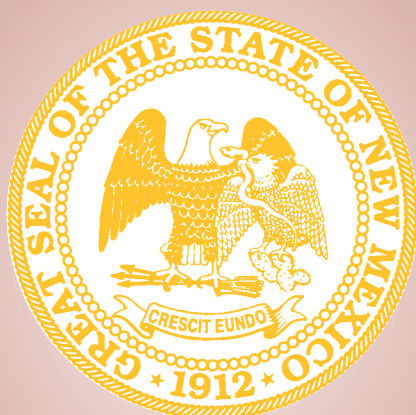


NEW MEXICO
NOTARY PUBLIC
HANDBOOK



MARY HERRERA
SECRETARY OF STATE



STATE OF NEW MEXICO
MARY HERRERA
SECRETARY OF STATE

Dear Notary Public:

Congratulations on your appointment as a Notary Public, and thank you for the service you will be providing. In your role you will be assuring integrity to business, financial, real estate and legal transactions as an impartial and unbiased witness to the signatures on these documents.

On July 1, 2003, a new Notary Public Law went into effect. I strongly encourage and recommend that you refer to the new Notary Public Act which is included in this handbook. Your understanding of New Mexico's Notary law will result in greater competence for you as you perform your duties as a Notary Public. It is imperative that you know your responsibilities and the proper procedures as you conduct this very important function. As a notary public it is your direct responsibility to always practice reasonable care by never notarizing a signature of a person who is not in your presence, obeying all the Notary laws and never engaging in the unauthorized practice of law.

If you have any questions of a legal nature you should consult an attorney. However, if you have questions which are not of a legal nature and are not addressed in this handbook, please do not hesitate to contact this office. You may write or visit us at 325 Don Gaspar - Suite 300, Santa Fe, New Mexico 87503. Our web site is **www.sos.state.nm.us**, and our toll free number is 800.477.3632.

Thank you for your dedication and interest in serving the public.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Herrera".

Mary Herrera
New Mexico Secretary of State

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INFORMATION FOR NOTARIES PUBLIC

I. Qualifications (14-12A-3)

A person applying to be a Notary Public must:

- A. be a resident of New Mexico;
- B. be at least eighteen years of age;
- C. be able to read and write the English language;
- D. not have plead guilty or nolo contendere to a felony or been convicted of a felony; and
- E. not have had a Notary Public commission revoked during the past five years.

II. Application (14-12A-4)

- A. Request a Notary application from the Secretary of State or visit the SOS website at www.sos.state.nm.us to download the application.
- B. Affirm that the applicant meets the qualifications set out above.
- C. Order a seal or rubber stamp from an office supply store. An embosser is made of heavy metal and makes an impression on the paper. It contains the applicant's name as described in Section E below, and the words "Notary Public-State of New Mexico." A rubber stamp shall be in the following form:



OFFICIAL SEAL

Name of Notary Public (**PRINTED**)

NOTARY PUBLIC-STATE OF NEW MEXICO

My commission expires: _____

Rubber stamps cannot have a signature line and a round rubber stamp is **not** acceptable. Affix the seal or rubber stamp on the application in the space provided.

- D. Applications must be completed in black ink only and without background colors of any type. Also, applications which contain liquid paper or any signatures which have been traced or written over will not be accepted.
- E. Complete the application using the applicant's last name and first or middle name, plus an initial or additional name, if desired, or last name and two initials. Do not include titles on the application, stamp or seal. Use only the applicant's name. The applicant's name must be identical to the name on the seal or stamp.
- F. Have two New Mexico residents sign the form attesting to the applicant's good moral character.
- G. The applicant takes the oath before a Notary Public or other person authorized to administer oaths. The name and signature on the oath must be identical to the name and signature on the bond application and the name on the notarial seal or stamp. The Notary Public who notarizes the applicant's oath must sign his name, affix his seal, and enter his complete expiration date.
- H. Each Notary Public is required to obtain a ten thousand dollar (\$10,000) surety bond which can be purchased from an insurance company. Each surety bond must contain:

- 1) the applicant signs as the principal and his/her signature must be notarized (Acknowledgment of Principal (Applicant));
 - 2) an official of the insurance company must sign and provide his/her title. His/her signature must also be notarized (Acknowledgment for Insurance Company);
 - 3) the insurance company's corporate seal must appear on the surety bond;
 - 4) a power of attorney from the insurance company, with the name of the company official who signed the surety bond, must accompany the application and surety bond.
- I. Return the completed application, surety bond, power of attorney, and a check or money order in the amount of \$20.00 payable to the Secretary of State, 325 Don Gaspar, Suite 300, Santa Fe, New Mexico 87503.

