

ACADEMY
of
NOTARIES PUBLIC

NOTARY CERTIFICATION SEMINAR

NOTARY PUBLIC EDUCATION

APPROVED CURRICULUM

Secretary of State Approved Vendor for Notary Public Mandatory Education

Mission Statement

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As a Certified Vendor for the Secretary of State, the goal of the Academy of Notaries Public is to give you the best overall understanding of your role as an officer of the State of California.

We will equip you with the practical training to perform the different notarial acts of your office with confidence.

Our aim is to help you better understand what the Secretary of State is looking for in a Notary Public.

Our purpose is to ensure you have the knowledge of the terminology needed to pass the State Exam.

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INFORMATION

Proof of Completion Certificate

- The Proof of Completion Certificate is required by the Secretary of State.
 - It is presented to the Proctor at the time of the State Exam.
- At the end of the Course, you will receive the required Proof of Completion Certificate.

State Exam

The State Exam is offered at any CPS Notary Exam location in the State.

Items required when taking the State Exam:

- Proof of Completion Certificate received upon completion of the Course
- A completed notary application [use business blue or black ink] delivered with your Proof of Completion Certificate via email
- A valid picture ID (Driver's License, Passport, etc.) current or issued within the last 5 years
- A 2" x 2" color passport photo
- A separate check, money order, or cashier's check made payable to "Secretary of State" in the amount of \$40 (\$20 to retake the exam). No cash or credit cards
- Two #2 lead pencils

State Exam Results

- Test results are mailed approximately 15 business days (approximately three weeks) after your exam date
- Test results are *not* provided by phone
- If you listed an email address on your application, a message containing your username and password will be sent to you from noreply@cpsnr.us
- Receipt of this message indicates that your application has been processed
- CPS phone number is 916-263-3520 ext. 5.
- The website is <https://exam-registration.cpsnr.us/notary/notary>

- **Note:** Please contact us with your test results. It will be appreciated if you write a comment about your experience with the Academy of Notaries Public; your comments might be added to the website.

Live Scan Fingerprinting—Background Check

- Required for each commission
- Request for Live Scan Forms can be found on the SOS website under Forms/request for Live Scan Forms.
- The California Department of Justice *will not* cross-reference Live Scan fingerprint results.

Referrals

Earn your way to your next mandatory Notary Refresher Course in four years. Simply refer a friend, co-worker, or relative to one of the Academy of Notaries Public courses, and we'll credit you \$5 toward your next class for every person who attends.



SECRETARY OF STATE INFORMATION

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CPS INFORMATION

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ACADEMY OF NOTARIES PUBLIC

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A SHORT HISTORY

By Tom Halliwell

The Notary Public, or just 'Notary' is not a familiar term in the English Legal System, and yet with the spread of International Commerce, and increasing foreign home ownership, the Notary is a person with whom more and more people are coming into contact. Just who or what are Notaries?

Well, the story goes back a very long way. They originated as scribes - Latin 'SCRIBAE' - literate clerks who took notes or minutes of important events and decisions and made copies both of Public and Private documents. We have to remember that widespread literacy is only a relatively recent phenomenon. The role can be traced back certainly to pre-Biblical times. For example, the ancient Egyptians and Greeks certainly employed notaries - though there is no record of what they were called, and over time the importance and value of official record keeping became more and more important and societies formalized their rules and decisions.

In Ancient Rome, well before the time of Julius Caesar, these scribes set out their stalls in the Roman marketplace, and they were called TABELLIONS, probably from the TABULAE or tables or plates covered with wax which they used instead of paper....

Over time this practice developed into that of a learned profession. By reason of the Notary's technical knowledge, they started to play an increasing part in both public and private affairs. Some became permanent officials attached to the Roman Senate and the Courts of Law - their duties being to record the relevant proceedings judgments and decrees. More generally the work of the ancient Roman Notary was concerned with the formal recording of private law matters, such as deeds, wills, transfers of property. They usually had slaves to do the laborious copying work. Legal secretaries have a view that little has changed!

In the last century of the Republic, probably in the time of Cicero, a new system of shorthand writing was invented. This Roman Shorthand was called NOTAE TIRONINAE. This took its name from Cicero's secretary M Tullius Tiro, by whom it is said to have been invented, for the purpose of taking down his Master's speeches. Cicero was well known for his extended oratory....

The records produced by these early notaries were divided into two sorts. Public instruments called INSTRUMENTA PUBLICAE CONFECTA which commanded a degree of authenticity and purely private documents which did not. This distinction survives to the present day and I shall look at it when we come to talk about the work of the modern Notary.

You all know that the Roman Empire collapsed. But this did not quite extinguish the office of Notary. Obviously, the invaders from the north who demolished the Old Roman Empire introduced their own laws and customs, but they frequently found it convenient to retain the customs and laws and institutions of Ancient Rome. If you have read Machievelli's *The Prince*, you will know that he recommended this practice when taking over Princedoms. In the days of the EEC perhaps we should be more tolerant of local legal differences? But I digress.

So emerged, the Teutonic Court assisted by the Bishop of the Diocese, to take the place of the Roman Governor in the administration of Justice. Courts were held in principal cities of Europe and were known as The Assize Court, and we find attached to those early courts (and of course we are here still speaking here of continental Europe, GB was pretty barbarous at this time) we find reference to 'NOTARIES OF THE COUNT'. 'Count' here being the local ruler in this era of principedoms....

William Durand in his SPECULUM of approximately 1271 states: 'A notary public appointed by the Emperor or the Pope or by someone to whom they have granted this special privilege, may perform his office and draw up instruments anywhere, - EVEN IN FRANCE OR ENGLAND OR SPAIN'....

Thus here we have the beginnings of the present day Notary. A publicly appointed official, whose Acts and Records are acknowledged internationally.

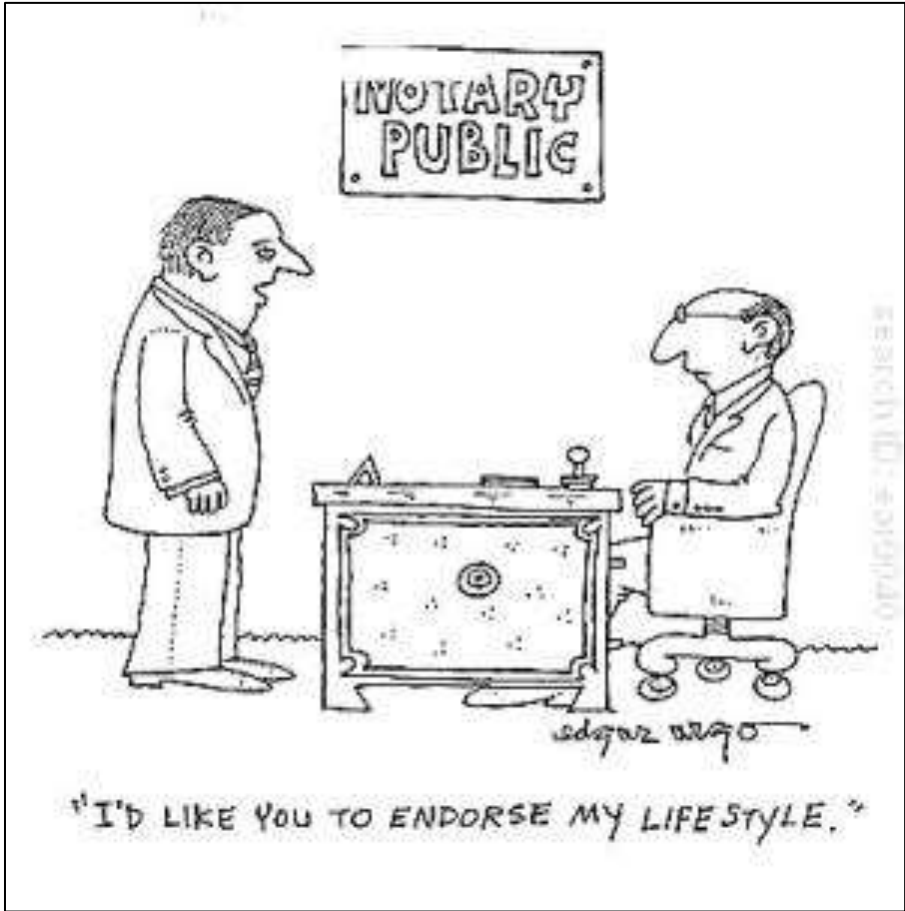
The main requirement of a Notary is that the Acts and Records have to have a high degree of authenticity. There must be no doubt over the document, or the person executing it, and once attested by a Notary it is recognized internationally and given the force of a Court judgment....

The other emphasis on Notarial acts was the importance of the Deed. In Roman law countries only Court judgments carried any special force, but, as notaries ceased to be dependent on Judicial authorities more and more force was given to their 'Authentic Acts' as they are called. It was Louis XIV of France who abolished the last vestiges of the ancient dependence on judicial authority and granted to each notary a seal with the Royal Arms. The modern notary must still employ his seal, but that is now for him to design personally and to guard carefully.

England of course did its own thing. England had 'customary law' rather than Roman law, and the function of Notary was not embedded in the local law. The Romanizing effect of the Christian missions in the early Middle Ages brought literacy to the Clerical classes, but, writing was primarily for adding solemnity rather than to produce an unquestionable written record. Even when documentary evidence was required for the conveyance of land, it was never a requirement in Britain (unlike the Continent) that a Notary be used...

From 1533 to 1801 members of the English notariat were appointed without foreign intervention or even parliamentary intervention. They remain a distinct and separate legal profession, as by and large they still do today. But Parliament loves to legislate (what else is it for?) So, in 1801 it passed the Public Notaries Act of 1801 -and the first statutory regulation of the Notarial profession. The Act confirmed that it was the Master of Faculties of the Court of The Archbishop of Canterbury who should appoint and control notaries, whilst in the City of London exclusive right was given to the Scrivener's Company to administer the profession within the City....

May 2000. *Tom Halliwell B.A Dip. Mus (Open) (United Kingdom) Used by permission.*



Overview

Most historians believe the office of notary public can be traced to ancient Rome, where there were public secretaries called *scribæ* and *librarii*. The private secretaries, who were often slaves, were called *exceptores*, but if they could write in shorthand, they were considered *notarii*.

Webster's New Explorer Dictionary defines **Notary Public** as: a public official who attests or certifies writings such as deeds to make them legally authentic and perform certain other acts varying from jurisdiction to jurisdiction.

The office of a Notary Public is a quasi-governmental office that is not executive, legislative, nor judicial.

As a **state officer** the notary public can administer and give oaths under the Penalty of Perjury.

One of our presidents was sworn in by a Notary Public. On the death of Warren G. Harding, Vice-President Calvin Coolidge was sworn in as President by his father, Col. John Coolidge, a Vermont notary.

In the **United States**, a non-attorney notary may **not** offer legal advice, may **not** prepare documents, and **cannot** recommend how to sign something or even what type of notarization is necessary.

Generally speaking, a **notary public** is a **public official** appointed by the government to **serve the public** as an **impartial witness**. Thus, notaries cannot notarize their own signature.

Usually individuals need no special training to obtain a notary public commission; they must only pass a simple test, have some form of background check, and/or obtain a **bond** for protection for the public and/or **insurance** to insure their integrity.

California Law consists of 29 codes from the State Constitution and Statutes that cover various subject areas. The Government Codes for Notaries Public begin in Chapter 3, Division 1, Title 2, § 8200 where the Secretary of State may appoint and commission notaries public in such number as the Secretary of State deems necessary for the public convenience.

The information presented in this course reflects the current governing laws for the California Notary Public.

Qualifications for Appointment

Requirements

- **Qualifications**
 - To be eligible for appointment, a person must:
 - Be a **legal resident** of the State of **California**,
 - unless appointed to serve on a military or naval reservation
 - ✓ United States citizenship is required.
 - At least **18 years of age**
 - Complete a **six-hour course**
 - **Pass** a written, proctored, closed-book **examination**, and
 - Clear a **background check**.
- **Child/Family Support**
 - Applicants found to be **non-compliant** with child or family support orders will be issued **temporary term commissions**.
 - Notaries found to be non-compliant **after** the commission is issued may be subject to:
 - Commission Revocation or Suspension, or
 - Application Denial.

Procedures

- **Submit a Notary Application**
 - Physical addresses are required for business and residence; post office box or commercial mail agencies are not allowed.
 - Only the mailing address may have a post office box or commercial mail agency address.
 - **Application Purpose**
 - The Secretary of State must determine that an applicant **possesses the required honesty, credibility, truthfulness, and integrity** to **fulfill the responsibilities** of the office of notary public.
 - The applicant **must disclose all arrests** for which trials are pending and all convictions on the **application**.
 - The Secretary of State's office **may deny** an application for failing to disclose any convictions (felonies or misdemeanors).
- **Submit a 2"x 2" color Passport Photo along with the application.**
- **Clear Background Check via Live Scan Fingerprinting.**
 - To determine the identity of an applicant and
 - Whether the applicant has been **convicted** of a disqualifying crime.

- State law requires **all** notary public applicants (even returning notaries) to be **fingerprinted** as part of a thorough background check by the California Department of Justice and Federal Bureau of Investigation prior to being granted an appointment as a notary public.
- Applicants are **required to disclose** all arrests and convictions on the **application**.
 - Convictions dismissed must be **disclosed** - Penal Code Section 1203.4 or 1203.4a
 - **For questions** concerning the disclosure of convictions or arrests, contact the Secretary of State **prior** to signing the application.
 - **For specifics** about arrest(s) and or conviction(s), contact the California Department of Justice at **(916) 227-3849**.
- **The Secretary of State will recommend denial of an application for the following reasons:**
 - **Failure to disclose** any arrest or conviction;
 - Conviction of a **felony**
 - where not less than 10 years have passed since the completion of probation;
 - Conviction of a **disqualifying misdemeanor**
 - where not less than 5 years have passed since the completion of probation; or
 - A **determination that the facts** of a particular case, such as the nature and severity of the act or the presence of aggravating factors may warrant denial of the application.
 - **Non-compliant** with child or **family support orders**.

Notary Public Education

Mandatory Education Requirements: all applicants and notaries public who are applying for or renewing a commission as of July 1, 2005, must meet the following:

- **Initial Certification**
 - **Six-Hour Course** - All applicants are required to take and satisfactorily complete a Six-Hour Course of Study approved by the Secretary of State prior to appointment as a notary public.
- **Renewal**
 - Before the expiration date of the current commission, a California notary public may take and satisfactorily complete either an approved Six-Hour Course or Three-Hour Refresher Course for reappointment.
 - The **Three-Hour Refresher Course** must be completed, the application for reappointment must be made, and the notary must pass the Notary Public State Exam **before the current commission expires**.
 - If the **commission expires** before application is made for a new commission, a person must take an approved **Six-Hour Course** before being **reappointed** as a notary public, even if the person has previously completed an approved Six-Hour Course.

Requirements and Time Limit for Qualifying

- **Time Limit**

- Once the **commission** has been **issued**, a person has
 - **30 calendar days** from the beginning of the term prescribed in the commission to:
 - take, subscribe, and
 - file an oath of office, and
 - file a \$15,000 surety bond with the
 - ✓ county clerk's office.
- **Note:** The commission does not take effect until the oath and bond are filed with the county clerk's office.

- **County of Filing**

- The **filing** must take place in the **county** where the notary public maintains a principal place of business as shown in the **application** on file with the Secretary of State.
 - If the oath and bond are **not filed** within the 30-calendar-day time period, the commission will **not be valid**.
- **Identification Requirement:**
 - At the county clerk, the notary must produce one of the following specified ID's:
 - a California ID card or driver's license,
 - a U.S. passport,
 - a foreign passport, or
 - a state of California employee ID issued by an agency of the state, office of a city or county of the State of California.

