

## IOWA CODE

### TITLE I. STATE SOVEREIGNTY AND MANAGEMENT SUBTITLE 4. EXECUTIVE BRANCH CHAPTER 9B. REVISED UNIFORM LAW ON NOTARIAL ACTS

#### **9B.1 Short title.**

This chapter may be cited as the “Revised Uniform Law on Notarial Acts (2018)”.

#### **9B.2 Definitions.**

In this chapter:

1. “Acknowledgment” means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

2. “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

3. “Electronic signature” means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

4. “In a representative capacity” means acting as any of the following:

a. An authorized officer, agent, partner, trustee, or other representative for a person other than an individual.

b. A public officer, personal representative, guardian, or other representative, in the capacity stated in a record.

c. An agent or attorney-in-fact for a principal.

d. An authorized representative of another in any other capacity.

4A. “Instrument affecting real property” means a written instrument conveying or encumbering real property including an instrument affecting real estate as defined in section 558.1 or any similar instrument provided in chapter 558.

5. “Notarial act” means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

6. “Notarial officer” means a notary public or other individual authorized to perform a notarial act.

7. “Notary public” means an individual commissioned to perform a notarial act by the secretary of state.

8. “Official stamp” means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record.

9. “Person” means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

10. a. “Personal appearance” means an act of a party to physically appear within the presence of a notarial officer at the time the notarial act is performed.

b. Except as provided in section 9B.14A, “personal appearance” does not include appearances which require video, optical, or technology with similar capabilities.

11. “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

11A. “Remote facilitator” means a person who participates in performing a notarial act under section 9B.14A, by doing any of the following:

a. Providing communication technology used by a public notary or remotely located individual.

b. Creating, transmitting, or retaining audio-visual recordings on behalf of a notary public.

12. “Sign” means, with present intent to authenticate or adopt a record, to do any of the following:

a. Execute or adopt a tangible symbol.

b. Attach to or logically associate with the record an electronic symbol, sound, or process.

13. “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

14. “Stamping device” means any of the following:

a. A physical device capable of affixing to or embossing on a tangible record an official stamp.

b. An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

15. “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

16. “Verification on oath or affirmation” means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

#### **9B.4 Authority to perform notarial act.**

1. A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.

2. A notarial officer shall not perform a notarial act with respect to a record to which the notarial officer or the notarial officer’s spouse is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

2A. A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record as provided in section 9B.14A.

#### **9B.5 Requirements for certain notarial acts.**

1. A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

2. A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

3. A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer and signing the record has the identity claimed.

4. A notarial officer who certifies or attests a copy of a record or an item that was

copied shall determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

5. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in section 554.3505, subsection 2.

#### **9B.6 Personal appearance required.**

1. If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

2. This section is satisfied by a remotely located individual using communication technology to appear before a notary public as provided in section 9B.14A.

#### **9B.7 Identification of individual.**

1. A notarial officer has personal knowledge of the identity of an individual appearing before the notarial officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

2. A notarial officer has satisfactory evidence of the identity of an individual appearing before the notarial officer if the notarial officer can identify the individual pursuant to any of the following:

a. By means of any of the following:

(1) A passport, driver's license, or government-issued nondriver identification card, which is current or expired not more than three years before performance of the notarial act.

(2) Another form of government identification issued to an individual, which is current or expired not more than three years before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the notarial officer.

b. By a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the notarial officer or whom the notarial officer can identify on the basis of a passport, driver's license, or government-issued nondriver identification card, which is current or expired not more than three years before performance of the notarial act.

3. A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

#### **9B.8 Authority to refuse to perform notarial act.**

1. A notarial officer may refuse to perform a notarial act if the notarial officer is not satisfied that any of the following apply:

a. The individual executing the record is competent or has the capacity to execute the record.

b. The individual's signature is knowingly and voluntarily made.

2. A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than this chapter.

3. A notarial officer shall not condition the performing of notarial services upon the requirement that the person served be a customer or client of the establishment by which the notarial officer is employed. The employer of a notary public shall not condition the performing of a notarial service upon the requirement that the person served be a customer or client of the establishment by which the notary public is employed.

#### **9B.9 Signature if individual unable to sign.**

If an individual is physically unable to sign a record, the individual may direct an

individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

**9B.10 Notarial act in this state.**

1. A notarial act may be performed in this state by any of the following:
  - a. A notary public of this state.
  - b. A judge, clerk, or deputy clerk of a court of this state.
  - c. A person authorized by the law of this state to administer oaths.
  - d. Any other individual authorized to perform the specific act by the law of this state.
  - e. A registrar of vital statistics or a designee of a registrar of vital statistics.
2. The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.
3. The signature and title of a notarial officer described in subsection 1, paragraph "a", "b", or "c", conclusively establish the authority of the notarial officer to perform a notarial act.

**9B.11 Notarial act in another state.**

1. A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by any of the following:
  - a. A notary public of that state.
  - b. A judge, clerk, or deputy clerk of a court of that state.
  - c. Any other individual authorized by the law of that state to perform the notarial act.
2. The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.
3. The signature and title of a notarial officer described in subsection 1, paragraph "a" or "b", conclusively establish the authority of the notarial officer to perform the notarial act.
4. The notarial act performed in another state must be performed in accordance with section 9B.6.

**9B.12 Notarial act under authority of federally recognized Indian tribe.**

1. A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by any of the following:
  - a. A notary public of the tribe.
  - b. A judge, clerk, or deputy clerk of a court of the tribe.
  - c. Any other individual authorized by the law of the tribe to perform the notarial act.
2. The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.
3. The signature and title of a notarial officer described in subsection 1, paragraph "a" or "b", conclusively establish the authority of the notarial officer to perform the notarial act.