III. Appointment and Reappointment (14-12A-5) (14-12A-6)

- A. If the application is accepted, the Governor will appoint the applicant as a Notary Public for a term of four (4) years. The applicant cannot act as a Notary Public until he receives his certificate of appointment from this office.
- B. A Notary Public may be reappointed every four years thereafter by making application in the same manner as required for an original application. Each Notary Public is sent a notice of his term's expiration by the Secretary of State one month before his commission expiration date.

IV. Duties of a Notary Public (14-12A-7)

- A. A Notary Public is empowered to perform the following notarial acts:
 1. acknowledgments;
 2. administer oaths and affirmations;
 3. Jurats;
 4. copy certifications; and
 5. perform other duties as provided by law.
- B. The law requires that a Notary Public notify the Secretary of State in writing within ten days after a name or address change. Name changes require a fee of \$3.00 and are to be submitted on a form prescribed by the Secretary of State.
- C. A Notary Public has no authority to practice law. He may not prepare, complete or give advice concerning documents unless he is an attorney.
- D. Although it is not required by law, it is recommended that the Notary Public keep a journal of his notarial acts containing at a minimum the date, type of document, and name(s) and signature(s) of the person(s) whose signature(s) were notarized by him.
- E. A notary public shall not use the term "notario publico" or any equivalent non-english term in any business card, advertisement, notice or sign.

V. Unlawful Acts and Civil Liability

- A. It is unlawful for any Notary Public to take the acknowledgment of an instrument by or to a bank or other corporation of which the Notary is a stockholder, director, officer or employee, where such Notary is a party to such instrument, either individually or as a representative of such corporation. It is also unlawful for a Notary to protest any negotiable instrument owned or held for collection by a corporation of which the Notary is a stockholder, director, officer, or employee, where such Notary is individually a party to the instrument.

- B. The law imposes penalties for the following offenses:
1. A person exercising the duties of a Notary Public with the knowledge that his commission has expired or that he is otherwise disqualified from serving as a Notary Public is guilty of a misdemeanor and, upon conviction, shall be punished by imposition of a fine of \$500 and removed from office by the governor. (14-12A-25)
 2. A Notary who authenticates a document containing statements he knows to be false, or notarizes or acknowledges documents when the parties executing them have not appeared in person before him may be charged with a misdemeanor and, if convicted, may be punished by imposition of a fine of not more than \$1000, or imprisonment for not more than six months, or both. (14-12A-11)
- C. Any person damaged by an unlawful act, negligence or misconduct of a Notary Public in his official capacity may bring civil action on the Notary Public's official bond.

VI. Removal from Office (14-12A-26)

A Notary Public may be removed from office by the Governor if he:

- A. submits an application for appointment as a Notary Public which contains a false statement;
- B. is or has pleaded guilty or nolo contendere to a felony or been convicted of a felony or a misdemeanor arising out of a notarial act performed by him;
- C. engages in the unauthorized practice of law;
- D. ceases to be a New Mexico resident; or
- E. commits a malfeasance in office.

VII. Fees (14-12A-16)

The fees a Notary Public is entitled to collect are listed in this booklet on page 10. (14-12A-16)

VIII. Forms

The certification of notarial acts which may be used when notarizing documents are contained in this booklet and may be found on page 14. (14-14-8, NMSA 1978)

IX. Questions

If you have questions regarding your duties as a Notary Public or have questions regarding the procedures to follow when you notarize, you may contact us at (505) 827-3600 or 1-800-477-3632. However, if you have questions regarding the form, instrument, or document which you have been asked to notarize, we recommend that you contact the office or government agency which issued it or will receive it.

X. Certification of a Notary Public’s Acts (14-12A-22)

If a person requires certification of a Notary Public’s appointment, he should take or mail the document to the Secretary of State where a certificate will be prepared verifying that the Notary Public was duly appointed by the governor. The fee is \$3.00 per certification. Please refer to the section on Apostilles and Certification of Appointment at the end of this handbook.

(14-12A-1) Short Title.

This act may be cited as the “Notary Public Act.”

(14-12A-2) Definitions.

As used in the Notary Public Act:

A. Acknowledgment.

“Acknowledgment” means a notarial act in which a person at a single time and place: (refer to page 14)

1. appears in person before the notary public and presents a document;
2. is personally known to the notary public or identified by the notary through satisfactory evidence; and
3. indicates to the notary public that the signature on the document was voluntarily affixed by the person for the purposes stated within the document and, if applicable, that the person had due authority to sign in a particular representative capacity.

B. Affirmation.

“Affirmation” means a notarial act, that is legally equivalent to an oath and in which a person at a single time and place:

1. appears in person before the notary public;
2. is personally known to the notary public or identified by the notary public through satisfactory evidence; and
3. makes a vow of truthfulness or fidelity on penalty of perjury, based on personal honor and without invoking a deity or using any form of the word “swear.”

C. Commission.

“Commission” means both to empower to perform notarial acts and the written evidence of authority to perform those acts.