- **Optional Filing by Mail**

- A notary public is permitted to take and subscribe the oath in front of another notary public as long as the oath is administered in the county where the oath and bond will be filed.
- Notaries public **are permitted** to file completed oaths and bonds with the applicable county clerk by **certified mail** or any other means of physical delivery that provides a receipt.
 - If mailing an oath and bond to the county clerk, allow sufficient time to ensure timely filing.
 - No **exceptions** are made to the 30-day filing requirement due to mail service, county clerk mail processing **delays**, or for any other reason.

Surety Bond

- **A \$15,000 Surety Bond is Required**
 - A notary public must obtain a **bond** from a California admitted surety insurer.
 - The **bond** must be filed with the **county clerk** in which the notary public's principal place of business is located.
 - The bond is to provide a limited fund to **reimburse members of the public** who are damaged by notarial misconduct.
 - However, the notary public and the surety named on the official bond are liable in a civil action for all the damages sustained from a notary public's misconduct or neglect.
 - The notary remains **personally liable** to the surety company to the full extent of the damage sustained and
 - may be required to **reimburse** the **bonding company** for sums paid.
 - **Note:** The notary will be responsible for the damages that exceed the **amount of the bond**.
 - Therefore, a notary public **should consider** purchasing **errors and omissions insurance** to cover damages that may occur in the course of performing their notarial duties.

Errors and Omissions Insurance

- **E&O is not required by the Secretary of State.**
 - **Protects the Notary**
 - in the event a **negligent notarial act** is committed, or
 - an error or omission is made while acting as a notary,
 - if the **negligent act**, error, or omission **causes a loss to the customer**.
 - Errors and Omissions pays up to the amount of the policy.
 - Most policies also provide legal defense at no additional cost.
 - Errors and Omissions Insurance protects the notary and there is **no reimbursement to the insurance company**.
 - Even **simple oversights** could **subject the notary** to be personally liable for losses.
 - For example:
 - failure to affix the notary seal, or
 - properly identify the customer.
 - The negligent notary public may be **personally liable** for damages, costs, and attorney's fees **exceeding** insurance policy limits and for damages not covered by insurance.

Quick Review

- 1 *The purpose of the application process is to determine that a notary applicant possesses the required honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the office of the notary public. True or False*
- 2 *All notary public applicants (even returning notaries) shall submit fingerprints to the California Department of Justice and the Federal Bureau of Investigation for the purpose of securing a line of credit. True or False*
- 3 *If the commission expires before application is made for a new commission, a person must take an approved _____ before being reappointed as a notary public, even if the person has previously completed an approved Six-Hour Course.*
- 4 *At the county clerk, the notary must produce any one of the following specified ID's except: a) a California ID card or driver's license, b) a U.S. passport or a foreign passport, c) Birth Certificate, or d) an employee ID issued by an agency of the State of California.*
- 5 *The _____ is to provide a limited fund to reimburse members of the public who are damaged by notarial misconduct.*

1) True, 2) False; background check 3) Six-Hour Course 4) c, 5) \$15K bond

It was the first day at notary school. The students were all in their seats, waiting for the new teacher to start.

The teacher stands up, and says, "Whoever in here thinks they are stupid, please stand up."

The students all looked at each other, and finally, one student stood up.

"Do you think you're stupid?" asked the teacher. "No," said the student, "but I didn't want you standing there alone."

Commission

Three Types of Notary Public Commissions

1. Public Entity Notary Public

- a. An employee of a California state, city or county public agency, or public school district appointed to serve as a notary public on behalf of that public entity.
- b. The public entity employer may pay the costs of the notary public's bond and supplies.
- c. Any fees collected by the notary public employee must be remitted to the public entity employer.
- d. These notary public employees may perform notarial acts only for and on behalf of their public entity employer.
 - i. These notary public employees are not authorized to perform notarial acts on their own time.
- e. Upon termination or resignation from employment, the notary public commission is terminated.
 - i. The notary employee must immediately send written notice of resignation to the California Secretary of State.

2. California Military/Naval Reservations Notary Public

- a. The California Secretary of State may appoint federal civil service employees to serve as notaries public for military and naval reservations within the State of California.
- b. A notary public appointed to serve on a military or naval reservation must be a U.S. citizen, but does not have to be a California resident.
- c. These notaries public may perform notarial acts only on the reservation for which they were appointed, and they cannot collect fees for any service.
- d. If the notary public stops being a federal civil service employee,
 - i. the commanding officer of the military or naval reservation must notify the California Secretary of State of the termination,
 - ii. the termination is treated as a resignation of the notary public's commission.

3. General Notary Public

- a. Serves the public at large.
- b. May notarize documents within the borders of the State of California.
- c. Notary or employer may retain the notarial fees.

NOTE: The information in this manual is for the general notary public.

General Notary Public

- **Notary Public Duty**
 - **It is the duty** of the California notary public, upon the payment of any fees, if applicable, **to notarize** upon request any properly submitted document for any person, **anywhere** in the **State of California**.
 - **Administrative Action** can be taken **against** a notary public, or notary public applicant to suspend or revoke a notary public commission, or deny a notary public application for **failing to discharge the duties** and responsibilities required of a notary public.
 - Civil Penalty up to **\$1500** for failing to do the notarial duty.
 - A notary public only can use the notary public's **seal** for purposes described in the California Government Code and only can use the **title "notary public"** to **render notarial services**.
- **Notarization Does Not:**
 - prove the truthfulness of statements in a document.
 - legalize or validate a document.
 - protect your rights in artistic creations or inventions.
- **Term of Office**
 - The **term of office** for a notary public is **four years** starting with the commencement date stated in the commission issued by the California Secretary of State.
- **Geographic Jurisdiction**
 - The **State of California – all 58 Counties**
 - A notary public's **jurisdiction** is not limited to the county in which the notary public's oath and bond are filed, and
 - A California notary public **cannot** perform notarial acts outside of the borders of **California**.
- **Notarizing for Relatives**
 - A notary public is **not prohibited** from notarizing for **relatives**, **unless** doing so would provide a **direct financial** or **beneficial interest** to the notary public.
 - With California's community property law, care should be exercised if notarizing for a **spouse** or domestic partner.
- **Private Employer Agreement**
 - A notary public employed by a private employer may be called upon to provide notarial services as part of employment.

- The employer may limit the employee to provide notarial services solely to transactions directly associated with the business purpose of the employer during work hours.
- The law permits that if an **agreement** between the notary and an employer is made and the:
 - employer pays the fees required for appointment and the
 - costs of performing notarial duties/services the
- The employer may retain the fees collected by the notary and
 - deposit the fees in a fund to pay the notary/employee.
- The notary employee may perform notarial acts outside of the ordinary course of employment on their **own time**.
- **Both** the notary and the employer are expected to comply with California law.
 - Should the **employer** coerce or in any manner influence the notary to perform an **improper act**, both the employer and the notary are guilty of a misdemeanor.

- **Conflict of Interest**

- Direct Financial or Beneficial Interest
 - A notary public who has a **direct financial** or **beneficial interest** in a transaction **cannot** perform any notarial act in connection with that transaction.
 - **Best Practices Tip:** Since California is a community property state, the notary should use great care when performing notarial services for a spouse or domestic partner to avoid potential conflict of interest.
- **Conflicted Transactions**
 - **Financial**
 - If a notary public is **named** individually as a **principal** or has a **direct financial** or **beneficial** interest in the transaction - there is a **conflict of interest** - the notary **cannot** perform any notarial acts in connection with that transaction.
 - **For example**, if the notary public is **named** as a party in a contract or is assigned the proceeds of a sale, the notary public **has** a direct financial conflict of interest and must **not** perform any notarial acts in connection with the transaction.
 - **Real Property**
 - In the area of **real property**, a notary public **has** a conflict of interest if the notary public is a (**principal**) grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, or lessee in the transaction.
 - **For example**, if a notary public is a **grantee** of a deed of sale for a house, or is assigned rents, or is paying off a home mortgage, the notary public is **prohibited** from performing **any** notarial act in connection with that transaction.

- **Non-Conflicted Transactions**

- There is **no conflict of interest** if acting for someone else.
 - If a notary public **acts** as an **agent**, employee, insurer, attorney (assuming the notary public is admitted to practice law in California), escrow or lender for another person (**principal**) who has a direct financial or beneficial interest in a transaction, then the notary public **does not** have a prohibited direct financial or beneficial interest.
- **In other words**, a notary public acting as an agent for another person **can perform notarial services**.
 - **In addition**, if a notary public works for a company that will receive benefits or money from a transaction, the notary public can perform notarial services in connection with that transaction.
 - ✓ The notary public **is not** benefiting directly, even if the notary public's employer receives a benefit.

- **Giving Legal Advice/Practicing Law**

- A **notary public** is prohibited from **practicing law**, unless the notary public is also a licensed California attorney.
 - It is very important to remember that a notary public **cannot** undertake any acts that constitute the **practice of the law**.
- Among the **Acts** that constitute the **practice of law** are:
 - Preparation of legal document
 - Drafting of legal document
 - Selection of legal documents
 - Giving advice with relation to any legal document or legal matter.
 - **Caution:** Since a notary public comes into contact with a large number of legal documents - deeds, wills, contracts, among many others - there may be a temptation to offer advice or comment on legal aspects of the documents instead of carrying out the notarial activities alone.
 - **For example**, if a customer brings a document to a notary public **without** a notarial certificate and asks the notary public to “notarize” it, the notary public **cannot** provide advice or decide for the customer **whether** a certificate of Acknowledgment should be completed or whether a Jurat would be in order. The **customer must decide**.
 - **Best Practices Tip:** If the customer is unsure, the notary public should recommend that the customer confer with the party receiving the document or that the customer consult an attorney.
- **Note:** For each offense - guilty of a misdemeanor punishable by up to one year in a county jail or by a fine of up to **\$1,000**, or by both fine and imprisonment. **California Business and Professions Code**.

- **Immigration Documents**

- A notary public **can** notarize the **signature** on a completed document **affecting** the immigration or citizenship status of any person.
 - The notary public **cannot** assist a person in completing any immigration document, **except** for the signature and date.
- **Only the following may assist a client in completing immigration forms:**
 - An **attorney**
 - Only an attorney can advise a person regarding which immigration document or form the person should complete or advise how the person should answer questions posed by an immigration document or form.
 - A **representative accredited** by the U.S. Department of Justice
 - A **person who is registered** by the California Secretary of State and bonded as an immigration consultant under the California Business and Professions Code.
 - If a notary public is **also** a California registered immigration consultant, that notary public **may assist** a client by inserting the answers the client gives the consultant.
 - A notary public who is also a registered and bonded immigration consultant may charge **\$15 per person** for completing a set of immigration forms.
 - A notary public also can charge an **additional fee** for each notarial act performed in relation to a set of immigration forms.
 - ✓ **Please note:** special rules apply to notaries public who are also immigration consultants, or who advertise their services in a **language other than English**.
- Notaries Public are **barred** from advertising in any manner whatsoever that they are a notary public when also **promoting** themselves as an **immigration specialist** or consultant.
- **Note:** For each offense, a **\$1,500 Civil Penalty** Imposed by California SOS.

- **Advertising in a Language other than English**

- A notary public who is **not** a licensed California **attorney** and advertises notarial services in a language other than English **must post** an advertisement in **both** English and the other language.
 - **The advertisement must state:**
 - ***“I am not an attorney and cannot give legal advice about immigration or any other legal matters.”***
 - The notary public also must list the statutory **fees** that a notary *public* may charge for notarial services.
- **Note:** For each offense, a **\$1,500 Civil Penalty** Imposed by California SOS.

- **Translating the Term *Notary Public* into Spanish is Prohibited**
 - In **Latin American** countries, the phrase “***notario publico***” implies that the person is a practicing attorney in that country, which is not the law in the State of California.
 - Therefore, a notary public **cannot translate** the term “**notary public**,” as “notario publico” or “notario,” **into Spanish, even if the prescribed notice is posted.**
 - A **first offense** for a violation of this law is grounds for the suspension of the notary public’s commission for not less than one year, or revocation of a notary public’s commission.
 - A **second offense** is grounds for **permanent revocation** of a notary public’s commission.
 - **Note:** For each offense, a **\$1,500 Civil Penalty** Imposed by California Secretary of State.

- **Name and Address Changes**
 - **Name Change:** If a notary public **changes** his or her **name**, the notary public shall complete a Name Change Application form and **file** that **application** with the Secretary of State.
 - Upon approval of the name change form, the Secretary of State shall issue a **commission** that **reflects the new name** of the notary public.
 - The **term of the commission** and **commission number** shall remain the same.
 - **Business, Residence or Mailing Address Change:**
 - A notary public is required to **notify** the Secretary of State in **writing** within **30 days** of any **change** of mailing, business, or residence address, by **certified mail**, or any means of physical delivery that provides a receipt (for example: FedEx, USPS, UPS).
 - The notification for business address change must include the name of the business.
 - **Note:** Willful failure to notify the Secretary of State of a **name change** or any **address change** shall be punishable as an infraction by a fine of not more than **\$500**.
 - **Principal Place of Business County Change:** Upon the change of a business address to a new county in California, a notary:
 - may (optional) elect to take and file a new oath of office and bond or a copy of the original bond in the new county.

- Within 30 days of the filing, the notary must obtain a new official seal that includes the name of the new county where the notary public has relocated.
- New filing and recording fees are applicable in the new county.
- **Note:** There is **no fee** for the processing of **name/addresses change notifications** with the Secretary of State.

- **Responding to Written Requests of the California Secretary of State**

- A notary public has **two separate duties** to respond to written requests of the California Secretary of State.
 - **Request for Information:** The notary public must respond within 30 calendar days of receiving written request sent by certified mail or any other means of physical delivery that provides a receipt from the Secretary of State's office for information relating to official acts performed as a notary public.
 - **Certified Copies of the Journal:** Within the time specified in the written request by the California Secretary of State, a notary public must furnish certified copies of the entire or any portion of his or her notarial journal that is requested.

Quick Review

1. *There are three kinds of notaries: a) Public Entity Notary Public, b) California Military/Naval Reservations Notary Public, and the c) General Notary Public. Which one are you studying to be?*
2. *All these statements are true except: a) notary commission is good for four years, b) the notary may notarize documents in all counties of California, c) the notary may only notarize for their employer, and d) Administrative Action can be taken against a notary public for failing to discharge the duties.*
3. *Can a notary notarize documents for close relatives even if the notary is listed as a beneficiary? Yes or No*
4. *Nancy Notary notarizes documents for her employer all day long. She collects the notary fees that the employer charges of \$7.50 per signature and deposits money into the register for the benefit for her employer. She is very well compensated in her paycheck. Does Nancy have a conflict of interest? Yes or No*
5. *Nate Notary advertises to the Latin American community his notary public services in the newspaper and uses the term "Notario" in the ad. Is that a proper thing to do? Yes or No*

1) c, 2) c, 3) no 4) no 5) no



Tools of the Notary Public



The notary public is required to maintain a seal/stamp and one active sequential journal of all notarial records.

