



STATE OF NEW MEXICO
MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

Guidance Regarding Executive Order 2020-015

Governor Michelle Lujan Grisham, through Executive Order 2020-015, ordered the Notary Compliance and Enforcement Unit (NCEU) not to recommend any form of discipline for any notary public who performs a notarial act through audio-video technology for the duration of the order, which is based on the emergency declaration related to COVID-19, declared by Executive Order 2020-04. The Governor is responsible for enforcement under the Notary Public Act and the executive order outlines the methods and conditions under which a facsimile or electronic signature could be notarized by a New Mexico Notary without sanction by the Governor.

In accordance with the Notary Public Act 14-12A-1 to 14-12A-26 NMSA 1978, a Notary Public is empowered to perform the following notarial acts:

- Acknowledgments. “Acknowledgment” means a notarial act in which a person at a single time and place:
 - appears in person before the notary public and presents a document;
 - indicates to the notary public that the signature on the document was voluntarily affixed by the person for the purposes stated within the document and, if applicable, that the person had due authority to sign in a particular representative capacity.
- Administer oaths and affirmations. “Oath” or “Affirmation” means a notarial act in which a person at a single time and place:
 - appears in person before the notary public; and
 - makes a vow of truthfulness or fidelity on penalty of perjury, based on personal honor and without invoking a deity or using any form of the word “swear.”
- Jurats. “Jurat” means a notarial act in which a person at a single time and place:
 - appears in person before the notary public and presents a document;
 - signs the document in the presence of the notary public; and
 - takes an oath or affirmation from the notary public that the person is voluntarily affixing his signature and vouching for the truthfulness or accuracy of the signed document;
- Copy certifications. “Copy certification” means a notarial act in which a notary public:
 - is presented with an original document that is neither a vital record, a public record nor publicly recordable;
 - copies or supervises the copying of the original document using a photographic or electronic copying process;
 - compares the original document to the copy; and
 - determines that the copy is accurate and complete.

In all the above cases, if the person seeking notary services or any witnesses are not personally known to the notary, each person must present satisfactory evidence of identity (e.g. a valid state-issued photo identification).

The Executive Order states that documents notarized under these conditions will not be subject to sanctions. It further states that to satisfy the “presence” requirement, technology that audio-video conferencing may be used and details those requirements as:

- Each party that is participating in the notarization must affirmatively state that he or she is located in New Mexico during the video conference;
- If the person seeking notary services or any witnesses are not personally known to the notary, each person must present satisfactory evidence of identity (e.g. a valid state-issued photo identification) during the video conference;
- The person seeking the notary’s services must transmit by fax or electronic means a legible copy of the signed document directly to any required witnesses and then to the notary on the same day it was signed; and
- Once the notary has received a legible copy of the document with all necessary signatures they may notarize the document and transmit the notarized document back to the person seeking the notary’s services.

It should be noted that although the Governor declares that notaries performing notarial acts using audio-video technology will not be penalized for doing so under Executive Order 2020-015, it does not ensure that the notarization performed in this manner will be accepted by the office of the entity that requires a notarized document.

Complaints that may be made against a notary filed with our office will still be recorded and forwarded to the Regulation and Licensing Division, and the Office of the Governor, for those agencies to record and respond.