conceals, defaces or destroys the official seal, journal or official records of a notary public is guilty of a Class B misdemeanor.

(d) Any person who knowingly solicits, coerces or in any way influences a notary public to commit official misconduct is guilty of a Class B misdemeanor.

(2) The remedies of subsection (1) of this section supplement other remedies provided by law.

(3) The clerk of the court in which a conviction under any provision of subsection (1) of this section is had shall forthwith transmit to the Secretary of State a duly certified copy of the judgment, which is sufficient grounds for revocation of the commission of the convicted notary public. [Amended by 1967 c.541 §21; 1989 c.976 §34]

OREGON ADMINISTRATIVE RULES

DIVISION 5 FEES AND REFUNDS

160-005-0010 Fees for notarial acts by Corporation Division employees

The Secretary of State shall collect \$10 per notarial act performed by a notary public employed by the Secretary of State during the course of that person's employment. Notarial acts performed by the employee outside of the course of employment shall be subject to OAR 160-100-0400 through 0420.

Stat. Auth: 194.335

Stats. Implemented: ORS 194.164

DIVISION 100 NOTARIES PUBLIC

160-100-0000 Definitions

As used in ORS 194.005 to 194.200, ORS 194.505 to 194.595 and OAR 160-100-0000 to 160-100-0620:

(1) "Days" means calendar days.

(2) "File", "Filed" and "Deliver" means cause to be actually received by the Secretary of State.

(3) “Notarial Record” means any record of any notarial act performed by a notary public, except when a specified record or act is excluded.

(4) “Notary Fee” means any money or other thing of value as consideration for performing a notarial act. A notary fee does not include a fee for traveling to perform a notarial act.

(5) “Official Seal” or “Official Notary Seal” means a stamp made of any substance, capable of making a legible imprint on paper in black ink that can be legibly reproduced by a photographic method and that meets the description of OAR 160-100-0100. An official seal does not include the mechanism to which the stamp is attached.

(6) “Official Seal Embosser” or “Official Notary Seal Embosser” means any device capable of creating an embossed imprint on paper that meets the description of OAR 160-100-0120. An official seal embosser does not include the mechanism to which the embosser plate is attached.

(7) “Secretary of State” means the Notary Public Section of the Secretary of State’s office.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0000

160-100-0010 Date of Mailing

Whenever ORS 194.005 to 194.200, 194.505 to 194.595 and OAR 160-100-0000 to 160-100-0620 require or permit a document or object to be mailed to the Secretary of State, the date of mailing shall be the date the document or object was actually received by the Secretary of State.

Stat. Auth.: ORS 194.335

Stats. Implemented: ORS 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94, Renumbered from 164-100-0010; CORP 1-2007, f. 2-15-07, cert. ef. 3-1-07

160-100-0020 Name of Notary Public

Whenever ORS 194.005 to 194.200, ORS 194.505 to 194.595, except ORS 194.014, and OAR 160-100-0000 to 160-100-0620 refer to the name of a notary public, the name shall be the name of the notary public as it appears on the notary public’s written commission.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0020

160-100-0030 Signature of Notary Public

Whenever ORS 194.005 to 194.200, ORS 194.505 to 194.595 and OAR 160-100-0000 to 160-100-0620 require or permit a notary public to sign his or her name, the notary public shall sign the name as it appears on the notary public’s written commission.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.014

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0030

160-100-0040 Administrative Services Fees

The Secretary of State shall charge the following fees for performing the administrative services indicated:

- (1) \$20, nonrefundable, for processing each application, including written examination, for a commission as a notary public.
- (2) \$10 for apostilles for public officials and notaries public.
- (3) \$10 for each notary public certificate of good standing.
- (4) \$10 for each notarial act performed by a Corporation Division notary public.
- (5) \$10 for each duplicate notary public commission.
- (6) \$10 for each duplicate Certificate of Authorization to Obtain Official Seal.
- (7) \$10 for processing a request to change the notary public's name on the notary public's written commission.
- (8) \$50 for each monthly list of new notaries public.
- (9) \$50 for each standard list of all active notaries public.

Stat. Auth.: ORS 194.052, 194.164

Stats. Implemented: ORS 177.130, ORS 192.440, ORS 194.020 & ORS 194.052, ORS 194.164

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; Suspended by SOS-AD 2-1992(Temp), f. & cert. ef. 2-14-92; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0040; CORP 1-1994, f. 12-30-94, cert. ef. 1-1-95;

Certificate of Authorization, Official Seal, and Official Seal Embosser

160-100-0100 Description of Imprint of Official Seal

(1) An outline of an imprint of an official seal of a notary public shall be a rectangle measuring 3/4 inch high and 2-3/8 inches long formed by a continuous solid or braided line.

(2) The imprint of an official seal of a notary public shall contain within the outline border:

(a) The state seal, as described in ORS 186.020, measuring one half inch in diameter and located in the upper left corner of the official seal;

(b) The following words, in descending order, centered in the official seal to the right of the state seal:

(A) The words **“Official Seal”**. The words shall be printed in not less than 8 point sized type and in capital letters;

(B) The name of the notary public. The name shall be printed in not less than 8 point sized type, bold print, and in capital letters;

(C) The words **“Notary Public – Oregon”**. The words shall be printed in 8 point sized type and in capital letters;

(D) The words **“Commission No.”** immediately followed by the commission number. The words shall be printed in not less than 8 point sized type and in capital letters;

(E) The words **“My Commission Expires”**, immediately followed by the notary public's expiration date, expressed in terms of the month, day and year, i.e. “January 1, 1990” and printed in not less than 8 point sized type and in capital letters.

(3) The imprint of an official seal of a notary public shall be made with black ink:

(a) Of a type that will not be removable under normal conditions; or

(b) Of a type considered permanent, such as India ink, when applied to plastic or mylar surfaces. **EXAMPLES:** [Examples not included. See ED. NOTE.]

[ED. NOTE: The examples referenced in this rule are not printed in the OAR Compilation. Copies are available from the agency.]

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.031

Hist.: SD 7-1978, f. & ef. 8-10-78; Renumbered from 165-027-0010; SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0100

160-100-0110 Use of Official Seal

- (1) A notary public shall use the notary public's official seal to perform a notarial act.
- (2) A notary public shall use the notary public's official seal by placing a legible imprint of the official seal on a notarial certificate.
- (3) A notary public shall not place an imprint of the notary public's official seal over any signature in a document to be notarized or in a notarial certificate, nor over any writing in a notarial certificate.
- (4) When a notarial certificate is on a separate piece of paper attached to the document to be notarized or when there are attachments to the document to be notarized, such as pictures, a notary public may use an additional imprint of the notary public's official seal to mark for identification the document or attachment if the imprint does not make any part of the document or attachment illegible.
- (5) A notary public shall not use the notary public's official seal for any purpose other than to perform a notarial act.
- (6) A notary public shall not permit any other person to use the notary public's official seal for any purpose.
- (7) A notary public shall not use any other notary public's official seal or any other object in lieu of the notary public's official seal to perform a notarial act.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.005 & ORS 194.031

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0110

160-100-0120 Description of Official Seal Embosser

- (1) An official seal embosser of a notary public shall be two concentric circles each formed by a continuous solid or intermittent line. The outer circle shall measure not less than one and one half inches and not more than two inches in diameter.
- (2) The embossment of the official seal embosser of a notary public shall contain the following printed in capital letters:
 - (a) The name of the notary public centered at the top and between the two circles;
 - (b) The words "STATE OF OREGON" centered at the bottom and between the two circles;
 - (c) The word "NOTARY" above the word "PUBLIC" both centered within the inner circle. **EXAMPLE:**

(EXAMPLES NOT SHOWN)

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.031

Hist.: SD 7-1978, f. & ef. 8-10-78; Renumbered from 165-027-0005; SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0120

160-100-0130 Use of Official Seal Embosser

(1) A notary public may use an official seal embosser to perform a notarial act but only *in addition to* the notary public's official seal.

(2) If a notary public uses an official seal embosser, the notary public shall use it by placing the embossment on a notarial certificate.

(3) A notary public shall not place the embossment over any signature in a document to be notarized or in a notarial certificate nor over any writing in a notarial certificate.

(4) When a notarial certificate is on a separate piece of paper attached to the document to be notarized or when there are attachments to the document to be notarized, such as pictures, a notary public may use an additional embossment of the notary public's official seal to mark for identification the document or attachment if the embossment does not make any part of the document or attachment illegible.

(5) A notary public shall not use the notary public's official seal embosser for any purpose other than to perform a notarial act.