**9B.13 Notarial act under federal authority.**

1. A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal

law is performed by any of the following:

- a. A judge, clerk, or deputy clerk of a court.
  - b. An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law.
  - c. An individual designated a notarial officer by the United States department of state for performing notarial acts overseas.
  - d. Any other individual authorized by federal law to perform the notarial act.
2. The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.
  3. The signature and title of a notarial officer described in subsection 1, paragraph “a”, “b”, or “c”, conclusively establish the authority of the notarial officer to perform the notarial act.

#### **9B.14 Foreign notarial act.**

1. As used in this section, “foreign state” means a government other than the United States, a state, or a federally recognized Indian tribe.
2. If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.
3. If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.
4. The signature and official stamp of an individual holding an office described in subsection 3 are prima facie evidence that the signature is genuine and the individual holds the designated title.
5. An apostille in the form prescribed by the Hague convention of October 5, 1961, and issued by a foreign state party to the convention conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office.
6. A consular authentication issued by an individual designated by the United States department of state as a notarial officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office.

#### **9B.14A Notarial act performed for remotely located individual.**

1. As used in this section unless the context otherwise requires:
  - a. “Communication technology” means an electronic device or process that does all of the following:
    - (1) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound.
    - (2) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.
  - b. “Foreign state” means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.

c. “Identity proofing” means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

d. “Outside the United States” means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

e. “Remotely located individual” means an individual who is not in the physical presence of the notary public who performs a notarial act under subsection 3.

2. A remotely located individual may comply with section 9B.6 by using communication technology to appear before a notary public.

3. A notary public located in this state may perform a notarial act using communication technology for a remotely located individual if all of the following applies:

a. The notary public has any of the following:

(1) Personal knowledge under section 9B.7, subsection 1, of the identity of the individual.

(2) Satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under section 9B.7, subsection 2, or this section.

(3) Obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing.

b. The notary public is able reasonably to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature.

c. The notary public, or a person acting on behalf of the notary public, creates an audio-visual recording of the performance of the notarial act.

d. For a remotely located individual located outside the United States, all of the following applies:

(1) The record complies with any of the following:

(a) Is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States.

(b) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States.

(2) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

4. If a notarial act is performed under this section, the certificate of notarial act required by section 9B.15 and the short-form certificate provided in section 9B.16 must indicate that the notarial act was performed using communication technology.

5. A short-form certificate provided in section 9B.16 for a notarial act subject to this section is sufficient if any of the following applies:

a. It complies with rules adopted under subsection 8, paragraph “a”.

b. It is in the form provided in section 9B.16 and contains a statement substantially as follows: “This notarial act involved the use of communication technology”.

6. A notary public, a guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public shall retain the audio-visual recording created under subsection 3, paragraph “c”, or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection 8, paragraph “d”, the recording must be retained for a period of at least ten years after the recording is made.

7. Before a notary public performs the notary public’s initial notarial act under this

section, the notary public must notify the secretary of state that the notary public will be performing notarial acts with respect to remotely located individuals and identify the technologies the notary public intends to use. If the secretary of state has established standards under subsection 8 and section 9B.27 for approval of communication technology or identity proofing, the communication technology and identity proofing, all of the following apply:

a. The communication technology the notary public intends to use must conform to the standards.

b. If the notary public elects to use identity proofing under subsection 3, paragraph “a”, the identity proofing must conform to the standards.

8. In addition to adopting rules under section 9B.27, the secretary of state may adopt rules under this section regarding performance of a notarial act. The rules may do all of the following:

a. Prescribe the means and process, including training requirements, of performing a notarial act involving a remotely located individual using communication technology.

b. Establish standards for communication technology and identity proofing.

c. Establish requirements or procedures to approve providers of communication technology and the process of identity proofing.

d. Establish standards and a period for the retention of an audio-visual recording created under subsection 3, paragraph “c”.

9. Before adopting, amending, or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the secretary of state must consider all of the following:

a. The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of the national association of secretaries of state.

b. Standards, practices, and customs of other jurisdictions that have laws substantially similar to this section.

c. The views of governmental officials and entities and other interested persons.

10. By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audio-visual recording created under subsection 3, paragraph “c”, the provider of the communication technology, identity proofing, or storage appoints the secretary of state as the provider’s agent for service of process in any civil action in this state related to the notarial act.

10A. A document purporting to convey or encumber real property that has been recorded by the county recorder for the jurisdiction in which the real property is located, although the document may not have been certified according to this section, shall give the same notice to third persons and be effective from the time of recording as if the document had been certified according to this section.

10B. A notary public who performs a notarial act under this section must be duly commissioned under and remain subject to the requirements of section 9B.21 and all other applicable requirements of this chapter.

### **9B.14B Remote facilitator.**

To be eligible to directly facilitate a notarial act using communication technology for a remotely located individual as provided in section 9B.14A, a remote facilitator must designate and continuously maintain in this state one of the following:

1. Its usual place of business in this state.

2. A registered office, which need not be a place of its activity in this state, or a registered agent for service of process, as required by the secretary of state. In addition, the remote facilitator shall file a foreign entity authority statement with the secretary of state. The statement shall describe the current street and mailing address of the registered office or the name and current street and mailing address of the remote facilitator's registered agent.

#### **9B.14C Use of information.**

1.

a. As used in this section, unless the context otherwise requires, "personally identifiable information" means information about or pertaining to an individual in a record which identifies the individual, and includes information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information.

b. "Personally identifiable information" includes but is not limited to a person's photograph, social security number, driver's license number, name, address, and telephone number.

2. A notary public or a remote facilitator shall not sell, offer for sale, use, or transfer to another person personally identifiable information collected in the course of performing a notarial act for any purpose other than as follows:

a. As required to perform the notarial act.

b. As necessary to effect, administer, enforce, service, or process the transaction for which the personally identifiable information was provided.