- The seal and journal must be stored in a locked and secured area that is under the direct and exclusive control of the notary public.
 - **Note:** An office safe or file cabinet that is accessible by others, even if locked, is not acceptable, nor is a locked desk at home, if other family members have access to the contents of the desk.
- No one except the notary public is allowed access to these tools.
- These tools should not be surrendered to anyone except under certain circumstances.
 - **Exceptions:**
 - **Seal**—to the court after being convicted of notarial misconduct and/or a felony.
 - **Journal**—to a peace officer serving in his/her official capacity.
- If either Seal or Journal is lost, stolen, destroyed, or rendered unusable, the notary must report the fact to the Secretary of State **immediately** by certified mail, or any means of physical delivery that provides a receipt (for example: FedEx, USPS, UPS).
 - Penalties for failure to report a lost, stolen or damaged tool:
 - **Seal**—\$1,500 civil penalty.
 - **Journal**—revocation, suspension, or application denial; misdemeanor.

Stamp/Seal

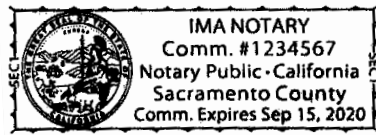


● Rules and Requirements

- **Possess and Use**
 - Each notary public is **required** to **have** and to **use a seal**.
 - Most all documents notarized must have a Notary Seal/Stamp.
- **Certificate of Authorization**
 - The Secretary of State shall issue a Certificate of Authorization with which a notary public can obtain an official notary seal.
 - The notary can only **purchase seals** from a **manufacturer** or vendor who has been authorized by the Secretary of State.
 - **Only** the original Certificate of Authorization, not a copy, must be used to **purchase the seal**.

- **Photographically Reproducible**
 - The **seal** should not be placed or affixed over **signatures** or any **printed matter** on the document which would cause the impression to be illegible.
 - **Note:** Some counties require the impression to be placed an inch from the edge of the document because they use this area for county information.

- **Stamp/Seal Specifications**



- **Every seal/stamp** must contain:
 - an image of the **California State Seal**,
 - the words **“Notary Public,”**
 - the **name** of the **notary public** as shown on the commission,
 - the **name** of the **county** where the oath of office and bond are on file,
 - the **expiration date** of the notary public commission,
 - the **sequential identification number** (commission number) assigned to the notary,
 - the **identification number assigned** to the **manufacturer** or **vendor** of the seal,
 - and a **serrated** or **milled edged border**.
- It may be **circular** not over two inches in diameter, or
- It may be a **rectangular** form of not more than one inch in width by two and one-half inches in length.

- **Embosser**

- Notaries public **may** also use a
 - Non-inked **embosser notary seal** in addition to the rubber stamp seal, or
 - may use an embosser seal as the official seal if the embosser seal is **inked**.
 - **Note:** Because of the legal requirement that the seal must be photographically reproducible, the rubber stamp seal has become almost universal.

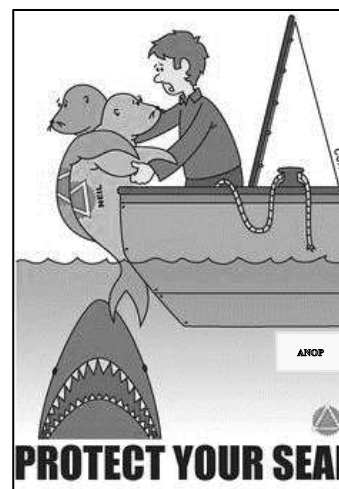


- **Illegible Placement**

- Many documents that are acknowledged may later be submitted to a county for recording. The county recorder might **not accept** a document if the notary public seal is **illegible**. ALL elements of the seal must be visible.
 - An illegible or improperly placed seal may result in **rejection** of the document for recording and **result in inconveniences** and **extra expenses** for all those involved.
 - If the seal is not clear, the notary public should **affix** a new impression and **never attempt to fix the old one**, it may require attaching a separate loose-leaf notarial certificate.

- **Lost or Stolen Stamp/Seal**

- If the **seal is lost**, stolen, misplaced, destroyed, broken, damaged, or is rendered otherwise unworkable, the notary public must immediately mail or deliver **written notice** of that fact to the Secretary of State.
- The Secretary of State, within **five working days** after receipt of the notice, if requested by a notary, shall issue a certificate of authorization which a notary may use to obtain a replacement seal.
 - **Failure to Notify** – could result in a \$1,500 civil action penalty.



- **Surrender Prohibited**

- The seal must not be surrendered to any other person.
 - Including an employer, whether they paid for the seal or not:
 - During the course of employment, and/or
 - upon termination of employment.
 - ✓ Failure to secure the seal may result in suspension or revocation of the commission and civil and criminal penalties.
 - **Exception:** When the **court** revokes the notary's commission for a crime related to notarial misconduct or felony, the court will require the surrender of the notary seal.
 - The **court** will then **forward** the notary public's **seal** to the Secretary of State.

- **Stamp/Seal No Longer Valid**

- When the notary public commission **expires** or becomes invalid upon termination, resignation, revocation, or the death of the notary, the **notary** public or his or her representative **must destroy** or deface the **seal**.

- **Exception for Use of Seal**

- The **law allows** a condition under which a notary public **may** authenticate an **official act** without using an official **notary public seal**.
 - **California Subdivision Map Certificates**
 - Because **subdivision maps** are usually drawn on a material that will not accept standard stamp pad ink and other acceptable inks are not as readily available
 - Acknowledgments on California Subdivision Maps may be notarized **without the official seal**.
 - **Requirements:**
 - The **notary public's commission name**, the
 - **County** of the notary public's principal place of business, and the
 - Commission **expiration date** must be typed or printed below or immediately adjacent to the
 - Notary public's **signature** on the acknowledgment.

Quick Review

1. *The court must revoke the notary public's commission and require the notary public to surrender to the court the notary seal for the following reasons, except? a) Notarial misconduct, b) false completion of a notarial certificate, c) guilty of DUI, or d) any felony.*
2. *What is the penalty for failing to Notify the Secretary of State that a notary public seal is lost, stolen, destroyed or the unauthorized manufacture, duplication, or sale of the notary public seal.*
3. *A notary may use only one, two, three, or as many seal/stamps as needed. Which is the right answer?*
4. *The county recorder might not accept a document if the notary seal is illegible. All the following elements of the seal must be clearly affixed except? a) An image of the California State Seal, b) the identification number assigned to the manufacturer, c) the notary's driver license number, and d) a serrated or milled edged border.*
5. *If the seal impression is not clear, the notary public should affix a new impression by attempting to fix the old one. True or False*

1) c, 2) \$1,500 civil penalty, 3) as many seal/stamps as needed, 4) c, 5) False

Journal - Notary Public Records



• Rules and Regulations

○ Securing the Journal

- **No person except the notary public** is allowed access to the notary public's journal outside of the notary public's presence including an employer who paid for the notary public's journal.
- Like the seal, the journal must be **stored** in a **locked** and **secured area** that is under the direct and exclusive control of the notary public.
 - **For example:** a locking file cabinet, a safe, or a locked office.
 - An **office safe** or **file cabinet** that any other person has access to is **not** an area under the direct and exclusive control of the notary public.
- **Note:** it is unacceptable to keep the journal in a locked desk at home, **if other family members** have access to the contents of the desk.

○ One Active Journal

- A notary public is required to keep **one active sequential journal** at a time of **ALL notarial acts** performed as a notary public.
 - Keeping **more than one active journal** is **never allowed**.
 - ✓ **For example:** if a notary public performs notarial acts at multiple offices, that notary public **cannot** use and store a separate notarial journal at each office.
 - ✓ **Instead**, that notary public must use **one journal** and take that one journal to each office where services are performed.

• Sequential Recording of Official Acts

- The journal entries must be made **sequentially** by recording each notarial act in order of occurrence one after the other.
- **All official acts** performed as a notary public must be recorded in the notary public's active journal at the time the act is performed.

• Completed Journals

- The notary public is required to maintain all of his/her journals until the notary public resigns, is disqualified, removed from office, or allows the commission to expire.

● Journal Entry

The notary public journal entry should be full and complete. The journal must include all of the following items:

○ Notarial Act

- Type of Official Notarial Act Performed
 - Acknowledgment, Jurat, Proof of Execution, etc.
 - ✓ **Best Practices Tip:** A notary should not write an obscure abbreviation or acronym to describe type of act. This may avoid confusion or misunderstandings as to the contents of the journal entry and type of notarial act.

○ Title of Document

- Character/Title of every instrument sworn, affirmed, acknowledged, or proved before the notary public - e.g., **Deed of Trust**, etc.
 - ✓ **Note:** Signatures on grant deeds are acknowledged. The journal entry for a grant deed will describe the character/title of the instrument/document as a “Grant Deed” and type of notarial act performed as an “Acknowledgment.”
- More than one document: the notary public must record the title or character of **each document** that contains notarized signatures.
- A **separate line** must be used for each document.
 - ✓ **For example:** If a notary public completes an Acknowledgment certificate on a “Deed of Trust” and an Acknowledgment certificate on a “Promissory Note,” the notary public must record on separate lines in the journal that the “Deed of Trust” and the “Promissory Note” were the character/title of the instruments/documents with completing each line of the journal, in full.
- The notary public **cannot** simply state that “**loan docs**” or “**closing documents**” were acknowledged.

○ Identity of Signer

- A statement as to the identity of a person making an Acknowledgment or taking an oath or affirmation must be based on **Satisfactory Evidence** only.
 - When using **Specified Paper Identification Documents** to identify the signer, the journal must include:

- ✓ Governmental agency issuing the document,
- ✓ Type of identifying document,
- ✓ Serial or identifying number of the document, and
- ✓ Date of issue or expiration of the document.
 - (e.g., [State] Department of Motor Vehicles, driver’s license, #X00000, 00/00/00)
- When using **Credible Witness(es)** to identify the signer, the journal must include:
 - ✓ **Signature(s)** of the Credible Witness(es)
 - ✓ Specified Paper **Identification Documents** information of the **Credible Witness(es)** swearing or affirming to the identity of the individual, the journal must include:
 - Governmental agency issuing the document,
 - Type of identifying document,
 - Serial or identifying number of the document, and
 - Date of issue or expiration of the document
 - (e.g., [State] Department of Motor Vehicles, driver’s license, #X00000, 00/00/00)
- **Date and Time**
 - Both date and time the notary public performed the notarial service must be entered.
 - The time may be written in standard or military format, but the law requires the time of the act to be recorded.
 - ✓ **The date alone is insufficient.**
- **Notary Fee**
 - The actual amount charged for each signature is entered in the “Fee” column of the journal.
 - Only notarial fees are to be listed in the “Fee” column of the journal.
 - ✓ If there are additional charges for travel or other services, those additional charges may be itemized in the “additional information” or “comments” column to distinguish those types of fees from notarial act fees.
 - If no fee is charged, “0” or “No Fee” should be entered in the “Fee” column.
 - ✓ **The “Fee” column cannot be left blank.**

- **Signature of Signer**

- The signature of each person whose signature is being notarized.
 - **Note:** the printed name and address of the signer are not required to be entered in the journal.
 - ✓ **Best Practices Tip:** For good business practice, it may be prudent to include these for future lawful inspection.

- **Thumbprint**

- The right thumbprint of the signer is required to be entered in the notary's journal.
 - **Types of documents** requiring a thumbprint:
 - ✓ Power of Attorney
 - ✓ Deed
 - ✓ Quitclaim Deed
 - ✓ Deed of Trust
 - ✓ All documents affecting real property
- **Note:** A thumbprint is not required when notarizing a trustee's deed resulting from a decree of foreclosure, a non-judicial foreclosure, or a deed of reconveyance.
 - **Best Practices Tip:** Obtain a thumbprint for every notarized document.
- **If the Right Thumbprint is Not Available:**
 - The notary public shall have the signer use his or her left thumb or any available finger.
 - An explanation as to the reason why the right thumb was not used and which digit was used shall be entered in the journal.
 - **Note:** If the party signing the document is **physically unable** to provide a **thumb or fingerprint**, the notary public shall so indicate in the journal and shall also provide an explanation of that physical condition.
 - ✓ **Failure to obtain a required thumbprint:**
Possible actions: Commission Revocation or Suspension, or Application Denial, and **\$2,500 Civil Penalty**

General Journal Information

The California Secretary of State does not endorse or recommend any particular commercially printed notarial journal. Any journal that includes space for recording all the required details is acceptable. Many commercially printed notarial journals have space for recording other information not required by California law, such as the date of the document, the address of the signer and transaction notes.

Most notarial journals provide for recording the details of a transaction across two pages; the record begins on the left and is completed on the facing page. Each page has corresponding numbered lines and the transaction details to be recorded on line 1 of the left page for instance, correspond with transaction details to be recorded on line 1 of the facing page. The following example demonstrates recording the details of a transaction across two pages.

Continue entering these items on this facing journal page. **Date/Time of Signing**, **Notary Fee**, Additional Information (optional), Address of Signer (optional), Printed Name of Signer (optional), **Signature of Signer** (required), and a **Thumbprint when required**.

Best Practices Tips: 1) A notary should not write obscure abbreviations or acronyms to describe type of Notarial Act; 2) Obtain a thumbprint for every notarized document and as much information as possible; and 3) be complete/thorough for future Lawful Inspection and Coping.

| Date/Time of Notarization | Additional Information | Address of Signer | Signature of Signer | Right Thumbprint ⁷ |
|---------------------------|------------------------|-------------------|---------------------|---|
| Date | | | |  |
| Time | | Street Address | Printed Name | |
| Notary Fee | | City, State & Zip | Signature | |



- **Peace Officer's Notification:** The peace officer who seizes a journal must notify the Secretary of State within 24 hours or as soon as possible of the name of the notary public whose journal was seized.
- **Notary's Receipt:** The notary public shall obtain from the peace officer a **receipt** for the journal.
- **Notary's Notification:** The notary shall notify the **Secretary of State:**
 - By **Certified Mail**, or any means of physical delivery that provides a receipt (for example: FedEx, USPS, UPS).
 - Within **10 days** that the journal was **relinquished** to a **peace officer**.
 - ✓ **The notification shall include:**
 - ✓ The period of the journal entries
 - ✓ The commission number of the notary public
 - ✓ The expiration date of the notary's commission
 - ✓ A photocopy of the receipt.
- **New Journal:** The notary public shall obtain a **new sequential journal**.
- **Returned or Found Journal:** If the journal relinquished to a peace officer is **returned** to the notary public (or the lost journal is found) and a new journal has been obtained, the notary public shall make **no new entries in the returned journal**.
 - **Failure to Provide the Journal to a Peace Officer**
 - ✓ **Possible Actions:**
 - ✓ Commission Revocation or Suspension, or Application Denial, Civil penalty of up to **\$2,500**, and Guilty of a Misdemeanor.

● Lawful Inspection or Copying of the Journal

To prevent others' access to the private information of the clients of the notary, the notary's journal is to be kept in a locked and secured area under the notary's exclusive control. However, there are times when the notary will have to lawfully provide access and copying of his or her sequential notary journal.

The **times** when a notary must allow **lawful inspection** and **copying** are:

- **Request for Line-Item Copy**
 - A notary public must provide a photocopy of a line-item entry representing specific transactions from his or her journal when given a written request.
 - **The line item may be requested by:**
 - ✓ Any member of the **public**
 - ✓ California **Secretary of State**, through civil and criminal subpoenas
 - ✓ **Peace officer** investigating a crime.
 - **The written request shall include:**
 - ✓ Name of the parties
 - ✓ Type of document, and the
 - ✓ Month and year in which the document was notarized.
 - **Response Time for a Line-Item Request from any member of the Public.**
 - A notary public must respond to a request for a transaction in the notary public journal within **15 business days** after the receipt of the written request and must supply either:
 - ✓ Provide a photocopy of the line item, or
 - ✓ Acknowledge that no such line item exists.
 - The cost must not exceed thirty cents (\$0.30) per page
- **Court Order Inspection and Copying.**
 - The notary public shall provide the journal for **examination** and **copying** in the presence of the notary public upon **receipt**:
 - **Court order**
 - **A Subpoena Duces Tecum**
 - ✓ **Definition:** A "subpoena duces tecum" is a court order requiring a witness to bring documents in the possession or under the control of the witness to a certain place at a certain time. This subpoena must be served personally on the person subpoenaed.
 - The notary shall **certify** those copies, if requested.