D. Copy Certification.

“Copy certification” means a notarial act in which a notary public:

1. is presented with a document that is neither a vital record, a public record nor publicly recordable;
2. copies or supervises the copying of the document using a photographic or electronic copying process;
3. compares the document to the copy; and
4. determines that the copy is accurate and complete.

E. Credible Witness.

“Credible witness” means an honest, reliable and impartial person who personally knows the person appearing before a notary and takes an oath or affirmation from the notary to vouch for that person’s identity.

F. Jurat.

“Jurat” means a notarial act in which a person at a single time and place:

1. appears in person before the notary public and presents a document;
2. is personally known to the notary public or identified by the notary public through satisfactory evidence;
3. signs the document in the presence of the notary public; and
4. takes an oath or affirmation from the notary public that the person is voluntarily affixing his signature and vouching for the truthfulness or accuracy of the signed document;

G. Notarial Act and Notarization.

“Notarial act” and “notarization” means any act that a notary public is empowered to perform under this act.

H. Notarial Certificate and Certificate.

“Notarial certificate” and “certificate” mean the part of, or attachment to, a notarized document that is completed by the notary, bears the notary’s signature and seal and states the facts attested by the notary in a particular notarization.

I. Notary Public and Notary.

“Notary public” and “notary” mean any person commissioned by the Governor to perform official acts under this act.

J. Oath.

“Oath” means a notarial act that is legally equivalent to an affirmation and in which a person at a single time and place:

1. appears in person before the notary public;
2. is personally known to the notary public or identified by the notary public through satisfactory evidence; and
3. makes a vow of truthfulness or fidelity on penalty of perjury while invoking a deity or using any form of the word “swear.”

K. Official Misconduct.

“Official misconduct” means:

1. a notary public’s performance of an act prohibited, or failure to perform an act mandated, by this act or by any other law in connection with a notarial act by the notary public; or
2. a notary public’s performance of an official act in a manner found by the governor to be negligent or against the public interest.

L. Personal Appearance and Appears Before the Notary.

“Personal appearance” and “appears before the notary” mean that the principal and the notary public are physically close enough to see, hear, communicate with and give identification documents to each other.

M. Personal Knowledge of Identity and Personally Knows.

“Personal knowledge of identity” and “personally knows” mean familiarity with a person resulting from interactions with that person over a period of time sufficient to dispel any reasonable uncertainty that the person has the identity claimed.

N. Principal.

“Principal” means:

1. a person whose signature is notarized; or
2. a person, other than a credible witness, taking an oath or affirmation from the notary.

O. Satisfactory Evidence of Identity.

“Satisfactory evidence of identity” means identification of a person based on:

1. at least one current document issued by a federal, state, or tribal government agency bearing the photographic image of the person’s face and signature and a physical description of the person, though a properly stamped passport without a physical description is acceptable; or
2. the oath or affirmation of one credible witness unaffected by the document or transaction who is personally known to the notary public and who personally knows the person, or of two credible witnesses unaffected by the document or transaction who each personally knows the person and shows to the notary public documentary identification as described in subparagraph 1 of this section.

P. Seal and Stamp.

“Seal” and “stamp” mean a device for affixing on a paper document an image containing the notary’s name, the words “State of New Mexico” and, in the case of a rubber stamp, the commission expiration date.

(14-12A-3) Qualifications.

A notary public shall:

- A. be a resident of New Mexico;
- B. be at least eighteen years of age;
- C. be able to read and write the English language;
- D. not have pleaded guilty or nolo contendere to a felony or been convicted of a felony;
- E. not have had a notary public commission revoked during the past five years.

(14-12A-4) Application.

An applicant for appointment as a notary public shall submit to the secretary of state:

- A. an application for appointment on a form prescribed by the secretary of state that includes a statement by the applicant certifying that the applicant is qualified, contains evidence of the applicant's good moral character as shown by signatures of two residents of this state and the oath prescribed by the constitution of New Mexico for state officers;
- B. a bond in the amount of ten thousand dollars (\$10,000) executed by a licensed surety for a term of four years commencing on the commission's effective date and terminating on its expiration date;
- C. an application that is signed by the applicant using the applicant's surname and one given name, plus an initial or additional name if the applicant so desires, or surname and at least two initials; and
- D. an application fee in the amount of twenty dollars (\$20.00).

(14-12A-5) Appointment Term.

Upon receipt of the completed application for appointment and the application fee, and upon approval of the applicant's bond, the secretary of state shall notify the governor, who shall appoint the applicant as a notary public for a term of four years from the date of appointment unless sooner removed by the governor. The secretary of state shall issue a certificate of appointment to each notary public commissioned by the governor. A certificate of appointment shall not be possessed or used by any other person, or surrendered to an employer upon termination of employment.

(14-12A-6) Reappointment.