3. Subsection 2 does not apply to the transfer of personally identifiable information to another person in any of the following circumstances:

a. Upon written consent of the person for the use or release of that person's personally identifiable information.

b. In response to a court order, subpoena, or other legal process compelling disclosure.

c. As part of a change in the form of a business entity's organization or a change in the control of a business entity, including as a result of an acquisition, merger, or consolidation. However, any reorganized or successor business entity shall comply with the same requirements as provided in subsection 2.

4. A person who violates this section is guilty of a simple misdemeanor.

#### **9B.15 Certificate of notarial act.**

1. A notarial act must be evidenced by a certificate. The certificate must meet all of the following requirements:

a. Be executed contemporaneously with the performance of the notarial act.

b. Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the secretary of state.

c. Identify the jurisdiction in which the notarial act is performed.

d. Contain the title of office of the notarial officer.

e. If the notarial officer is a notary public, indicate the date of expiration, if any, of the notarial officer's commission.

2. If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to or embossed on the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsection 1, paragraphs "b", "c", and



“d”, an official stamp may be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsection 1, paragraphs “b”, “c”, and “d”, an official stamp may be attached to or logically associated with the certificate.

3. A certificate of a notarial act is sufficient if it meets the requirements of subsections 1 and 2 and any of the following apply:

a. It is in a short form set forth in section 9B.16.

b. It is in a form otherwise permitted by the law of this state.

c. It is in a form permitted by the law applicable in the jurisdiction in which the notarial act is performed.

d. It sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 9B.5, 9B.6, and 9B.7, or a law of this state other than this chapter.

4. By executing a certificate of a notarial act, a notarial officer certifies that the notarial officer has complied with the requirements and made the determinations specified in sections 9B.4, 9B.5, and 9B.6.

5. A notarial officer shall not affix the notarial officer’s signature to, or logically associate it with, a certificate until the notarial act has been performed.

6. If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the secretary of state has established standards pursuant to section 9B.27 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

**9B.16 Short form certificates.**

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 9B.15, subsections 1 and 2:

1. For an acknowledgment in an individual capacity:

State of

County of

This record was acknowledged before me on (Date) by ..... Name(s) of individual(s)

..... Signature of notarial officer Stamp

.....Title of office

commission expires: .....

2. For an acknowledgment in a representative capacity:

State of

County of

This record was acknowledged before me on .....(Date) by ..... Name(s) of individual(s) as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

..... Signature of notarial officer Stamp

.....Title of office

commission expires: .....

3. For a verification on oath or affirmation:

State of

County of

Signed and sworn to (or affirmed) before me on .....(Date) by ..... Name(s) of individual(s) making statement

..... Signature of notarial officer Stamp

.....Title of office

commission expires: .....

4. For witnessing or attesting a signature:

State of

County of

Signed or attested before me on .....(Date) by ..... Name(s) of individual(s)

..... Signature of notarial officer Stamp

..... Title of office

commission expires .....

5. For certifying a copy of a record:

State of

County of

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

Dated .....

..... Signature of notarial officer Stamp

..... Title of office

commission expires: .....

### **9B.17 Official stamp.**

1. The official stamp of a notary public must comply with all of the following:

a. Include the notary public's name, the words "Notarial Seal" and "Iowa", the words "Commission Number" followed by a number assigned to the notary public by the secretary of state, the words "My Commission Expires" followed either by the date that the notary public's term would ordinarily expire as provided in section 9B.21 or a blank line on which the notary public shall indicate the date of expiration, if any, of the notary public's commission, as required by and in satisfaction of section 9B.15, subsection 1, paragraph "e", and other information required by the secretary of state.

b. Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated. If the official stamp contains a blank line, the person must print the date that the notary public's term would ordinarily expire on the blank line imprinted on each record subject to a notarial act.

2. a. This section does not apply to a judicial officer as defined in section 602.1101 performing a notarial act in accordance with state or federal authority. This section does not apply to a chief officer or a chief officer's designee certifying a peace officer's verification of a uniform citation and complaint pursuant to section 805.6, subsection 3. This section does not apply to a peace officer administering an oath or acknowledging a signature pursuant to section 80.9A, subsection 3, or to a certified law enforcement officer administering an oath or acknowledging a signature pursuant to section 817.3.

b. A judicial officer, chief officer, or chief officer's designee, peace officer, or certified law enforcement officer is not required to acquire or use an official stamp in performing an act described in paragraph "a" is not required to acquire or use an official stamp in performing that act.

### **9B.18 Stamping device.**

1. A notary public is responsible for the security of the notary public's stamping

device and shall not allow another individual to use the device to perform a notarial act.

2. If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the commissioning officer or agency on discovering that the device is lost or stolen.

**9B.20 Notification regarding performance of notarial act on electronic record -- selection of technology.**

1. A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person shall not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

2. Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the secretary of state has established standards for approval of technology pursuant to section 9B.27, the technology must conform to the standards. If the technology conforms to the standards, the secretary of state shall approve the use of the technology.

2A. The office of the recorder of a county in which real estate is located may accept for recording a tangible copy of an electronic record of an instrument affecting real property, if the electronic record is evidenced by a certificate of a notarial act pursuant to section 9B.15.

**9B.21 Commission as notary public ---- qualifications ---- no immunity or benefit.**

1. An individual qualified under subsection 2 may apply to the secretary of state for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the secretary of state and pay an application fee of thirty dollars to the secretary of state. A person appointed as a notary public under subsection 4 is not subject to the fee imposed by this subsection.

2. An applicant for a commission as a notary public shall meet all of the following qualifications:

- a. Be at least eighteen years of age.
- b. Be a citizen or permanent legal resident of the United States.
- c. Be a resident of or have a place of employment or practice in this state.
- d. Be able to read and write English.
- e. Not be disqualified to receive a commission under section 9B.23.

3. Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office and submit it to the secretary of state.