- **Employer Inspection and Copying.**
 - A notary public who is an employee **shall permit inspection and copying** of journal transactions by a **duly designated auditor** or **agent** of the notary public's employer, provided that the inspection and copying are done:
 - **In the presence of the notary public**
 - Transactions must be **directly associated with the business** purposes of the employer.
 - The notary public, upon the request of the employer, shall regularly provide copies of all transactions.
 - ✓ The notary shall not be required to provide copies of any transaction that is unrelated to the employer's business.
 - Confidentiality and safekeeping of any copies of the journal provided to the employer shall be the **responsibility of that employer**.

- **Secretary of State's Request.**
 - It shall further be the duty of a notary public, upon written request:
 - To furnish to the Secretary of State **certified copies** of the notary's **journal**, and
 - To respond within **30 days** of receiving written request from the Secretary of State's office,
 - By **Certified Mail**, or any means of physical delivery that provides a receipt (for example: FedEx, USPS, UPS).

- **Delivery of Records When Commission is no Longer Valid**
 - **Within 30 days** from the date the notary public **commission is no longer valid**, (even if the notary chooses not to seek reappointment),
 - The notary public **must** deliver all notarial records and papers to the **county clerk's office** where the oath is on file.
 - If the notary public **willfully fails** or refuses to do so, the notary public is **guilty of a misdemeanor**, and shall be personally liable for damages to any person injured by that action or inaction.
 - Any notarial records and papers delivered to the Secretary of State will be **returned to the sender**.

- **Unauthorized Surrender of Journal**
 - Any notary public who willfully surrenders the official journal to any person not authorized to possess it.
 - **Possible Actions:** Commission Revocation or Suspension, or Application Denial
 - Guilty of a misdemeanor

Quick Review

1. What is the civil penalty for failure to obtain a required thumbprint and failure of to provide a peace officer with a journal when requested.
2. Sam S. Signer comes to the notary's office to have his Power of Attorney notarized. Ned Notary noticed that Sam's right thumb is missing. How should Ned proceed?
3. Which of the following are times when a notary must allow lawful inspection and copying of the journal? a) Request for Line-Item Copy, b) Court Order Inspection and Copying, c) Employer Inspection and Copying, d) All the above.
4. What should the notary do with the returned or found journal after a new journal has been obtained?
5. Nancy Notary is notarizing Mr. and Mrs. Jones' loan package. There are five documents that need both of their signatures and one Interspousal Grant Deed that requires Mrs. Jones' signature notarized. How many lines in the journal will Nancy need to use, how many lines will require a thumbprint, and what is the maximum notary fee Nancy could charge?

1) \$2,500 Civil Penalty, 2) Provide an explanation in the journal as to the reason why the right thumb was not used, and which digit was used, 3) D, 4) Retire the old journal make no new entries in it, 5) \$11/11/\$165

A Notary Public was staying with a friend and asked if there anything he could do to help out.

"Sure," said the friend. "I'd really appreciate it if you could pick up a carton of milk when you're out. If they have eggs, get six."

A couple of hours later the Notary Public returned with six cartons of milk.

"Why did you buy six cartons of milk?" asked the friend.

"They had eggs," replied the Notary Public.

Establishing Identification

Rules and Regulations

- **Taking improper identification and failure to administer the oath** or affirmation
 - Commission Revocation or Suspension, or
 - Application Denial
 - **\$750 Civil Penalty** Imposed by California Secretary of State
- **Failure to Identify a Single Credible Witness**
 - If a notary public fails to establish the identity of a Single Credible Witness, the California Secretary of State or a public prosecutor may seek a **penalty of up to \$10,000**.
- **Personal Knowledge**
 - Since January 1, 2008, a notary public's personal knowledge of a signer is not sufficient to establish the identity of the signer.

Reasonable Reliance

- The **absence of any information**, evidence, or other circumstances which would lead a reasonable person to **believe** that the individual is not who he or she claims to be (forged documentation or lying witnesses); the **notary should not proceed**.

Every Signer Must Be Identified

- The notary is required to verify the identity of the signer before performing most notarial acts; the notary public must confirm the identity of the person signing the document. For Acknowledgments and Jurats, a notary public is required to obtain satisfactory evidence of the signer's identity.

Satisfactory Evidence

- Reasonable reliance on **Satisfactory Evidence** is the only means to identify a signer which is the presentation of one of the following:
 - **Specified Paper Identification Documents** meeting certain requirements, or
 - **Oath or Affirmation of a Single Credible Witness** personally known by the notary public, or
 - **Oaths or Affirmation of Two Credible Witnesses** not known by the notary public.

Specified Paper Identification Documents

The types of identification documents listed below may be presented to a notary public to verify identity. The identity of the signer is established by the notary public's reasonable reliance on the presentation of any of the following identification forms.

There are two specific sets of paper identification documents, **Primary** and **Secondary** each having certain requirements.

- The **Primary Group** has five identification documents which must be either:

- ✓ **Current** or
- ✓ has been **Issued within five years.**

- The **Five Identification Documents** are:

- California **Driver's License**
- California **Identification Card**
- United States **Passport**
 - (a U.S. passport need not have a physical description)
- **State Prison Inmate Identification Card**
 - issued by the California Department of Corrections and Rehabilitation,
 - ✓ if the inmate is in custody in a California state prison
 - (federal prisons do not apply)
- **Sheriff's Department Inmate Identification**
 - any form identification issued by a sheriff's department;
 - ✓ if the inmate is in custody in a local detention facility.

- The **Secondary Group** has seven identification documents which must have:

- ✓ a **Photograph,**
- ✓ a **Description,**
- ✓ a **Signature,**
- ✓ an **Identifying Number,**
- ✓ is **Current** or
 - **issued within five years.**



- The **Seven Identification Documents** are:

- Valid **Consular Identification Document**
 - issued by a consulate from the signer's country of citizenship
- Valid **Foreign Passport**
 - from the signer's country of citizenship

Based upon reasonable reliance, would you accept this driver license?

Other than being fake, what other problems do you find?

- **Driver’s License** issued by a public agency authorized to issue drivers’ licenses:
 - any other state
 - Canada
 - Mexico
- **Identification Card** issued by another state
 - not Canada or Mexico
- **Military Identification Card** by any branch of the US Armed Forces
 - **Caution:** Not all current military ID cards have all the requirements and should not be used.
- **State Employee Identification Card**
 - for an agency of the state, office of a city or county of the State of California
- **Tribal Government Identification Card**
 - issued by a federally recognized tribal government.

Oath of a Single Credible Witness

When a signer is **unable** to present a Specified Paper Identification Document, the identity of the signer can be established by the Oath of a Single Credible Witness whom the notary personally knows.

- **Requirements for Establishing the Identity of the Signer with a Single Credible Witness**
 - **Single Credible Witness** must personally know the signer, and
 - Under oath swears or affirms to the identity of the signer.
 - **Notary public** must:
 - **personally know** the Single Credible Witness, and
 - **identify** the Single Credible Witness with a
 - Specified Paper Identification Document.
 - **Note:** “Personal Knowledge” - means having an acquaintance derived from association with the individual which establishes the individual’s identity with at least reasonable certainty.
 - An acquaintance substantial enough to establish personal knowledge includes multiple, recent meetings with a person, including meetings during which the person is identified by other people. A chain of circumstances that would lead a reasonable person to believe an acquaintance is who they say they are forms the basis for personal knowledge.
 - Co-workers have personal knowledge of each other if they meet frequently at their workplace and colleagues and customers have identified them in the presence of others. A person will not likely personally know a social acquaintance that the person sees infrequently.

- ✓ **Example:** Bob, Fred, and Joyce meet in a hotel lobby for the first time and after discussing the need to have their signatures on important documents notarized, approach Nate Notary. Bob is the signer of the documents and does not have his wallet with him because it was stolen. Fred and Joyce offer to vouch for Bob. Nate Notary refuses to use Fred and Joyce as credible witnesses since Bob, Fred and Joyce have just met and do not personally know each other. Fred and Joyce cannot be credible witnesses to Bob's identity.

- **Credible Witness Oath or Affirmation**

- Under Penalty of Perjury, the Single Credible Witness swears or affirms before the notary to the identity of the signer by stating that each of the following is true:
 - The individual appearing before the notary as the signer of the document is the person named in the document;
 - The Single Credible Witness personally knows the signer;
 - The Single Credible Witness reasonably believes that the circumstances of the signer are such that it would be **very difficult** or **impossible** for the signer to obtain another form of identification;
 - The signer does not possess any of the identification documents authorized by law to establish the signer's identity;
 - The Single Credible Witness **does not** have a financial interest and **is not** named in the document signed.



- **Journal Entry**

- The signer must sign the notary journal, and the
- Single Credible Witness must **sign** the notary public's **journal, or**
 - the notary public must record the governmental agency, type of identifying document, identifying number, and expiration or issue date.
 - **Best Practices Tip:** Obtain both the signature of the single credible witness and record the identifying document in the journal.
- **Note:** failure to properly identify the Single Credible Witness whom you personally know will result in a **\$10,000 penalty**.

Hands-On Scenario: Nate Notary is called to notarize Sue Signer's signature on a Power of Attorney. Nate Notary and Sue have never met. Sue is from out of town and left her identification at home. Sue asks Carla Credible, who has a valid ID, to vouch for her because Sue and Carla have known each other for years. Nate Notary also works with Carla. Carla can appear as a Single Credible Witness for Sue so that Nate Notary can complete the notarization.

- **Enter the required information in the journal below.** Carla Credible must sign as witness or the notary should enter her ID information, Sue Signer must sign the journal as principal, and enter her right thumbprint in the journal because the document is a Power of Attorney.

| | | | | | | | | | |
|---------------------------|--------------------------------------|--|---|--|--|---|-------------------------------------|---|-------------------------------------|
| 6 | | Notary Act | | Document Description | | Identification of Signer or Credible Witness #1 | | Additional ID or Credible Witness #2 | |
| 1 | <input type="checkbox"/> Ack. | <input type="checkbox"/> Jurat | <input type="checkbox"/> DOT/Mortgage | <input type="checkbox"/> Occupancy Affidavit | <input type="checkbox"/> California State/County/City ID | Issued by _____ | or name of credible witness #1 | Issued by _____ | or name of credible witness #2 |
| | <input type="checkbox"/> Other | <input type="checkbox"/> AKA/Sig./Name | <input type="checkbox"/> Compliance Agreement | <input type="checkbox"/> Driver's License | <input type="checkbox"/> Passport | Serial or I.D. number _____ | or signature of credible witness #1 | Serial or I.D. number _____ | or signature of credible witness #2 |
| | <input type="checkbox"/> Deed G/QC/W | <input type="checkbox"/> Trust Cert. | <input type="checkbox"/> POA | <input type="checkbox"/> Other | <input type="checkbox"/> State/Govt. ID | Circle One Issued Expires _____ / _____ / _____ | Month Day Year | Circle One Issued Expires _____ / _____ / _____ | Month Day Year |
| | | | | | <input type="checkbox"/> Credible Witness(s) | | | | |
| | | | | | <input type="checkbox"/> Other | | | | |
| Date/Time of Notarization | | Additional Information | | Address of Signer | | Signature of Signer | | 7 Right Thumbprint | |
| Date | | | | Street Address | | Printed Name | | top of thumb | 1 |
| Time | | | | City, State & Zip | | Signature | | | |
| Notary Fee | | | | | | | | | |

Note: For basic journal entry instructions refer to the top of pages 32-33.

Oaths of Two Credible Witnesses

When the signer is unable to present a Specified Paper Identification Document, the identity of the signer can be established by the Oath of Two Credible Witnesses whom the notary does not know.

- **Requirements for Establishing the Identity of the Signer with Two Credible Witnesses:**
 - Notary public **does not personally know** either of the Credible Witnesses.
 - The **Two Credible Witnesses** must personally know the signer, and
 - **Under oath swear** or affirm to the identity of the signer.
 - Both Credible Witnesses must be **identified** by the notary with the presentation of Specified Paper Identification Documents.
- **Under Oath or Affirmation** and under penalty of perjury, the Two Credible Witnesses must **swear** or **affirm** to each of the statements sworn to or affirmed as stated in the Single Credible Witness Oath in the preceding section.
- **Journal Entry**
 - The signer must sign the notary journal,
 - Both Credible Witnesses must **sign** the **journal**, and
 - The notary public must indicate in the journal the **governmental agency**, the **type of identifying document**, the **identifying number**, and the **dates of issuance or expiration** of the document presented to establish the identity of both **Witnesses**.



➤ Enter the required information in the journal below.

✓ **Note:** the second Credible Witness’s information will be put in the Additional ID or Credible Witness #2 box.

| | | | | | |
|----------|---|---|--|--|--|
| 6 | Notary Act <input type="checkbox"/> Ack. <input type="checkbox"/> Jurat <input type="checkbox"/> DOT/Mortgage <input type="checkbox"/> Occupancy Affidavit <input type="checkbox"/> California State/County/City ID <input type="checkbox"/> Other <input type="checkbox"/> AKA/Sig./Name <input type="checkbox"/> Compliance Agreement <input type="checkbox"/> Driver's License <input type="checkbox"/> Deed G/QC/W <input type="checkbox"/> Trust Cert. <input type="checkbox"/> POA <input type="checkbox"/> Other <input type="checkbox"/> Passport <input type="checkbox"/> State/Govt. ID <input type="checkbox"/> Credible Witness(s) <input type="checkbox"/> Other | Identification of Signer or Credible Witness #1 Issued by _____ or name of credible witness #1 Serial or I.D. number _____ or signature of credible witness #1 Circle One Issued Expires _____ Month / Day / Year | Additional ID or Credible Witness #2 Issued by _____ or name of credible witness #2 Serial or I.D. number _____ or signature of credible witness #2 Circle One Issued Expires _____ Month / Day / Year | | |
| 7 | Date/Time of Notarization Date _____ Time _____ AM/PM Notary Fee _____ | Additional Information _____ _____ _____ | Address of Signer Street Address _____ City, State & Zip _____ | Signature of Signer Printed Name _____ Signature _____ | Right Thumbprint Top of thumb _____ |

Note: For basic journal entry instructions refer to the top of pages 32-33.

Quick Review

1. Every signer must be identified by means of Satisfactory Evidence. Reasonable reliance on any one of the following forms except: a) Specified Paper Identification Documents, b) Birth Certificate, c) Oath Single Credible Witness, d) Oaths of Two Credible Witnesses.
2. Sally Smith comes to your office to have a document notarized. Which is not an acceptable form of ID? a) Consular Identification Document, b) US Citizenship Document, c) Tribal Government Identification Card, d) Placer County Employee ID Card.
3. Adam comes to your office to have a Power of Attorney notarized. His only ID is his Canadian passport. All the following are appropriate identifiers except? a) photograph, b) description, c) his signature, d) his residence.
4. Your best friend and fishing buddy, Abe, asks you to notarize his document. Abe lost his identification on a fishing trip. How must you identify Abe?
5. Mary does not have a current ID card but needs to have documents notarized. She arrives at your office with her two friends who will act as credible witnesses. To whom do you give the oath? a) everyone present, b) Mary, c) both credible witnesses, d) yourself.

c) (1) b, (2) b, (3) d, (4) Satisfactory Evidence, (5) c

Essential Notarial Basics

A notary public must **refuse** to perform any notarial act that is **not described in California law**.

