

REVISED CODE OF WASHINGTON

TITLE 11. PROBATE AND TRUST LAW
CHAPTER 11.12. WILLS

11.12.450. Electronic wills — Self-proving.

(1) An electronic will may be simultaneously executed, attested, and made self-proving if:

(a) The affidavits of the attesting witnesses are affixed to or logically associated with the electronic will; and

(b) The qualified custodian maintains custody of the electronic will at all times following execution by the testator and witnesses.

(2) The affidavits under subsection (1)(a) of this section must state such facts as the attesting witnesses would be required to testify to in court to prove such electronic will, and must be:

(a) Made before an officer authorized to administer oaths or, if fewer than two attesting witnesses are physically present in the same location as the testator at the time of signing under RCW 11.12.440(1)(b), before an officer authorized under RCW 42.45.280; and

(b) Evidenced by the officer’s certificate under official seal affixed to or logically associated with the electronic will.

(3)

(a) If made before an officer authorized to administer oaths, the acknowledgment and affidavits under subsection (1) of this section must be in substantially the following form:

I, \_\_\_\_\_ (name), the testator, and, being sworn, declare to the undersigned officer that I sign this instrument as my electronic will, I willingly sign it or willingly direct another individual to sign it for me, I execute it as my voluntary act for the purposes expressed in this instrument, and I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_ Testator (signature)

We, \_\_\_\_\_ (name) and \_\_\_\_\_ (name), witnesses, being sworn, declare to the undersigned officer that the testator signed this instrument as the testator’s electronic will, that the testator willingly signed it or willingly directed another individual to sign for the testator, and that each of us, in the physical or electronic presence of the testator, signs this instrument as witness to the testator’s signing, and to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_ Witness (signature)

\_\_\_\_\_ Witness (signature)

Certificate of officer:

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed, sworn to, and acknowledged before me by \_\_\_\_\_ (name), the testator, and subscribed and sworn to before me by \_\_\_\_\_ (name) and \_\_\_\_\_ (name), witnesses, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_ (Signed)

(Capacity of officer)

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[2021 c 140, § 1006, effective January 1, 2022.]

TITLE 19. BUSINESS REGULATIONS – MISCELLANEOUS

## CHAPTER 154. IMMIGRATION SERVICES FRAUD PREVENTION ACT

### 19.154.010. Findings

The legislature finds and declares that the practice by nonlawyers and other unauthorized persons of providing legal advice and legal services to others in immigration matters substantially affects the public interest. The practices of nonlawyers and other unauthorized persons providing immigration-related legal advice and legal services for compensation may impact the ability of their customers to reside and work within the United States and to establish and maintain stable families and business relationships. The legislature further finds and declares that the previous scheme for regulating the behavior of nonlawyers and other unauthorized persons who provide immigration-related services is inadequate to address the level of unfair and deceptive practices that exists in the marketplace and often contributes to the unauthorized practice of law. It is the intent of the legislature, through this act, to prohibit nonlawyers and other unauthorized persons from providing immigration-related services that constitute the practice of law.

[1989 c 117 § 1; 2011 c 244 § 1.]

### 19.154.020. Definitions

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) “Immigration matter” means any proceeding, filing, or action affecting the nonimmigrant, immigrant, or citizenship status of any person arising under immigration and naturalization law, executive order, or presidential proclamation, or pursuant to any action of the United States citizenship and immigration services, the United States department of labor, the United States department of state, the United States department of justice, the United States department of homeland security, the board of immigration appeals, or any other entity or agency having jurisdiction over immigration law.

(2) “Compensation” means money, property, or anything else of value.

(3) “Practice of law” has the definition given to it by the supreme court of Washington whether by rule or decision, and includes all exceptions and exclusions to that definition currently in place or hereafter created, whether by rule or decision.

[1989 c 117 § 2; 2011 c 244 § 2].

### 19.154.60. Prohibited practices—Assistance with immigration matters.

(1) Persons, other than those licensed to practice law in this state or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the practice of law in an immigration matter for compensation.

(2) Persons, other than those licensed to practice law in this state or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the following acts or practices, for compensation:

(a) Advising or assisting another person in determining the person’s legal or illegal status for the purpose of an immigration matter;

(b) Selecting or assisting another in selecting, or advising another as to his or her answers on, a government agency form or document in an immigration matter;

(c) Selecting or assisting another in selecting, or advising another in selecting, a benefit, visa, or program to apply for in an immigration matter;

(d) Soliciting to prepare documents for, or otherwise representing the interests of, another in a judicial or administrative proceeding in an immigration matter;

(e) Explaining, advising, or otherwise interpreting the meaning or intent of a question on a

government agency form in an immigration matter;

(f) Charging a fee for referring another to a person licensed to practice law;

(g) Selecting, drafting, or completing legal documents affecting the legal rights of another in an immigration matter.

(3) Persons, other than those holding an active license to practice law issued by the Washington state bar association or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the following acts or practices, regardless of whether compensation is sought:

(a) Representing, either orally or in any document, letterhead, advertisement, stationery, business card, web site, or other comparable written material, that he or she is a notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or using any other designation or title, in any language, that conveys or implies that he or she possesses professional legal skills in the area of immigration law;

(b) Representing, in any language, either orally or in any document, letterhead, advertisement, stationery, business card, web site, or other comparable written material, that he or she can or is willing to provide services in an immigration matter, if such services would constitute the practice of law.

(4)(a) The prohibitions of subsections (1) through (3) of this section shall not apply to the activities of nonlawyer assistants acting under the supervision of a person holding an active license to practice law issued by the Washington state bar association or otherwise permitted to practice law or represent others under federal law in an immigration matter.

(b) This section does not prohibit a person from offering translation services, regardless of whether compensation is sought. Translating words contained on a government form from English to another language and translating a person's words from another language to English does not constitute the unauthorized practice of law.

(5) In addition to complying with the prohibitions of subsections (1) through (3) of this section, persons licensed as a notary public under chapter 42.45 RCW who do not hold an active license to practice law issued by the Washington state bar association shall not use the term notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or any other designation or title, in any language, that conveys or implies that he or she possesses professional legal skills in the areas of immigration law, when advertising notary public services in the conduct of their business. A violation of any provision of this chapter by a person licensed as a notary public under chapter 42.45 RCW shall constitute unprofessional conduct under the uniform regulation of business and professions act, chapter 18.235 RCW.

[1989 c 117 § 6; 2011 c 244 § 3; 2017 c 281 § 39.]

### **19.154.090**

(1) The legislature finds and declares that any violation of this chapter substantially affects the public interest and is an unfair and deceptive act or practice and unfair method of competition in the conduct of trade or commerce as set forth in RCW 19.86.020.

(2) In addition to all remedies available in chapter 19.86 RCW, a person injured by a violation of this chapter may bring a civil action to recover the actual damages proximately caused by a violation of this chapter, or one thousand dollars, whichever is greater.

[1989 c 117 § 9; 2011 c 244 § 5.]

### **19.154.100. Penalty.**

A violation of this chapter shall be punished as a gross misdemeanor according to chapter 9A.20 RCW.

[1989 c 117 § 10.]

### **19.154.800. Application**

Nothing in this chapter shall apply to or regulate any business to the extent such regulation is prohibited or preempted by federal law.

[2011 c 244 § 7].

### **19.154.900. Short Title.**

This chapter shall be known and cited as the “immigration services fraud prevention act.”

[1989 c 117 s 11; 2011 c 244 § 8.]

## **TITLE 42. PUBLIC OFFICERS AND AGENCIES**

### **CHAPTER 42.45. REVISED UNIFORM LAW ON NOTARIAL ACTS**

#### **42.45.010 Definitions.**

In this chapter:

(1) “Acknowledgment” means a declaration by an individual in the presence of a notarial officer stating that the individual has signed a record of the individual’s free will for the purpose stated in the record and, if the record is signed in a representative capacity, the individual also declares that he or she signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

(2) “Department” means the department of licensing.

(3) “Director” means the director of licensing or the director’s designee.

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

(5) “Electronic records notary public” means an individual commissioned by the director to perform a notarial act with respect to electronic records. Nothing in chapter 281, Laws of 2017 authorizes an electronic records notary public to provide court reporting services.

(6) “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.