At least thirty days before expiration of each notary public term, the secretary of state shall mail a notice of expiration to the notary public's mailing address of record. A notary public may be reappointed upon making application in the same manner as required for an original application.

(14-12A-7) Powers and Prohibitions.

- A. A notary public is empowered to perform the following notarial acts:
 1. acknowledgments;
 2. oaths and affirmations;
 3. jurats;
 4. copy certifications; and
 5. any other act so authorized by the law of this state.
- B. A notary public shall not perform a notarial act if the principal:
 1. is not in the notary public's presence at the time of notarization;
 2. is not personally known to the notary public or identified by the notary public through satisfactory evidence of identity;
 3. shows a demeanor that causes the notary public to have a compelling doubt about whether the principal knows the consequences of the transaction requiring a notarial act; or
 4. in the notary public's judgement, is not acting of his own free will.
- C. A notary public may certify the affixation of a signature by mark on a document presented for notarization if:
 1. the mark is affixed in the presence of the notary public and of two credible witnesses unaffected by the document;

2. both witnesses sign their own name beside the mark;
 3. the notary public writes below the mark: "Mark affixed by (name of signer by mark) in presence of (names of witnesses) and undersigned notary public pursuant to subsection C of (14-12A-7) of the Notary Public Act"; and
 4. the notary public notarizes the signature by mark through an acknowledgment or jurat.
- D. A notary public may sign the name of a person physically unable to sign or make a mark on a document presented for notarization if:
1. the person directs the notary public to do so in the presence of two credible witnesses unaffected by the document;
 2. the notary public signs the person's name in the presence of the person and the witnesses;
 3. both witnesses sign their own names beside the signature;
 4. the notary writes below the signature: "Signature affixed by notary public in the presence of (names and addresses of person and two witnesses) pursuant to subsection D of (14-12A-7) of the Notary Public Act"; and
 5. the notary public notarizes the signature through an acknowledgment or jurat.

(14-12A-8) Refusal to notarize.

- A. A notary public shall not refuse to perform a notarial act based on the principal's race, age, gender, sexual orientation, religion, national origin, health or disability or status as a non-client or non-customer of the notary public or the notary public's employer.
- B. A notary public shall perform a notarial act for a person requesting such an act who tenders the appropriate fee, unless:
 1. the notary public knows or has good reason to believe that the notarial act or the associated transaction is unlawful;
 2. the act is prohibited; or
 3. the number of notarial acts requested practicably precludes completion of all acts at once, in which case the notary public shall arrange for later completion of the remaining acts.

(14-12A-9) Surety Bond and Duties of Surety.

- A. A commission shall not be issued until an oath of office and a ten thousand dollar (\$10,000) bond have been provided on the application for appointment and approved by the secretary of state. The bond shall be executed by a licensed surety, for a term of four years commencing on the commission's effective date and terminating on its expiration date, with payment of bond funds to any person conditioned upon the notary public's misconduct.
- B. A person damaged by an unlawful act, negligence or misconduct of a notary public in his official capacity may bring a civil action on the notary public's official bond.
- C. The surety for a notary public bond shall report all claims against the bond to the secretary of state.

- D. If a notary bond has been exhausted by claims paid out by the surety, the governor shall suspend the notary's commission until:
 - 1. a new bond in the amount of \$10,000 is obtained by the notary; and
 - 2. the notary's fitness to serve the remainder of the commission is determined by the governor.
- E. In the event of a suspension of a notary public's commission by the governor, the notary shall not perform any notarial acts until the requirements of subsection D of this section have been fulfilled and the governor removes the notary public's suspension.

(14-12A-10) Avoidance of Influence.

- A. A notary public shall not influence a person either to enter into or avoid a transaction involving a notarial act by the notary public, except that the notary may advise against a transaction if the notary public knows or has good reason to believe that the notarial act or the associated transaction is unlawful.
- B. A notary public has neither the duty nor the authority to investigate, ascertain or attest to the lawfulness, propriety, accuracy or truthfulness of a document or transaction involving a notarial act.

(14-12A-11) False or Incomplete Certificate, Authenticating Documents in Absence of Principal.

- A. If a notary public or any other officer authorized by law to make or give a certificate or other writing makes or delivers as true a certificate or writing containing statements that he knows to be false, or appends his official signature to acknowledgments or other documents when the principals executing the documents have not appeared in person before him, is guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment for a period not exceeding six months, or both.
- B. A notary public shall not affix an official signature or seal on a notarial certificate that is incomplete.
- C. A notary public shall not provide or send a signed or sealed notarial certificate to another person with the understanding that it will be completed or attached to a document outside of the notary public's presence.

(14-12A-12) Improper Documents.

- A. A notary public shall not notarize a signature:
 - 1. on a blank or incomplete document; or
 - 2. on a document without notarial certificate wording.
- B. A notary shall neither certify nor authenticate a photograph.