For example, a notary public is prohibited from using the title “**notary public**” either on documents that are not described in California law or without the required notarial wording.

Notarization

- When a notary public performs a **notarial act** in relation to a document, the document is commonly said to be “**notarized**.”
- **In fact**, a notary public **only** notarizes the signature of the person who signed the document.

Restrictions

- A notary public **cannot notarize**:
 - **His or her own signature**, or
 - A **transaction** in which notary public:
 - is **named** individually as a **principal** or
 - has a **direct financial** or **beneficial interest**.

Seal and Signature

- It is **not acceptable** to affix a notary public seal and signature to a document without the **notarial wording**.

Document Examination

- **Notary Public Should Check for**:
 - **Disclaimer Box and Precise/Exact Wording**
 - Under the law, the California Certificate of **Acknowledgment**, **Jurat**, and **Proof of Execution by a Subscribing Witness** forms must include the “specific disclaimer” box and each must have its own **precise/exact wording** in the form set forth in the statute.
 - **Note**: If not, then a **loose-leaf** certificate of **Acknowledgment**, **Jurat**, and **Proof of Execution by a Subscribing Witness** form with the statutory wording must be used.

- **Incomplete Documents**

- A notary public **cannot** notarize an **incomplete** document.
 - When presented with a document containing a signature to be notarized, the notary public should visually scan the document to determine if the document is complete.
 - **Blank spaces** and **blank lines** should be examined to ensure information is not missing.
 - **Note:** A notary public, who has **experience** with a particular type of document and knows what information should be stated in the document, and that information is missing or incomplete, must **refuse to notarize the signature**.

Foreign Language Documents

- A notary public **can** notarize a signature on a document written in a **foreign language**, whether or not they are familiar with the language, since a notary public's function **only relates** to the **signature** and **not** the **contents** of the document.
 - The notary public must be able to **communicate with the customer** in order:
 - For the signer to **swear** or **affirm** the contents of an affidavit
 - For the signer to **acknowledge the execution** of a document
 - For the notary public to obtain **proper identification** of the signer
 - Complete the required **journal entries**.
 - An **interpreter should not be used** because vital information could be lost in the translation.
 - If a notary public is **unable** to **communicate** with a **customer**, the customer should be **referred** to a notary public who **speaks** the **customer's language**.
 - **Identify** the type of **document** for entry in the notary public's journal.
 - If **unable to identify** the type of document, the notary public must make an entry to that effect in the journal, e.g., "**a document in a foreign language**."
 - As in all cases, the notary public should determine if the document is **complete** and must **not** notarize the signature if the document appears to be **incomplete**.
 - The notarial certificate in a foreign language document or attached to a foreign language document, e.g., the Acknowledgment or Jurat, **must be written in English**.
 - These forms must be **exactly** as they appear in California law in the English language.

Venue

- The first part below the Specific Disclaimer Box of notarial certificates is the **Venue**.
 - The Venue statement establishes the location where the notary public and the signer executed the certificate and the signer personally appeared before the notary public.

**State of California,
County of _____.**

- The **“State”** is always California, since the notary public only has jurisdiction within California.
- The **“County”** named in the Venue should be completed with the name of the county where the **signer personally appeared** before the **notary public** and acknowledged signing the document or where the signer swore to (or affirmed) and signed the document before the notary public in the case of a Jurat.
 - **Note:** “County” in the Venue statement may not necessarily be the county where the notary public maintains his or her principal place of business, or where his or her oath and bond are filed, but must be completed with the name of the county where the notarial act took place.

Fees

- **Maximum Fees Allowed**
 - **The maximum fees a notary public may charge are:**
 - **Acknowledgment** - For an Acknowledgment or proof of a deed, or other instrument, including the seal and writing the certificate, **\$15** for each signature.
 - **Jurat** - For administering an oath or affirmation to one person and executing the Jurat, including the seal, **\$15 for each signature**.
 - **Deposition** - For all services in connection with the **taking of any deposition \$30**, and an additional **\$7 for administering the oath** to the witness and **\$7 for the certificate** to the deposition.
 - **Note:** If a notary public is not a certified shorthand reporter, the notary public should inform the person they may wish to contact a certified shorthand reporter who is licensed by the Court Reporters Board of California to take the deposition.
 - **Certifying a Copy Power of Attorney** - **\$15** for each copy.
 - **Public Request for Line Item** – For a line item copied from the notary public’s journal, **\$.30** per line item.
 - **\$750 Civil Penalty** for charging more than the notary fees prescribed by the notary law.

- **No Minimum Fee**

- A notary public **may decide to not charge a fee**, for:
 - Completing a **notarial act** or
 - Providing a **photocopy** of his or her journal pages.
 - Also, a notary public's **employer** could make it a **condition of employment** that the notary public **charges no fee** for notarial services.

- **Exception**

Any notary public appointed to act for and on behalf of certain public agencies are to **charge** for all services and remit the **fees** to the employing agency. Each fee charge must be entered in the journal.

- The **actual fee**, if any, **charged** must be entered in the notary's sequential **journal**.

- **When Fees Cannot Be Charged**

- There are **very specific times** when a notary public is **prohibited** from **charging a fee**:
 - Notaries public **appointed** to military or naval reservations **cannot charge a fee** for any notarial service or act.
 - A **notary public** acting in his or her official capacity on behalf of the State, city, or county or any public body **cannot charge** for notarization of an affidavit, application, or voucher in relation to **securing a pension**.
 - A notary public **cannot charge** for notarization of a signature on an application by a **United States military veteran** for a claim for a pension, allotment, allowance, compensation, insurance or any other **veteran's benefit**.
 - A notary public **cannot charge** to notarize signatures on vote by mail ballot identification envelopes or other voting materials.
 - A notary public **cannot charge** for notarizing any nomination document or circulator's affidavit.
 - **No fee** is prescribed for notaries public **employed** by a financial institution who can perform a **protest** in the course and scope of their employment since it is part of the notary public's service to the financial institution.
 - Whether or not a notary public charges a fee, the notary public **must record** the **actual amount** charged in the notary public's sequential **journal**, including writing **zero** to indicate **no fee** was charged.

Confidential Marriages

- A notary may authorize confidential marriages provided he/she:
 - applies and is approved,
 - completes a required course, and is
 - authorized by the county clerk of the notary's residence.
- Additionally, to perform the marriage, the notary must be recognized as clergy, e.g., priest, minister, or rabbi.
 - It is best to check with the county clerk if interested in obtaining approval.

Protests

- The duty of a notary public on demand to protest the non-acceptance and nonpayment of foreign or inland bills of exchange, or promissory notes is a nearly obsolete mechanism developed before modern regulation of financial transactions.
 - Only those notaries public employed by a financial institution and in the course and scope of that employment are permitted to perform protests with regard to the specific financial documents described by California law.
 - Because only notaries public employed by a financial institution can perform a protest in the course and scope of their employment, no fee is prescribed for the notarial service since it is part of the notary public's service to the financial institution.

Quick Review

1. *Bill Jones, a notary, needs to have his incorporation papers notarized where he is named treasurer. Bill may notarize the document. True or False*
2. *The venue statement at the top of notarial acts establishes the location where the notary and the signer executed the certificate and the signer personally appeared before the notary. The notary writes the county of record on the county line. True or False*
3. *All the following fees must be entered in the fee column of the journal except?
a) Acknowledgment, b) Jurat, c) Travel Fee, d) Deposition*
4. *Mr. Chang presents you with a document written in Mandarin. In English, he asks you to notarize the document. Can you, as a notary public, notarize Mr. Chang's signature even though you do not speak or read Mandarin? Yes or No*
5. *Mrs. Chang accompanied Mr. Chang to your office to have her own document notarized. She only speaks Mandarin and you do not. Mr. Chang offered to be her interpreter. Can you notarize Mrs. Chang's document? Yes or No*

1) False, because his name appears in the document. 2) False; the venue indicates the county where the signer and the notary are present at the time of signing. 3) c, 4) Yes, the notary can communicate and is not responsible for the contents of the document. 5) No. An interpreter should not be used, as vital information could be lost in the translation.

Notarial Acts and Procedures

The notarial acts and procedures of the notary public vary in frequency in the field. Some will be used regularly while others may never be used; however, they will be questioned on the State Exam.



The first section covers overriding rules that apply to all acts and procedures. The following sections give details for the specific acts and their procedures.

- **By law, the notarial acts of Acknowledgment, Jurat, and Proof of Execution by Subscribing Witness certificates:**
 - must have its own **precise/exact wording** and
 - must have the following “**specific disclaimer**” that must appear at the top of each certificate:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

- The disclaimer must be in an enclosed box, appear at the top of the certificate, and be legible, i.e., in a font or typeface that is readable and does not impair its readability.
 - **Note:** If the precise/exact wording and the disclaimer are not present, then a **loose-leaf certificate** must be used.
- **Signer Personally Appears**
 - It is not acceptable to **affix** an Acknowledgment or Jurat to a document
 - **mailed** or **otherwise delivered** to a notary public, and
 - the **signer did not personally appear** before the notary public,
 - even if the signer is known by the notary public.
- **Signer Identified**
 - All signers must be properly identified using **Satisfactory Evidence**.
- **Completion of Forms**
 - The certificate of **Acknowledgment** and **Jurat** forms **must be completely filled out** at the time the notary public's signature and seal are affixed.
- **Journal Entry**
 - **Each** act and procedure will require its own line entry in the notary journal.

Acknowledgments

- **Most Frequently Completed**
 - An Acknowledgment is the notarial certificate attached to a document when the notary public confirms the signer **acknowledges** being the signer of the document.
 - A certificate of acknowledgment often will be found at the end of a document.
- **Identifying Wording**
 - “whose name is subscribed to the within instrument and **acknowledged to me** that he executed the same...”
 - As well as, the **Key Wording** of an acknowledgment is “**personally appeared.**”
- **Penalty of Perjury**
 - The notary **executes** the Acknowledgment **under penalty of perjury**.
 - Perjury is a **felony** in California.
 - **Penalties** for a perjury conviction vary from no jail time to four years in state prison.
 - Secretary of State or a public prosecutor may seek a **civil penalty** of up to **\$10,000**.
- **False Acknowledgment/Forgery**
 - **Every person** who, with the intent to defraud, counterfeit, or forge the seal or handwriting of another, or
 - Any **person who falsifies** the acknowledgment of a notary public, or
 - a **notary public** who issues an acknowledgment knowing it to be false is
 - **Guilty of Forgery.**
 - **Possible Actions**
 - Liable for Civil Penalties,
 - Up to \$1,500 for willful violations
 - Up to \$750 for negligent violations
 - Administrative Action,
 - Charged with a Felony
 - Imprisonment for not more than one year in
 - state prison, or county jail.

- **Certifying and Completing the Acknowledgment**

- The notary public **certifies** under Penalty of Perjury:
 - The signer personally appeared before the notary public
 - On the exact date
 - In the exact county
 - That the identity of the signer was based on **Satisfactory Evidence**, and
 - the signer **acknowledged** signing (executing, subscribing) the document.
 - **Note:** It is important to know that the signer does not need to sign the document in front of the notary, but must personally appear and affirm/acknowledge to the notary that he or she signed the document.
- When **completing** the Acknowledgment form the notary public **must insert**:
 - The **Date** and **County** the signer personally appeared
 - His or her **commission name** and title “notary public”
 - The name of the signer after **“personally appeared”**
 - The notary **stamps** and **signs** the Acknowledgment certificate.
 - **Note:** The notary public cannot **determine** or **certify** that the signer holds a particular representative capacity or make other determinations and certifications not allowed by California Law.

- **Failure to Complete**

- Not completing the acknowledgment at the time the notary public’s signature and seal are affixed to the document could **result in**:
 - Commission Revocation or Suspension, or
 - Application Denial
 - **\$750 Civil Penalty** Imposed by California Secretary of State

Two Notaries Public in a kayak were chilly, so they lit a fire in the craft. It sank, proving once again that you can’t have your kayak and heat it too.

- **Exact Wording**

- Any Certificate of Acknowledgment taken within this state must have the “**specific disclaimer**” box at the top of the certificate and have this **precise/exact wording**:

| |
|---|
| <p style="text-align: center;">A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.</p> |
| <p>State of California) County of _____)</p> <p>_____</p> <p>On _____ before me, _____ (here insert name and title of the officer), personally appeared _____</p> <hr/> <p>who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.</p> <p>I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.</p> <p>WITNESS my hand and official seal.</p> <hr/> <p style="display: flex; justify-content: space-between;"> Notary Public Signature Notary Public Seal </p> |

Note: A notary public seal and signature cannot be affixed to a Certificate of Acknowledgment without the correct notarial wording.

- **Out-of-State Acknowledgment**

- A notary public may complete an out-of-state acknowledgment form that will be used in another state or territory of the United States, as long as:
 - The notary public does not determine or **certify** that the signer holds a particular representative capacity, or
 - Make other determinations and certifications not allowed by California law.
 - **For example**, a notary public could not complete an out-of-state acknowledgment form on a document to be recorded out-of-state if it requires the California notary public to certify the signer is president of a particular corporation.
 - ✓ **In such a case**, a loose-leaf California All-Purpose Acknowledgment form must be used instead of the out-of-state acknowledgment form.
 - **In addition**, the California All-Purpose Acknowledgment form must be used for any document that will be used in another **country**.

● **Acknowledgment Scenario – Closing Steps**

- Since Jane already signed the Quitclaim Deed, you **must have** Jane acknowledge that it is Jane’s signature on the document.

- **Best Practices Tip:**

- Complete the journal entry before signing and stamping the document.

- **Notary Journal Entry**

- **The journal must include:**

- Date – (January 5, 2017)
 - Time – (2:30 PM)
 - Type of Notarial Act – (Acknowledgment)
 - Character/Title of the Document – (Quitclaim Deed)
 - Fee charged for the notarial act – (\$15)
 - Make an affirmative statement in the journal to Jane’s identity:
 - ✓ Based on **Satisfactory Evidence** – (Jane’s Tribal ID Card)
 - Issued by the Pascua Yaqui Tribe
 - Identification presented was a Federally Recognized Tribal Government (TG)
 - Jane’s tribal number – (1A0000002)
 - Date of Issue or Expiration of her Tribal Card – (July 22, 2018)
 - Jane signs the journal – (*Jane Doe*)
 - Obtain Jane’s right thumbprint because the document is a Deed – (👉👉👉)



● **Hands-On - Enter the required information in the journal below.**

| | | | | | |
|--|---|---|--|---|--|
| 6 | | Identification of Signer or Credible Witness #1 | | Additional ID or Credible Witness #2 | |
| Notary Act | Document Description | Issued by _____ or name of credible witness #1 | | Issued by _____ or name of credible witness #2 | |
| <input type="checkbox"/> Ack. <input type="checkbox"/> Jurat <input type="checkbox"/> DOT/Mortgage <input type="checkbox"/> Occupancy Affidavit <input type="checkbox"/> California State/County/City ID | <input type="checkbox"/> AKA/Sig. Name <input type="checkbox"/> Compliance Agreement <input type="checkbox"/> Driver's License | Serial or I.D. number _____ or signature of credible witness #1 | | Serial or I.D. number _____ or signature of credible witness #2 | |
| <input type="checkbox"/> Other <input type="checkbox"/> Deed GIQCW <input type="checkbox"/> Trust Cert. <input type="checkbox"/> POA <input type="checkbox"/> Other | <input type="checkbox"/> Passport <input type="checkbox"/> State/Govt. ID <input type="checkbox"/> Credible Witness(s) <input type="checkbox"/> Other | Circle One Issued Expires _____/_____/_____ Month / Day / Year | | Circle One Issued Expires _____/_____/_____ Month / Day / Year | |

| | | | | | | | | | |
|---------------------------|--|------------------------|--|-------------------|--|---------------------|--|--------------------|--|
| Date/Time of Notarization | | Additional Information | | Address of Signer | | Signature of Signer | | Right Thumbprint 7 | |
| Date | | | | Street Address | | Printed Name | | top of thumb | |
| Time | | | | | | | | | |
| Notary Fee | | | | | | | | | |
| | | City, State & Zip | | X _____ | | Signature | | | |

Note: For basic journal entry instructions refer to the top of pages 32-33.