(7) “In a representative capacity” means acting as:

(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; or

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

(8) “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, certifying the occurrence of an event or the performance of an act, and noting a protest of a negotiable instrument if the protest was prepared under the authority of an attorney licensed to practice law in this state or another state, or was prepared under the authority of a financial institution that is regulated by this state, another state, or the federal government.

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

(10) “Notary public” means an individual commissioned to perform a notarial act by the director.

(11) “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.

(12) “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.

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

(14) “Sign” means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

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

(16) “Stamping device” means:

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

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

(17) “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.

(18) “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.

[2017 c 281 § 2.]

#### **42.45.020 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) A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer’s spouse or domestic partner is a party, or in which any of the above have a direct beneficial interest.

(b) A notarial officer may not notarize the notarial officer’s own signature.

(c) A notarial act performed in violation of this subsection (2) is voidable.

(3) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

[2019 c 154 § 2; 2017 c 281 § 4.]

NOTES:

Effective date—2019 c 154: See note following RCW 42.45.280.

#### **42.45.030 Certain notarial acts—Requirements.**

(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 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 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 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 compare the copy with the original record or item and determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

(5) A notarial officer may make or note a protest of a negotiable instrument only if the notarial officer is licensed to practice law in this state, acting under the authority of an attorney who is licensed to practice law in this or another state, or acting under the authority of a financial institution regulated by this state, another state, or the federal government. In making or noting a protest of a negotiable instrument the notarial officer or licensed attorney shall determine the matters set forth in RCW 62A.3-505(b).

[2017 c 281 § 5.]

#### **42.45.040 Personal appearance.**

Except as provided in RCW 42.45.280, 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.

[2019 c 154 § 3; 2017 c 281 § 6.]

NOTES:

Effective date—2019 c 154: See note following RCW 42.45.280.

#### **42.45.050 Identification of individual.**

(1) A notarial officer has personal knowledge of the identity of an individual appearing before the 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 officer if the officer can identify the individual:

(a) By means of:

(i) 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; or

(ii) 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 officer; or

(b) By a verification on oath or affirmation of a credible witness personally appearing before the officer and personally known to the officer and who provides satisfactory evidence of his or her identity as described in (a) of this subsection.

(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.

[2017 c 281 § 7.]

#### **42.45.060 Refusal to perform notarial act.**

(1) A notarial officer has the authority to refuse to perform a notarial act if the officer is not satisfied that:

(a) The individual executing the record is competent or has the capacity to execute the record; or

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

(2) A notarial officer has the authority to refuse to perform a notarial act unless refusal is prohibited by law other than this chapter.  
[2017 c 281 § 8.]

**42.45.070 Individual unable to sign—Signature.**

Except as otherwise provided in RCW 64.08.100, 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.  
[2017 c 281 § 9.]

**42.45.080 Notarial act in this state.**

(1) A notarial act may be performed in this state by:

- (a) A notary public of this state;
- (b) A judge, clerk, or deputy clerk of a court of this state; or
- (c) Any other individual authorized to perform the specific act by the law of this state.

(2) The signature and title of an individual authorized by chapter 281, Laws of 2017 to perform 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)(a) or (b) of this section conclusively establishes the authority of the officer to perform the notarial act.  
[2017 c 281 § 10.]

**42.45.090 Notarial act in another state—Effect in this 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:

- (a) A notary public of that state;
- (b) A judge, clerk, or deputy clerk of a court of that state; or
- (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)(a) through (c) of this section conclusively establishes the authority of the officer to perform the notarial act.  
[2017 c 281 § 11.]

**42.45.100 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:

- (a) A notary public of the tribe;
- (b) A judge, clerk, or deputy clerk of a court of the tribe; or
- (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)(a) through (c) of this section conclusively establishes the authority of the officer to perform the notarial act.  
[2017 c 281 § 12.]

#### **42.45.110 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:

- (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 notarizing officer by the United States department of state for performing notarial acts overseas; or
- (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 an officer described in subsection (1)(a), (b), or (c) of this section conclusively establishes the authority of the officer to perform the notarial act.

[2017 c 281 § 13.]

#### **42.45.120 Foreign notarial act.**

(1) 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 the 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) of this section 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 Hague Convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(6) A consular authentication issued by an individual designated by the United States department of state as a notarizing 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 officer holds the indicated office.

[2017 c 281 § 14.]

#### **42.45.130 Certificate of notarial act.**

- (1) A notarial act must be evidenced by a certificate. The certificate must:
- (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 department;
  - (c) Identify the jurisdiction in which the notarial act is performed;
  - (d) Contain the title of office of the notarial officer;
  - (e) Be written in English or in dual languages, one of which must be English;



(f) If the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission; and

(g) If the notarial act is performed under RCW 42.45.280, indicate that the notarial act was performed using communication technology.

(2) Regarding notarial act certificates on a tangible record:

(a) 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.

(b) If a notarial act regarding a tangible record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be affixed to or embossed on the certificate.

(3) Regarding notarial act certificates on an electronic record:

(a) If a notarial act regarding an electronic record is performed by an electronic records notary public, an official stamp must be attached to or logically associated with the certificate.

(b) If a notarial act regarding an electronic record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be attached to or logically associated with the certificate.

(4) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) through (3) of this section and:

(a) Is in a short form set forth in RCW 42.45.140;

(b) Is in a form otherwise permitted by the law of this state;

(c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(d) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in RCW 42.45.030, 42.45.040, and 42.45.050 or law of this state other than this chapter.

(5) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in RCW 42.45.030, 42.45.040, and 42.45.050.

(6) A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(7) 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 director has established standards pursuant to RCW 42.45.250 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

[2019 c 154 § 4; 2017 c 281 § 15.]

NOTES:

Effective date—2019 c 154: See note following RCW 42.45.280.

#### **42.45.140 Short form certificates.**

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by RCW 42.45.130 (1) through (4) and 42.45.280:

(1) For an acknowledgment in an individual capacity:

State of .....

County of .....

This record was acknowledged before me on (date) by (name(s) of individuals).

... (Signature of notary public)

... (Title of office)

My commission expires: ... (date) (Stamp)

(2) For an acknowledgment in a representative capacity:

State of .....

County of .....

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

... (Signature of notary public)

... (Title of office)

My commission expires: ... (date) (Stamp)

(3) For verification on oath or affirmation:

State of .....

County of .....

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

... (Signature of notary public)

... (Title of office)

My commission expires: ... (date) (Stamp)

(4) For witnessing or attesting a signature:

State of .....

County of .....

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

... (Signature of notary public)

... (Title of office)

My commission expires: ... (date) (Stamp)

(5) For certifying or attesting 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 .....

... (Signature of notary public)

... (Title of office)

My commission expires: ... (date) (Stamp)

(6) For certifying the occurrence of an event or the performance of any act:

State of .....

County of .....

I certify that the event described in this document has occurred or been performed.

Dated: ...

[2019 c 154 § 5; 2017 c 281 § 16.]

NOTES:

Effective date—2019 c 154: See note following RCW 42.45.280.

#### **42.45.150 Official stamp.**

(1) It is unlawful for any person intentionally to manufacture, give, sell, procure, or possess a seal or stamp evidencing the current appointment of a person as a notary public until the director has issued a notary commission. The official seal or stamp of a notary public must include:

- (a) The words “notary public”;
- (b) The words “state of Washington”;

- (c) The notary public's name as commissioned;
- (d) The notary public's commission expiration date; and
- (e) Any other information required by the director.

(2) The size and form or forms of the seal or stamp shall be prescribed by the director in rule.

(3) The seal or stamp must be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

(4) The seal or stamp used at the time that a notarial act is performed must be the seal or stamp evidencing the notary public's commission in effect as of such time, even if the notary public has received the seal or stamp evidencing his or her next commission.

[2017 c 281 § 17.]

#### **42.45.160 Stamping device—Security.**

(1) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.

(2) The seal or stamp should be kept in a locked and secured area, under the direct and exclusive control of the notary public. 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 department on discovering that the device is lost or stolen. Any replacement device must contain a variance from the lost or stolen seal or stamp.

[2017 c 281 § 18.]

#### **42.45.170 Fees.**

(1) The director may establish by rule the maximum fees that may be charged by notaries public for various notarial services.

(2) A notary public need not charge fees for notarial acts.

[2017 c 281 § 19.]