4. a. The secretary of state shall appoint members of the general assembly as notaries public, upon request, and may revoke an appointment for cause.

b. The secretary of state may appoint one or more employees of a state agency as a notary public to perform notarial acts associated with their positions, pursuant to conditions established by the secretary of state. As used in this paragraph, "state agency" means any executive, judicial, or legislative department, commission, board, institution, division, bureau, office, agency, or other entity of state government.

5. The secretary of state may appoint as a notary public a resident of a state bordering Iowa if that person's place of work or business is within the state of Iowa. If a notary public who is a resident of a state bordering Iowa ceases to work or maintain a place of

business in Iowa, the notary commission expires.

6. On compliance with this section, the secretary of state shall issue a commission as a notary public to an applicant for a term of three years. The term of a notarial officer who is a resident of a state bordering Iowa and whose place of work or business is in Iowa is one year. The term of a notary public who is a member of the general assembly is the member's term of office. The term of a notary public who is an employee of a state agency designated to receive an appointment as provided in subsection 4 shall terminate at the end of employment.

7. A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees.

#### **9B.21A Notice of expiration of term.**

The secretary of state, two months preceding the expiration of a commission, shall notify the notary public of the expiration date and furnish a blank application for reappointment.

#### **9B.21B Fees -- certification.**

The secretary of state shall collect the following fees, for use in offsetting the cost of administering this chapter:

1. For furnishing a certified copy of any document, instrument, or paper relating to a notary public, one dollar per page and five dollars for the certificate.

2. For furnishing an uncertified copy of any document, instrument, or paper relating to a notary public, one dollar per page.

3. For certifying, under seal of the secretary of state, a statement as to the status of a notary commission which would not appear from a certified copy of documents on file in the secretary of state's office, five dollars.

#### **9B.23 Grounds to deny, refuse to renew, revoke, suspend, or condition commission of notary public.**

1. The secretary of state may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including any of the following acts or omissions:

a. A failure to comply with this chapter.

b. A fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the secretary of state.

c. A conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty, or deceit.

d. A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit.

e. A failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules adopted by the secretary of state, or any federal or state law.

f. The use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right, or privilege that the notary public does not have.

g. A violation by the notary public of a rule adopted by the secretary of state

regarding a notary public.

h. A denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state.

2. If the secretary of state denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with rules adopted by the secretary of state.

3. The authority of the secretary of state to deny, refuse to renew, suspend, revoke, or impose conditions on a commission as a notary public does not prevent either the secretary of state or a person aggrieved by a notary public from seeking and obtaining other criminal or civil remedies provided by law.

#### **9B.24 Database of notaries public.**

The secretary of state shall maintain an electronic database of notaries public which complies with all of the following:

1. Through which a person may verify the authority of a notary public to perform notarial acts.

2. Which indicates whether a notary public has notified the secretary of state that the notary public will be performing notarial acts on electronic records.

#### **9B.25 Prohibited acts.**

1. A commission as a notary public does not authorize an individual to do any of the following:

a. Assist persons in drafting legal records, give legal advice, or otherwise practice law.

b. Act as an immigration consultant or an expert on immigration matters.

c. Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters.

d. Receive compensation for performing any of the activities listed in this subsection.

2. A notary public shall not engage in false or deceptive advertising.

3. A notary public, other than an attorney licensed to practice law in this state, shall not use the term “notario” or “notario publico”.

4. A notary public, other than an attorney licensed to practice law in this state, shall not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, or the internet, the notary public shall include the following statement, or an alternate statement authorized or required by the secretary of state in the advertisement or representation, prominently and in each language used in the advertisement or representation: I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.

If the form of advertisement or representation is not broadcast media, print media, or the internet and does not permit inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

5. Except as otherwise allowed by law, a notary public shall not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

### **9B.26 Validity of notarial acts.**

1. Except as otherwise provided in section 9B.4, subsection 2, the failure of a notarial officer to perform a duty or meet a requirement specified in this chapter does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this chapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than this chapter or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

2. The validity of a notarial act shall not be affected or impaired by the fact that the notarial officer performing the notarial act is an officer, director, or shareholder of a corporation that may have a beneficial interest or other interest in the subject matter of the notarial act.

### **9B.27 Rules.**

The secretary of state may adopt rules to administer this chapter. Any rules adopted with respect to the performance of notarial acts on electronic records shall not require or favor one technology or technical specification over another.

### **9B.28 Notary public commission in effect.**

A commission as a notary public in effect on January 1, 2013, continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after January 1, 2013, is subject to and shall comply with this chapter. A notary public, in performing notarial acts on or after January 1, 2013, shall comply with this chapter.

### **9B.30 Uniformity of application and construction.**

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the revised uniform law on notarial acts.

### **9B.31 Relation to electronic signatures in global and national commerce act.**

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. § 7003(b).

**TITLE XIII. COMMERCE**  
**SUBTITLE 5. REGULATION OF COMMERCIAL ENTERPRISES**  
**CHAPTER 554D. ELECTRONIC TRANSACTIONS -**  
**COMPUTER AGREEMENTS**  
**SUBCHAPTER 1. UNIFORM ELECTRONIC TRANSACTIONS ACT**

### **554D.113 Notarization and acknowledgment.**

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

**TITLE XIV PROPERTY  
SUBTITLE 2. REAL PROPERTY - GIFTS  
CHAPTER 558. CONVEYANCES**

**558.15 Notarial stamps or seals of nonresidents -- presumption.**

Any notarial stamp or seal purporting to have been affixed to any instrument in writing, by any notary public residing elsewhere than in this state, shall be prima facie evidence that the words thereon engraved conform to the requirements of the law of the place where such certificate purports to have been made.

**558.20 Acknowledgments within state.**

The acknowledgment of any deed, conveyance, or other instrument in writing by which real estate in this state is conveyed or encumbered, if made within this state, must be before some court having a seal, or some judge or clerk thereof, or some county auditor, or judicial magistrate or district associate judge within the county, or notary public within the state. Each of the officers above named is authorized to take and certify acknowledgments of all written instruments, authorized or required by law to be acknowledged.