Quick Review

1. Joe presents a Quitclaim Deed with a loose-leaf Acknowledgment attached for notarization. Will you, a) obtain Joe's right thumbprint in your journal, b) administer the oath or affirmation, c) identify him with his Colorado state employee ID card, and or d) charge \$17.50 for the notary fee?
2. As a notary public, you receive \$50 for one signature notarized using an acknowledgment and travel fee. What is the maximum amount you will enter into the fee column of your journal?
3. What is the identifying key wording of an Acknowledgment? a) "personally appeared", b) "...acknowledged to me...", c) both a and b, d) none of the above.
4. The Acknowledgment is the most frequently completed notarial act/form by the notary public. When completing an Acknowledgment, which will the notary not certify about the signer? a) personally appeared on an exact date and county, b) affirmed an oath, c) presented satisfactory evidence, and d) acknowledged signing the document.
5. Harry, a notary, agreed to help his friend Bill by back dating the Acknowledgment form. What is the penalty? a) guilty of perjury a felony, b) \$10,000 Civil Penalty, c) up to four years in state prison, d) all the above.

1) a, 2) \$15, 3) c, 4) b, 5) d



Jurats

To validate certain details about the facts in a document, signers will take an oath and swear or affirm under the penalty of perjury before a notary public that the contents of the document are true or not. The notary will use the Jurat form to certify the signer did so.

● Second Most Frequently Completed

- A **Jurat** is the second most frequently performed **notarial act** of a notary public; the notary administers an oath or affirmation and completes a Jurat certificate.
 - A person signs a document and swears **under oath** or affirms that the contents of the document are true and correct,
 - All affidavits are subscribed and sworn (or affirmed) before the notary public,
 - The Jurat form is completed by the notary, and
 - Attached to or located at the end of the document.
 - **Note:** It is **not acceptable** to affix a **Jurat** to a document **mailed or otherwise delivered** to a notary public whereby the **signer did NOT:**
 - ✓ **personally appear,**
 - ✓ take an oath, and
 - ✓ sign in the presence of the notary public,
 - Even if the signer is known by the notary public.

● Identifying Wording

- A **Jurat** is:
 - Identified by the wording
“Subscribed and sworn to (or affirmed) before me....”
- A Jurat is an **Oath**:
 - A **document** containing statements sworn or affirmed by the signer to be true and correct typically is referred to as an **“affidavit”** or a **“declaration,”** and
 - The **signer** will be said to be **“subscribing and swearing (or affirming) to”** the contents of the affidavit.

● Perjury

- Persons who appear before a notary public who do not tell the truth under oath or affirmation may be guilty of perjury.
 - **Penalty for Perjury**
 - Guilty of a felony
 - Imprisonment in the state prison for two, three, or four years

- **Exact Wording**

- Any Certificate of Jurat taken within this state must have the “**specific disclaimer**” box at the top of the certificate and have this **precise/exact wording**:

| | |
|---|------------------------------------|
| <p>A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.</p> | |
| State of California _____) | |
| County of _____) | |
| Subscribed and sworn to (or affirmed) before me on this ____ day of _____, 20____, by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me. | |
| Notary Public Seal | _____) Notary Public Signature |

- **Note:** A notary public seal and signature cannot be affixed to a certificate of Jurat without the correct notarial wording.

- **Certifying and Completing a Jurat**

- The notary public certifies:
 - The signer personally appeared before the notary public
 - in the exact county,
 - on the exact date,
 - that the identity of the signer was based on **Satisfactory Evidence**,
 - the notary public administered the oath or affirmation, and
 - the signer signed the document in the presence of the notary public.
- When **completing** the Jurat form, the notary public **must insert**:
 - **County**,
 - **Date**,
 - **signer’s name** after the, “by: _____,” and
 - the notary **stamps** and **signs** the Jurat certificate.
 - **Note:** A notary public cannot attach or complete a Jurat if the signer of a document does not personally appear and swear or affirm to the truth of the contents of the document before the notary public.
 - ✓ **Failure to Administer** the Required Oath or Affirmation - **\$750** civil penalty.

● Administering the Oath or Affirmation

- A notary public must **always administer an oath or affirmation** before completing a Jurat.
- Generally, the **notary public** obtains the oath or an affirmation from the **witness** (signer) under **penalty of perjury** that the matters stated in the document are true.
 - Although there is **no prescribed wording** for the oath or affirmation to be administered by a notary public outside of a civil or criminal proceeding, an **acceptable oath** or affirmation would be:

“Do you solemnly swear or affirm that the contents of this document are the truth, the whole truth, and nothing but the truth, so help you God?”

or

“Do you solemnly swear or affirm, under penalty of perjury, that the contents of this document are the truth, the whole truth, and nothing but the truth?”



- Since there is no prescribed wording for the oath, an acceptable **simpler oath** would be,

“Do you swear or affirm that the statements in this document are true?”

- When administering the oath, the **signer** and **notary public** traditionally each raise their right hand, but this is **not a legal requirement**.

● Documents with Age, Birth Dates, and Identifying Information

- Notaries Public cannot certify vital records; however, if a Notary Public is presented with a document for an oath or affirmation where the **signer certifies** to his or her **own vital information** and the document contains statements that include any of the following on the signer/affiant's:
 - Birth Date or Age
 - Photograph
 - Fingerprints or Thumbprints
- The notary public shall **require** the **affiant** to verify the birth date or age by showing either:
 - A certified copy of the person's **birth certificate** or
 - An **identification card** or **driver's license** issued by the Department of Motor Vehicles.

Signature by Mark

● Basics

- A **person** who **cannot write/sign** his or her **name** on the document can still acknowledge his or her **signature**, or subscribe and swear to an affidavit, by making a **mark**.

Note: the “**mark**” does not need to be an “**X**.”

- As with all notarizations, performing a notarization with a **Signature by Mark**, the notary public must perform **all** the required steps.
 - The notary public must **complete** the appropriate form/notarial act.
 - The **person signing** the document by mark **must** be **identified** by the notary public by satisfactory evidence.
 - Complete the Journal entry.

● Requirements

- **Two witnesses** must observe the **signer** make his/her **mark** on the document.
 - Both witnesses must sign their names next to the signer’s **mark** on the document.
 - One of the witnesses must **write** the name of the **signer** making the mark next to the signer’s mark on the document.
 - **Note:** The **witnesses** only are verifying that they witnessed the individual make his/her mark.
- **Notarial Acts**
 - **Acknowledgment:**
 - If the signer must acknowledge his or her signature on a document, the signer can make a mark where the signature should be in the presence of the notary or acknowledge that the mark in the place for a signature is his or her mark.
 - **Jurat:**
 - If the signer is subscribing and swearing to an affidavit, the signer must make a mark where his or her signature should be in the presence of the notary public.
- **Journal Entry**
 - The **signer**, in lieu of a signature, must make his/her **mark** in the notary public’s **journal** since all signers must sign the journal.
 - The making of the mark in the notary public’s journal must be witnessed by a person (one of the witnesses or the notary).
 - The **witness must sign** his/her name next to the mark in the journal and write the name of the signer next to the **mark**.

Proof of Execution by a Subscribing Witness

- **Basics**

- If a **person**, called the **principal**, has **signed a document**,
 - **but** does not personally appear **before a notary public**,
 - another person can **appear** on that principal's behalf to **prove the principal** signed (or "**executed**") the document.
 - That person is called a **Subscribing Witness**.

- **Restrictions**

- A Proof of Execution by a Subscribing Witness Certificate **cannot** be used in conjunction with any 1) **powers of attorney**, 2) **security agreement**, 3) **quitclaim deed**, 4) **grant deed**, 5) **mortgage**, 6) **deed of trust**, or 7) any other document affecting **real property**.
 - **In addition**, a Proof of Execution by a Subscribing Witness Certificate **cannot** be used on any documents **requiring** a notary public to obtain a **thumbprint** in the notary public **journal** from the party signing the document.
 - Other than: a **trustee's deed** or a **deed of reconveyance**.

- **Requirements**

- **Establish Identity**
 - The Subscribing Witness' **identity** is established only by the **oath** of a **Credible Witness** whom the notary personally knows and
 - who personally knows the **Subscribing Witness**.
 - **Single Credible Witness** must personally know the **Subscribing Witness**, and
 - Under **oath** swears or affirms to the identity of the Subscribing Witness.
- **Notary public** must:
 - personally know the Single Credible Witness, and
 - **identify** the Single Credible Witness with a
 - Specified Paper Identification Document.
 - The **Credible Witness** must **sign** the notary public's **journal**, or
 - the notary public must **record** the governmental agency, type of identifying document, identifying number, and expiration or issue date.



- **Credible Witness Oath/Affirmation to Identify the Subscribing Witness**
 - The notary administers the **Oath** of the **Credible Witness** for a **Subscribing Witness**.
 - Under oath or affirmation, the **Credible Witness** swears or affirms that he/she
 - **personally knows** the Subscribing Witness, and the
 - **Subscribing Witness** is the person who **signed** the document as Subscribing Witness, and the
 - **Credible Witness** does not have a **financial interest** and is **not named** in the document signed by the **Principal** and subscribed by the **Subscribing Witness**.
 - ✓ **Note:** This oath is slightly different than the regular Credible Witness oath on page 40.
- **Subscribing Witness Oath/Affirmation**
 - The Subscribing Witness must prove by **oath** under penalty of perjury the **following**:
 - the **person** who signed the document as the party, the principal, **is the person described in the document**
 - he/she **personally knows the principal**
 - he/she **either** saw the principal sign the document **or** in the presence of the heard the principal **acknowledge** that the principal signed the document
 - he/she was **requested** by the principal to sign the document as a **witness** and that he/she did so.
- The **Subscribing Witness** must **sign** the notary public **journal**.
- **Direction of Knowledge**
 - **Note:** There must be an “unbroken chain” of personal knowledge: The **Notary** must personally know —————> the **Single Credible Witness** who personally knows —————> the **Subscribing Witness** and who personally knows —————> the **Principal**.

- **Proof of Execution by a Subscribing Witness Scenario**

Since this is not common, the following scenario is an example of how the Proof of Execution by a Subscribing Witness may be used.

The principal, Paul, wants to have his signature on a Signature Authorization document notarized. Paul cannot appear before a notary. Paul asks his good friend, Sue, to act as his Subscribing Witness. Sue must watch Paul sign or hear him acknowledge that he signed the document. Paul must ask Sue to sign the document as a Subscribing Witness—Sue must do so.

Next, Sue takes the document to a notary. Sue chooses the notary public, Nancy, because Sue works with Carl, who is a friend of Nancy, therefore, Carl can act as Sue’s Credible Witness.

Sue and Carl appear together before Nancy. Nancy must personally know Carl and examines Carl’s Driver’s License to establish Carl’s identity. Then Nancy puts Carl under oath. Carl swears or affirms he personally knows Sue and that Sue is the person who signed the document as a Subscribing Witness; and Carl does not have a financial interest in the document signed by Paul and subscribed by Sue. Then Nancy puts Sue under oath. Under oath, Sue swears or affirms she personally knows Paul, who is the person described as the party in the document; she watched Paul sign or heard Paul acknowledge that he signed the document; and Paul requested Sue sign the document as Subscribing Witness and she did so.

Sue signs Nancy’s notary journal as the Subscribing Witness. Carl must sign Nancy’s notary journal as Credible Witness, or Nancy must record in her journal the type of identification document Carl presented, the governmental agency issuing the document, the serial number of the document, and the date of issue or expiration of the document. Nancy completes her notary public journal entry.

Nancy then completes a Proof of Execution Certificate and attaches it to the document. Sue takes the notarized document back to Paul.

➤ **Complete Journal Entry.**

| | | | | | | | | | |
|--------------------------------|--|---|--|--|-----------------------|---|-----------------------|--------------------------------------|--|
| 6 | | Notary Act | | Document Description | | Identification of Signer or Credible Witness #1 | | Additional ID or Credible Witness #2 | |
| <input type="checkbox"/> Ack. | <input type="checkbox"/> Joint | <input type="checkbox"/> DOT Mortgage | <input type="checkbox"/> Occupancy Affidavit | <input type="checkbox"/> California State/County/City ID | Issued by | or name of credible witness #1 | Issued by | or name of credible witness #2 | |
| <input type="checkbox"/> Other | <input type="checkbox"/> AKA/Sig. Name | <input type="checkbox"/> Compliance Agreement | <input type="checkbox"/> Passport | <input type="checkbox"/> Driver's License | Serial or I.D. number | or signature of credible witness #1 | Serial or I.D. number | or signature of credible witness #2 | |
| | <input type="checkbox"/> Deed S/GCAN | <input type="checkbox"/> Trust Cert. | <input type="checkbox"/> POA | <input type="checkbox"/> State/Govt. ID | Circle One | Issued/Expires | Circle One | Issued/Expires | |
| | | | | <input type="checkbox"/> Credible Witness(s) | Month | Day | Month | Day | |
| | | | | <input type="checkbox"/> Other | Year | | Year | | |

| | | | | | | | | | | |
|---------------------------|----|------------------------|--|-------------------|--|---------------------|--|------------------|--|---|
| Date/Time of Notarization | | Additional Information | | Address of Signer | | Signature of Signer | | Right Thumbprint | | 7 |
| Date | | | | Street Address | | Printed Name | | | | 1 |
| Time | AM | | | City, State & Zip | | Signature | | | | |
| Notary Fee | | | | | | | | | | |

➤ **Complete the Certificate**

● **Exact Wording**

- Any Proof of Execution by a Subscribing Witness Certificate taken within this state must have the **“specific disclaimer”** box at the top and have this **precise/exact wording**:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of _____)

On _____ (date), before me, _____ (name of officer and title), personally appeared _____ (name of subscribing witness), proved to me to be the person whose name is subscribed to the within instrument, as a witness thereto, on the oath of _____ (name of credible witness), a credible witness who is known to me and provided a satisfactory identifying document. _____ (name of subscribing witness), being by me duly sworn, said that he/she was present and saw/heard _____ (name[s] of principal[s]), the same person(s) described in and whose name(s) is/are subscribed to the within or attached instrument in his/her/their authorized capacity(ies) as (a) party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her name to the within or attached instrument as a witness at the request of _____ (name[s] of principal[s]).

 Notary Public Signature



Notary Public Seal

Attach the Certificate to the Document. Collect your fee. Return to Sue.

Certified Copies

● Basics

- **California statute specifies** that a notary public may only certify:
 - Copies of Powers of Attorney under Probate Code section 4307, and
 - Copies of his or her Sequential Journal, or portions of the journal, in response to a written request of the California Secretary of State or a subpoena or court order.
- **Note:** Certified copies of birth, fetal death, death, and marriage records may be made only by the **State Registrar**, by duly appointed and acting local registrars during their term of office, and by **county recorders**.