(6) A notary public shall not permit any other person to use the notary public's official seal embosser for any purpose.

(7) A notary public shall not use any other notary public's official seal embosser or any other object in lieu of the notary public's official seal embosser to perform a notarial act.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.031

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0130

160-100-0140 Filing Imprint of Official Seal with Secretary of State

A notary public shall file the following information with the Secretary of State within ten days after the date the notary public receives the notary public's official seal and Certificate of Authorization from a vendor of official seals:

(1) An imprint of the notary public's official seal. The imprint shall be placed in the location designated for the imprint on the Certificate of Authorization;

(2) The Certificate of Authorization. The Certificate of Authorization shall be the original Certificate of Authorization issued by the Secretary of State to the notary public. The Certificate of Authorization shall be completed by the vendor with the information required on the Certificate of Authorization.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.031

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0140

160-100-0150 Notification of Secretary of State That Certificate of Authorization is Unusable

(1) A notary public whose Certificate of Authorization is lost, misplaced, destroyed or otherwise unusable shall file with the Secretary of State a written statement, under oath or affirmation, within ten days after the date the notary public discovers that the Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable.

(2) The statement shall set forth:

(a) A statement of whether the Certificate of Authorization is lost, misplaced, destroyed or in some other manner made unusable;

(b) An explanation of how the Certificate of Authorization became unusable;

(c) The date the notary public discovered that the Certificate of Authorization was unusable;

(d) If lost or misplaced, a statement that the notary public does not possess the Certificate of Authorization and does not know who possesses it or where it is located;

(e) If lost or misplaced, a statement that if the notary public subsequently reacquires possession of the lost or misplaced Certificate of Authorization, then the notary public shall file it with the Secretary of State within ten days after the date the notary public reacquires possession of the lost or misplaced Certificate of Authorization;

(f) A request that the Secretary of State issue a duplicate Certificate of Authorization to the notary public.

(3) The Secretary of State shall issue a duplicate Certificate of Authorization to the notary public as if the notary public had made a request pursuant to ORS 194.031(5).

(4) A notary public who is issued a duplicate Certificate of Authorization pursuant to this rule shall use it to comply with the requirements of ORS 194.010(4) and OAR 160-100-0140. To comply with OAR 160-100-0140, the notary public shall file with the Secretary of State an imprint of the notary public's seal and the duplicate Certificate of Authorization within ten days after the notary public receives the completed duplicate Certificate of Authorization from a vendor of official seals.

(5) If a notary public subsequently reacquires possession of a lost or misplaced Certificate of Authorization, then the notary public shall file with the Secretary of State a written statement of explanation and the lost or misplaced Certificate of Authorization within ten days after the date the notary public reacquires possession of the lost or misplaced Certificate of Authorization.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0150

160-100-0160 Notification of Secretary of State That Official Seal is Unworkable

(1) A notary public whose official seal is lost, misplaced, destroyed, broken, damaged or otherwise unworkable shall personally deliver or mail to the Secretary of State a written statement, under oath or affirmation, within ten days after the date the notary public discovers that the seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable.

(2) The statement shall include:

(a) A statement of whether the official seal is lost, misplaced, destroyed, broken, damaged or in some other manner made unworkable;

(b) An explanation of how the official seal became unworkable;

(c) The date the notary public discovered that the official seal was unworkable;

(d) If lost or misplaced, a statement that the notary public does not possess the official seal and does not know who possesses it or where it is located;

(e) If lost or misplaced, a statement that if the notary public subsequently reacquires possession of the lost or misplaced official seal, then the notary public shall file it with the Secretary of State within ten days after the date the notary public reacquires possession of the lost or misplaced official seal;

(f) A request that the Secretary of State issue a duplicate Certificate of Authorization to the notary public.

(3) A notary public who is issued a duplicate Certificate of Authorization pursuant to

ORS 194.031(5) and this rule shall use it to comply with the requirements of ORS 194.010(4) and OAR 160-100-0140. To comply with OAR 160-100-0140, the notary public shall file with the Secretary of State an imprint of the notary public's official seal and duplicate Certificate of Authorization within ten days after the notary public receives the completed duplicate Certificate of Authorization from the official seal vendor or vendor's representative.

(4) If a notary public subsequently reacquires possession of a lost or misplaced official seal, then the notary public shall file with the Secretary of State a written statement of explanation and the lost or misplaced official seal within ten days after the date the notary public reacquires possession of the lost or misplaced official seal.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.031

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0160

160-100-0170 Concurrent Official Seal

(1) In addition to the original official seal, a notary public may apply for one duplicate, concurrent official seal.

(2) A notary public requesting a concurrent official seal under this rule shall personally deliver or mail to the Secretary of State a written request under oath or affirmation for a duplicate Certificate of Authorization to Obtain an Official Seal.

(3) The request shall include:

(a) An explanation that the concurrent official seal is needed due to circumstances that would otherwise hinder or prevent carrying out notarial duties in more than one location. Such circumstances could include duty in a secured facility, e.g. a correctional institution, courthouse or jail.

(b) A statement that the concurrent official seal will be kept in a single, secure location for the remainder of the current notary commission, or until the notary no longer has access to that location.

(c) The address of the concurrent official seal location.

(d) A request that the Secretary of State issue a duplicate Certificate of Authorization to the notary public.

(4) A request for a duplicate Certificate of Authorization may be approved or rejected at the discretion of the Secretary of State. Notification of approval or rejection shall be sent to the applicant within 5 business days of the decision.

(5) The reason(s) for rejection shall be listed on the notification sent to the applicant.

(6) A notary public who is issued a duplicate Certificate of Authorization pursuant to ORS 194.031(5) and this rule shall use it to comply with the requirements of ORS 194.010(4) and OAR 160-100-0140. To comply with OAR 160-100-0140, the notary public shall file with the Secretary of State an imprint of the notary public's concurrent official seal and duplicate Certificate of Authorization within ten days after the notary public receives the completed duplicate Certificate of Authorization from the official seal vendor or vendor's representative.

(7) Every law governing use of the original official seal applies with equal force to use of a concurrent official seal authorized by this rule.

(8) For purposes of this rule, "original official seal" includes any replacement official seal authorized under OAR 160-100-0160.

Stat. Auth.: ORS 194.335

Stats. Implemented: ORS 194.031
Hist.: CORP 3-2005, f. & cert. ef. 11-1-05

Notarial Journal

160-100-0200 Form and Content of Notarial Journal

A notarial journal of a notary public may be in any form that meets the physical requirements set out in this rule and the entry requirements set out in OAR 160-100-0210:

- (1) The cover and pages inside the cover shall be bound together by any binding method that is designed to prevent the insertion or removal of the cover or a page;
- (2) Each page shall be consecutively numbered from the beginning to the end of the journal. If a journal provides two pages on which to record the required information about the same notarial act, then both pages may be numbered with the same number or each page may be numbered with a different number. A page number shall be preprinted;
- (3) Each line shall be consecutively numbered from the beginning to the end of the page. If a line extends across two pages, the line shall be numbered with the same number on both pages. A line number shall be preprinted;
- (4) A notarial journal of a notary public shall contain on the inside of the front cover or on the first page the following information in any order:
 - (a) The name of the notary public;
 - (b) The notary public's commission number;
 - (c) The notary public's commission expiration date;
 - (d) The notary public's residence or business street or mailing address;
 - (e) The earliest date the journal may be destroyed, which shall be seven years after expiration of the last commission in which entry was made in the journal;
 - (f) One of the following statements:
 - (A) That, in the event of the decease of this notary public, the journal shall be delivered or mailed to the Secretary of State; or
 - (B) That, in the event the notary public has entered into a written agreement with his/her employer pursuant to OAR 160-100-0360, the date such written agreement was entered into, the name and address of the employer and instructions that the journal shall be delivered or mailed to the employer in the event of the decease of the notary public;
 - (g) The meaning of any not commonly abbreviated word or symbol used in recording a notarial act in the notarial journal;
 - (h) The signature of the notary public;
 - (i) At the respective time of entry, the dates of the first and last notarial acts recorded in the notarial journal.

EXAMPLE: First entry on July 6, 1990, last entry on January 7, 1992.