**558.21 Repealed**

**558.22 Repealed**

**558.23 Repealed**

**558.24 Repealed**

**558.25 Repealed**

**558.26 Repealed**

**558.27 Repealed**

**558.28 Repealed**

**558.29 Repealed**

**558.30 Repealed**

**558.31 Proof of execution and delivery in lieu of acknowledgment.**

Proof of the due and voluntary execution and delivery of a deed or other instrument may be made before any officer authorized to take acknowledgments, by one competent person other than the vendee or other person to whom the instrument is executed, in the following cases:

1. If the grantor dies before making the acknowledgment.
2. If the grantor's attendance cannot be procured.
3. If, having appeared, the grantor refuses to acknowledge the execution of the instrument.

**558.32 Contents of certificate.**

The certificate endorsed by the officer upon a deed or other instrument thus proved must state:

1. The title of the officer taking the proof.
2. That it was satisfactorily proved that the grantor was dead, or that for some other reason the grantor's attendance could not be procured in order to make the acknowledgment, or that, having appeared, the grantor refused to acknowledge the same.
3. The name of the witness by whom proof was made, and that it was proved by the witness that the instrument was executed and delivered by the person whose name is thereunto subscribed as a party.

**558.33 Subpoenas.**

An officer having power to take the proof hereinbefore contemplated may issue the necessary subpoenas, and compel the attendance of witnesses residing within the county, in the manner provided for the taking of depositions.

**558.34 Use of seal.**

The certificate of proof or acknowledgment may be given under seal or otherwise, according to the mode by which the officer making the same usually authenticates the officer's formal acts.

**558.35 Married persons.**

The acknowledgment of a married person, when required by law, may be taken in the same form as if the person were sole, and without any examination separate and apart from the person's spouse.

**558.36 Attorney in fact.**

The execution of any deed, mortgage, or other instrument in writing, executed by any attorney in fact, may be acknowledged by the attorney executing the same.

**558.37 Repealed**

**558.38 Repealed**

**558.39 Repealed**

**558.40 Liability of officer.**

Any officer, who knowingly misstates a material fact in either of the certificates mentioned in this chapter, shall be liable for all damages caused thereby, and shall be guilty of a serious misdemeanor.

**SUBTITLE 4. LEGALIZING ACTS  
CHAPTER 589. REAL PROPERTY**

**589.1 Acknowledgments - seal not affixed.**

All deeds, mortgages, or other instruments in writing for the conveyance of lands which have been made and executed more than ten years earlier, and the officer taking the acknowledgment has not affixed the officer's seal to the acknowledgment; the acknowledgment is, nevertheless, good and valid in law and equity, any other provision of law to the contrary notwithstanding.

**589.3 Absence of or defective acknowledgments.**

Any instrument in writing affecting the title to real estate within the state of Iowa, to



which is attached no certificate of acknowledgment, or to which is attached a defective certificate of acknowledgment, which was, more than ten years earlier, recorded or spread upon the records in the office of the recorder of the county in which the real estate described in the instrument is located, is, together with the recording and the record of the recording, valid, legal, and binding as if the instrument had been properly acknowledged and legally recorded.

#### **589.4 Acknowledgments by corporation officers.**

The acknowledgments of all deeds, mortgages, or other instruments in writing taken or certified more than ten years earlier, which instruments have been recorded in the recorder's office of any county of this state, including acknowledgments of instruments made by a corporation, or to which the corporation was a party, or under which the corporation was a beneficiary, and which have been acknowledged before or certified by a notarial officer as provided in chapter 9B who was at the time of the acknowledgment or certifying a stockholder or officer in the corporation, are legal and valid official acts of the notaries public, and entitle the instruments to be recorded, anything in the laws of the state of Iowa in regard to acknowledgments to the contrary notwithstanding. This section does not affect pending litigation.

#### **589.5 Acknowledgments by stockholders.**

All deeds and conveyances of lands within this state executed more than ten years earlier, but which have been acknowledged or proved according to and in compliance with the laws of this state before a notarial officer as provided in chapter 9B or other official authorized by law to take acknowledgments who was, at the time of the acknowledgment, an officer or stockholder of a corporation interested in the deed or conveyance, or otherwise interested in the deeds or conveyances, are, if otherwise valid, valid in law as though acknowledged or proved before an officer not interested in the deeds or conveyances; and if recorded more than ten years earlier, in the respective counties in which the lands are, the records are valid in law as though the deeds and conveyances, so acknowledged or proved and recorded, had, prior to being recorded, been acknowledged or proved before an officer having no interest in the deeds or conveyances.

## **IOWA ADMINISTRATIVE CODE**

### **SECRETARY OF STATE DIVISION IV. CORPORATIONS CHAPTER 43. NOTARIAL ACTS**

**721-43.1(9B) Certificate of notarial acts.** A notarial act shall be evidenced by a certificate signed and dated by a notarial officer, be executed contemporaneously with the performance of the notarial act for which the certificate applies, and not be completed until the notarial act has been performed. The certificate shall include all of the information required by Iowa Code section 9B.15(1). A certificate of a notarial act is sufficient if it meets the requirements set out in Iowa Code section 9B.15(3). A certificate of a notarial act performed under Iowa Code section 9B.14A must also meet the requirements of Iowa Code section 9B.14A(4).

[**ARC0082C**, IAB 4/18/12, effective 3/19/12; **ARC0806C**, IAB 6/26/13, effective 7/31/13; **ARC5041C**, IAB 5/20/20, effective 7/1/20; **ARC7059C**, IAB 8/2/23, effective 9/27/23]

**721-43.2(9B) Short form certificates.** Short form certificates of notarial acts may be used provided the certificates comply with the provisions of Iowa Code sections 9B.15 and 9B.16. For purposes of this rule, a “record” and an “instrument” have the same meaning and effect. A short form certificate of a notarial act performed under Iowa Code section 9B.14A must meet the requirements of Iowa Code section 9B.14A(5).