(14-12A-13) Intent to Deceive.

A notary shall not perform any official action with the intent to deceive or defraud.

(14-12A-14) Testimonials.

A notary shall not use the official notary title or seal to endorse, promote, denounce or oppose any product, service, contest, candidate or other offering.

(14-12A-15) Unauthorized Practice of Law.

- A. If notarial certificate wording is not provided or indicated for a document, a non-attorney notary shall not determine the type of notarial act or certificate to be used;
- B. A non-attorney notary shall not assist another person in drafting, completing, selecting or understanding a document or transaction requiring a notarial act;
- C. This section does not preclude a notary who is duly qualified, trained or experienced in a particular industry or professional field from selecting, drafting, completing or advising on a document or certificate related to a matter within that industry or field;
- D. A notary public shall not claim to have powers, qualifications, rights or privileges that the office of notary public does not provide, including the power to counsel on immigration matters;
- E. A notary public shall not use the term “notario publico” or any equivalent non-English term in any business card, advertisement, notice or sign.

(14-12A-16) Fees.

- A. For performing a notarial act, a notary public may charge the maximum fee specified in this section, charge less than the maximum fee or waive the fee.
- B. A notary public shall not discriminate by conditioning the fee for a notarial act on the attributes of the principal.
- C. An employer shall not establish fees for notarial services that are in excess of those specified in this section nor on the attributes of the principal as delineated.
- D. The maximum fees that may be charged by a notary public for notarial acts are:
 - 1. for acknowledgments, \$5 per acknowledgment;
 - 2. for oaths or affirmations without a signature, \$5 per person;
 - 3. for jurats, \$5 per jurat; and
 - 4. for copy certifications, \$.50 per page with a minimum total charge of \$5.
- E. A notary may charge a travel fee not to exceed \$.30 per mile when traveling to perform a notarial act if:
 - 1. the notary public and the person requesting the notarial act agree upon the travel fee in advance of the travel; and
 - 2. the notary public explains to the person requesting the notarial act that the travel fee is separate from the notarial fees in subsection D of this section and not mandated by law.

(14-12A-17) Official Signature.

In notarizing a paper document, a notary shall:

- A. sign by hand on the notarial certificate exactly and only the name indicated on the notary’s seal or stamp;
- B. not sign using a facsimile stamp or an electronic or other printing method; and
- C. affix the official signature only at the time the notarial act is performed.

(14-12A-18) Official Seal or Stamp.

- A. A notary public shall keep an official seal or stamp that is the exclusive property of the notary. The seal or stamp shall not be possessed or used by any other person, or surrendered to an employer upon termination of employment.
- B. A notarial seal or stamp shall contain the exact name of the notary public as it appears on the application for appointment and the words “NOTARY PUBLIC – STATE OF NEW MEXICO” and shall authenticate official acts with the seal or stamp.
- C. Each notary public shall authenticate official acts with a notarial seal or stamp that, if a seal, shall contain his name and the words “NOTARY PUBLIC – STATE OF NEW MEXICO” and that if a stamp, shall be in substantially the following form:

“SEAL”

STATE OF
NEW MEXICO

Official Seal

(name of notary printed)”

- D. An impression or image of the seal or stamp shall be affixed only at the time the notarial act is performed.
- E. When not in use, the seal or stamp shall be kept secure and accessible only to the notary.
- F. Within 10 days after the seal or stamp of a notary is stolen, lost, damaged or otherwise rendered incapable of affixing a legible impression or image, the notary public, after informing the appropriate law enforcement agency in the case of theft or vandalism, shall notify the secretary of state by any means providing a tangible receipt or acknowledgment, including certified mail and electronic transmission, and also provide a copy of any pertinent police report.
- G. As soon as reasonably practicable after resignation, revocation, change of name, expiration of a commission or death of the notary, the seal or stamp shall be destroyed or defaced so that it may, not be misused.

(14-12A-19) Endorsing Date of Commission.

Upon performance of any notarial act, the notary public shall, immediately opposite or following his signature, endorse the date of the expiration of commission. The endorsement may be legibly written, stamped or printed upon the instrument and shall be substantially in the following form:

“My commission expires (stating date of expiration of commission)”

(14-12A-20) Change of Name.

- A. Upon any change of a notary public's name, the notary public shall, within 10 days of such change, make application to the secretary of state for issuance of a corrected commission. The application shall be on a form prescribed by the secretary of state and shall contain an impression or image of the new seal or stamp bearing the new name of the notary public exactly as it appears on the application. Upon receipt of the completed application, the secretary of state shall issue a corrected certificate of appointment showing the notary public's new name. The commission on the corrected certificate of appointment expires on the same date as the commission on the certificate of appointment it replaces.
- B. The notary shall notify the surety for the notary public's bond in writing within 10 days of a change of name and provide the surety with the new name of the notary public exactly as it was provided to the secretary of state. Within 10 days of the notice from the notary public, the surety shall issue a rider to the notary public's bond and distribute a copy of the rider to the notary public and the secretary of state.