- (5) If a notary public's name, commission number, commission expiration date, destruction date or address that is written in the notarial journal changes before the notary public ceases to use the notarial journal, the notary public shall draw a single line through the old information and write the new information to the side of the old information.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0200

160-100-0210 Information Required to be Recorded in Notarial Journal

Except as provided in OAR 160-100-0220 and 160-100-0230, a notary public shall record in a notarial journal the following information about each notarial act performed by the notary public:

- (1) The date and time the notarial act was performed;
- (2) The type of notarial act performed;
- (3) The date of the document notarized;
- (4) The type of document notarized;
- (5) The printed name of the person whose statement, signature or document was notarized;
- (6) The signature of the person whose statement, signature or document was notarized.
- (7) A description of how the notary public identified the person whose statement, signature or document was notarized. The description shall be as follows:
 - (a) If the notary public identified such person by personally knowing the person, then the description shall consist of the statements either “personally known” or “personal knowledge”;
 - (b) If the notary public identified such person by seeing and hearing a credible witness personally known to the notary public testify under oath or affirmation, then the description shall consist of, in the following order, the legal name and residence street address of the witness;
 - (c) If the notary public identified such person by seeing identification documents, then the description shall consist of, in the following order, the name of the organization that issued the document; the type of document and the document’s expiration date. For example, Oregon driver’s license number 1234567.
- (8) An entry may contain any other information.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0210, CORP 3-2008, f. 4-15-08, cert. ef. 5-1-08

160-100-0220 Abbreviated Multiple Entry in Notarial Journal

(1) If a notary public notarizes duplicate originals of a single statement or document for the same person on the same date, the notary public may, in lieu of recording individually in the notarial journal the information required by OAR 160-100-0210 for each notarized duplicate original, record a single entry in the notarial journal for all notarizations of the statement or document, which shall set forth all the information required by OAR 160-100-0210, and the total numbers of the statement or document notarized.

(2) If a notary notarizes different statements or documents for the same person on the same date, the notary public may, in lieu of recording individually in the notarial journal the information required by OAR 160-100-0210 for each notarized statement or document, record a single entry in the notarial journal for all notarizations of such statements or documents, which shall set forth the number of statements or documents and the information required by OAR 160-100-0210(1), (2), (5), (6) and (7), and for each statement or document the information required by OAR 160-100-0210(3) and (4) and, if there are duplicate originals of any statement or document, the total number of the statement or document notarized.

(3) If a notary public notarizes more than one statement, signature or document for the same person but not on the same date, the notary public may, in lieu of recording

individually in the notarial journal the information required by OAR 160-100-0210(5) and (7) for each notarization for that person, record a reference to a prior entry in the notarial journal for that person (identifying the page and line numbers of the prior entry) which prior entry shall set forth the information required by OAR 160-100-0210(5) and (7).

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0220

160-100-0230 Notarial Acts Not Required to be Recorded in Notarial Journal

A notary public may, but is not required to, record in a notarial journal any information about the following notarial acts performed or documents notarized by the notary public:

- (1) Administering an oath or affirmation;
- (2) Certifying or attesting a copy of a document;
- (3) Affidavits;
- (4) Billing statements for media advertising;
- (5) Protests of commercial paper (to be recorded as provided in ORS 194.090 and 73.0505).
- (6) Verifications upon oath or affirmation.

Stat. Auth.: ORS 194.152(2)

Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; SOS-AD 3-1990(Temp), f. & cert. ef. 7-2-90; SOS-AD 1-1991, f. & cert. ef. 1-7-91; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0230

160-100-0240 Information Required to be Recorded in Record of Protests

A notary public shall maintain a record of information about each protest of commercial paper performed by the notary public consisting of copies of source originals.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.090

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-240

Disposition of Notarial Records Upon Termination of Commission

160-100-0310 Termination of Commission Due to Expiration – Application for New Commission Made Within 30 Days

(1) A notary public whose commission was terminated because of expiration and who has filed with the Secretary of State an application for a new commission within 30 days after the date of termination shall retain his/her notarial records at the notary public's residence or business location. Such records may be retained in any form as long as such records or any reproduction of such records are readable.

(2) If the notary public is issued a new commission within three months after the date of termination, then the notary public shall continue to retain his/her notarial records at the notary public's residence or business location. Such records may be retained in any form as long as such records or any reproduction of such records are readable. Such

records shall be retained for a period of seven years after the date of expiration of the prior commission during which the records were kept. After the seven-year period, the notary public may destroy such records.

(3) If the notary public is not issued a commission for any reason within three months after the date of expiration, then the notary public shall arrange for the storage of his/her notarial records as required by OAR 160-100-0300.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.154

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0310

160-100-0320 Termination of Commission Due to Resignation

(1) A notary public whose commission was terminated because of resignation shall arrange for the storage of his/her notarial records, *except records of protests of commercial paper (see OAR 160-100-0350)*, in any form and at any location within 30 days following resignation. The records or any reproduction of the records must be readable and the notary public must be able to obtain possession of such records within 15 days of receipt of a request for such records.

(2) A notary public shall file a statement with the Secretary of State within ten days after the date the notary public stored such records. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., resignation and an explanation why the notary public is resigning;
- (e) The notary public's resignation date;
- (f) The date the notary public stored such notarial records;
- (g) The street address and exact location at such address where such records are stored and any subsequent relocation of such records.

(3) A notary public shall store such records for a period of seven years after the date of resignation. After the seven-year period, the notary public may destroy such records.

(4) At the same time that the notary public files the statement required by section (2) of this rule with the Secretary of State, a notary public shall file with the Secretary of State the notary public's official seal and official seal embosser, if any. The Secretary of State may destroy the official seal and/or official seal embosser upon receipt.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.154

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0320

160-100-0330 Termination of Commission Due to Revocation

(1) A notary public whose commission was terminated because of revocation shall file his/her notarial records with the Secretary of State within 30 days after the date of revocation.

(2) At the same time that the notary public files such records with the Secretary of State, a notary public shall file a statement with the Secretary of State. The statement shall include:

- (a) The name of the notary public;

- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., revocation;
- (e) The notary public's commission revocation date.

(3) At the same time that the notary public files such records and statement with the Secretary of State, a notary public shall file with the Secretary of State the notary public's official seal and official seal embosser, if any.

(4) The Secretary of State shall store such records for a period of seven years after the date of revocation. After the seven-year period, the Secretary of State may destroy such records. The Secretary of State may destroy the official seal and/or official seal embosser upon receipt.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.154

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0330

160-100-0340 Termination of Commission Due to Death

(1) Within 30 days of termination of a notary public's commission as a result of death, an heir or personal representative of the notary public shall file the notary public's notarial records with the Secretary of State, *unless the notary public entered into a written agreement with his/her employer pursuant to OAR 160-100-0360.*

(2) The heir or personal representative shall file a statement with the Secretary of State. The statement shall include:

- (a) The name of the notary public;
- (b) The notary public's commission number;
- (c) The notary public's commission expiration date;
- (d) The cause of termination of the notary public's commission, i.e., the notary public is deceased;
- (e) The notary public's date of death.

(3) At the same time that an heir or personal representative files such record and statement with the Secretary of State, an heir or personal representative shall file with the Secretary of State the notary public's official seal and official seal embosser, if any.

(4) The Secretary of State shall store such records for a period of seven years after the date of decease of the notary public. After the seven-year period, the Secretary of State may destroy such records. The Secretary of State may destroy the official seal and/or official seal embosser upon receipt.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.156

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0340

160-100-0350 Record of Protests of Commercial Paper

(1) A notary public whose commission terminates because of expiration, resignation or revocation, shall file his/her records of protests of commercial paper and any other notarial record relating only to protests of commercial paper with the Secretary of State within 30 days after the date of termination.

(2) At the same time that the notary public files such records with the Secretary of State, a notary public shall file a statement with the Secretary of State. The statement

shall include:

- (a) The name of the notary public;
 - (b) The notary public's commission number;
 - (c) The notary public's commission expiration date;
 - (d) The cause of termination of the notary public's commission, i.e., expiration, resignation or revocation;
 - (e) The notary public's commission termination date.
- (3) The Secretary of State shall store such records for a period of seven years after the date of termination. After the seven-year period, the Secretary of State may destroy such records.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.130

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0350

160-100-0360 Notary Public's Responsibilities When Agreement Has Been Entered into with Employer

A notary public who has entered into an agreement with his/her employer relating to the employer's retention and disposal of the notary public's notarial records following termination of employment pursuant to ORS 194.152(3) shall retain a written copy of the agreement which may be examined by the Secretary of State upon request. The agreement shall contain at least the following information:

- (1) Date agreement was entered into;
- (2) Names of parties to agreement;
- (3) Terms of agreement, including retention of records by the employer for a period not less than seven years after termination of the notary's commission;
- (4) Signatures of all parties to agreement.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.152

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0360

Notarial Fees and Waiver of Notarial Fees

160-100-0400 Maximum Amount of Notary Fees Permitted to be Charged

A notary public shall not charge, attempt to charge, or receive a notary fee that is more than:

- (1) \$10 for taking an acknowledgment;
- (2) \$10 for taking a verification upon an oath or affirmation;
- (3) \$10 for administering an oath or affirmation without a signature;
- (4) \$10 for certifying a copy of a document;
- (5) \$10 for witnessing or attesting a signature;
- (6) \$10 for protesting commercial paper, except a check drawn on an insolvent financial institution in which case the fee is \$0.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.164

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0400

160-100-0410 Displaying List of Notary Fees

A notary public who charges a fee for a notarial act shall either display a list of notary fees specified in OAR 160-100-0400 in a conspicuous location in the notary public's place of business or give a copy of the notice to any person requesting a notarial act to read before having the notarial act performed. A place of business is the notary public's residence, business office or any other location in which the notary public performs a notarial act.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.162

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0410

160-100-0420 Filing Statement of Waiver of Notary Fees; Withdrawing Statement of Waiver

(1) A notary public may file with the Secretary of State a statement waiving the right to charge a notary fee.