[ARC0806C, IAB 6/26/13, effective 7/31/13; ARC5041C, IAB 5/20/20, effective 7/1/20; ARC7059C, IAB 8/2/23, effective 9/27/23]

**721-43.3(9B) Jurisdiction.** For purposes of complying with the requirements of Iowa Code sections 9B.15 and 9B.16, the jurisdiction in which the notarial act is performed is determined by the location of the notary public in this state at the time the notarial act is performed.

[ARC5041C, IAB 5/20/20, effective 7/1/20]

**721-43.4(9B) Conflict of interest.** A notarial officer shall not perform a notarial act that creates a conflict of interest as prohibited in Iowa Code section 9B.4(2). For purposes of this rule, a direct financial benefit does not exist when the notarial officer is compensated on an individual loan commission basis or as provided in Iowa Code section 9B.26(2).

[ARC0806C, IAB 6/26/13, effective 7/31/13; ARC5041C, IAB 5/20/20, effective 7/1/20]

**721-43.5(9B) Commission as notary public.** An individual applying to the secretary of state for a commission as a notary public shall comply with the requirements and qualifications of Iowa Code section 9B.21.

**43.5(1) Application.** The applicant shall complete and file with the secretary of state an Application for Appointment as Notary Public. The affirmation section on an Application for Appointment as Notary Public shall constitute an executed oath of office as required by Iowa Code section 9B.21(3). An individual who wishes to perform notarial acts for remotely located individuals shall also complete and file with the secretary of state an additional application containing information indicating that the applicant meets the additional training and technology requirements of Iowa Code section 9B.14A and this chapter, as well as any additional information the secretary of state may require.

**43.5(2) Reapproval.** A notary public’s approval to perform notarial acts for remotely located individuals shall expire on the same date as the individual’s notary public commission. Two months preceding the expiration of approval, the secretary of state shall notify the notary public of the expiration date and furnish an application for reapproval. The secretary of state may provide for combining its reappointment and reapproval forms.

**43.5(3) Training.**

*a.* A notary public who wishes to begin performing notarial acts under Iowa Code section 9B.14A shall, within the six-month period immediately preceding the first performance of such an act, satisfactorily complete a training course approved by the secretary of state concerning the requirements and methods for performing notarial acts for remotely located individuals and shall provide satisfactory proof to the secretary of state that the applicant has completed the course.

*b.* An applicant for reappointment as a notary public who currently holds a notary public commission, who wishes to continue performing notarial acts under Iowa Code section 9B.14A and who has satisfactorily completed the initial training course required by paragraph 43.5(3) “a” at least one time prior to the 12-month period immediately preceding application for reappointment shall, within the 6-month period immediately

preceding the deadline for application for reappointment, satisfactorily complete an update course approved by the secretary of state concerning the requirements and methods for performing notarial acts for remotely located individuals and shall provide satisfactory proof to the secretary of state that the applicant has completed the course. [ARC0806C, IAB 6/26/13, effective 7/31/13; ARC5041C, IAB 5/20/20, effective 7/1/20; ARC5259C, IAB 11/4/20, effective 10/14/20; ARC7059C, IAB 8/2/23, effective 9/27/23]

**721-43.6(9B) Performance of notarial act on electronic record.** A notarized document is deemed to be in compliance with the requirements for a notarial act on an electronic record under Iowa Code chapter 9B when either:

**43.6(1)** The notary public attaches an electronic notarial certificate that meets the requirements set out in Iowa Code section 9B.15(3); or

**43.6(2)** The document is submitted and accepted on the electronic document management system (EDMS) administered by the Iowa judicial branch.

This rule is intended to implement Iowa Code section 9B.27.

[ARC1243C, IAB 12/11/13, effective 1/15/14; ARC5041C, IAB 5/20/20, effective 7/1/20]

**721-43.7(9B) Protection of recording and personally identifiable information.** A notary public shall protect from unauthorized access the recording of a notarial act pursuant to Iowa Code section 9B.14A(3) “c” and any “personally identifiable information” as defined in Iowa Code section 9B.14C(1) disclosed during the performance of an electronic notarial act using audiovisual communications, except as permitted pursuant to Iowa Code sections 9B.14C(2) and 9B.14C(3).

[ARC5041C, IAB 5/20/20, effective 7/1/20; ARC7059C, IAB 8/2/23, effective 9/27/23]

**721-43.8(9B) Notary public sanctions.** The secretary of state may impose any of the sanctions set out in Iowa Code section 9B.23 including issuing a letter of reprimand as a condition on a commission as a notary public.

**43.8(1) Complaint.** A person alleging misconduct by a notary public shall complete and file a Statement of Complaint with the secretary of state. The secretary of state may also initiate investigations without the filing of a complaint if information is provided to the secretary of state that a notary public has allegedly engaged in conduct prohibited in Iowa Code section 9B.23. A copy of the complaint or a notice of investigation shall be sent to the notary public.

**43.8(2) Investigation.** The secretary of state shall conduct an investigation to determine if the conduct alleged occurred and if sanctions should be imposed. Upon completion of an investigation, the secretary of state shall dismiss the matter, issue a letter of reprimand as a condition on commission, or set the matter for hearing as a contested case proceeding. A dismissal or issuance of a letter of reprimand as a condition on commission is deemed final agency action for purposes of judicial review under Iowa Code section 17A.19.

**43.8(3) Hearing.** If a hearing is set, it shall be conducted as a contested case proceeding in accordance with Iowa Code chapter 17A and 721-Chapter 3. A final decision by the secretary of state is subject to judicial review as provided in Iowa Code section 17A.19.