● Certifying

- **Powers of Attorney**
 - A notary public can certify **copies of powers of attorney** for a **\$15 per copy fee**.
 - A **certified copy of a Power of Attorney** that has been certified by a notary public has the same force and effect as the original power of attorney.
 - To **certify** a copy of a Power of Attorney, a notary public must:
 - **Compare:**
 - ✓ The **original Power of Attorney** document and
 - ✓ The **copy** to make sure the copy is **exactly true** and **correct**, or
 - ✓ Make a copy of the original power of attorney document.
 - **Attach a notarial certificate to the copy.**
 - ✓ Complete a journal entry.
 - **Note:** A Power of Attorney that is **certified** will not require a **thumbprint** in the notary public journal.
 - **Best Practices Tip:** To ensure completeness for a **later request** for information related to this type of transaction.
 - The notary public should also **record in the journal:**
 - ✓ the name of the person who is requesting the certified copy,
 - ✓ the name of the agent appointed by the power of attorney, and
 - ✓ the person who signed the power of attorney (the principal).

Complete Journal Entry.

| | | | | | | | | | |
|---|--|--|---|--|---|---|---|---|--|
| 6 | | Notary Act | | Document Description | | Identification of Signer or Credible Witness #1 | | Additional ID or Credible Witness #2 | |
| 1 | <input type="checkbox"/> Ack. <input type="checkbox"/> Jurat | <input type="checkbox"/> DOT/Mortgage | <input type="checkbox"/> Occupancy Affidavit | <input type="checkbox"/> California State/County/City ID | Issued by _____ | or name of credible witness #1 _____ | Issued by _____ | or name of credible witness #2 _____ | |
| | <input type="checkbox"/> Other | <input type="checkbox"/> AKA/Sig./Name | <input type="checkbox"/> Compliance Agreement | <input type="checkbox"/> Driver's License | Serial or I.D. number _____ | or signature of credible witness #1 _____ | Serial or I.D. number _____ | or signature of credible witness #2 _____ | |
| | <input type="checkbox"/> Deed G/GCW | <input type="checkbox"/> Trust Cert. | <input type="checkbox"/> POA | <input type="checkbox"/> Other | Circle One Issued Expires _____/_____/_____ | Circle One Issued Expires _____/_____/_____ | Circle One Issued Expires _____/_____/_____ | Circle One Issued Expires _____/_____/_____ | |
| | | | | <input type="checkbox"/> Passport | | | | | |
| | | | | <input type="checkbox"/> State/Cont. ID | | | | | |
| | | | | <input type="checkbox"/> Credible Witness(s) | | | | | |
| | | | | <input type="checkbox"/> Other | | | | | |


| | | | | | | | | | | |
|---------------------------|--|------------------------|--|-------------------|--|---------------------|--|------------------|--|---|
| Date/Time of Notarization | | Additional Information | | Address of Signer | | Signature of Signer | | Right Thumbprint | | 7 |
| Date | | | | | | | | | | 1 |
| Time | | | | Street Address | | Printed Name | | | | |
| Notary Fee | | | | City, State & Zip | | Signature | | | | |

- **A suggested format for the certification is shown below.** Other formats with similar wording may also be acceptable.

State of California _____) ss.
 County of _____)

I _____, Notary Public, certify that on _____, I examined the original power of attorney and the copy of the power of attorney. I further certify that the copy is a true and correct copy of the original power of attorney.

_____ Notary Public Signature

 Notary Public Seal

- **NOTE:** It is not acceptable to affix a notary public seal and signature to a document without the notarial wording.

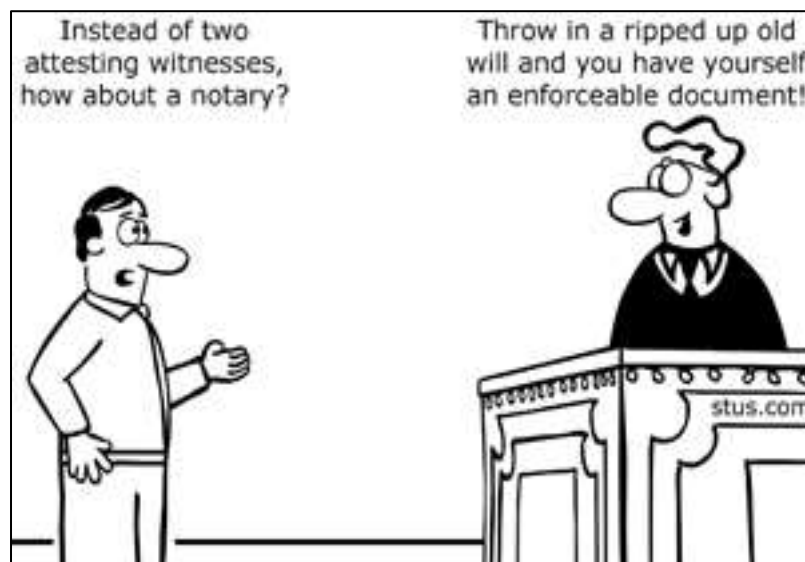
Collect Fee. Attach certificate. Return original and copy to client.

- **Sequential Journal**
 - Use the same procedure as above using the same wording except “Notary Journal” in place of “Power of Attorney”.

Quick Review

1. Linda recently fractured both of her hands and cannot sign her name, but needs to have a document with an Acknowledgment notarized. All are true except: a) Linda may sign the document by "Mark", b) be identified by Satisfactory Evidence, c) make an oath, d) in presence of two witnesses.
2. Which is true about the basic reason for the use of a "Proof of Execution by a Subscribing Witness?" a) it is an oath, b) the principal cannot personally appear before a notary public, c) when the document is incomplete, d) the principal has already signed the document.
3. The following statement is an acceptable declaration for certifying a copy of a Power of Attorney: "I examined the original Power of Attorney and the copy of the Power of Attorney. I further certify that the copy is a true and correct copy of the original Power of Attorney." True or False
4. Which two of the four people who appear on a Proof of Execution by a Subscribing Witness certificate will be put under oath by the notary? a) Credible Witness and Subscribing Witness, b) Principal and Credible Witness, c) Subscribing Witness and the Principal, d) None of the above.
5. Is a right thumbprint required on a Power of Attorney that was certified by a notary public? Yes or No

1) c, 2) b, 3) True, 4) a, 5) No



Misconduct by Notaries and/or Others

To insure the protection and safety of the public, the Secretary of State instituted a set of disciplinary guidelines to review notary applications, investigate alleged violations and implement administrative actions, which may include actions by a public prosecutor.

● Misconduct Relating to Notarial Acts

- Misconduct by notaries public or others regarding notarial acts may be addressed through criminal, civil or administrative laws and proceedings.
- It is a misdemeanor for anyone who is **not** a commissioned **notary** with the State of California to advertise or act as a notary public.
 - **Criminal** misconduct may be a felony, misdemeanor, or infraction.
 - A **felony** is punishable:
 - ✓ by a term in state prison or county jail
 - ✓ fine may also be imposed in addition to any imprisonment.
 - A **misdemeanor** is punishable
 - ✓ by a term in jail, probation, a fine or all three.
 - An **infraction** is punishable
 - ✓ by a fine.
 - **Note:** Criminal misconduct may result in the revocation, suspension or denial of a notary public's commission or application.
 - **Civil** misconduct subjects a notary public to fines.
 - Also, a notary public and the sureties on the notary public's official bond are liable in a civil action for all the damages sustained from a notary public's misconduct.
 - **Administrative** action can be taken against a notary public or notary public applicant to suspend or revoke a notary public commission or deny a notary public application for failing to discharge the duties and responsibilities required of a notary public.

● Convictions Must be Disclosed

- State law requires all applicants be **fingerprinted as part of a background check** prior to being granted an appointment as a notary public.
- All notary public applicants are required to **disclose on their application** any arrests for which trial is pending and all convictions.
 - **Convictions dismissed** under Penal Code section 1203.4 or 1203.4a must be disclosed.
 - The California Secretary of State can deny an application for failing to disclose any convictions, either felonies or misdemeanors,
 - ✓ If you have any questions concerning the disclosure of convictions or arrests, contact the Secretary of State prior to signing the application.
 - ✓ For **specifics** about your arrest(s) and or conviction(s), please contact the California Department of Justice at (916) 227-3849.

- **Commission Revocation or Suspension, or Application Denial**

- If the California Secretary of State either denies an application or proceeds to revoke or suspend the commission of a notary public, the person affected has a **right to a hearing** on the matter.
 - **There are two exceptions:**
 - when an application is denied or commission is revoked or suspended in a proceeding within the previous year.
 - if the commission has expired, and the person had an opportunity for a hearing, and the Secretary of State declared there were or were not grounds for revocation or suspension for misconduct.

- **Court Revocation of Commission**

- If a notary public is **convicted** of a crime related to:
 - **Notarial misconduct**, including:
 - **False completion** of a notarial certificate
 - **Any Felony**
- The **court** must revoke the notary public's commission and require the notary public to **surrender** to the **court** the notary seal.
- The **court** will then **forward** the notary public's **seal** to the Secretary of State.

- **Child/Family Support**

- Applicants found to be **non-compliant** with child or family support orders will be issued **temporary term commissions**.
- Notaries found to be non-compliant **after** the commission is issued may be subject to:
 - Commission Revocation or Suspension, or
 - Application Denial.

- **Seal/Stamp Rules and Regulations**

- **Control/Surrender**
 - A notary public is **guilty of a misdemeanor** if the notary public:
 - Willfully **fails** to keep the notarial **seal** under their direct and exclusive control; **or**
 - Willfully **surrenders** his or her notarial **seal** to any person not authorized to possess it.
- **Failure to Notify**
 - Failure to notify the Secretary of State that a notary public seal is lost, stolen, destroyed, or damaged could result in a \$1,500 civil action penalty.

- **Unauthorized Manufacture Seal/Stamp**
 - A separate provision of the law permits local and state prosecutors to recover up to \$1,500 in a civil action from violators of the provisions relating to the unauthorized manufacture, duplication, or sale of the notary public seal and related offenses.
- **Forgery Note:**
 - Every person who, with the intent to defraud, counterfeits or **forges the seal** or handwriting of another may be **guilty of forgery (a possible felony)**.

- **Journal Rules and Regulations**

- **Willful Failure to Perform Duties Relating to Official Journal**
 - Failure to perform any duties required of a notary public relating to the sequential journal of official acts.
 - Failure to secure, and maintain the journal.
 - Failure to notify the California Secretary of State, within the **time required** by law, if the official journal is lost, stolen, or rendered unusable.
 - Any notary public who willfully surrenders the official journal to any person not authorized to possess it.
 - Any notary public who willfully fails to permit a lawful inspection or copying of the official journal.
 - **Possible Actions:**
 - ✓ Commission Revocation or Suspension, or
 - ✓ Application Denial
 - ✓ Guilty of a Misdemeanor
- **Failure to Obtain a Required Thumbprint Penalty**
 - Any notary who fails to obtain right thumbprint of the signer, for a deed, quitclaim deed, deed of trust, documents affecting real property, or a power of attorney.
 - **Possible actions:**
 - ✓ Commission Revocation or Suspension, or
 - ✓ Application Denial
 - ✓ **\$2,500** Civil Penalty

- **Failure to Provide the Journal**
 - Willful failure of a notary public to provide a **peace officer** with a journal when requested.
 - **Possible Actions:**
 - ✓ Commission Revocation or Suspension, or
 - ✓ Application Denial
 - ✓ Guilty of a Misdemeanor
 - ✓ Civil penalty of up to **\$2,500**.

- **Solicitation of an Improper Notarial Act**
 - Any person who solicits, coerces, or in any manner influences a notary public to perform an improper notarial act knowing that act to be an improper notarial act, including any act relating to:
 - Completing a false certificate;
 - Maintaining the official journal;
 - Not entering required information in the official journal;
 - Entering false information in the official journal; and
 - Falsely modifying a journal entry.
 - ✓ **Possible Actions:**
 - Commission Revocation or Suspension, or
 - Application Denial
 - Guilty of a misdemeanor

- **Willful Destruction of Notarial Documents**
 - Any person who knowingly destroys, defaces, or conceals any records or papers belonging to a notary public.
 - **Possible Actions:**
 - Liable in a civil action for damages to any person injured
 - Guilty of a misdemeanor

- **Deed of Trust Fraud**
 - Performing any notarial act in relation to a **deed of trust** on real property consisting of a single-family dwelling (up to a quad-plex) with the knowledge that the deed of trust contains any false statements or is forged in whole or in part, the notary public is **guilty of a felony**.
 - **In addition**, to being **guilty of a felony**, the notary will be liable for a **\$75,000 fine**, and may be subject to other **relief** or **remedies** provided to the **parties** by law.

- **False Acknowledgments/Forgery**

- **Falsifying Acknowledgments**

- The law may make a notary public **guilty of forgery** if he or she issues an acknowledgment **knowing it to be false**.
 - A person who **falsifies** the acknowledgment of a notary public is also **guilty of forgery**, a **possible felony**.
- **Forgery is Punishable by:**
 - imprisonment in state prison, or
 - imprisonment in county jail
 - for not more than **one year**.

- **False Certification**

- False certification by a notary public is also a **misdemeanor**.

- **Perjury**

- Applications for appointment as a notary are executed under **penalty of perjury**.
 - Misrepresentations or omissions in the application may be **perjury**.
- Every person, who having taken an **oath** and testifies, declares, or certifies as true any material matter which he or she knows to be false, is **guilty of perjury**.
- Persons who appear before a notary public who do not tell the truth under oath or affirmation may be **guilty of perjury**.
 - **Penalty for Perjury**
 - Guilty of a felony
 - Imprisonment in the state prison for two, three, or four years

- **The Reasons for Revocation/Suspension or Application Denial are:**

- **Substantial** and material misstatement or omission in the application submitted to the California Secretary of State to become a notary public.
- **Conviction** of a:
 - felony,
 - lesser offense involving moral turpitude, or
 - lesser offense of a nature incompatible with the duties of a notary public, and
 - conviction after a plea of nolo contendere is deemed to be a conviction.
- **Revocation**, suspension, restriction, or denial of a professional license for misconduct based on dishonesty.
- When adjudicated liable for damages in any **suit grounded in fraud**, misrepresentation or for a violation of the state regulatory laws.
- False or **misleading advertising** wherein the notary public represents the he or she has duties, rights, or privileges that he or she does not possess by law.
- The **practice of law** without a license.

- Failure to **complete the acknowledgment** at the time the notary public's signature and seal are affixed to the document.
- Failure to **administer the oath** or affirmation.
- Failure to discharge fully and faithfully any of the **duties** or responsibilities required of a notary public.
- Failure to submit any **remittance payable** upon demand by the California Secretary of State.
- Failure to satisfy any **court-ordered money** judgment, including restitution.
- Applicants who are non-compliant with child or family support orders will be issued temporary term commissions.
- Notaries found to be non-compliant with child or family support orders after the commission is issued.
- Failure to **secure** the sequential **journal**.
- Failure to **secure** the official **seal**.
- Failure to **report the theft** or loss of the sequential **journal**.
- Execution of any certificate as a notary public containing a **statement** known to the notary public to be **false**.
- **Charging more** than the allowable maximum statutory fees.
- Commission of **any act involving dishonesty**, fraud, or deceit with the intent to substantially benefit the notary public or another, or substantially **injure another**.
- **Commission of an act involving:**
 - delivery of a certificate known to be false,
 - willful fraud in connection with a deed of trust,
 - soliciting a notary public to perform a known improper notarial act,
 - non-notary placing encumbrance on real property of a single-family residence,
 - knowingly filing false or forged document placing an encumbrance on a single-family residence,
 - forgery,
 - grand theft,
 - grand theft, regarding the carcass or portion of a carcass of specific animals,
 - willfully obtaining personal information of another for criminal purposes.
- Holding yourself out as an **immigration specialist** or consultant to **advertise** in any way that he or she **is a notary** public.
- **Translating** "notary public" into **Spanish**.
- **Advertising** in a **language other** than English without the appropriate disclaimer.
- Willful failure to **provide access** to the sequential **journal** of official notarial acts upon request by a peace officer.
 - **Note:** The **resignation** or **expiration** of the notary's commission **does not bar** the Secretary of State from instituting or continuing an investigation or instituting **disciplinary action**.