#### **42.45.180 Journal.**

(1) A notary public shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for ten years after the performance of the last notarial act chronicled in the journal. The journal is to be destroyed as required by the director in rule upon completion of the ten-year period.

(2) Notwithstanding any other provision of this chapter requiring a notary public to maintain a journal, a notary public who is an attorney licensed to practice law in this state is not required to chronicle a notarial act in a journal if documentation of the notarial act is otherwise maintained by professional practice.

(3) A notary public shall maintain only one tangible journal at a time to chronicle notarial acts, whether those notarial acts are performed regarding tangible or electronic records. The journal must be a permanent, bound register with numbered pages. An electronic records notary public may also maintain an electronic format journal, which can be kept concurrently with the

tangible journal. The electronic journal must be in a permanent, tamper-evident electronic format complying with the rules of the director.

(4) An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

- (a) The date and time of the notarial act;
- (b) A description of the record, if any, and type of notarial act;
- (c) The full name and address of each individual for whom the notarial act is performed; and
- (d) Any additional information as required by the director in rule.

(5) The journal shall be kept in a locked and secured area, under the direct and exclusive control of the notary public. Failure to secure the journal may be cause for the director to take administrative action against the commission held by the notary public. If a notary public's journal is lost or stolen, the notary public promptly shall notify the department on discovering that the journal is lost or stolen.

(6) On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (1) of this section and inform the department where the journal is located.

[2017 c 281 § 20.]

#### **42.45.190 Notarial acts on electronic records—Technology—Notification—Standards.**

(1) A notary public may not perform notarial acts with respect to electronic records unless the notary public holds a commission as an electronic records notary public.

(2) An electronic records notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records that meet the standards provided in subsection (4) of this section. A person cannot require an electronic records notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(3) Before an electronic records notary public performs the notary public's initial notarial act with respect to an electronic record, an electronic records notary public shall notify the department that he or she will be performing notarial acts with respect to electronic records and identify the technology the electronic records notary public intends to use.

(4) The director shall establish standards for approval of technology in rule. If the technology conforms to the standards, the director shall approve the use of the technology.

[2017 c 281 § 21.]

#### **42.45.200 Commission—Qualifications—Oath—Surety bond—Commission term—Electronic records notary public.**

(1) An individual qualified under subsection (2) of this section may apply to the director for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the director and pay any application fee.

(2) An applicant for a commission as a notary public must:

- (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; and
- (e) Not be disqualified to receive a commission under RCW 42.45.210.

(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 department in the format prescribed by the director

in rule.

(4) Before issuance of a commission as a notary public, the applicant for a commission shall submit to the director an assurance in the form of a surety bond in the amount established by the director in rule. The assurance must be issued by a surety or other entity licensed or authorized to write surety bonds in this state. The assurance must be effective for a four-year term or for a term that expires on the date the notary public's commission expires. The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the director. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give at least thirty days' notice to the department before canceling the assurance. The surety or issuing entity shall notify the department not later than thirty days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the department.

(5) On compliance with this section, the director shall issue a commission as a notary public to an applicant for a term of four years or for a term that expires on the date of expiration of the assurance, whichever comes first.

(6) 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.

(7) An individual qualified under (a) of this subsection may apply to the director for a commission as an electronic records notary public. The applicant shall comply with and provide the information required by rules established by the director and pay the relevant application fee.

(a) An applicant for a commission as an electronic records notary public must hold a commission as notary public.

(b) An electronic records notary public commission may take the form of an endorsement to the notary public commission if deemed appropriate by the director.

[2017 c 281 § 22.]

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

(1) In addition to conduct defined as unprofessional under RCW 18.235.130, the director may take action as provided for in RCW 18.235.110 against 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:

(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 department;

(c) A conviction of the applicant or notary public of any felony or 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) Failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the director, or any federal or state law;

(f) 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) Violation by the notary public of a rule of the director regarding a notary public;

(h) Denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state;

(i) Failure of the notary public to maintain an assurance as provided in RCW 42.45.200(4); or

(j) Making or noting a protest of a negotiable instrument without being a person authorized by RCW 42.45.030(5).

(2) If the director denies, refuses to renew, revokes, suspends, imposes conditions, or otherwise sanctions, a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with chapter 34.05 RCW.

(3) The authority of the director to take disciplinary action on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

[2017 c 281 § 23.]

#### **42.45.220 Database of notaries public.**

The director shall maintain an electronic database of notaries public:

(1) Through which a person may verify the authority of a notary public to perform notarial acts; and

(2) Which indicates whether a notary public has notified the director that the notary public will be performing notarial acts on electronic records.

[2017 c 281 § 24.]

#### **42.45.230 Prohibited acts.**

(1) A commission as a notary public does not authorize an individual to:

(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; or

(e) Provide court reporting services.

(2) A notary public may not engage in false or deceptive advertising.

(3) A notary public, other than an attorney licensed to practice law in this state, or a Washington-licensed limited license legal technician acting within the scope of his or her license, may not use the term “notario” or “notario publico.”

(4) A notary public, other than an attorney licensed to practice law in this state or a limited license legal technician acting within the scope of his or her license, may not assist another person in selecting the appropriate certificate required by RCW 42.45.130.

(5) A notary public, other than an attorney licensed to practice law in this state, or a Washington-licensed limited license legal technician acting within the scope of his or her license, may 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, or a Washington-licensed limited license legal technician acting within the scope of his or her license, in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the internet, the notary public shall include the following statement, or an alternate statement authorized or required by the director, 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.

(6) Except as otherwise allowed by law, a notary public may 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. A notary public may not maintain copies or electronic images of documents notarized unless the copies or images are maintained by an attorney or Washington-licensed limited license legal technician acting within his or her scope of practice for the performance of legal services or for other services performed for the client and the copies or images are not maintained solely as part of the notary transaction.

[2017 c 281 § 25.]

#### **42.45.240 Validity of notarial acts.**

Except as otherwise provided in RCW 42.45.020(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. Nothing in chapter 281, Laws of 2017 gives the director authority to invalidate a notarial act.

[2017 c 281 § 26.]

#### **42.45.250 Rules.**

(1) The director may adopt rules necessary to implement this chapter.

(2) In adopting, amending, or repealing rules about notarial acts with respect to electronic records, the director shall consider standards, practices, and customs of other jurisdictions that substantially enact this chapter.

[2017 c 281 § 27.]

#### **42.45.260 Commissions in effect July 1, 2018—Continuation.**

A commission as a notary public in effect on July 1, 2018, continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after July 1, 2018, is subject to and shall comply with this chapter. A notary public, in performing notarial acts after July 1, 2018, shall comply with this chapter.

[2017 c 281 § 28.]

#### **42.45.270 Uniform regulation of business and professions act—Application.**

The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

[2017 c 281 § 32.]

#### **42.45.280 Electronic records notary public.**

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

- (a) “Communication technology” means an electronic device or process that:
  - (i) Allows an electronic records notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and
  - (ii) When necessary under and consistent with other applicable law, facilitates communication with a remotely located individual with 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 an electronic records 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 electronic records notary public who performs a notarial act under subsection (3) of this section.
  - (2) A remotely located individual complies with RCW 42.45.040 by using communication technology to appear before an electronic records notary public.
  - (3) An electronic records notary public located in this state may perform a notarial act using communication technology for a remotely located individual if:
    - (a) The electronic records notary public:
      - (i) Has personal knowledge under RCW 42.45.050(1) of the identity of the remotely located individual;
      - (ii) Has satisfactory evidence of the identity of the remotely located individual by a verification on oath or affirmation of a credible witness appearing before and identified by the electronic records notary public under RCW 42.45.050(2); or
      - (iii) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;
    - (b) The electronic records notary public is reasonably able to confirm that a record before the electronic records 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 electronic records notary public, or a person acting on behalf of the electronic records notary public, creates an audio-visual recording of the performance of the notarial act; and
    - (d) For a remotely located individual located outside the United States:
      - (i) The record:
        - (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; or
        - (B) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and
      - (ii) 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 RCW 42.45.130 and the short form certificate provided in RCW 42.45.140 must indicate that the notarial act was performed using communication technology.
  - (5) A short form certificate provided in RCW 42.45.140 for a notarial act subject to this section is sufficient if it:
    - (a) Complies with rules adopted under subsection (8)(a) of this section; or



(b) Is in the form provided by RCW 42.45.140 and contains a statement substantially as follows: “This notarial act involved the use of communication technology.”