(2) If a notary public files a written statement of waiver, then the notary public shall:

(a) Not charge, attempt to charge or receive any notary fee for a notarial act performed after the date the notary public filed the statement of waiver;

(b) Not display a list of notary fees otherwise required by OAR 160-100-0410.

(3) If a notary public who has filed a statement of waiver wants to charge a fee to perform a notarial act, then notary public shall file with the Secretary of State a written statement withdrawing the statement of waiver and shall comply with the requirements of OAR 160-100-0400 and 160-100-0410.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.010

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0420

Complaints Against Notaries Public

160-100-0430 Filing Complaint Against Notary Public; Investigation of Notary Public by Secretary of State – ORS 194.335

(1) A person may file a complaint against a notary public with the Secretary of State. A complaint shall be submitted on the standard form provided by the Secretary of State, signed and dated by the person filing the complaint. A complaint that does not comply with the requirements of this section shall not be filed, responded to or acted upon by the Secretary of State.

(2) The Secretary of State may commence an investigation of a notary public as a result of information received from any source.

(3) Complaint forms received by the Secretary of State are not exempt from disclosure under Public Records Law, and shall be available to the accused notary public and others under ORS 192.410 to 192.505.

(4) Notwithstanding paragraph (3), personal information of the complainant revealed in a notary public complaint shall not be disclosed if:

(a) The complainant can show that public disclosure thereof would constitute an unreasonable invasion of privacy, unless

(b) In the determination of the Secretary of State, the public interest by clear and convincing evidence requires disclosure in the particular instance.

(c) "Personal information" shall, in this context, include but not be limited to the residence address, phone number and identifying information, such as Social Security Number, driver's license. The name of the complainant and incidental information do not fall within the definition of "personal information."

(5) An investigation of the Secretary of State under paragraphs (1) and (2) of this section may include:

(a) An initial request for information from the accused notary;

(b) A copy of the complaint forwarded to the accused; and

(c) A request for supporting documentation and other sources of information.

(6) A notary, upon request by the Secretary of State, shall disclose the contents of the notary's journal or journals, or any parts thereof, as part of the investigative process. The notary shall provide accurate, true and complete copies of the requested information, and/or shall provide the journal in question for examination by the Secretary of State.

(7) Upon a finding by the Secretary of State, copies of the finding shall be mailed to the complainant and the accused.

(8) Failure of an accused notary to comply with Secretary of State investigation directives shall result in revocation of the commission, subject to the provisions of ORS 183.413 to 183.470.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.166 & ORS 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0430; CORP 1-2001, f. 6-14-01, cert. ef. 7-1-01

Conviction of a Notary Public or Notary Public Applicant of a Felony or Lesser Offense Incompatible with the Duties of a Notary Public

160-100-0500 Notification of Secretary of State of Conviction

Within 30 days of having been convicted of any felony or lesser offense incompatible with the duties of a notary public, the notary public shall file a written statement with the Secretary of State containing the following information:

(1) The name of the notary public;

(2) The notary public's commission number;

(3) The notary public's Commission expiration date;

(4) Type of conviction;

(5) Court and jurisdiction of court in which convicted;

(6) Sentence imposed by court.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.166 & ORS 194.335

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0500

160-100-0510 Conviction of a Lesser Offense Incompatible with the Duties of a Notary Public

"Conviction of a lesser offense incompatible with the duties of a notary public" as cited in ORS 194.166(4) and OAR 160-100-610(67) shall mean having been convicted in any

court of the State of Oregon or any other state or federal jurisdiction of one of the crimes listed below or any comparable crime:

- (1) 162.075 – False swearing;
- (2) 162.085 – Unsworn falsification;
- (3) 162.235 – Obstructing governmental or judicial administration;
- (4) 162.295 – Tampering with physical evidence;
- (5) 162.305 – Tampering with public records;
- (6) 162.335 – Compounding a felony;
- (7) 162.355 – Simulating legal process;
- (8) 162.365 – Criminal impersonation;
- (9) 162.375 – Initiating a false report;
- (10) 162.385 – Giving false information to police officer for a citation;
- (11) 162.425 – Misuse of confidential information;
- (12) 165.007 – Forgery in the 2nd degree;
- (13) 165.017 – Criminal possession of a forged instrument in the 2nd degree;
- (14) 165.037 – Criminal simulation;
- (15) 165.042 – Fraudulently obtaining a signature;
- (16) 165.080 – Falsifying business records;
- (17) 165.095 – Misapplication of entrusted property;
- (18) 165.100 – Issuing a false financial statement;
- (19) 165.102 – Obtaining execution of documents by deception;
- (20) Any misconduct identified of the notary offenses listed in ORS 194.990;
- (21) Any other offense of a similar nature to the above listed crimes which is

incompatible with the duties of a notary public.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.166

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0510

Administrative Actions

160-100-0600 Refusal to Issue, Revocation, Suspension, Civil Penalties and Official Warning for Official Misconduct

(1) OAR 160-100-0610 identifies official misconduct, as defined in ORS 194.005(8), and identifies sanctions that may be taken by the Secretary of State for first acts of misconduct, including refusing to issue, revoking, or suspending a commission in ORS 194.166, assessing a civil penalty in ORS 194.980, or issuing an official warning in ORS 194.985.

(2) The Secretary of State may assess increasingly severe sanctions up to and including a \$1500 civil penalty and revocation of a notary public's commission, where applicable, for:

(a) Failure to correct or cease official misconduct within time periods specified by the Secretary of State in a final order (final notice of assessment) or Official Warning letter;

(b) A repeated act or acts of official misconduct which occur subsequent to any previous sanction assessed by the Secretary of State for the same type of misconduct;

(c) Accumulation of more than one different notary misconducts occurring during a seven-year period.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.166, ORS 194.980 & ORS 194.985
Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0600

160-100-0610 Conduct Which Constitutes Official Misconduct

As provided in OAR 160-100-0600, the following conduct constitutes official misconduct, as defined in ORS 194.005, for purposes of refusing to issue, revoke or suspend a notary public's commission pursuant to ORS 194.166, assessing a civil penalty against a person pursuant to ORS 194.980, or issuing an official warning to a person pursuant to ORS 194.985:

(1) A person, who is in the business of making or selling official seals, provided an official seal to a person who did not present to such vendor the original Certificate of Authorization issued by the Secretary of State to the person pursuant to ORS 194.010(2). See ORS 194.010(4)(a). Sanction for First Act of Misconduct: Official warning.

(2) A person performed a notarial act within the state of Oregon when the person was not commissioned as a notary public. See ORS 194.012. Sanction for First Act of Misconduct: Refuse to commission. (Class B Misdemeanor)

(3) A notary public used as an official seal an object that was not a stamp, or was a stamp but the stamp was made of a substance that was incapable of making a legible imprint on paper or was incapable of making an imprint that could be legibly reproduced under a photographic method. See ORS 194.031(1). Sanction for First Act of Misconduct: Official warning.

(4) A notary public, who received the notary public's official seal from a vendor of official seals, did not file with the Secretary of State an imprint of the notary public's official seal and the information required by OAR 160-100-0140 within ten days after the date the notary public received the official seal from the vendor. See ORS 194.031(5). Sanction for First Act of Misconduct: Official warning.

(5) A notary public, whose official seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable, did not personally deliver or mail to the Secretary of State a written notice of that fact within ten days after the date the notary public discovered that the notary public's official seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable. See ORS 194.031(6) and OAR 160-100-0160(1). Sanction for First Act of Misconduct: Official warning.