[ARC9969B, IAB 1/11/12, effective 2/15/12; ARC0806C, IAB 6/26/13, effective 7/31/13; ARC5041C, IAB 5/20/20, effective 7/1/20; ARC7059C, IAB 8/2/23, effective 9/27/23]

**721-43.9(9B) Standards for communication technology and identity proofing for**

**notarial acts performed for remotely located individuals.**

**43.9(1)** A notary public may not perform a notarial act for a remotely located individual unless the technology identified by the notary public pursuant to Iowa Code section 9B.14A(7) satisfies all of the following:

- a. Has been approved by the secretary of state in accordance with this chapter.
- b. Provides continuous, synchronous audiovisual feeds.
- c. Provides sufficient video resolution and audio clarity to enable the notary public and remotely located individual to see and speak with each other simultaneously through live, real-time transmission.
- d. Provides sufficient captured image resolution for identity proofing performed in accordance with Iowa Code section 9B.14A(3).
- e. Provides a means of authentication that reasonably ensures only authorized parties have access to the audiovisual record of the performed notarial act.
- f. Provides for the recording of the electronic notarial act in compliance with this chapter and Iowa Code section 9B.14A as enacted by 2019 Iowa Acts, chapter 44, section 6, in sufficient quality to ensure the verification of the electronic notarial act.
- g. Ensures that any change to or tampering with an electronic record before or after the electronic notarial seal has been affixed and the electronic notarial act has been completed is evident.
- h. Provides confirmation that the electronic record presented is the same electronic record notarized.
- i. Provides a means of electronically affixing the notary's official stamp to the notarized document.
- j. Provides an electronic notary journal that complies with the provisions of this chapter to document the electronic notarial acts.
- k. Provides security measures the secretary of state deems reasonable to prevent unauthorized access to all of the following:
  - (1) The live transmission of the audiovisual communication.
  - (2) A recording of the audiovisual communication.
  - (3) The verification methods and credentials used in the identity proofing procedure.
  - (4) The electronic records presented for online notarization.
  - (5) Any personally identifiable information used in the identity proofing or credential analysis.

**43.9(2)** Identity proofing and credential analysis must be performed by a third-party credential service provider whose methods and standards are substantially similar to those defined in the most recent edition of the National Institute of Standards and Technology's Digital Identity Guidelines, and that has provided evidence to the notary public of the ability to satisfy the following requirements:

- a. Identity proofing is performed through dynamic knowledge-based authentication which meets the following requirements:
  - (1) Principal must answer a quiz consisting of a minimum of five questions related to the principal's personal history or identity, formulated from public and proprietary data sources;
  - (2) Each question must have a minimum of five possible answer choices;
  - (3) At least 80 percent of the questions must be answered correctly;
  - (4) All questions must be answered within two minutes;
  - (5) If the principal fails the first attempt, the principal may retake the quiz one time within 24 hours;

(6) During the retake, a minimum of 60 percent of the prior questions must be replaced;

(7) A principal who fails the second attempt is not permitted to retry with the same notary public for 24 hours; and

(8) A principal who fails the third attempt is not permitted to make any further attempts.

b. Credential analysis is performed utilizing public and proprietary data sources to verify the credential presented by the principal.

c. Credential analysis shall, at a minimum, do all of the following:

(1) Use automated software processes to aid the notary public in verifying the identity of a principal or any credible witness;

(2) Ensure that the credential passes an authenticity test, substantially similar to those defined in the most recent edition of the National Institute of Standards and Technology's Digital Identity Guidelines, that:

1. Uses appropriate technology to confirm the integrity of visual, physical, or cryptographic security features;

2. Uses appropriate technology to confirm that the credential is not fraudulent or inappropriately modified;

3. Uses information held or published by the issuing source or authoritative source(s), as available, to confirm the validity of personal details and credential details; and

4. Provides output of the authenticity test to the notary public.

(3) Enable the notary public to visually compare the following for consistency: the information and photo, if the credential presented contains a photo, presented on the credential itself and the principal as viewed by the notary public in real time through audiovisual transmission.

d. If the principal must exit the workflow, the principal must meet the criteria outlined in this rule and must restart the identity proofing and credential analysis from the beginning.

**43.9(3)** Upon change of any of the technology identified by the notary public pursuant to Iowa Code section 9B.14A(7) which affects compliance with the requirements of Iowa Code chapter 9B or this chapter, the provider of the technology shall immediately notify the secretary of state and all Iowa notaries public using its technology of the change. Information that qualifies as trade secret under Iowa law shall be kept confidential in accordance with Iowa Code section 22.7(3). It is the responsibility of the provider to specify to the secretary of state the information it believes falls within the definition of "trade secret" under Iowa Code section 550.2(4) and other applicable law.

[ARC5041C, IAB 5/20/20, effective 7/1/20; ARC7059C, IAB 8/2/23, effective 9/27/23]

### **721-43.10(9B) Providers of communication technology.**

**43.10(1) Provider requirements.** A notary public authorized to perform notarial acts for remotely located individuals may only use a provider of communication technology for the audiovisual recording of electronic notarial acts subject to the provisions of this chapter and Iowa Code sections 9B.14A and 9B.14B if the provider:

a. Has registered with and been approved by the secretary of state in accordance with this chapter;

b. Allows the remote notary public sole control of the recording of the electronic notarial act using audiovisual communication, subject to the authorized access granted by the notary; and

c. Provides the notary with access to the recording of the electronic notarial act using audiovisual communication pursuant to this chapter.