(6) An electronic records notary public, a guardian, conservator, or agent of an electronic records notary public, or a personal representative of a deceased electronic records notary public shall retain the audio-visual recording created under subsection (3)(c) of this section 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)(d) of this section, the recording must be retained for a period of at least ten years after the recording is made.

(7) Before an electronic records notary public performs the electronic records notary public’s initial notarial act under this section, the electronic records notary public must notify the director that the electronic records notary public will be performing notarial acts and identify the technologies the electronic records notary public intends to use. If the director has established standards under subsection (8) of this section and RCW 42.45.250 for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

(8) In addition to adopting rules under RCW 42.45.250, the director may adopt rules under this section regarding performance of a notarial act. The rules may:

(a) Prescribe the means 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; and

(d) Establish standards and a period for the retention of an audio-visual recording created under subsection (3)(c) of this section.

(9) Before adopting, amending, or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the director must consider:

(a) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual adopted 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; and

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

[2019 c 154 § 1.]

NOTES:

Effective date—2019 c 154: “This act takes effect October 1, 2020.” [2019 c 154 § 10.]

#### **42.45.900 Short title.**

This chapter may be known and cited as the 2018 revised uniform law on notarial acts.

[2019 c 154 § 6; 2017 c 281 § 1.]

NOTES:

Effective date—2019 c 154: See note following RCW 42.45.280.

#### **42.45.901 Application.**

This chapter applies to a notarial act performed on or after July 1, 2018.

[2017 c 281 § 3.]

#### **42.45.902 Savings.**

This chapter does not affect the validity or effect of a notarial act performed before July 1,

2018.

[2017 c 281 § 29.]

**42.45.903 Application—Construction.**

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

[2017 c 281 § 30.]

**42.45.904 Relation to electronic signatures in global and national commerce act.**

This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

[2017 c 281 § 31.]

**42.45.905 Effective date—2017 c 281.**

This act takes effect July 1, 2018.

[2017 c 281 § 44.]

**TITLE 64. REAL PROPERTY AND CONVEYANCES  
CHAPTER 64.08. ACKNOWLEDGMENTS**

**64.08.010. Who may take acknowledgments.**

Acknowledgments of deeds, mortgages and other instruments in writing, required to be acknowledged may be taken in this state before a justice of the supreme court, or the clerk thereof, or the deputy of such clerk, before a judge of the court of appeals, or the clerk thereof, before a judge of the superior court, or qualified court commissioner thereof, or the clerk thereof, or the deputy of such clerk, or a county auditor, or the deputy of such auditor, or a qualified notary public, or a qualified United States commissioner appointed by any district court of the United States for this state, and all said instruments heretofore executed and acknowledged according to the provisions of this section are hereby declared legal and valid.

[1971 c 81 § 131; 1931 c 13 § 1; 1929 c 33 § 3; RRS § 10559. Prior: 1913 c 14 § 1; Code 1881 § 2315; 1879 p 110 § 1; 1877 p 317 § 5; 1875 p 107 § 1; 1873 p 466 § 5.]

**64.08.020. Acknowledgments out of state -- Certificate.**

Acknowledgments of deeds conveying or encumbering real estate situated in this state, or any interest therein, and other instruments in writing, required to be acknowledged, may be taken in any other state or territory of the United States, the District of Columbia, or in any possession of the United States, before any person authorized to take the acknowledgments of deeds by the laws of the state, territory, district or possession wherein the acknowledgment is taken, or before any commissioner appointed by the governor of this state, for that purpose, but unless such acknowledgment is taken before a commissioner so appointed by the governor, or before the clerk of a court of record of such state, territory, district or possession, or before a notary public or other officer having a seal of office, the instrument shall have attached thereto a certificate of the clerk of a court of record of the county, parish, or other political subdivision of such state, territory, district or possession wherein the acknowledgment was taken, under the seal of said court, certifying that the person who took the acknowledgment, and whose name is subscribed to

the certificate thereof, was at the date thereof such officer as he represented himself to be, authorized by law to take acknowledgments of deeds, and that the clerk verily believes the signature of the person subscribed to the certificate of acknowledgment to be genuine.  
[1929 c 33 § 4; RRS §§ 10560, 10561. Prior: Code 1881 §§ 2316, 2317; 1877 p 313 §§ 6, 7; 1873 p 466 §§ 6, 7; 1867 pp 93, 94 §§ 1, 2; 1866 p 89 § 1; 1865 p 25 § 1. Formerly RCW 64.08.020 and 64.08.030.]

**64.08.040. Foreign acknowledgments, who may take.**

Acknowledgments of deeds conveying or encumbering real estate situated in this state, or any interest therein and other instruments in writing, required to be acknowledged, may be taken in any foreign country before any minister, plenipotentiary, secretary of legation, charge d'affaires, consul general, consul, vice consul, consular agent, or commercial agent appointed by the United States government, or before any notary public, or before the judge, clerk, or other proper officer of any court of said country, or before the mayor or other chief magistrate of any city, town or other municipal corporation therein.  
[1929 c 33 § 5; RRS § 10563, part. Prior: 1901 c 53 § 1; 1888 p 1 § 1; Code 1881 § 2319; 1875 p 108 § 2.]

**64.08.050. Certificate of acknowledgment -- Evidence.**

The officer, or person, taking an acknowledgment as in this chapter provided, shall certify the same by a certificate written upon or annexed to the instrument acknowledged and signed by him or her and sealed with his or her official seal, if any, and reciting in substance that the person, or persons, known to him or her as, or determined by satisfactory evidence to be, the person, or persons, whose name, or names, are signed to the instrument as executing the same, acknowledged before him or her on the date stated in the certificate that he, she, or they, executed the same freely and voluntarily. Such certificate shall be prima facie evidence of the facts therein recited. The officer or person taking the acknowledgment has satisfactory evidence that a person is the person whose name is signed on the instrument if that person: (1) Is personally known to the officer or person taking the acknowledgment; (2) is identified upon the oath or affirmation of a credible witness personally known to the officer or person taking the acknowledgment; or (3) is identified on the basis of identification documents.  
[1988 c 69 § 1; 1929 c 33 § 6; RRS §§ 10564, 10565. Prior: Code 1881 §§ 2320, 2321; 1879 p 158 §§ 2, 3.]

**64.08.060. Form of certificate for individual.**

A certificate of acknowledgment for an individual, substantially in the following form or, after December 31, 1985, substantially in the form set forth in RCW 42.45.140(1), shall be sufficient for the purposes of this chapter and for any acknowledgment required to be taken in accordance with this chapter:

State of . . . . . ) ss.  
County of . . . . .

On this day personally appeared before me (here insert the name of grantor or grantors) to me known to be the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that he (she or they) signed the same as his (her or their) free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this . . . . day of . . . . . (year).  
(Signature of officer and official seal)

If acknowledgment is taken before a notary public of this state the signature shall be followed by substantially the following: Notary Public in and for the state of Washington, residing at . . . . ., (giving place of residence).

[2017 c 281, § 41, effective July 1, 2018; 2016 c 202, § 40, effective June 9, 2016; 1988 c 69 § 2; 1929 c 33 § 13; RRS § 10566. Prior: 1888 p 51 § 2; 1886 p 179 § 7.]

**64.08.070. Form of certificate for corporation.**

A certificate of acknowledgment for a corporation, substantially in the following form or, after December 31, 1985, substantially in the form set forth in RCW 42.45.140(2), shall be sufficient for the purposes of this chapter and for any acknowledgment required to be taken in accordance with this chapter:

State of . . . . . )ss.

County of . . . . . )

On this . . . . day of . . . . , (year) . . . . , before me personally appeared . . . . , to me known to be the (president, vice president, secretary, treasurer, or other authorized officer or agent, as the case may be) of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

(Signature and title of officer with place of residence of notary public.)

[2017 c 281, § 42, effective July 1, 2018; 2016 c 202, § 41, effective June 9, 2016; 2012 c 117 § 191; 1988 c 69 § 3; 1929 c 33 § 14; RRS § 10567. Prior: 1903 c 132 § 1.]