(6) A notary public used the notary public's seal embosser in lieu of the notary public's official seal. See ORS 194.031(7) and OAR 160-100-0130(1). Sanction for First Act of Misconduct: Official warning.

(7) A notary public performed a notarial act in another state pursuant to the authority of the notary public's Oregon commission. See ORS 194.043. Sanction for First Act of Misconduct: Official warning.

(8) A notary public did not deliver or mail to the Secretary of State a written notice of change of address within 30 days after the date the notary public changed the notary public's residence or business street or mailing address. See ORS 194.047 and 194.166(15). Sanction for First Act of Misconduct: Official warning.

(9) A notary public performed a notarial act using a new name different than the notary public's name as it appeared on the notary public's written commission. See ORS 194.052(1). Sanction for First Act of Misconduct: Official warning.

(10) A notary public did not deliver or mail to the Secretary of State a written notice of change of name within 30 days after the date the notary public's name changed. See ORS

194.052(2) and 194.166(15). Sanction for First Act of Misconduct: Official warning.

(11) A notary public issued a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in ORS 73.0505(2)) but in the certificate did not identify the negotiable instrument protested, certify that due presentment was made or the reason why presentment was excused, or certify that the instrument protested was dishonored by nonacceptance or nonpayment, as required by ORS 73.0505(2). See ORS 194.070. Sanction for First Act of Misconduct: Official warning.

(12) A notary public did not keep a record of all certificates of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) issued by the notary public during the term of a commission. See ORS 194.090. Sanction for First Act of Misconduct: Official warning.

(13) A notary public performed an acknowledgment of a document executed by a corporation of which the notary public was a shareholder, director, officer or employee at the time of the notarization when the notary public was a party to the document either in an individual or representative capacity. See ORS 194.100(2)(a). Sanction for First Act of Misconduct: Official warning.

(14) A notary public issued a certificate of dishonor of a negotiable instrument (also known as a protest of commercial paper as defined in ORS 73.0505(2)) that was owned or held for collection by a corporation of which the notary public was a shareholder, director, officer or employee of a corporation at the time of the notarization when the notary public was a party to the negotiable instrument in an individual capacity. See ORS 194.100(2)(b). Sanction for First Act of Misconduct: Official warning.

(15) A notary public issued a certificate of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) of a non-commercial or other document that does not fit the definition of negotiable instrument as defined in ORS 73.0104. See ORS 194.070. Sanction for First Act of Misconduct: Official warning.

(16) A notary public issued a certificate of dishonor (also known as a protest of commercial paper as defined in ORS 73.0505(2)) in a manner not in accordance with ORS 73.0505. See ORS 194.070. Sanction for First Act of Misconduct: Official warning.

(17) A notary public did not provide, keep, maintain or protect a chronological journal of notarial acts performed by the notary public during the term of a commission. See ORS 194.152(1). Sanction for First Act of Misconduct: Official warning.

(18) A notary public whose commission was terminated because of expiration and who did not reapply did not arrange for the storage of his/her notarial records, file a statement with Secretary of State or destroy the notary public's official seal and official seal embosser, if any. See ORS 194.154 and OAR 160-100-0300. Sanction for First Act of Misconduct: Official warning.

(19) A notary public whose commission terminated because of resignation did not arrange for the storage of his/her notarial records, file a statement or the notary public's official seal and official seal embosser, if any, with the Secretary of State. See ORS 194.154 and OAR 160-100-0320. Sanction for First Act of Misconduct: Official warning.

(20) A notary public whose commission terminated because of revocation did not file his/her notarial records, a statement or the notary public's official seal and official seal embosser, if any, with the Secretary of State. See ORS 194.154 and OAR 160-100-0330. Sanction for First Act of Misconduct: \$500.

(21) A notary public whose commission terminated because of expiration and who filed an application for a new commission within 30 days after the date of termination but

was not issued a new commission within 90 days after the date of termination, did not dispose of the notary public's notarial records in accordance with OAR 160-100-0310 within 90 days after the date of termination. See ORS 194.154(3). Sanction for First Act of Misconduct: Official warning.

(22) A notary public notarized a document in which the notary public signed or was named other than as a notary public. See ORS 194.158(1). Sanction for First Act of Misconduct: Official warning.

(23) A notary public endorsed or promoted a product, service, contest or other offering by using the notary public's title or official seal. See ORS 194.158(2). Sanction for First Act of Misconduct: \$500 civil penalty.

(24) A notary public made a representation that the notary public had powers, qualifications, rights or privileges that the notary public did not have. See ORS 194.162(2). Sanction for First Act of Misconduct: \$500 civil penalty.

(25) A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not include in the advertisement the statement: "I am not licensed to practice law in the state of Oregon and I am not permitted to give legal advice on immigration or other legal matters or accept fees for legal advice." This should be written in the same language used in the advertisement and in English and prominently displayed. See ORS 194.162(3)(a) and 194.166(10). Sanction for First Act of Misconduct: Official warning.

(26) A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not include in the advertisement a list of notarial fees specified in OAR 160-100-0410. See ORS 194.162(3)(b) and 194.166(10). Sanction for First Act of Misconduct: Official warning.

(27) A notary public, who was not licensed to practice law in the state of Oregon and who advertised in a language other than English to perform a notarial act, did not display the statement and list of notarial fees required by ORS 194.162(3) in a conspicuous place in the notary public's place of business. See ORS 194.162(4) and 194.166(10). Sanction for First Act of Misconduct: Official warning.

(28) A notary public used the term "notario publico" or a non-English equivalent term in a business card, advertisement, notice, sign or in any other manner which misrepresents the authority of the notary public. See ORS 194.162(5). Sanction for First Act of Misconduct: Official warning.

(29) A notary public who charged a fee for traveling to perform a notarial act did not explain to the person who requested the notarial act that the traveling fee was in addition to the fee to perform the notarial act or was not required by law, or did not obtain in advance the agreement of the person who requested the notarial act to the amount of the traveling fee. See ORS 194.164(2). Sanction for First Act of Misconduct: Official warning.

(30) A notary public, except a notary public who filed with the Secretary of State a statement waiving the right to charge a notary fee, did not comply with the fee display requirements specified in OAR 160-100-0410. See ORS 194.164(3). Sanction for First Act of Misconduct: Official warning.

(31) A notary public failed to maintain the qualifications to be a notary public required under ORS 194.022. See ORS 194.166(1). Sanction for First Act of Misconduct: Revocation of commission.

(32) A notary public purports to be a citizen of a country other than one officially recognized by the United States Department of State. See ORS 194.005(3). Sanction for

First Act of Misconduct: Official warning.

(33) A notary public or notary public applicant made a substantial and material misstatement or omission of fact in an application submitted to the Secretary of State. See ORS 194.166(2). Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(34) A notary public or notary public applicant was convicted of a felony, or of a lesser offense incompatible with the duties of a notary public. See ORS 194.166(4) and OAR 160-100-0510. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(35) A notary public or a notary public applicant had a professional license that was issued by a governmental entity revoked, suspended, restricted or denied for misconduct, dishonesty or a cause substantially relating to the duties or responsibilities of a notary public. See ORS 194.166(5). Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

(36) A notary public was judicially determined to be liable for damages in a suit for fraud or misrepresentation or in a suit for failing to discharge fully and faithfully the duties as a notary public. See ORS 194.166(6). Sanction for First Act of Misconduct: Revocation of commission.

(37) A notary public used a false or misleading advertisement in which the notary public represented that the notary public had powers, qualifications, rights or privileges that the office of notary public does not have, including but not limited to the power to counsel on immigration matters. See ORS 194.166(7). Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

(38) A notary public engaged in the unauthorized practice of law. See ORS 194.166(8). Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

(39) A notary public charged a notary fee that was more than the maximum fee specified in OAR 160-100-0400. See ORS 194.166(9). Sanction for First Act of Misconduct: \$500 civil penalty.

(40) A notary public committed an act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another or substantially injure another. See ORS 194.166(11). Sanction for First Act of Misconduct: Suspension of commission for a period of 90 days and \$1,000 civil penalty.

(41) A notary public executed a notarial certificate that contained a statement known to the notary public to be false. See ORS 194.166(13). Sanction for First Act of Misconduct: \$500 civil penalty.

(42) A notary public used an official seal or official seal embosser that did not conform to ORS 194.031, OAR 160-100-0100 and 160-100-0120 to perform a notarial act. See ORS 194.166(14). Sanction for First Act of Misconduct: Official warning.

