

THE ROLE OF THE NOTARY

NOTARY PUBLIC DEFINED

A notary public is a person of integrity appointed by the Secretary of State to serve the public as an impartial and unbiased witness by identifying persons who come before the notary. The most common function of the notary is to prevent fraud by attesting that a person actually signed a document.

The responsibilities of an Iowa notary public are critical to the legal, business, financial and real estate communities and should be taken seriously. You must have an understanding of Iowa law and the proper procedures to follow in order to fulfill your duties.

This pocketbook is designed to assist you when performing a notarial act. Remember, as a commissioned notary, you are a public official appointed to serve the public.

Always keep in mind these important points when you notarize documents:

- * All document signers must personally appear before you.
- * Assess whether each document signer is competent.
- * While not responsible for the content of a document, alert the signer to any blanks.
- * Establish the identity of each signer through personal knowledge or with I.D. documents.
- * Have all parties sign the document.
- * Complete the notarial certificate - this may include requiring the signer to give a verbal oath or acknowledgment.
- * Use your stamp or seal on the document.
- * If you have a notary journal, always make an entry.

NOTARIZATION OF DOCUMENTS

NOTARIZATION DEFINED

Notarization is the “act of witnessing” by the notary public in accordance with specifications of state law. Notarization involves signed documents and requires the notary to ensure the signer’s identity and willingness to sign.

The notarization of a document will:

(1) detect and deter fraud when the proper steps of notarization are followed.

However, a notarization does not:

(1) prove the truthfulness of statements contained in the document, (2) legalize or validate the document, or (3) by itself protect a person’s rights to his/her artistic creations or inventions.

DOCUMENT REQUIREMENTS

When notarizing, skim the document for blanks. If the blanks are intended to be left unfilled, the signer needs to line through each space or write “not applicable.” Also, be sure all signatures are original and made in ink.

STAMPS AND SEALS

Iowa law requires notaries public to use a notary stamp or seal.

For a notary commissioned by the Secretary of State, the stamp or seal MUST include: (1) the words “Notarial Seal” and “Iowa”, (2) name, (3) the words “Commission Number” followed by your commission number, and (4) the words “My Commission Expires” followed by the expiration date or a blank line to write in the date.

For a public official, the stamp or seal MUST include: (1) the words “Notarial Seal” and “Iowa”, (2) name, and (3) the title under which the person may perform notarial acts.

Note: Public official means an individual who is automatically a Notary Public because the Code of Iowa authorizes them to perform notarial acts. It does not necessarily include all elected officials.

3 STEPS OF NOTARIZATION

The process of notarization involves three critical steps that a notary public should always follow: screen the signer; make a journal entry; complete the notarial certificate.

STEP 1. Screen the Signer

Not all notarizations require the document to be signed in front of the notary public, (e.g. acknowledgment, copy certification) but you should always screen the signer.

Personal Appearance - Personal appearance by the individual requesting notarization is required at the time of notarization in **ALL** instances.

Determine Willingness - Make sure the signer is not being forced to sign the document. If you suspect coercion, it is best to refuse to notarize.

Determine Awareness - Do not notarize the document if you have a reasonable belief that the person signing the document is not aware of the significance of the transaction.

Determine Identity - You must have satisfactory evidence that a person is the individual whose true signature is on the document. Identity may be proven through: personal knowledge, identification documents (i.e. driver's license), or the sworn word of a credible identifying witness.

STEP 2. Make a Journal Entry

Although Iowa law does not require notaries public to keep a journal, it is strongly recommended. A journal serves as a permanent record of notarizations you perform. When making journal entries:

1. Complete the entry in ink; do not use a pencil.
2. Enter the data before the notarial certificate is complete to prevent the signer from leaving before all data is recorded.
3. Record all notarizations - even the requests for notarization that you have refused.