**64.08.090. Authority of superintendents, business managers and officers of correctional institutions to take acknowledgments and administer oaths -- Procedure.**

The superintendents, associate and assistant superintendents, business managers, records officers and camp superintendents of any correctional institution or facility operated by the state of Washington are hereby authorized and empowered to take acknowledgments on any instruments of writing, and certify the same in the manner required by law, and to administer all oaths required by law to be administered, all of the foregoing acts to have the same effect as if performed by a notary public: PROVIDED, That such authority shall only extend to taking acknowledgments for and administering oaths to officers, employees and residents of such institutions and facilities. None of the individuals herein empowered to take acknowledgments and administer oaths shall demand or accept any fee or compensation whatsoever for administering or taking any oath, affirmation, or acknowledgment under the authority conferred by this section.

In certifying any oath or in signing any instrument officially, an individual empowered to do so under this section shall, in addition to his name, state in writing his place of residence, the date of his action, and affix the seal of the institution where he is employed: PROVIDED, That in certifying any oath to be used in any of the courts of this state, it shall not be necessary to append an impression of the official seal of the institution.

[2012 c 117 § 192; 1972 ex.s. c 58 § 1.]

**64.08.100. Acknowledgments by persons unable to sign name.**

Any person who is otherwise competent but is physically unable to sign his or her name or make a mark may make an acknowledgment authorized under this chapter by orally directing the notary public or other authorized officer taking the acknowledgment to sign the person's name on his or her behalf. In taking an acknowledgment under this section, the notary public or other

authorized officer shall, in addition to stating his or her name and place of residence, state that the signature in the acknowledgment was obtained under the authority of this section.

[1987 c 76 § 2.]

## **TITLE 65. RECORDING, REGISTRATION, AND LEGAL PUBLICATION**

### **CHAPTER 65.24. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT**

**65.24.020. Electronic authentication.** (1) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this chapter.

(2) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(3) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

[2008 c 57 § 3.]

## **WASHINGTON ADMINISTRATIVE CODE**

### **TITLE 308. DEPARTMENT OF LICENSING**

#### **CHAPTER 308-30. NOTARIES PUBLIC**

#### **308-30-010 Authority.**

This chapter implements the revised uniform law on notarial acts, chapter 42.45 RCW.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-010, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-010, filed 2/5/93, effective 3/8/93. Statutory Authority: 1985 c 156 §§ 5 and 20. WSR 85-24-025 (Order PL 571), § 308-30-010, filed 11/26/85, effective 1/1/86.]

#### **308-30-020 Definitions.**

Words and terms used in these rules have the same meaning as in the Revised Uniform Law on Notarial Acts, RCW 42.45.010.

“Appear personally” means:

(a) Being in the same physical location as another individual and close enough to see, hear, communicate with, and exchange tangible identification credentials with that individual; or

(b) For remote notarial acts, being in a different physical location from another individual but able to see, hear, and communicate with that individual by means of communication technology.

“Commission” is equivalent to the term “license” as defined in RCW 18.235.010(6).

“Department” means the Washington state department of licensing.

“Director” means the director of the department of licensing or the director’s designee.

“Electronic journal” means a chronological record of notarizations maintained by a notary public in an electronic format in compliance with these rules.

“Electronic notarial acts” means notarizations or notarial acts with respect to electronic records.

“Electronic notarial certificate” means the part of, or attachment to, an electronic record that is completed by the notary public, contains the information required under RCW 42.45.130 and the notary’s official stamp, bears that notary’s electronic signature, and states the facts attested to

by the notary in a notarization performed on an electronic record.

“Enroll” and “enrollment” mean a process for registering a notary public with a technology provider to access and use a tamper-evident technology in order to perform electronic notarial acts.

“Principal” means:

(a) An individual whose electronic signature is notarized; or

(b) An individual, other than a witness required for an electronic notarial act, taking an oath or affirmation from the notary public.

“Remote notarial act” means a notarization that is performed using audio-video technology that meets the requirements in WAC 308-30-310 that allows for direct interaction between the notary and the individuals that are remotely located.

“Sole control” means at all times being in the direct physical custody of the notary public or safeguarded by the notary with a password or other secure means of authentication.

“Tamper-evident technology” means a set of applications, programs, hardware, software, or other technologies designed to enable a notary public to perform electronic notarial acts and to display evidence of any changes made to an electronic record.

“Technology provider” means an individual or entity that offers the services of a tamper-evident technology for electronic notarial acts.

“Venue” means the state and county where the notary public is physically located while performing a notarial act.

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-020, filed 2/11/21, effective 3/14/21; WSR 18-12-028, § 308-30-020, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 06-20-061, § 308-30-020, filed 9/29/06, effective 11/1/06; WSR 93-05-009, § 308-30-020, filed 2/5/93, effective 3/8/93. Statutory Authority: 1985 c 156 §§ 5 and 20. WSR 85-24-025 (Order PL 571), § 308-30-020, filed 11/26/85, effective 1/1/86.]

### **308-30-030 Application process for notary public commission.**

(1) To apply for a notary public commission, an applicant who meets the requirements of RCW 42.45.200(2) shall submit an application on forms provided by the department. The application shall include:

(a) Evidence of a ten thousand dollar surety bond, signed by the notary public, that conforms to RCW 42.45.200(4);

(b) Payment of the prescribed fee; and

(c) A signed and notarized oath of office.

(2) As part of a notary public commission application, an applicant shall provide both their legal name and their commission name. The applicant’s commission name must contain their surname, and at least the initials of the applicant’s first and middle name.

(3) To apply for an electronic records notary public endorsement, an applicant who meets the requirements of RCW 42.45.200(7) shall submit an electronic records notary public application on forms provided by the department and pay the prescribed fee.

(4) An applicant may only apply for an electronic records notary public endorsement if:

(a) They currently hold an active notary public commission; or

(b) They are applying for a notary public commission and an electronic records notary public endorsement simultaneously.

(5) An individual applying for an electronic records notary public endorsement must inform the department within thirty days of applying of the tamper-evident technology provider that they have enrolled with before they perform their first electronic notarial act.

(6) To apply for a remote notary endorsement, an electronic records notary public shall submit a remote notary endorsement application on forms provided by the department.

(7) An applicant may only apply for a remote notary endorsement if:

(a) They currently hold an active notary public commission with an electronic records notary public endorsement;

(b) They currently hold an active notary public commission, and are applying for an electronic records notary public endorsement and a remote notary endorsement simultaneously; or

(c) They are applying for a notary public commission, an electronic records notary public endorsement, and a remote notarial acts endorsement simultaneously.

(8) A notary public shall reapply with the department for each commission term before performing notarial acts.

(9) A notary public may elect not to apply for an electronic records notary public endorsement or a remote notary endorsement.

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-030, filed 2/11/21, effective 3/14/21; WSR 18-12-028, § 308-30-030, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-030, filed 2/5/93, effective 3/8/93. Statutory Authority: 1985 c 156 §§ 5 and 20. WSR 85-24-025 (Order PL 571), § 308-30-030, filed 11/26/85, effective 1/1/86.]

### **308-30-040 Approval or denial of application.**

(1) Upon an applicant's fulfillment of the requirements for a notary public commission and/or an electronic records notary public endorsement, and/or a remote notary endorsement, the department shall approve the application and issue the notary public commission and/or any appropriate endorsements.

(2) If the department receives an incomplete or invalid application, the department shall hold the application for thirty calendar days to allow the applicant to cure any defects. After the thirty day period, the application shall be canceled and any application fees forfeited.

(3) An applicant may not perform any notarial acts on a tangible or electronic record before receiving a notary public commission and the appropriate endorsement from the department.

(4) The department may deny a commission or endorsement application if the applicant fails to comply with these rules or does not meet the requirements for licensure.

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-040, filed 2/11/21, effective 3/14/21; WSR 18-12-028, § 308-30-040, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-040, filed 2/5/93, effective 3/8/93. Statutory Authority: 1985 c 156 §§ 5 and 20. WSR 85-24-025 (Order PL 571), § 308-30-040, filed 11/26/85, effective 1/1/86.]

### **308-30-050 Term of commission.**

(1) The term of a notary public commission shall expire on the expiration date of the notary public's surety bond, no more than four years after their commission date.

(2) Unless terminated pursuant to WAC 308-30-270, an electronic records notary public endorsement and the remote notary endorsement are valid from the date the endorsement is issued by the department, and continues as long as the notary public's current commission remains valid.