(43) A notary public did not determine either from personal knowledge as defined in ORS 194.515(7) or from satisfactory evidence as defined in ORS 194.515(6) and 194.515(8) that the person acknowledging a document as defined in ORS 194.505(1) in the presence of the notary public was the person whose signature was on the document. See ORS 194.515(1). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(44) A notary public did not determine either from personal knowledge as defined in ORS 194.515(7) or from satisfactory evidence as defined in ORS 194.515(6) and 194.515(8) that the person verifying a statement by oath or affirmation as defined in ORS

194.505(3) in the presence of the notary public is the person whose signature was on the statement. See ORS 194.515(2). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(45) A notary public did not determine either from personal knowledge as defined in ORS 194.515(7) or from satisfactory evidence as defined in ORS 194.515(6) and 194.515(8) that the signature on a document was the signature of the person signing the document in the presence of the notary public and named in the document. See ORS 194.515(3). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(46) A notary public did not determine from satisfactory knowledge as defined in ORS 194.515(6) and 194.515(8) that the copy of a document presented to the notary public was a complete and correct transcription or reproduction of the document presented. See ORS 194.515(4). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(47) A notary public did not determine or from satisfactory knowledge as defined in ORS 194.515(6) and 194.515(8) the identity of the negotiable instrument, that presentment was required and made, or that presentment was excused and not made and the reason why presentment was excused, that the instrument was dishonored by nonacceptance or nonpayment, or all or any combination of the above. See ORS 194.515(5). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days.

(48) A notary public did not evidence a notarial act by issuing a notarial certificate as defined in ORS 194.005(5) containing the signature of the notary public, the title of the notary public, the date the notary public's commission expires, the date the notary public performed the notarial act, the name of the governmental jurisdiction in which the notarial act was performed, the official seal of the notary public, and, if a United States commissioned officer on active duty, then also the notary public's military rank. See ORS 194.565(1). Sanction for First Act of Misconduct: Official warning.

(49) A notary public did not evidence a notarial act by a notarial certificate as defined in ORS 194.005(5) in a form prescribed by a law of the United States or of the State of Oregon or, if not prescribed, then in a form permitted by ORS 194.575 or in a form designed by the notary public that describes the acts of the notary public and such acts meet all of the requisite elements of the notarial act. See ORS 194.565(2). Sanction for First Act of Misconduct: Official warning.

(50) A notary public engaged in any other act or omission involving any act prohibited or mandated by ORS 194.005 to 194.200, 194.505 to 194.595 or any rule adopted by the Secretary of State or any other law governing notarization. See ORS 194.005(8). Sanction for First Act of Misconduct: \$500 civil penalty.

(51) A notary public did not use the notary public's official seal in performing a notarial act. See OAR 160-100-0110(1). Sanction for First Act of Misconduct: Official warning.

(52) A notary public used the notary public's official seal or official seal embosser to perform a notarial act but did not place an imprint of the official seal or official seal embosser on a notarial certificate. See OAR 160-100-0110(2) and 160-100-0130(2). Sanction for First Act of Misconduct: Official warning.

(53) A notary public used the notary public's official seal or official seal embosser to perform a notarial act but placed an imprint of the official seal or official seal embosser over any signature in a document to be notarized or in a notarial certificate or over any

writing in a notarial certificate. See OAR 160-100-0110(3) and 160-100-0130(3).
Sanction for First Act of Misconduct: Official warning.

(54) A notary public used the notary public's official seal or official seal embosser for a purpose other than to perform a notarial act. See OAR 160-100-0110(5) and 160-100-0130(5). Sanction for First Act of Misconduct: Official warning.

(55) A notary public permitted another person to use the notary public's official seal or official seal embosser. See OAR 160-100-0110(6) or 160-100-0130(6). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days and \$500 civil penalty.

(56) A notary public used another notary public's official seal or official seal embosser or an object in lieu of the notary public's official seal or official seal embosser to perform a notarial act. See OAR 160-100-0110(7) and 160-100-0130(7). Sanction for First Act of Misconduct: Suspension of commission for a period of 30 days and \$500 civil penalty.

(57) A notary public, whose Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable, did not file with the Secretary of State a written statement, under oath or affirmation within ten days after the date the notary public discovered that the Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable. See OAR 160-100-0150(1). Sanction for First Act of Misconduct: Official warning.

(58) A notary public, whose Certificate of Authorization was lost, misplaced, destroyed or otherwise unusable, did not file with the Secretary of State a written statement containing the information required by OAR 160-100-0150(2). See OAR 160-100-0150(2). Sanction for First Act of Misconduct: Official warning.

(59) A notary public, who was issued a duplicate Certificate of Authorization pursuant to OAR 160-100-0150 and 160-100-0160, did not file with the Secretary of State an imprint of the notary public's seal and duplicate Certificate of Authorization within ten days after the notary public received the completed duplicate Certificate of Authorization from a vendor of official seals. See OAR 160-100-0150(4) and 160-100-0160(3).
Sanction for First Act of Misconduct: Official warning.

(60) A notary public who subsequently reacquired possession of a lost, misplaced, destroyed or otherwise unusable Certificate of Authorization did not file with the Secretary of State a written statement of explanation within ten days after the date the notary public reacquired possession of the unusable Certificate of Authorization. See OAR 160-100-0150(5). Sanction for First Act of Misconduct: Official warning.

(61) A notary public, whose official seal was lost, misplaced, destroyed, broken, damaged or otherwise unworkable, did not file with the Secretary of State a written statement containing the information required by OAR 160-100-0160(2). See OAR 160-100-0160(2). Sanction for First Act of Misconduct: Official warning.

(62) A notary public who subsequently reacquired possession of a lost or misplaced official seal did not file with the Secretary of State a written statement of explanation and the lost or misplaced official seal within ten days after the date the notary public reacquired possession of the lost or misplaced official seal. See OAR 160-100-0160(4).
Sanction for First Act of Misconduct: Official warning.

(63) A notary public used a notarial journal that was not in the form required by OAR 160-100-0200. See OAR 160-100-0200. Sanction for First Act of Misconduct: Official warning.

(64) A notary public did not enter in a notarial journal the information about each notarial act performed by the notary public required by OAR 160-100-0210. See OAR

160-100-0210. Sanction for First Act of Misconduct: Official warning.

(65) A notary public recorded information about multiple notarial acts performed by the notary public in a manner that did not comply with the requirements of OAR 160-100-0220. See OAR 160-100-0220. Sanction for First Act of Misconduct: Official warning.

(66) A notary public used a record of protests that did not contain the information about each certificate of dishonor issued by the notary public required by OAR 160-100-0240. See OAR 160-100-0240. Sanction for First Act of Misconduct: Official warning.

(67) A notary public whose commission was terminated because of expiration, resignation or revocation did not file with the Secretary of State the notary public's record of protests and any other notarial records relating only to protests of commercial paper in accordance with OAR 160-100-0350 within 30 days after the date of termination. See OAR 160-100-0350(1). Sanction for First Act of Misconduct: Official warning.

(68) A notary public whose commission was terminated because of expiration, resignation or revocation did not file with the Secretary of State the statement required by OAR 160-100-0350(2) within 30 days after the date of termination. See OAR 160-100-0350(2). Sanction for First Act of Misconduct: Official warning.

(69) A notary public who entered into an agreement with an employer relating to the employer's retention and disposal of the notary public's notarial records following termination of employment pursuant to ORS 194.152(3) did not retain a written copy of the agreement or make such available upon request of the Secretary of State. See OAR 160-100-0360. Sanction for First Act of Misconduct: Official warning.

(70) A notary public who was convicted for a felony or lesser offense incompatible with the duties of a notary public did not file a statement with the Secretary of State within 30 days of conviction. See OAR 160-100-0500. Sanction for First Act of Misconduct: \$500 civil penalty.

(71) A notary public who submits the following types of documents to the Secretary of State in reply to correspondence from the Secretary of State or other government agency or seeks to initiate proceedings through the following document types:

(a) Conditional Acceptance, or a similar document purporting to "conditionally accept" presentment of an official document, and demanding proof of a list of claims in order to fully accept the official document.

(b) Affidavit in Support of Conditional Acceptance, or a similar document purporting to attest to the facts of a document described in paragraph (71)(1) and signed by the same notary public who is attesting.

(c) Notice of Dishonor, or a similar document purporting to give notice that a Conditional Acceptance (see paragraph (71)(1)) has not been accepted by the government agency to which it was sent and thereby was dishonored.

(d) Accepted for Value, or similar stamp or certificate purporting to accept for a disclosed or undisclosed value an official document sent to the notary public by the Secretary of State or other governmental agency. The certificate claims to establish an amount of money payable or accrued to the signor of the certificate.