A sample journal page is on the next page

1	2	3	4	5	6	7	8
Date/Time of Notarization	Type of Notarization	Document Date	Type of Document Notarized	Name and Address of Signer	Signer Identification	Additional Information	Signature of Signer
1							
2							
3							
4							

- 1 Date and time of day of the notarization.
- 2 Type of notarization (i.e. jurat, acknowledgment).
- 3 Date of the document.
- 4 Type of document being notarized.
- 5 Name and address of signer.
- 6 Description of how signer was identified - include ID issuing agency, ID# and issuance/expiration date.
- 7 Any additional pertinent information.
- 8 Signature of document signer .

STEP 3. Complete Notarial Certificate

When notarizing a document, you must complete and sign a notarial certificate. It indicates the procedure followed in performing the notarization. The certificate includes:

1. a place at the top to fill in the jurisdiction (“State of ___” and “County of ___”). This is the location where your “feet are planted” at the time the document is notarized.
2. a place to include the title “Notary Public” under your signature; not your title at work.

The most common types of certificates include:

Acknowledgment - An Acknowledgment is a formal declaration made before the notary that the person signing the document did so freely, voluntarily, and for the purpose stated in the document. The document does not have to be signed in the notary’s presence, but the signer must personally appear before the notary at the time of notarization to acknowledge he signed it.

Jurat (Verification) - The main purpose of a Jurat is to compel truthfulness in a signer. The signer must take a verbal oath and sign the document in front of the notary. The notary certifies that the individual came before him, signed and verbally swore to the truthfulness of the statements in the document. A typical oath is “Do you *swear* that the statements in this document are true?”

Copy Certification - A certified copy is a document that has been verified as an accurate reproduction of the original, privately held document. Documents for copy certification include business documents, diplomas and passports. Avoid certifying copies of documents that are public records such as birth/death certificates, court records and deeds.

See the next page for sample certificates

Acknowledgment

State of _____
County of _____
This instrument was acknowledged before me
on _____ ,
Date
by _____ ,
Name(s) of Person(s)

Signature of Notary Public

Title (or Rank for Military Personnel)
(Seal or Stamp)

Jurat (Verification)

State of _____
County of _____
Signed and sworn to (or affirmed) before me
on _____ ,
Date
by _____ ,
Name(s) of Person(s)

Signature of Notary Public

Title (or Rank for Military Personnel)
(Seal or Stamp)

Copy Certification

State of _____
County of _____
I certify this is a true and correct copy of a document in
the possession of _____ ,
Name(s) of Person(s)
Dated _____ ,
Date

Signature of Notary Public

Title (or Rank for Military Personnel)
(Seal or Stamp)

FREQUENTLY ASKED QUESTIONS

Why are documents notarized?

To deter fraud. An impartial witness (the notary) ensures that the signer of the document is who they say they are. The notary makes sure that the signer has entered into the agreement knowingly and willingly.

What must a document contain to be notarized?

For a document to be notarized, it must contain:

- 1) text committing the signer in some way,
- 2) an original signature of the signer, not a photocopy (if a signature is required).
- 3) a notarial “certificate,” which may appear on the document itself or on an attachment.

Does witnessing/attesting a signature require the document be signed in the presence of the notary?

YES. If the notary certificate states “subscribed and sworn/affirmed to me...,” then it must be signed in the notary’s presence.

What if the document is already signed when brought to me for notarizing?

If the document has already been signed, the notary should ask the person to sign the document again, either above or below the signature.

See the next question for an exception.

Does an acknowledgment require that the document be signed in my presence?

An acknowledgment does not need to be signed in your presence. The person who signed the document must appear before you and acknowledge they are the signer and that they signed it.

Do I have to verbally administer an oath when performing a verification (jurat)?

A verification (jurat) contains the words “signed and sworn (or affirmed) before me...” When this language is used, you must verbally administer an oath to the signer prior to the execution of the document. An oath can be administered as follows: “Do you swear that the statements in this document are true?” When a person is unable to “swear” due to personal or religious beliefs, the following oath may be used: “Do you affirm that the statements contained in this document are true?”