- **Right to a Hearing**

- If the California Secretary of State either **denies an application** or proceeds to **revoke or suspend the commission** of a notary public, the person affected has a **right to a hearing** on the matter.

- **Responding to Written Requests of the California Secretary of State**

- A notary public has **two separate duties** to respond to written requests of the California Secretary of State.
 - **Request for Information:** Upon receiving a written request for information relating to official acts performed by the notary public, he/she must respond by certified mail or any other means of physical delivery that provides a receipt within 30 calendar days.
 - **Certified Copies of the Journal:** Within the time specified in the written request by the California Secretary of State, a notary public must furnish certified copies of the entire or any portion of his or her notarial journal that is requested.

- **Fines and Penalties**

- **\$75,000 Fine**

- Deed of Trust Fraud
 - Willful fraud and false filings in connection with a Deed of Trust on a Single-Family Residence

- **\$10,000 Penalties**

- Identity of the Credible Witness
 - Failure to obtain the satisfactory evidence required to establish the identity of a single credible witness.
- Penalty of Perjury/Acknowledgment
 - Willfully states as true a material fact and/or falsifies a certificate of acknowledgment.

- **\$2500 Civil Penalties**

- Failure to Provide Journal a peace officer the notary journal when requested.
- Failure to Obtain Thumbprint as required.

- **\$1,500 Violations**

- The use of false or misleading advertising wherein the notary public has represented that he or she has duties, rights, or privileges that he or she does not possess;
- Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the notary public or another, or substantially injure another;
- Notarial misconduct.
- Execution of **any certificate** as a notary public containing a statement known to the notary public to be false.
- Violating Immigration Laws:
 - the prohibition against a notary public who holds himself or herself out as an immigration specialist or consultant advertising that he or she is a notary public, or
 - the restrictions on charging to assist in the completion of immigration forms; and
 - the restrictions on advertising notarial services in a language other than English or
 - literally translating the words “notary public” into Spanish.

- Willfully failing to discharge fully and faithfully any of the duties or responsibilities required of a notary public.
- Unauthorized manufacture, duplication, or sale of the notary public seal;
- Failure to notify the California Secretary of State that a notary public seal is lost, stolen, destroyed or damaged.

\$1,000 Fine

- Unlawful Practice of Law
 - Any person practicing law who is not an active member of the State Bar is guilty of unlawful practice of law.

\$750 Violations

- Negligent failure to discharge notary duties.
- Charging more than the notary fees prescribed by the notary law.
- Failure to complete the Acknowledgment at the time the notary's signature and seal are affixed to the document.
- Failure to administer the oath or affirmation as required.
- Taking Improper Identification

\$500 Infraction Penalties

- Failure to notify the Secretary of State of a:
 - Address change of business or resident, and
 - Name change of the notary public.

** All of the penalties listed in this chapter may be in addition to denial of an application, or suspension or revocation of the notary public commission, and being guilty of a misdemeanor and liable in a civil action for damages to any person injured.*

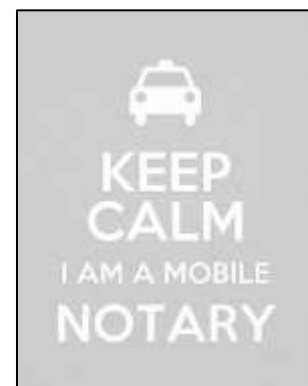
Quick Review

1. *Your niece or nephew knowingly destroys, defaces, or conceals your journal. What penalty could they be charged with? a) felony, b) misdemeanor, c) \$1,500 civil penalty, d) infraction.*
2. *Bill appears before you to have a declaration notarized. Bill lies to you about the truthfulness of the statements he is making in the document during the oath. All are possible penalties, except: a) guilty of a felony, b) imprisonment in the state prison for one year c) community service for six-months, d) imprisonment in the state prison up to four years.*
3. *All the following could cause your application for notary public to be denied except? a) failure to disclose any arrest or conviction; b) conviction of a felony where not less than 10 years have passed since the completion of probation; c) conviction of a DUI, d) conviction of a disqualifying misdemeanor (involving moral turpitude) where not less than 5 years have passed since the completion of probation.*
4. *Your employer Mr. Jones requests you change the date on a transaction in your journal. If you agree to make the change, all are possible penalties for both you and Mr. Jones except? a) commission revocation or suspension, b) or application denial, c) nothing because the employer is in charge, d) guilty of a misdemeanor.*
5. *As a minor, Jane Jones committed a criminal offense that is not listed in the California Penal Code sections 1203.4 or 1203.4a. She did not realize she needed to disclose it on the application for notary appointment. What action might the Secretary of State take? a) Nothing as she was a minor at the time, b) give her a temporary term commission, c) deny her application, d) commission her as a notary.*

c) 5) c) 4) c) 3) c) 2) c) 1)

Test Taking Pointers

- 1) Relax and maintain a positive attitude while testing. Focus on your own test, not others.
- 2) Determine what concept the question is testing.
- 3) Read the question, come up with the answer in your head, then read the possible choices. This way the choices given on the test won't throw you off or trick you.
- 4) Look for the overriding rules. This is especially useful for word problems and scenarios.
- 5) When presented with a scenario, determine who the Notary is in the scenario.
- 6) Select the "best" answer. If you are having difficulty finding the "correct" answer, use a process of elimination and select the "best" answer.
- 7) If you are not 100% sure of the answer, skip it for now. Sometimes the test itself will help you answer the question. Be sure to come back and answer the question. Remember an unanswered question is a 100% wrong answer; a wild guess has a 25% chance of being the correct answer.
- 8) Select the most whole and complete answer, which can stand on its own.
- 9) Look for keys words in the question (e.g., except, all, not, all except, etc...)
 - a) Read the test question through once looking for these key words and circle them.
 - b) Then re-read the question.
 - c) Then read all the choices before selecting the answer.
- 10) In "All of the above" and "None of the above" answer choices, if you are certain one of the statements is true don't choose "None of the above" or if one of the statements is false don't choose "All of the above".
- 11) Don't read into the question; answer only what is being asked. The procedure may be correct, but is that what is being asked?
- 12) If a specific document is named, determine what special conditions or limitations pertain to that document.
- 13) Usually the correct answer is the choice with the most information.
- 14) A positive choice is more likely to be true than a negative one.
- 15) Ask yourself does the answer make sense and does it cover the whole problem?
- 16) When all else fails—choose "b".



Final Quiz

- 1) **Mary is a notary public; her husband Fred needs to have his signature notarized on a document from his work. May she notarize the document?**
 - a) No, she may never notarize for any relative.
 - b) Yes, because she may only notarize for those in his/she immediate family.
 - c) Yes, unless doing so would provide her with direct financial or beneficial interest to her and she should take care if the document is community property.
 - d) No, because she may only notarize for those in her in-law's family.

- 2) **Bill brings a document to be acknowledged before a Notary Public. The Notary Public certifies on the Acknowledgment form to all of the following. Which one is incorrect?**
 - a) That the signer personally appeared before the notary public
 - b) "Subscribed and sworn to (or affirmed) before me"
 - c) To the date indicated, the county indicated, and to the identity of the signer
 - d) That Bill acknowledged executing the document to the Notary.

- 3) **Sam went to Ned, a notary public, with a renter's agreement to be notarized. The document Sam brought stated in the notarial wording, "*Subscribed and sworn to....*" In Ned's notary journal, Ned should record the notarial act as what?**
 - a) Signature by Mark
 - b) Acknowledgment.
 - c) Jurat
 - d) Proof of Execution by a Subscribing Witness

- 4) **Ms. Jones brings a document to Mary a notary public to be notarized. Mary will mark in her journal that it was a Jurat. What identifying wording did she rely on?**
 - a) "Do you swear or affirm that the statements in this document are true?"
 - b) "Subscribed and sworn to (or affirmed) before me"
 - c) Acknowledgment
 - d) "personally appeared"

- 5) **Since there is no prescribed wording for an oath, what would be an acceptable oath?**
 - a) "I cross my heart and hope to die."
 - b) "Do you swear or affirm that the statements in this document are true?"
 - c) "I double dog dare you."
 - d) None of the above

- 6) When completing a Jurat the notary public certifies that the signer did all of the following except?**
- a) That the signer personally appeared before the notary public.
 - b) That on the date indicated and in the county indicated, that the signer signed the document in the presence of the notary public.
 - c) That the signer acknowledged executing the document
 - d) That the notary public administered the oath or affirmation and proved the identity of the signer.
- 7) Jim went alone to his longtime friend Ned, a notary public of State of California, to have his Grant Deed for his and his wife's property in Guam notarized. Jim's only photo identification was issued six years ago and had expired. Ned was unable to complete the notarization because:**
- a) The Grant Deed was to be recorded outside of the State of California
 - b) Jim's only form of identification was issued over five years ago and had expired
 - c) Jim and Ned were longtime friends
 - d) The Grant Deed also included Jim's wife's name
- 8) All of the following are a basis for the use of a "Proof of Execution by a Subscribing Witness" except?**
- a) If a person, called the principal, has signed a document, but cannot personally appear before a notary public.
 - b) Another individual can appear on that principal's behalf to prove the execution by the principal. That person is called a subscribing witness.
 - c) When the signer of an instrument cannot write (sign) his or her name, that person may sign the document by mark.
 - d) Both A & B
- 9) When would a notary public notarize a document using a Signature by Mark?**
- a) When Mark is declaring that this is his signature.
 - b) When the Subscribing Witness is able to say, under oath, that he or she either saw the principal sign the document or heard the principal acknowledge that he or she signed the document.
 - c) When a person, called the principal, has signed a document, but cannot personally appear before a notary public.
 - d) When the signer of an instrument cannot write (sign) his or her name, that person may sign the document by mark.

10) What four names would appear on a “Proof of Execution by a Subscribing Witness?”

- i) The Principal, the one who signed the document to be notarized.
- ii) The Subscribing Witness.
- iii) The Credible Witness.
- iv) The name of the person swearing/affirming and signing the document.
- v) The Notary Public.

Which of the following is correct?

- (a) i, ii, iii, iv
- (b) ii, iii, iv, v
- (c) iii, iv, v, ii
- (d) i, ii, iii, v

11) What is the key wording of an Acknowledgment?

- a) “Subscribed and sworn to (or affirmed) before me”
- b) Acknowledgment
- c) “personally appeared”
- d) “Do you swear or affirm that the statements in this document are true?”

12) What suggested wording could the notary use when certifying a copy of a Power of Attorney?

- a) The notary public should decline and advise the person requesting the notarization to consult a member of the California State Bar. If an attorney recommends that the document be notarized, a notary public may do so.
- b) When the signer of an instrument cannot write (sign) his or her name, that person may sign the document by mark.
- c) I examined the original power of attorney and the copy of the power of attorney. I further certify that the copy is a true and correct copy of the original power of attorney.
- d) All of the above.

13) Which one of the following is not an act that constitutes the unlawful practice of law?

- a) Preparation and drafting of any kind of legal document.
- b) Completing a certificate of Acknowledgment.
- c) Giving advice with relation to any legal documents or matters.
- d) Selection or determination of any kind of legal document.

14) Linda, a close friend of Mary, a notary public, brings in a document to be notarized that is incomplete. What should Mary do?

- a) Make copies and enter into his/her notary public journal.
- b) Refuse to notarize the document.
- c) The notary public should decline and advise the person requesting the notarization to consult a member of the California State Bar.
- d) None of the above

15) When Mark, a notary public, is completing a Jurat, whose name would Mark write on the “by _____,” line?

- a) The name of the person making the “Signature by Mark.”
- b) The name of the “Credible Witness”
- c) The name of the person swearing/affirming and signing the document.
- d) Name of the notary public.

16) What are the only documents a notary may certify?

- a) Copies of Powers of Attorney
- b) Deed of Trust
- c) Copies of his/her own notary public journal.
- d) Both (a) and (c)

17) What is the penalty for a notary who performs any notarial act in relation to a deed of trust on real property consisting of a single-family dwelling with the knowledge that the deed of trust contains any false statements or is forged in whole or in part?

- a) Punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.
- b) Guilty of a felony and may be subject to other relief or remedies provided to the parties by law.
- c) \$1,500 Fine
- d) Both A and C

18) Unless working under an agreement with an employer or having a direct financial or beneficial interest to the transaction, what is the duty of the California notary public, upon the payment of any fees, when submitted a document by any person?

- a) To notarize only after a visual examination of the signer’s race.
- b) To notarize upon request any properly submitted document for any person, anywhere in the State of California.
- c) To notarize only when doing so would provide a direct financial or beneficial interest to the notary public
- d) To always notarize when a notary public even if he/she is unable to communicate with the customer in the customer’s language.

19) In what situation is a notary public legally barred from advertising in any manner whatsoever that he or she is a notary public?

- a) When the notary public promotes a loan document signing service.
- b) There is no situation in which a notary public can advertise.
- c) When the notary public promotes himself or herself as an immigration specialist or consultant.
- d) None of the above.

20) Is there prohibition against notarizing immigration documents?

- a) Yes
- b) Sometimes
- c) No
- d) Only on Sundays

21) What are the penalties for translation of the phrase “Notary Public” into Spanish?

- a) First offense is suspending the notary commission for not less than one year.
- b) Second offense the notary commission shall be revoked permanently.
- c) \$1,500 fine
- d) All of the above

22) The Secretary of State may deny the notary public application or suspend the notary public commission of a person who has not complied with what?

- a) CC&Rs
- b) Child or family support obligations
- c) The traffic laws
- d) Receiving a DUI

23) The Secretary of State will recommend denial of an application for what reasons?

- a) Failure to disclose any arrest or conviction on the notary application
- b) Conviction of a felony where not less than 10 years have passed since the completion of probation
- c) Conviction of a disqualifying misdemeanor where not less than 5 years have passed since the completion of probation
- d) All of the above

24) What is the maximum fee that may be charged for notarizing an Acknowledgment or a Jurat?

- a) \$7
- b) \$15
- c) \$100
- d) Whatever the market will bear.

25) What must a notary public do when there is a change of business address, residence address, and/or change of county?

- a) Do nothing until the commission is ready to expire.
- b) Drop a change of address card at your new local US Post Office.
- c) Within 30 days of any change of business or residence address a notary public is required to notify the Secretary of State in writing, by certified mail, or any means of physical delivery that provides a receipt (for example: FedEx, USPS, UPS).
- d) Destroy the notary seal and make a new oath of office at the county recorder.



*Thank you for choosing the Academy of Notaries Public
for your mandatory notary education.*

We wish you the best in your notarial career.

The Staff

Answer Key: 1-C, 2-B, 3-C, 4-B, 5-B, 6-C, 7-B, 8-C, 9-D, 10-D, 11-C, 12-C, 13-B, 14-B, 15-C,
16-D, 17-B, 18-B, 19-C, 20-C, 21-D, 22-B, 23-D, 24-B, 25-C

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