(e) Notice of Protest, or a similar document purporting to be a Protest of Commercial Paper that has been dishonored, when said Commercial Paper is not, in fact, a negotiable instrument under Oregon Revised Statute Chapter 73 and subject to the laws stated therein regarding dishonor and protest.

(f) Other documents attempting to apply Oregon Revised Statute Chapter 73 to non-

negotiable instruments or other documents not included in the scope of said chapter.

(g) Other document type purporting to follow the Uniform Commercial Code (U.C.C.), and not related to an Oregon Revised Statute Ch. 79 filing.

(h) Other document type purporting to be according to Oregon Revised Statute Ch. 79 that does not constitute filing under ORS Ch. 79.0516. See ORS 194.166. Sanction for First Act of Misconduct: Revocation of commission or refusal to issue commission.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.166 & ORS 194.980

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0610; CORP 1-2003, f. 3-14-03, cert. ef. 4-1-03

160-100-0620 Appeal Process

In the event the Secretary of State sanctions a notary public for official misconduct or proposes to refuse to appoint or proposes to revoke or suspend a commission, an opportunity for a public hearing will be provided pursuant to ORS 194.168, 194.990, the contested case procedures set out in ORS 183.413 through 183.500 and the Attorney General's Model Rules of Procedure for Contested Cases.

Stat. Auth.: ORS 194

Stats. Implemented: ORS 194.168

Hist.: SOS-AD 2-1990, f. 5-9-90, cert. ef. 7-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; Renumbered from 164-100-0620

160-100-0700 Satisfactory Evidence

For the purposes of 194.515:

(1) "Current" means not expired.

(2) "United States passport" means a U.S. passport and a U.S. passport card issued by the U.S. Department of State.

Stat. Auth.: ORS 194.335

Stats. Implemented: ORS 194.515

Notary Public Education

160-100-1000 Definitions

(1) Certificate of Approval. The Oregon Secretary of State Certificate of Approval (OAR 160-100-1010) signifies only that the provider named therein offers an education program curriculum similar to the education program curriculum offered by the Secretary of State and has complied with the requirements of these rules. The Certificate of Approval does not imply endorsement of the provider, nor any products or services offered by the provider.

(2) Certificate of Education. The Certificate of Education (OAR 160-100-1060) signifies that the person named therein has completed the approved three-hour education program provided by the provider.

(3) Course of study. For the purposes of this division, "course of study" applies only to a live classroom or on-line education.

(4) Notary public applicant. For the purposes of this division, a "notary public applicant" is a person who applies for a commission as an Oregon notary public, who does not already hold a current notary public commission, and who must attend a three-

hour course of instruction in order to qualify for commission as a notary public.

(5) Provider. For purposes of this division, a “provider” is an individual or business entity that provides a notary public education course of study.

(6) Oregon business registration number. For the purposes of these rules, an Oregon business registration number is the number assigned by the Corporation Division to a corporation, partnership or assumed business name that indicates registration in the public record of the Division.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1010 Provider Certificate of Approval

Before offering any course of study pursuant to Oregon Revised Statute Chapter 194.028, a provider must obtain a Certificate of Approval from the Secretary of State for each course of study offered.

(1) To apply for a Certificate of Approval, a provider must submit to the Secretary of State a completed Notary Public Education Provider Application or Amendment form, hereby incorporated by reference, an active Oregon business registration number, and a lesson plan satisfying the requirements in OAR 160-100-1020.

(2) The Secretary of State will issue either a Certificate of Approval, in accordance with paragraph (3), or a deficiency notice, in accordance with OAR 160-100-1030, within 90 days of receipt of an application and lesson plan.

(3) Upon approval of an application and lesson plan, the Secretary of State will send a Certificate of Approval to the provider by first class mail to the address listed on the Notary Public Education Provider Application or Amendment form.

(4) The Certificate of Approval will include the following:

(a) The name of the approved provider as listed on the Notary Public Education Provider Application or Amendment form.

(b) The address listed on the Notary Public Education Provider Application or Amendment form.

(c) The three letter provider identification code issued by the Secretary of State.

(d) The date the course of study was approved by the Secretary of State.

(5) An approved provider must not alter or substitute the lesson plan reviewed and approved by the Secretary of State, unless the revisions are approved by the Secretary of State in accordance with OAR 160-100-1050.

(6) For the purposes of this chapter, a provider must be authorized to transact business in Oregon in order to be certified. Authorization to transact business must be evidenced by an active Oregon business registration number.

(7) For the purposes of this chapter, an approved provider is responsible for all employees, agents, instructors, contractors, and subcontractors providing or involved in providing an approved course of study on behalf of the approved provider and the acts of the employees, agents, instructors, contractors, and subcontractors will be deemed the acts of the approved provider.

(8) The Certificate of Approval will expire 3 years from the date of issuance, and it must be renewed to continue as a state-approved course of instruction. A provider may apply for renewal up to 90 days before the expiration of the Certificate. Upon expiration of the Certificate, the provider must submit a new application, not a renewal, in order to offer state-approved education.

(9) A Certificate of Approval is non-transferable and may not be conveyed to another provider or applied to another course of study.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1020 Lesson Plan

A lesson plan must meet the following requirements:

(1) The lesson plan must be based on the laws of Oregon concerning the functions and duties of a notary public. The lesson plan must cover at least the Oregon Notary Public Knowledge Statements, hereby incorporated by reference. The Oregon Notary Public Knowledge Statements may be obtained from the Secretary of State by request.

(2) The lesson plan must contain a table of contents, and the pages of the lesson plan must be consecutively numbered.

(3) The lesson plan must provide sufficient detail to enable the Secretary to evaluate the specific information to be presented and to determine the accuracy of the information to be presented.

(4) The lesson plan must contain the procedures to ensure that a person attending a course of study is present for the required time.

(5) The lesson plan must include a schedule of the time allotted for the following:

(a) Break periods, if any;

(b) Each major subject area;

(c) Each audio visual aid to be used, if any;

(d) Each student participation activity, if any.

(e) Completion, correction, and discussion of any practice tests used and the method of correction to be used, if any.

(6) If any movie or video is used for instruction, the lesson plan must include a brief synopsis of the information presented therein. The synopsis must detail the specific information presented by the movie or video. In addition, the provider must include the movie or video in the materials presented to the Secretary of State for review.

(7) Copies of any handout materials, workbooks, visuals aids, description of student participation exercises, and practice tests used during the course of study must be submitted for approval with the lesson plan.

(8) If the course provides for an evaluation by the students, time to complete the evaluation must not be included as part of the course of instruction.

(9) All materials submitted to the Secretary of State under this rule become the property of the Secretary of State and may be returned to the provider at the sole discretion of the Secretary.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1030 Deficient Application or Lesson Plan

(1) If the Secretary of State determines that a Notary Public Education Provider Application or Amendment form is incomplete, or that a lesson plan does not satisfy the requirements of ORS Ch. 194.028 or this chapter, the Secretary of State will issue a deficiency notice containing an itemized description of the deficiencies identified. The deficiency notice will be sent by first class mail to the provider's address listed on the

Notary Public Education Provider Application or Amendment form.

(2) A provider has 30 days from the date on which the deficiency notice was mailed by the Secretary of State to submit documentation to the Secretary of State curing the deficiencies identified in the deficiency notice.

(3) The Secretary of State may issue more than one deficiency notice to a provider regarding the same Notary Public Education Provider Application or Amendment form and lesson plan at any time during the review process.

(4) The Secretary of State may disapprove a Notary Public Education Provider Application or Amendment form if the deficiencies are not cured in accordance with paragraph (2).

(5) After the disapproval of a provider's application or amendment, the provider has the right to a hearing on the matter, and the proceeding will be conducted in accordance with the contested case procedures set out in ORS 184.413 through 183.500, and the Attorney General's Model Rules of Procedure for Contested Cases.

(6) Upon the effective date of a final order in a contested case, or if the final order is appealed, a final appellate judgment disapproving an application or amendment, a provider may cure the deficiencies identified in the decision by submitting a Notary Public Education Provider Application or Amendment form in accordance with OAR 160-100-1030.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1040 Notification of Changes of Approved Provider Information

Within 30 days of any changes in the information contained in the most recent application approved by the Secretary of State, an approved provider must submit to the Secretary of State a Notary Public Education Provider Application or Amendment form identifying the changes. An approved provider may confirm receipt by the Secretary of State by phone or e-mail.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1050 Lesson Plan Revisions

(1) Within 30 days of the effective date of a new Oregon law or rule concerning the duties and functions of notaries public, an approved provider must revise an approved lesson plan as necessary to ensure that the information provided in an approved course of study reflects the new Oregon law or rule.