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-050, filed 2/11/21, effective 3/14/21; WSR 18-12-028, § 308-30-050, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-050, filed 2/5/93, effective 3/8/93. Statutory Authority: 1985 c 156 §§ 5 and 20. WSR 85-24-025 (Order PL 571), § 308-30-050, filed 11/26/85, effective 1/1/86.]

### **308-30-060 Application fees.**

The following fees shall be charged by the department:

**Title of Fee**

**Fee**

Application for notary public commission	\$40.00
Application for electronic records notary public endorsement	\$15.00
Renewal of notary public commission	\$50.00
Renewal of electronic records notary public endorsement	\$15.00
License print fee	\$5.00

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-060, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-060, filed 2/5/93, effective 3/8/93. Statutory Authority: 1985 c 156 §§ 5 and 20. WSR 85-24-025 (Order PL 571), § 308-30-060, filed 11/26/85, effective 1/1/86; WSR 22-22-022 § 308-30-060, filed 10/21/22, effective 11/22/22.]

**308-30-070 Size and form of official seal or stamp.**

An official seal or stamp shall conform to the following requirements:

- (1) The seal or stamp shall include the following information:
  - (a) The words “notary public”;
  - (b) The words “state of Washington”;
  - (c) The notary public’s name as commissioned;
  - (d) The notary public’s commission expiration date; and
  - (e) The notary public’s commission number.
- (2) The type on this seal or stamp shall be a minimum of 8 point type.
- (3) The seal or stamp shall conform to the following physical requirements:
  - (a) The seal or stamp shall be minimum one and five-eighths inches diameter if circular, or one inch wide by one and five-eighths inches long if rectangular;
  - (b) The face of the seal or stamp shall be permanently affixed; and
  - (c) If the stamp is affixed to a tangible record, it shall be applied in permanent ink and shall be capable of being photocopied.
- (4) The seal or stamp shall not contain the Washington state seal.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-070, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-070, filed 2/5/93, effective 3/8/93. Statutory Authority: 1985 c 156 §§ 5 and 20. WSR 85-24-025 (Order PL 571), § 308-30-070, filed 11/26/85, effective 1/1/86.]

**308-30-080 Acquiring official seal or stamp.**

- (1) A notary public shall procure an official seal or stamp only after receiving a certificate evidencing the notary public’s commission from the department, and shall provide a copy of this certificate to their chosen seal or stamp vendor as part of procuring the stamp.
- (2) A notary public with a commission in effect on July 1, 2018, may continue to use their notarial seal until the commission’s date of expiration. A notary public who procures an official seal or stamp after July 1, 2018, is subject to and shall comply with the rules in WAC 308-30-070.
- (3) The stamp a notary public acquires is the exclusive property of the notary public, and shall not be surrendered to an employer upon termination of employment, regardless of whether the employer paid for the seal or for the notary’s bond or appointment fees.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-080, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-080, filed 2/5/93, effective 3/8/93. Statutory Authority: 1985 c 156 §§ 5 and 20. WSR 85-24-025 (Order PL 571), § 308-30-080, filed 11/26/85, effective 1/1/86.]

**308-30-090 Replacement of lost or stolen official seal or stamp.**

- (1) When an official seal or stamp is lost or stolen the notary public shall notify the department in writing within ten business days of discovering the seal or stamp was lost or stolen.
- (2) The notary public may not obtain a replacement official seal or stamp until they have



properly notified the department that the original was lost or stolen.

(3) A replacement official seal or stamp must contain some variance from the original seal or stamp.

(4) If the lost or stolen official seal or stamp is found or recovered after a replacement has been obtained, the original seal or stamp shall be destroyed.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-090, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-090, filed 2/5/93, effective 3/8/93. Statutory Authority: 1985 c 156 §§ 5 and 20. WSR 85-24-025 (Order PL 571), § 308-30-090, filed 11/26/85, effective 1/1/86.]

### **308-30-100 Notary signature.**

In addition to the requirements listed in RCW 42.45.130, a notary public signing the notarial certificate of a completed notarial act shall sign the notarial certificate using the exact name that appears on the notary's certificate of commission and their seal or stamp.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-100, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190, 43.35.055, 43.24.086, WAC 308-30-100. WSR 05-12-047, § 308-30-100, filed 5/26/05, effective 6/26/05. Statutory Authority: RCW 43.24.086. WSR 90-06-052, § 308-30-100, filed 3/2/90, effective 4/2/90. Statutory Authority: 1985 c 156 §§ 5 and 20. WSR 85-24-025 (Order PL 571), § 308-30-100, filed 11/26/85, effective 1/1/86.]

### **308-30-110 Requirements for notarial acts.**

(1) In performing a notarial act, the notary public shall be physically within the geographic borders of the state of Washington.

(2) A notarial officer who certifies that an event has occurred or an act has been performed shall determine, from personal knowledge or satisfactory evidence, that the occurrence or performance took place.

(3) Electronic notarial acts shall conform to the requirements listed in these rules and RCW 42.45.040 on signing parties appearing before the notary.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-110, filed 5/29/18, effective 7/1/18.]

### **308-30-120 Authorized electronic notarial acts.**

A notary public who has received an electronic records notary public endorsement from the department may perform the following electronic notarial acts:

- (1) Taking an acknowledgment;
- (2) Taking a verification on oath or affirmation;
- (3) Witnessing or attesting a signature;
- (4) Certifying or attesting a copy;
- (5) Certifying that an event has occurred or an act has been performed; and
- (6) Noting a protest of a negotiable instrument, if the notary public is:
  - (a) Licensed to practice law in the state of Washington;
  - (b) Acting under the authority of an attorney who is licensed to practice law in this or another state; or

(c) Acting under the authority of a financial institution regulated by this state, another state, or the federal government.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-120, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-120, filed 2/5/93, effective 3/8/93.]

### **308-30-130 Requirements for technologies and technology providers.**

A tamper-evident technology shall comply with these rules:

- (1) A technology provider shall enroll only notaries public who have been issued an

electronic records notary public endorsement pursuant to WAC 308-30-030.

(2) A technology provider shall take reasonable steps to ensure that a notary public who has enrolled to use the technology has the knowledge to use it to perform electronic notarial acts in compliance with these rules.

(3) A tamper-evident technology shall require access to the system by a password or other secure means of authentication.

(4) A tamper-evident technology shall enable a notary public to affix the notary's electronic signature and seal or stamp in a manner that attributes such signature and seal or stamp to the notary.

(5) A technology provider shall provide prorated fees to align the usage and cost of the tamper-evident technology with the term limit of the notary public electronic records notary public endorsement.

(6) A technology provider shall suspend the use of any tamper-evident technology for any notary public whose endorsement has been revoked, suspended, or canceled by the state of Washington or the notary public.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-130, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-130, filed 2/5/93, effective 3/8/93.]

### **308-30-140 Refusal of requests to use system.**

In addition to the reasons listed in RCW 42.45.060, a notary public shall refuse a request to:

(1) Use a tamper-evident technology that the notary does not know how to operate; or

(2) Perform an electronic notarial act if the notary has a reasonable belief that a tamper-evident technology does not meet the requirements set forth in these rules.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-140, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-140, filed 2/5/93, effective 3/8/93.]

### **308-30-150 Completion of electronic notarial certificate.**

(1) For every electronic notarial act and remote notarial act, a notary public shall complete an electronic notarial certificate that complies with the requirements of these rules, RCW 42.45.130 and 42.45.140.

(2) An electronic notarial certificate shall be completed at the time of notarization and in the presence of the principal.

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-150, filed 2/11/21, effective 3/14/21; WSR 18-12-028, § 308-30-150, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-150, filed 2/5/93, effective 3/8/93.]

### **308-30-160 Certification of electronic notarial acts.**

A notary public shall sign each electronic notarial certificate with an electronic signature that complies with WAC 308-30-170 and authenticate an electronic notarial act with an official stamp that complies with WAC 380-30-180.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-160, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 42.44.190. WSR 93-05-009, § 308-30-160, filed 2/5/93, effective 3/8/93.]

### **308-30-170 Electronic notarial signature.**

(1) A notary public shall use a tamper-evident technology that complies with WAC 308-30-130 of these rules to produce the notary's electronic signature in a manner that is capable of independent verification.