**43.10(2) Backup strategy requirement-release of records to secretary of state.**

a. The secretary of state may not approve a provider of communication technology as defined in Iowa Code section 9B.14A(1) “a” unless the provider uses a backup strategy that is acceptable to the secretary of state for use as a record keeper for any record that is related to a remote notarial act.

b. If the provider of communication technology and the owner of the backup strategy described in paragraph 43.10(2) “a” are the same entity, in the event that the provider ceases business operations, the provider shall notify the secretary of state in advance of such cessation of business operations and, at the secretary of state’s request, shall release to the secretary of state any record described in paragraph 43.10(2) “a.”

c. If the provider of communication technology and the owner of the backup strategy described in paragraph 43.10(2) “a” are separate entities, the provider shall sign an agreement with the owner of the backup strategy that, in the event that the provider or the owner ceases business operations, the entity ceasing business operations shall notify the other entity and the secretary of state in advance of such cessation of business operations, and, at the secretary of state’s request, the owner of the backup strategy shall release to the secretary of state any record described in paragraph 43.10(2) “a.”

**43.10(3) Protection of recording and personally identifiable information.** A provider of communication technology shall protect from unauthorized access the recording of a notarial act pursuant to Iowa Code section 9B.14A(3) “c” and any “personally identifiable information” as defined in Iowa Code section 9B.14C(1) disclosed during the performance of an electronic notarial act using audiovisual communications.  
[ARC5041C, IAB 5/20/20, effective 7/1/20; ARC7059C, IAB 8/2/23, effective 9/27/23]

**721-43.11(9B) Registration of provider of communication technology and approval of communication technology.**

**43.11(1) Registration.**

a. A provider of communication technology that wishes to apply for approval by the secretary of state for use of its technology by Iowa notaries public to perform notarial acts under Iowa Code section 9B.14A shall submit a registration electronically to the secretary of state, which shall include:

- (1) Legal name of the provider of communication technology;
- (2) How the business is organized;
- (3) Mailing address of the provider of communication technology;
- (4) Physical address of the provider of communication technology;
- (5) Name and title of contact person at the provider of communication technology;
- (6) Phone number of contact person named in subparagraph 43.11(1) “a”(5);
- (7) Name of communication technology provided;
- (8) Description of the technology used to ensure compliance with the provisions of Iowa Code chapter 9B and this chapter;
- (9) Name of the provider or providers of the knowledge-based authentication, credential analysis, and digital certificate services;
- (10) Plan for the retention and storage of data including, but not limited to, records, journals, and recordings in the event the provider of communication technology no longer provides the technology for use by Iowa notaries public for any reason; and
- (11) Declaration that the communication technology complies with all Iowa laws.

b. Information provided to the secretary of state in compliance with subparagraph 43.11(1)“a”(8) that qualifies as trade secret under Iowa law shall be kept confidential in accordance with Iowa Code section 22.7(3). It is the responsibility of the provider to specify to the secretary of state the information it believes falls within the definition of “trade secret” under Iowa Code section 550.2(4).

**43.11(2) Approval prior to use.** If, after submission of the application required by subrule 43.11(1), the secretary of state determines that the provider of communication technology and the technology provided satisfy all of the requirements of the Iowa Code and the Iowa Administrative Code, the secretary of state shall approve the use of the technology.

**43.11(3) Denial of approval.** If the secretary of state determines that the provider of communication technology or the technology provided does not satisfy all of the requirements of the Iowa Code and the Iowa Administrative Code, the secretary of state shall deny the use of the technology and shall notify the provider of such denial, specifying the reasons for the denial.

**43.11(4) Application for reconsideration.** Following notification of denial of use of technology, a provider of communication technology may correct the specified deficiencies and apply for reconsideration. If the provider of communication technology and the technology provided then satisfy all of the requirements of the Iowa Code and the Iowa Administrative Code, the secretary of state shall approve the use of the technology.

**43.11(5) Grounds for rescinding approval.** Approval may be rescinded if it is found that:

- a. The technology no longer permits notaries public to meet the requirements of Iowa Code chapter 9B or this chapter;
- b. The technology no longer complies with the requirements of Iowa law;
- c. Material changes have been made to the technology and the provider has not provided notification as required by subrule 43.9(3);
- d. The provider ceases to provide the technology which has been approved for use;
- e. The provider has failed to protect from unauthorized access any information it is required to protect under the Iowa Code or this chapter; or
- f. Any other grounds that may materially affect the ability of notaries public to meet the requirements of Iowa law.

**43.11(6) Procedure for rescinding approval.** The secretary of state may rescind approval on any ground listed above.

a. *Complaint.* A person alleging violation on a ground listed in subrule 43.11(5) by a provider of communication technology or of the technology itself and who is a remote notary in or was a principal in a remote notarization interaction, regardless of whether such interaction resulted in completion of a remote notarial act, shall complete and file a Statement of Complaint with the secretary of state. The secretary of state may also initiate investigations without the filing of a complaint.

b. *Investigation.* The secretary of state shall investigate each complaint to determine if the alleged violation has occurred and if such violation warrants rescission of approval of the use of the communication technology. Upon determination that the alleged violation occurred, the secretary of state shall:

- (1) Communicate grounds for possible rescission of approval to the provider, whereupon the provider shall have 30 days in which to correct the specified deficiencies and submit proof of such corrections to the secretary of state for review. If the secretary of state determines the deficiencies have been corrected, the secretary of state may

dismiss the matter; if the secretary of state determines that deficiencies still exist, the secretary of state may either renew the communication and correction process as provided in this paragraph or finally rescind approval of use of the technology. If the secretary of state rescinds approval of the use of the technology, the secretary of state shall notify all Iowa notaries public using the technology that the technology is no longer approved for use and shall notify the provider of rescission of approval, specifying the reasons for rescission;

(2) Rescind approval, whereupon the secretary shall notify all Iowa notaries public using the technology that the technology is no longer approved for use and shall notify the provider of rescission of approval, specifying the reasons for rescission; or

(3) Dismiss the matter.

[**ARC5041C**, IAB 5/20/20, effective 7/1/20; **ARC7059C**, IAB 8/2/23, effective 9/27/23]