(2) Any provider-initiated revisions to the contents or methods of instruction detailed in an approved lesson plan must be approved by the Secretary of State at least 30 days before implementing the proposed revisions in an approved course of study.

(3) To apply for a Certificate of Approval for a revised lesson plan, an approved provider must submit a completed Notary Public Education Provider Application or Amendment form, and a revised lesson plan in accordance with OAR 160-100-1020.

(4) The provisions in OAR 160-100-1010, 160-100-1020, and 160-100-1030 apply to a revised lesson plan.

(5) Upon approval of a revised lesson plan, the Secretary of State will issue a Certificate of Approval pursuant to OAR 160-100-1010.

(6) A provider may only follow the lesson plan corresponding to the most current Certificate of Approval.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1060 Certificate of Education

(1) An approved provider must issue a Certificate of Education to a notary public applicant upon completion of an approved course of study, as provided in section (3).

(2) The Certificate of Education shall be issued by the provider to a notary public applicant only after the person has completed the approved course of study.

(3) The Certificate of Education must consist of a certificate signed by an approved provider or an employee, agent, instructor, contractor, or subcontractor of an approved provider, which contains the following information:

(a) The name of the approved provider as it appears on the Certificate of Approval issued by the Secretary of State for the approved course of study.

(b) The name of the notary public applicant who completed the approved course of study.

(c) The date the notary public applicant completed the approved course of study.

(d) The Notary Education Identification Number, consisting of the Provider Identification Code and a unique six-digit number.

(e) The statements that:

(i) The Certificate of Education must be valid for a period of six months from the date of issuance; and

(ii) The student must provide the Notary Education Identification Number on the notary public application when submitted to the Secretary of State.

(4) The Certificate of Education of an approved course of study is for six months from the date of issuance.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1070 List of Attendees

(1) An approved provider must maintain a list of persons who attend each session of an approved course of study.

(2) The List of Attendees must be maintained for a period of five years from the date of issuance of the Certificates of Education corresponding to that session.

(3) The list must include the following:

(a) The name of the approved provider as listed in the Certificate of Approval for the approved course of study.

(b) The provider identification code issued by the Secretary of State.

(c) The name of the instructor or instructors who taught the approved course of study.

(d) The date, time, and location of the approved course of study.

(e) The names of all the attendees in alphabetical order by the last name of the attendee.

(f) The Notary Education Identification Number corresponding to the attendee, if any.

(4) An approved provider must not collect the social security numbers of any attendees.

(5) Upon request, an approved provider must submit a list of attendees in a data format approved by the Secretary of State.

(6) An approved provider, former approved provider, or employee, agent, instructor, contractor, or subcontractor of an approved provider or former approved provider must not copy or release any list of attendees or any information contained therein to any person, except the Secretary of State, Attorney General, a district attorney, or a city attorney.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1080 Secretary of State Attending Approved Course of Study

An approved provider must permit the Secretary of State or representatives of the Secretary of State to attend any approved course of study, without prior notice and at no charge, for the purpose of observation, monitoring, auditing, and investigating the instruction given.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1090 Duty to Respond to a Written Request from the Secretary of State

An approved provider must respond in writing within 30 days of receiving a written request for information from the Secretary of State. A written request may be sent to the mailing address, facsimile number, or e-mail address listed on the most current Notary Public Education Provider Application or Amendment form filed pursuant to OAR 160-100-1020 or 160-100-1050.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1100 Cancellation or Delay of Scheduled Approved Course of Study

(1) Before charging any fees to a notary public applicant for an approved course of study, an approved provider must disclose the refund policy of the approved provider.

(2) An approved provider must refund all fees within 30 days of a scheduled course date to any notary public applicant who registered to attend an approved course of study if one of the following occurs:

(a) An instructor fails to appear at the scheduled time, date, or place of the approved course of study;

(b) An approved course of study is delayed in starting more than 15 minutes after the scheduled time, and a notary public applicant immediately informs the approved provider of his or her request for a refund, and the notary public applicant leaves the approved course of study before its start; or

(c) The provider does not hold a current Certificate of Approval from the Secretary of State.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1105 Complaints Against an Approved Provider

(1) A person may file a complaint against an approved provider with the Secretary of State. A complaint shall be submitted on the standard form provided by the Secretary of State, signed and dated by the person filing the complaint. A complaint that does not comply with the requirements of this section shall not be filed, responded to or acted upon by the Secretary of State.

(2) The Secretary of State may commence an investigation of an approved provider as a result of information received from any source.

(3) Complaint forms received by the Secretary of State are not exempt from disclosure under Public Records Law, and shall be available to the approved provider and others in conformity with ORS 192.410 to 192.505.

(4) An investigation of the Secretary of State under paragraphs (1) and (2) of this section may include:

- (a) An initial request for information from the accused provider;
- (b) A copy of the complaint forwarded to the accused; and
- (c) A request for supporting documentation and other sources of information.

(5) A provider, upon request by the Secretary of State, shall provide accurate, true and complete copies of the requested information.

(6) Upon a finding by the Secretary of State, copies of the finding shall be mailed to the complainant and the accused.

(7) Failure of an approved provider to comply with Secretary of State investigation directives shall result in revocation of the Certificate of Approval, subject to the provisions of ORS 183.413 to 183.470.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1110 List of Approved Providers

(1) The Secretary of State may also make a list of approved providers available online at the Corporation Division's website. The online list of approved providers may be searchable by a county in which approved providers provide approved courses of study.

(2) The Secretary of State may include the following information on the list of approved providers for each approved provider:

- (a) The name of approved provider in accordance with section (1).
- (b) Contact information - a mailing address; a telephone number; a fax number; an e-mail address; and a website address.
- (c) The county or counties in which approved providers provide approved courses of study.

(3) The Secretary of State may only update the list of approved providers to add, delete, or amend approved provider information that is filed in accordance with OAR 160-100-1040. A list of approved providers may be updated by the first day of each month following the month during which there were additions, deletions, or amendments to the list of approved providers.

(4) The Secretary of State reserves the right to delete any information from the list compiled pursuant ORS 194.028 or section (2) of this rule that the Secretary of State determines is misleading to the public or of an inappropriate nature.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1120 Renewal of a Certificate of Approval

Ninety days before the certificate's expiration, the Secretary of State will notify a provider, by e-mail, fax, or written mail, of the need to renew the provider's Certificate of Approval.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1130 Grounds for Termination of a Certificate of Approval

The Secretary of State may terminate a Certificate of Approval upon any of the following grounds:

- (1) Violation of any of the provisions of this chapter or ORS 194.028.
- (2) Misrepresentation of the laws of Oregon concerning the duties and functions of a notary public.
- (3) Deviation from the lesson plan for a course of study approved by the Secretary of State.
- (4) Failure to respond to a request from the Secretary of State.
- (5) Representations by the provider that any product, goods, or services provided by the provider are endorsed, recommended or required by the Secretary of State.

Certification only recognizes that the education program curriculum of the provider is similar to the state's curriculum.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1140 Termination of Certificate of Approval

(1) If the Secretary of State proposes to terminate the Certificate of Approval of a provider, opportunity for hearing shall be accorded as provided in the contested case procedures set out in ORS 183.413 through 183.500 and the Attorney General's Model Rules of Procedure for Contested Cases.

(2) If the provider does not request a hearing, termination shall be effective 21 days after the termination notice.

(3) The cancellation of the provider's Certificate of Approval does not bar the Secretary of State from instituting or continuing an investigation or disciplinary proceedings.

(4) Upon completion of the disciplinary proceedings, the Secretary of State may enter an order finding the facts and stating the conclusion that the fact would or would not have constituted grounds for termination of the Certificate of Approval if the Certificate of Approval had still been in effect.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1150 Cancellation of Certificate of Approval

(1) An approved provider may cancel its Certificate of Approval by submitting a written notice of cancellation to the Secretary of State. Unless otherwise stated in the notice of cancellation, the effective date of the cancellation of the Certificate of Approval

is 30 days after receipt of the notice of cancellation. The provider may confirm receipt by the Secretary of State by phone or e-mail.

(2) Within 30 days of the effective date of a cancellation of a Certificate of Approval, a provider must refund all fees to all individuals who paid to take an approved course from a provider, if the course is scheduled after the effective date of the cancellation.

Stat. Auth.: ORS 194.028

Stats. Implemented: ORS 194.028

Hist.: CORP 3-2006, f. & cert. ef. 6-19-06