(14-12A-21) Change of Address.

- A. A notary public shall notify the secretary of state in writing of a change of the notary public's residence, business or mailing address within 10 days after such change.
- B. A notary public shall also notify the surety for the notary public's bond in writing within 10 days of a change of residence, business or mailing address.

(14-12A-22) Certification.

Upon request, the secretary of state shall certify to a notary public's commission.

(14-12A-23) Resignation.

- A. A notary public who resigns his commission shall send to the secretary of state by any means providing a tangible receipt or acknowledgment, including certified mail and electronic transmission, a signed notice indicating the effective date of resignation.
- B. A notary public who ceases to reside in New Mexico, or who becomes permanently unable to perform his notarial duties, shall resign his commission.

(14-12A-24) Disposition of the Seal and Stamp.

- A. When a notary public commission expires or is resigned or revoked, the notary public shall, as soon as reasonably practicable, destroy or deface all notary seals and stamps so that they may not be misused.
- B. If a notary public dies during the term of commission or before fulfilling the requirement stipulated in subsection A of this section, the notary public's personal representative shall notify the secretary of state of the death in writing and, as soon as reasonably practicable, destroy or deface all notary seals and stamps so that they may not be misused.

(14-12A-25) Disqualified Notary Public Exercising Powers.

Any notary public who exercises the duties of his office with the knowledge that his commission has expired or that he is otherwise disqualified is guilty of a misdemeanor and upon conviction shall be punished by a fine of \$500 and shall be removed from office by the governor.

(14-12A-26) Removal from Office.

- A. The governor may revoke the commission of any notary public who:
 - 1. submits an application for appointment as a notary public that contains a false statement;
 - 2. is or has pleaded guilty or nolo contendere to a felony or been convicted of a felony or of a misdemeanor arising out of a notarial act performed by him;
 - 3. engages in the unauthorized practice of law;
 - 4. ceases to be a New Mexico resident; or
 - 5. commits a malfeasance in office.
- B. A commission may be revoked under the provisions of this section only if action is taken subject to the rights of the notary public to notice, hearing, adjudication and appeal.
- C. Resignation or expiration of a commission does not terminate or preclude an investigation into the notary public's conduct by the governor or by the attorney general, a district attorney or any law enforcement agency of this state, who may pursue the investigation to a conclusion, where upon it shall be made a matter of public record whether or not the finding would have been grounds for revocation.
- D. In lieu of revocation, the governor may deliver a written official warning to cease misconduct to any notary public whose actions are judged to be official misconduct.

Section 27. Repeal

Sections 14-12-1 through 14-12-20 NMSA 1978 (being Laws 1969, Chapter 168, Sections 1 through 5, Laws 1977, Chapter 106, Section 1, Laws 1969, Chapter 168, Sections 6 through 8, Laws 1909, Chapter 55, Sections 8 through 10, Laws 1969, Chapter 168, Sections 9 through 11, Laws 1909, Chapter 55, Sections 18 and 20 through 22 and Laws 1921, Chapter 82, Section 1, as amended) are repealed.

Section 28. Effective Date.

The effective date of the provisions of this act is July 1, 2003.

(14-14-8) Certificates of notarial acts; short forms.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by Subsection A of Section 7 [14-14-7 NMSA 1978] of the Uniform Law on Notarial Acts:

A. for an acknowledgment in an individual capacity:

State of _____
(County) of _____

This instrument was acknowledged before me on (date) by (name(s) of person(s))
(Signature of notarial officer)

(Seal, if any)

Title (and Rank)

[My commission expires: _____];

B. for an acknowledgment in a representative capacity:

State of _____
(County) of _____

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

(Seal, if any)

(Signature of notarial officer)

Title (and Rank)

[My commission expires: _____];

C. for a verification upon oath or affirmation:

State of _____
(County) of _____

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

(Seal, if any)

(Signature of notarial officer)

Title (and Rank)

[My commission expires: _____];

D. for witnessing or attesting a signature:

State of _____
(County) of _____

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

(Seal, if any)

(Signature of notarial officer)

Title (and Rank)

[My commission expires: _____];

and

E. for attestation of a copy of a document:

State of _____
(County) of _____

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

(Seal, if any)

(Signature of notarial officer)

Title (and Rank)

[My commission expires: _____];

(14-14-8) Certificados de Actas Notariales: formularios breves.

Los formularios breves de actas notariales a continuación bastan para los propósitos indicados si se redactan con la información que exige el Sub-Apartado A del Aparado 7[14-14-7 de las Leyes de Nuevo México Glosadas de 1978] de la Ley Uniforme de Actas Notariales.