(2) A notary public shall take reasonable steps to ensure that no other individual may possess

or access a tamper-evident technology used to produce the notary’s electronic signature.

(3) A notary public shall keep in the sole control of the notary all or any part of a tamper-evident technology whose exclusive purpose is to perform electronic notarial acts.

(4) For the purposes of this section, “capable of independent verification” means that any interested individual may confirm through the department that a notary public who signed an electronic record in an official capacity had authority at that time to perform electronic notarial acts.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-170, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 34.05.410 (1)(a) and 34.05.482 (1)(c). WSR 97-10-052, § 308-30-170, filed 5/1/97, effective 6/1/97.]

### **308-30-180 Electronic notarial stamp.**

(1) An electronic stamp may be used to authenticate an electronic notarial act if the electronic notarial certificate conforms to the rules set forth in RCW 42.45.130 and 42.45.140.

(2) An electronic stamp of a notary public used to authenticate an electronic notarial act shall conform to RCW 42.45.150 and WAC 308-30-070.

(3) The electronic stamp of a notary public shall be a digital image that appears in the likeness or representation of a traditional physical notary public official stamp meeting the requirements of RCW 42.45.150 and WAC 308-30-070.

(4) The tamper-evident technology used to create a notary public’s electronic stamp shall not be used for any purpose other than performing electronic notarial acts under chapter 42.45 RCW and these rules.

(5) Only the notary public to whom the tamper-evident technology is registered shall generate an official stamp.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-180, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 34.05.410 (1)(a) and 34.05.482 (1)(c). WSR 97-10-052, § 308-30-180, filed 5/1/97, effective 6/1/97.]

### **308-30-190 Journal of notarial acts required.**

(1) A notary public shall record each notarial act in a journal at the time of notarization in compliance with RCW 42.45.180 and these rules.

(2) If a notary public performs notarial acts involving different statements or documents for the same individual on the same date, the notary public may record a single entry in the journal for all of the statements or documents. The entry shall include the number of statements or documents notarized and shall otherwise conform to RCW 42.45.180 and these rules.

(3) The fact that the notary public’s employer or contractor keeps a record of notarial acts shall not relieve the notary of the duties required by these rules.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-190, filed 5/29/18, effective 7/1/18. Statutory Authority: RCW 34.05.410 (1)(a) and 34.05.482 (1)(c). WSR 97-10-052, § 308-30-190, filed 5/1/97, effective 6/1/97.]

### **308-30-200 Format of journals of notarial acts.**

(1) A tangible notarial journal shall:

(a) Be a permanent, bound book with numbered pages; and

(b) Have the capacity to record for each notarial act:

(i) The information required by RCW 42.45.180(4);

(ii) A description of the notary public’s method of identifying the principal; and

(iii) The principal’s signature, or the signature of an authorized party in compliance with

RCW 42.45.070, or a notation in the notary journal that the notarial act was performed via remote notarization.

(2) If a notary public keeps an electronic journal pursuant to RCW 42.45.180(3), the electronic journal shall:

- (a) Be maintained only in addition to the tangible journal;
- (b) Have the capacity to record the information required for a tangible notarial journal;
- (c) Enable access by a password or other secure means of authentication;
- (d) Be tamper-evident;
- (e) Create a duplicate record of the journal as a backup; and
- (f) Be capable of providing tangible or electronic copies of any entry made in the journal.

(3) A notary public's journal is the exclusive property of the notary public, and shall not be surrendered to an employer upon demand or termination, whether the employer paid for the journal or the notary's bond or application fees.

(4) A notary performing remote notarization must maintain a tangible notary journal as required in RCW 42.45.180 and WAC 308-30-190, this section, and WAC 308-30-210. Notaries performing remote notarization are not required to collect and maintain the signatures of the signers when those notarizations were performed remotely. Notaries must note in their tangible notary log that a notarization was performed remotely.

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-200, filed 2/11/21, effective 3/14/21; WSR 18-12-028, § 308-30-200, filed 5/29/18, effective 7/1/18.]

### **308-30-210 Disposition of journal.**

(1) Ten years after the performance of the last notarial act chronicled in a tangible journal, the journal is to be destroyed by shredding or other destruction that leaves any entry in the journal illegible.

(2) Ten years after the performance of the last notarial act chronicled in an electronic journal, the journal is to be destroyed by deleting any remaining records pertaining to the electronic journal and deleting any remaining tamper-evident technology in the notary's possession.

(3) The personal representative or guardian of a notary public shall follow RCW 42.45.180(6) related to the disposition of the notary public's journals upon the death or adjudication of incompetency of the notary public.

(4) Nothing in this section shall require a notary to dispose of their notarial journal or journals if doing so would be in conflict with the law of another jurisdiction that requires a notary to keep their journal for a longer period of time.

(5) The notary public, or the notary's personal representative, shall provide access instructions to the department for any electronic journal maintained or stored by the notary, upon commission resignation, revocation, or expiration without renewal, or upon the death or adjudicated incompetence of the notary.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-210, filed 5/29/18, effective 7/1/18.]

### **308-30-220 Fees for notarial acts.**

(1) The maximum fees a notary may charge for notarial acts are:

<b>Notarial Act</b>	<b>Fee</b>
Witnessing or attesting a signature	\$10.00
Taking an acknowledgment or a verification upon oath or affirmation	\$10.00
Certifying or attesting a copy	\$10.00

Administering an oath or affirmation \$10.00

Certifying that an event has occurred or an act has been performed \$10.00

(2) A notary public need not charge for notarial acts.

(3) A notary public may not charge fees for receiving or noting a protest of a negotiable instrument.

(4) A notary public may additionally charge the actual costs of copying any instrument or record.

(5) A notary public may charge a travel fee when traveling to perform a notarial act if:

(a) The notary public and the individual requesting the notarial act agree upon the travel fee in advance of the travel; and

(b) The notary public explains to the individual requesting the notarial act that the travel fee is in addition to the notarial fee in subsection (1) of this section and is not required by law.

(6) Notwithstanding the maximum fees set forth in subsection (1) of this section and the prohibition set forth in subsection (3) of this section, a notary public may charge a maximum fee of twenty-five dollars to perform a remote notarial act.

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-220, filed 2/11/21, effective 3/14/21; WSR 18-12-028, § 308-30-220, filed 5/29/18, effective 7/1/18.]

### **308-30-230 Testimonials.**

A notary may not endorse or promote any service, contest, or other offering if the notary's seal or title is used in the endorsement or promotional statement.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-230, filed 5/29/18, effective 7/1/18.]

### **308-30-240 Forms.**

(1) The forms in RCW 42.45.140 are examples of certificates with the sufficient information included. When a specific form is required by another statute of this state, the required form shall be used.

(2) A nonattorney notary may not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act. This does not preclude a notary who is duly qualified in a particular profession from giving advice relating to matters in that professional field.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-240, filed 5/29/18, effective 7/1/18.]

### **308-30-250 Change of name or address.**

(1) When a notary public changes his or her name or address, the department of licensing must be notified of such change on forms prescribed by the department.

(2) A name change notification must be accompanied by a bond rider from the bonding company amending the notary bond, and the prescribed fee for a name change which provides a duplicate notary certificate showing the new name. There is no charge for an address change and a new certificate is not issued.

(3) A notary that submits a name change notification shall continue to use their original notary stamp or seal and their original name and signature until they receive a new commission certificate and seal or stamp with the new information.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-250, filed 5/29/18, effective 7/1/18.]

### **308-30-260 Evidence of authenticity.**

Requests for evidence of authenticity should be addressed to the Washington office of the

secretary of state, corporations and charities division.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-260, filed 5/29/18, effective 7/1/18.]

### **308-30-270 Termination or suspension of commission or endorsement.**

(1) The department may take action against the commission and/or endorsement of a notary public who fails to comply with these rules as provided in RCW 42.45.210, 42.45.270, and chapter 18.235 RCW. Any restriction, suspension, or revocation of a notary public's commission will automatically have the same effect on any endorsement the notary public holds.

(2) A notary public may terminate their notary public commission and/or electronic records endorsement or remote notary endorsement by notifying the department of this intent in writing and disposing of all or any part of a tamper-evident technology in the notary's control whose purpose was to perform electronic notarizations.