To notarize the jurat without administering the oath can affect the validity of the document.

What are the qualifications to be a notary?

To be a notary a person must:

- | be at least 18 years old;
- | Not be disqualified from voting either because they have been convicted of a felony or adjudged mentally incompetent to vote;
- | be a resident of the state of Iowa or a resident of a state bordering Iowa if their place of work or business is in Iowa;
- | file an application and \$30 filing fee with the Secretary of State.

How long is a notary’s commission?

- | for a resident of Iowa, the term is 3 years;
- | for residents of bordering states, whose place of work or business is in Iowa, the term is 1 year;
- | for a member of the General Assembly, the commission is equal to their term of office.

Can I renew my commission?

After you receive your notary commission, the Secretary of State will send you a renewal application before your commission expires. If your commission has expired, you may not act as a notary in Iowa.

Can a notary charge a fee?

A notary in Iowa may charge a reasonable fee for their services. However, a notary cannot refuse to perform a service because a person is not a client/customer nor may the notary's employer restrict the notary from providing services because a person is not a client/customer of the employer.

What are the common types of notarizations?

Acknowledgments, Jurats and Copy Certifications. (See pages 8-9 for examples).

What is the proper procedure to follow when notarizing documents?

Screen the person, make a journal entry and complete the notarial certificate.

Where can I perform my duties?

Iowa notaries may notarize anywhere within the geographical boundaries of the State of Iowa.

Do I need a notary bond?

No. Iowa no longer requires a bond.

What is a "Notary Association"?

"Notary Associations" are privately owned organizations and are not associated with the Secretary of State's Office. You may choose to do business with them or you are free to perform notarial services without them.

What if I change my name or address?

If you change your name, you may use your new name or continue using your former name through the end of your term. If you use your new name, inform the Secretary of State's Office immediately of the change. (Occasionally, a third party requests certification of a Commission. The Secretary of State cannot certify a commission when the notary's name has changed and is different than what the records reflect). If you move, inform the office of your new home address. If you change employers, notify the office of the your new employer and new address.

Can I assist a person who cannot sign a document due to a physical disability?

Yes. A person who cannot sign a document due to a physical disability may request that you or another person sign their name to the document. A rubber stamp, a mark, or a facsimile of the disabled person's signature or mark may also be used. The person who signs the document or affixes the facsimile must be in the presence of the disabled person at the time of the notarization.

What forms of identification can I request?

The best forms will include a picture, a physical description, a signature for you to compare and be issued by a governmental agency. A valid driver's license, passport, school or work identification can all be used. You may request as much identification as you feel necessary to verify the person's identity.

What are the most common errors and omissions made by notaries?

1. Failure to sign the document.
2. Failure to witness a signature.

3. Omitting names and dates from the notarization.
4. Failing to administer an oath.

As an Iowa notary, must I use a stamp or seal on all documents that I notarize?

Yes, Iowa law requires that a notary **MUST** use a stamp or seal on all documents notarized. See page 5 for information required to appear on the stamp or seal.

Can I use my commission to notarize in other states?

Iowa notary commissions can only be used in Iowa. Other states have notary laws regarding their notaries.

Can a notary prepare legal documents?

No. A notary does not have the authority to prepare legal documents. As a notary, your only duty is to perform the notarial act and complete the certificate.

Is it all right to notarize photocopies and carbon copies of documents?

Copy certification is an act where the notary determines a photocopy is a full, true and accurate reproduction of an original, privately held document. The typical types of documents for copy certification are business documents, diplomas, passports, and copies of letters. The notary should supervise the photocopying of the document. Notaries must avoid certifying copies of documents that are public records, such as birth/death certificates, court records and deeds.

What is an Apostille?

An Apostille is a certificate issued by the Secretary of State used for notary authentication that is required by certain countries. It is an official certificate confirming the existence of your notary commission.

Can I be sued for a notarization I make?