A. para el reconocimiento de capacidad individual:

Estado de Nuevo México

Condado de _____

Este documento fue reconocido ante mi (fecha) por (nombre de la persona o de las personas).

(Sello, si existe)

(Firma del oficial notarial)

(Título y Cargo)

[Mi comisión vence: _____]

B. para un reconocimiento en capacidad de apoderado:

Estado de Nuevo México

Condado de _____

Este documento fue reconocido ante mi (fecha) por nombre/s de la persona o personas en su capacidad de (tipo de autoridad de la persona, ej., oficial, fideicomisario, etc.) nombre de la persona de parte de quien el documento fue firmado.

(Sello, si existe)

(Firma del oficial notarial)

(Título y Cargo)

[Mi comisión vence: _____]

C. para verificar bajo juramento o afirmación:

Estado de Nuevo México

Condado de _____

Firmado bajo juramento (o afirmado) ante mi (fecha) (nombre de la persona o de las personas) que ha declara/n.

(Sello, si existe)

(Firma del oficial notarial)

(Título y Cargo)

[Mi comisión vence: _____]

D. Para atestiguar o dar fe respecto a una firma:

Estado de Nuevo México

Condado de _____

Firmado o atestiguado ante mi (fecha) por (nombre de la persona o de las personas).

(Sello, si existe)

(Firma del oficial notarial)

(Título y Cargo)

[Mi comisión vence: _____]

y

E. para atestiguar copia de un documento:

Estado de Nuevo México

Condado de _____

Yo certifico que esta es copia fiel de un documento en la posesión de _____ Fechado.

(Sello, si existe)

(Firma del oficial notarial)

(Título y Cargo)

[Mi comisión vence: _____]

Apostilles and Certification of Appointment

The Secretary of State's office is the only office in New Mexico authorized to issue a **certification** or **apostille** for a notarized document going to a foreign country. This office also issues certifications and apostilles for other public documents issued by government agencies including those issued by County Clerks and the State Registrar of Vital Records. Apostilles are accepted by those countries that are party to the Hague Convention of 1961. A listing of the countries that are party to the Hague Convention is available at the U.S. State Department's website (www.state.gov/www/authenticate/list.html) or by contacting our office. An apostille is attached to a notarized original document or a certified recorded instrument. For documents that are notarized, the apostille verifies that the person who notarized the document was appointed to a notary public commission in New Mexico at the time of the notarization. For certified recorded instruments issued by government agencies, the apostille verifies that the person who certified the document was an appointed or elected official in New Mexico at the time of the certification. Examples of public documents include birth certificates, death certificates, marriage licenses, divorce decrees, and school transcripts. Notarized documents going to foreign countries that are not party to the Hague Convention receive a **certification of appointment**. A certification of appointment also certifies that the individual who performed the notarization was appointed to a notary public commission at the time of notarization. The statutory fee for a certification of appointment or an apostille is \$3.00 per document. Checks and money orders should be made payable to the "Secretary of State". You may request an apostille or certification in person or by mail. Requests are processed daily by the Operations Division. Our office is located at 325 Don Gaspar - Suite 300, Santa Fe, New Mexico 87503. Our hours are 8:00 - 5:00, Monday-Friday. Please mail the original document(s) and specify the country to which the document(s) will be sent. It is required by law that the document presented must have notarial certificate wording. Please provide a telephone number in the event that we need to contact you regarding your request. If delivery other than first class mail is needed, you must enclose a pre-addressed, pre-paid airbill with your request. Please call our office at 1-800-477-3632 if you have further questions regarding these types of authentications.

PRECAUTIONS

New Mexico notaries public should be aware of the following precautions:

1. A notary may not notarize a document that does not have a notarial certificate. A non-attorney notary public shall not determine the type of notarial act or certificate to be used.
2. Notaries should not notarize documents on which they are a signer or in which they are named.
3. Notaries should not notarize documents of transactions to which the notary is a personal beneficiary (this does not include notaries acting in the scope of their employment for their employer, such as a secretary or an office clerk).
4. Notaries may notarize documents when acting in a professional capacity such as a professional advisor, counselor, agent or attorney.
5. Because of the notary's need to be impartial, he should avoid notarizing for family members or in any other circumstance when his impartiality can be questioned or challenged. A notary cannot notarize his own signature.
6. New Mexico notaries may only perform notarizations within the state's borders, and do not have authority to notarize any document outside of the state of New Mexico.
7. Notaries must safeguard their seal by keeping it in a secure place when not in use.
8. Although it is not required by law it is recommended that a notary public keep a permanently bound journal of his notarial acts.
9. Documents which have been changed or altered with correction fluid or correction tape should not be notarized.

REMINDERS

1. A notary must never notarize a signature not signed or acknowledged in the notary's presence!

This is the most important rule to protect a notary from legal liability.