(3) A notary public may terminate the electronic records notary public endorsement or the remote notary endorsement and maintain the underlying notary public commission.

(4) A notary public whose commission is terminated or expired, either by the notary or the department, shall disable their official stamp by destroying, defacing, damaging, or securing the device against use. The notary shall maintain their notarial journals for ten years as required by RCW 42.45.180 and WAC 308-30-210.

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-270, filed 2/11/21, effective 3/14/21; WSR 18-12-028, § 308-30-270, filed 5/29/18, effective 7/1/18.]

### **308-30-280 Change of application information.**

If any of the information submitted on a notary public's commission or endorsement applications pursuant to WAC 308-30-030 changes, the notary public shall report this change to the department in writing within fifteen days.

[Statutory Authority: RCW 42.45.250. WSR 18-12-028, § 308-30-280, filed 5/29/18, effective 7/1/18.]

### **308-30-290 Authorized remote notarial acts.**

(1) A notary public who has received both an electronic records notary public endorsement and a remote notarial acts endorsement from the department may perform the following remote notarial acts:

- (a) Taking an acknowledgment;
- (b) Taking a verification on oath or affirmation;
- (c) Witnessing or attesting a signature;
- (d) Certifying or attesting a copy;
- (e) Certifying that an event has occurred or an act has been performed; and
- (f) Noting a protest of a negotiable instrument, if the notary public is:

(i) Acting under the authority of an attorney who is licensed to practice law in this state or another state; or

(ii) Acting under the authority of a financial institution regulated by this state, another state, or the federal government.

(2) In performing remote notarial acts, a notary public shall comply with all requirements for electronic notarial acts under this chapter.

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-290, filed 2/11/21, effective 3/14/21.]

### **308-30-300 Standards for identity proofing.**

(1) In performing remote notarial acts, if a notary public does not have satisfactory evidence

of the identity of a remotely located individual under subsection (4) of this section, the notary public must reasonably verify the individual's identity through two different types of identity proofing consisting of a credential analysis procedure and a dynamic knowledge-based authentication assessment as provided in subsections (2) and (3) of this section.

(2) Credential analysis must use public or private data sources to confirm the validity of the identification credential presented by a remotely located individual and shall, at a minimum:

(a) Use automated software processes to aid the notary public in verifying the identity of each remotely located individual;

(b) Require the identification credential to pass an authenticity test, consistent with sound commercial practices, that uses appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identification credential is not fraudulent or inappropriately modified;

(c) Use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identification credential details; and

(d) Enable the notary public visually to compare for consistency the information and photograph on the identification credential and the remotely located individual as viewed by the notary public in real time through communication technology.

(3) A dynamic knowledge-based authentication assessment is successful if it meets the following requirements:

(a) The remotely located individual must answer a quiz consisting of a minimum of five questions related to the individual's personal history or identity formulated from public or private data sources;

(b) Each question must have a minimum of five possible answer choices;

(c) At least eighty percent of the questions must be answered correctly;

(d) All questions must be answered within two minutes;

(e) If the remotely located individual fails the first attempt, the individual may retake the quiz one time within twenty-four hours;

(f) During a retake of the quiz, a minimum of forty percent of the prior questions must be replaced;

(g) If the remotely located individual fails the second attempt, the individual is not allowed to retry with the same online notary public within twenty-four hours of the second failed attempt; and

(h) The notary public must not be able to see or record the questions or answers.

(4) A notary public has satisfactory evidence of the identity of a remotely located individual if:

(a) The notary public has personal knowledge of the identity of the individual; or

(b) The individual is identified by oath or affirmation of a credible witness in accordance with the following requirements:

(i) To be a credible witness, the witness must have personal knowledge of the remotely located individual;

(ii) The notary public must have personal knowledge of the credible witness or verify the identity of the credible witness by two different types of identity proofing in accordance with subsections (1), (2), and (3) of this section; and

(iii) A credible witness may be outside the physical presence of the notary public or remotely located individual if the notary public, credible witness, and remotely located individual can communicate by using communication technology.

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-300, filed 2/11/21, effective 3/14/21.]

**308-30-310 Standards for communication technology.**

(1) Communication technology for remote notarial acts must provide for synchronous audio-visual feeds of sufficient audio clarity and video resolution to enable the notary public and remotely located individual to see and speak with each other. The process must provide a means for the notary public reasonably to confirm that an electronic record before the notary public is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature.

(2) Communication technology must provide reasonable security measures to prevent unauthorized access to:

- (a) The live transmission of the audio-visual feeds;
- (b) The methods used to perform identify verification; and
- (c) The electronic record that is the subject of the remote notarial act.

(3) If a remotely located individual must exit the workflow, the individual must restart the identify verification process required under WAC 308-30-300 from the beginning.

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-310, filed 2/11/21, effective 3/14/21.]

**308-30-320 Certificate of notarial act for remote notarial acts.**

(1) A form of notarial certificate for a remote notarial act satisfies the requirement of RCW 42.45.280(4) and 42.45.130(1)(g) if it is in the form provided by applicable law and contains a statement substantially as follows: “This notarial act involved the use of communication technology.”

(2) A short form of acknowledgment prescribed in RCW 42.45.140 satisfies the requirement of RCW 42.45.280(4) and 42.45.130 (1)(g) if it is in substantially one of the following forms for the purposes indicated:

(a) For an acknowledgment in an individual capacity:

State of Washington

County of .....

This record was acknowledged before me by means of communication technology on (date) by (name(s) of individuals).

. . . . (Signature of notary public) (Electronic official stamp)

Notary Public

(My commission expires: . . . .)

(b) For an acknowledgment in a representative capacity:

State of Washington

County of .....

This record was acknowledged before me by means of communication technology on (date) by (name(s) of individuals) as (type of authority, such as officer or trustee) of (name of party on behalf of whom the instrument was executed).

. . . . (Signature of notary public) (Electronic official stamp)

Notary Public

(My commission expires: . . . .)

(c) For verification on oath or affirmation:

State of Washington

County of .....

Signed and sworn to (or affirmed) before me by means of communication technology on (date) by (name(s) of individuals making statement).

. . . . (Signature of notary public) (Electronic official stamp)



Notary Public

(My commission expires: . . . .)

(d) For witnessing or attesting a signature:

State of Washington

County of .....

Signed or attested before me by means of communication technology on (date) by (name(s) of individuals).

. . . . (Signature of notary public)

(Electronic official stamp)

Notary Public

(My commission expires: . . . .)

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-320, filed 2/11/21, effective 3/14/21.]

**WAC 308-30-330 Retention of audio-visual recordings and repositories.**

(1) A notary public must retain any audio-visual recording created under RCW 42.45.280 (3)(c) in a computer or other electronic storage device that protects the recording against unauthorized access by password or other secure means of authentication. The recording must be created in an industry-standard audio-visual file format and must not include images of any electronic record that was the subject of the remote notarial act.

(2) An audio-visual recording must be retained for at least ten years after the recording is made.

(3) A notary public must take reasonable steps to ensure that a backup of the audio-visual recording exists and is secure from unauthorized use.

(4) The fact that the notary public’s employer, contractor, or repository keeps or stores any audio-visual recordings shall not relieve the notary of the duties required by these rules.

(5) The personal representative or guardian of a notary public shall follow RCW 42.45.280(6) related to the disposition of the notary public’s audio-visual recordings upon the death or adjudication of incompetency of the notary public.

(6) The notary public, or the notary’s personal representative or guardian, shall provide access instructions to the department for any audio-visual recordings maintained or stored by the notary, upon commission resignation, revocation, or expiration without renewal, or upon the death of adjudication of incompetency of the notary.

(7) A notary public, or the notary’s personal representative or guardian, may by written contract engage a third party to act as a repository to provide the storage required by this section. A third party under contract under this section shall be deemed a repository under RCW 42.45.280(6).

(8) Any contract under subsection (7) of this section must:

(a) Enable the notary public, or the notary’s personal representative or guardian, to comply with the retention requirements of this section even if the contract is terminated; or

(b) Provide that the information will be transferred to the notary public, or to the notary’s personal representative or guardian, if the contract is terminated.

[Statutory Authority: RCW 42.45.250. WSR 21-05-039, § 308-30-330, filed 2/11/21, effective 3/14/21.]