Yes, a notary can be sued. The most frequent causes of lawsuits are notarization of a signature not made in the notary's presence and the notary's failure to positively identify the signer. Use reasonable care to protect yourself against being sued. If you know and understand the law and responsibilities regarding notaries, your risk of liability will be reduced.

If I fail to correctly notarize a document signature, what is the effect of my mistake?

An incorrect notarization of a document signature does not invalidate the contents of the document itself. It only relates to the signature and may be considered a "non-notarized" signature. The implications depend on the nature and purpose of the document. It may render the document void, or have little effect.

May I notarize a document in which I have an interest?

The notary's duties are confined to those of an impartial witness. A notary who acts as impartial witness and as advocate or agent in connection with the same transaction can be accused of unduly influencing and/or coercing the signer.

If the notary stands to make a financial gain by notarizing such a document or is a party or a representative of a party to the document, they should refer it to another notary and avoid the risk of a lawsuit based upon the financial interest in the agreement.

What notarial acts may be performed by a notary other than a one appointed by the Secretary of State?

A person authorized by *Iowa Code* §9E.10 to perform notarial acts may perform the same acts as an appointed notary.

What must a notary, other than one appointed by the Secretary of State, include in a notarial certificate?

The certificate must include the title of the office held by the person, i.e., clerk of court. If the notary is a commissioned officer on active duty in the military, the certificate must also include the officer's rank.

What is the procedure for filing a complaint against a notary?

If a person believes a notary public has acted improperly in performing a notarial act, a complaint should be filed with the Secretary of State. To obtain a complaint form call, 515-281-5204. Or, write to Secretary of State, Notary Division, Lucas Building, Des Moines, IA, 50319.

Upon receipt of the complaint, an informal investigation will be conducted to determine if a formal hearing should be held on whether the notary's appointment should be suspended or revoked, or whether other disciplinary action should be taken. At the formal hearing, both the complainant and the notary have an opportunity to present evidence for consideration by the Secretary of State.



MICHAEL A. MAURO
Secretary of State
State of Iowa

Notary Public
Change/Amendment to
Application

PRINT THE FOLLOWING INFORMATION AS IT APPEARS IN OUR SYSTEM:

Name (as it appears on your certificate) _____

Address _____
Address City State Zip

Date Commission Expires: _____ Commission No: (found on your certificate) _____

COMPLETE SECTION 1, ONLY IF IT APPLIES.
 SECTIONS 2 - 4 MUST BE COMPLETED SO THE INFORMATION CAN BE CHANGED/VERIFIED ON OUR RECORDS.

1. CHANGE OF NAME (if applicable)

I hereby request that the Secretary of State amend my notary commission by changing my name on my notary commission to:

_____ effective _____
New Name (print) Date

I understand and agree that by notifying the Secretary of State of my name change I will use my new name when notarizing documents beginning on the effective date shown above through the end of my term.

2. HOME ADDRESS and PHONE (must complete) The Secretary of State must have this information to change/verify it on the Notary's Commission.

_____ Address (including P.O. Box if applicable) City State ZIP
 (_____) _____ Home Phone Home E-mail Address

3. EMPLOYER NAME, ADDRESS and PHONE (must complete) The Secretary of State must have this information to change/verify it on the Notary's Commission.

_____ (_____) _____ Employer Name Employer Phone
 _____ Address (including P.O. Box if applicable) City State ZIP
 _____ Work E-mail Address

4. ADDRESS DESIGNATION (must complete)

Check the box to indicate which address you wish to designate for mailing purposes. If no address specified, home address will be designated. Home Business

If you have provided business contact information different from your home information, you may opt to shield your home address, phone number and e-mail from display on the Secretary of State's website. Would you like to exercise this option? Yes No

I understand that I must be a resident of Iowa *or* a resident of a state bordering Iowa and work in Iowa to qualify as an Iowa notary.

Signature _____ Date _____

Return this form to:

Secretary of State, Notary Public Clerk, Lucas Building, 1st Floor, Des Moines, IA 50319
Phone: 515/281-5204 FAX: 515/242-5953