2. A notary is to serve any person who makes a lawful and reasonable request for a notarization.
3. A notary is an impartial witness to a transaction.
4. A notarization does not prove the truthfulness of the contents of a document or validate a document and render it legal.
5. If a notary has any doubt about the signer's identity, it is best not to notarize that signature.
6. A notarization provides verification of a document signer's willingness to sign, his competence to sign, and that the signer is, indeed, the person identified by the signature.
7. A signature affixed to a document by a rubber stamp cannot be notarized. Conversely, a notary must perform a notarization by signing his manual signature and not with the use of a rubber stamp of his signature.
8. Notaries may **NOT** make a photocopy of a birth certificate or a death certificate, marriage certificate, nor a publicly recordable document. Birth and death certificates are official state records. Certified copies may be obtained only from the State Registrar of Vital Records at Vital Records & Health Statistics in Santa Fe, New Mexico by calling 505-827-0121 or at the Health Department in Albuquerque, New Mexico by calling 505-841-4185, or by visiting their website (www.health.state.nm.us/).
9. An employer shall not establish fees for notarial services that are in excess of those specified on page 10, nor on the attributes of the principal as delineated.
10. Notary public's shall neither certify nor authenticate a photograph.
11. A New Mexico Notary Public may not use the term "Notario Publico" or any equivalent non-English term in any business card, advertisement, notice or sign.
12. A notary public shall not claim to have powers, qualifications, rights or privileges that the office of notary public does not provide, including the power to counsel on immigration matters.

NOTARY PUBLIC COMPLAINT INFORMATION

A formal complaint may be filed against a New Mexico Notary Public regarding misconduct or violation of the “Notary Public Act” by filing a letter of complaint through the Secretary of State. The Secretary of State will provide notice to the Governor who makes the notary public appointment and is responsible for the removal of a notary public pursuant to section 14-12A-26 NMSA, 1978. Upon receipt of the complaint the Governor will forward the complaint to the Attorney General for investigation of the alleged violations by the notary public. In accordance with section 14-12A-26 NMSA, 1978 the Governor may revoke the commission of any notary public who:

1. submits an application for appointment as a notary public that contains a false statement;
 2. is or has pleaded guilty or nolo contendere to a felony or been convicted of a felony or of a misdemeanor arising out of a notarial act performed by him;
 3. engages in the unauthorized practice of law;
 4. ceases to be a New Mexico resident; or
 5. commits a malfeasance in office.
- B. A notary public’s commission may be revoked under the provision of this section only if action is taken subject to the rights of the notary public to notice, hearing, adjudication, and appeal.
- C. Resignation or expiration of a commission does not terminate or preclude an investigation into the notary public’s conduct by the governor or by the attorney general, a district attorney, or any law enforcement agency of this state, who may pursue the investigation to a conclusion, where upon it shall be made a matter of public record whether or not the finding would have been grounds for revocation.
- D. In lieu of revocation, the Governor may deliver a written Official Warning to Cease Misconduct to any notary public whose actions are judged to be official misconduct.

Recording Your Notarial Acts in a Journal

New Mexico law does not require a notary maintain a journal. However, this office strongly recommends and encourages a notary do so. A journal is a very important tool for a notary. Any notary concerned about personal liability may want to consider using this measure to keep permanent record of their notarial acts. The journal you purchase should be a bound notary journal with consecutively numbered pages and not a loose leaf notebook. Maintaining a journal supports the fact that the notary has exercised reasonable care in identifying the signer and maintaining the details of the notarization in an organized manner.

Prior to completing the notarization we encourage you to complete your journal entry, so that all information in your journal has been entered before the signer has left your presence.

Journals can be used to jog your memory about a notarization that took place earlier in the year and could be used as evidence in a court of law. Your journal is your personal property and shall not be used by any other notary nor surrendered to an employer even if you have left their employment. Always safeguard your journal by keeping it in a secure and locked area.

A notary journal may be purchased through an office supply store. As a public service we have listed below national organizations that provide notary education, membership and notary journals.

American Society of Notaries
Post Office Box 5707
Tallahassee, Florida 32314-5707
(800) 522.3392
Fax (850) 671.5165
www.asnnotary.org

National Notary Association
Post Office Box 2402
9350 De Soto Avenue
Chatsworth, California 91313-2402
(800) 876.6827
Fax (818) 700.1830
www.nationalnotary.org

Intermountain Notary Institute
dba Notary Law Institute
Post Office Box 540787
213 No. Fairway Drive
North Salt Lake, Utah 84054-0787
(800) 722.8708
www.notarylaw.com

United States Notary Association
One Gateway Center - 402
420 Fort Duquesne Blvd.
Pittsburgh, PA 15222-1499
(800) 587.2588
Fax (800) 707.7075
www.enotary.org