MONTANA NOTARY PUBLIC HANDBOOK

~ 2019 ~

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Secretary of State

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Meet Secretary Stapleton

Montana's Secretary of State Corey Stapleton is a veteran, business owner, former state senator, and fourth generation Montanan from Great Falls. Following his high school graduation, Stapleton enlisted in the U.S. Navy. He went on to graduate from the United States Naval Academy in Annapolis. After a fulfilling career as a Surface Warfare Officer, Corey and his wife Terry decided to return home and raise their four kids in Montana. Corey started Stapleton Financial Group and has been a successful financial advisor for over twenty years in Billings, Montana. He was elected Montana's Secretary of State in 2016.

About the Notary & Certifcations Division

The Notary & Certifications Division plays a very important role in our agency. We are the primary resource for commissioning, informing and educating Montana's notaries public and providing Apostille and Authentications services for those needing documents certified for use in foreign countries.

Desktop and Mobile Friendly

You can now download the Montana Notary Public Handbook to your smartphone and desktop.

https://sosmt.gov/notary/handbook

Thank You

Much of what we do to provide information and education to Montana's 16,000 notaries public would not be possible without the support of so many generous, knowledgeable, and amazing people over the past several years. These are the notary experts who are always available with answers, advice, and invaluable help. It is with tremendous gratitude and utmost respect that we recognize the many contributions of:

Kathleen Butler, Executive Director, *American Society of Notaries*;
Bill Anderson, V.P. Government Affairs, *National Notary Association*;
Marc Aronson, President, *Pennsylvania Associations of Notaries*;
Michael Closen, J.D, Professor Emeritus, *John Marshal School of Law*;
Timothy Rieniger, J.D., Director, *Timothy Rieniger, LLC*; and
Richie Burton, Strategic Program Manager, *Notary Law Institute*.

This handbook was designed to provide information to current and prospective notaries public in the State of Montana in order to increase understanding of the powers and duties of the office.

Any statements by the office of the Secretary of State regarding notaries or notarial acts are not intended as legal advice and should not be construed as such. If you have specific legal questions regarding your acts or conduct as a notary, the Secretary of State's office urges you to seek professional legal advice.

Alternate accessible formats of this handbook will be provided upon request. For further information call (406) 444-1877.

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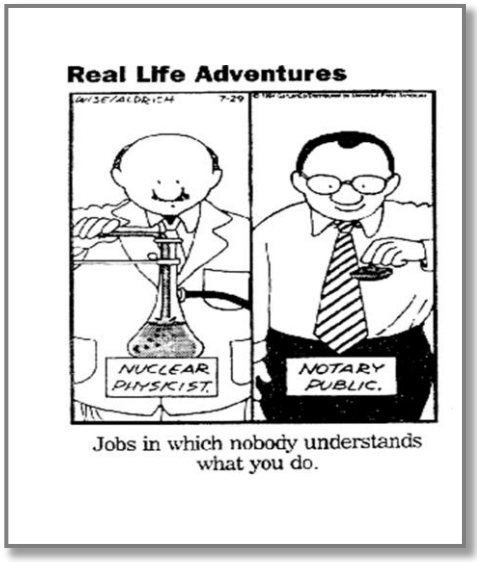
CHAPTER 1 – GENERAL INFORMATION

OVERVIEW

Everybody knows what a notary public does, right? Actually, there is much misunderstanding and confusion about what the proper role and duties of a notary are. A notary public does not "legalize" documents, or verify the accuracy or truthfulness of the content or statements made in a document. As Milt Valera, Chairman of the National Notary Association, noted in the Foreword to ***Professor Closen's Notary Best Practices***, a notary public is the "trusted impartial witness in ensuring that acts of attestation vital to commerce and law are executed legally, securely, and ethically"



A notary public is a public official commissioned by the Secretary of State to administer oaths and affirmations, take acknowledgments, witness signatures, and perform other duties as permitted by state law. A notary has a legal obligation to know Montana notary laws and to follow the standards of reasonable care for performing every authorized notarial act.

As a public official, a notary is not acting on behalf of him/herself or his/her employer when performing a notarial act, but rather, on behalf of the state of Montana.

RESOURCES

This handbook provides information to inform notaries about their responsibilities in performing notarial acts and is designed to be a primary resource for Montana notaries public. We encourage you to familiarize yourself with the contents and keep it readily available so that you can utilize it when questions arise. You can open it on your desktop or personal device or print out a copy for easy access any time.

The second main source of information for Montana notaries are the web pages of the Notary & Certifications Division section of the Secretary of State's website: https://sosmt.gov/Notary.

Save this link to your favorites so it's handy whenever the need arises. The website contains the most current information for notaries. You can download any of our current forms, link directly to the available online notary training courses, or register for one of the webinars or live training classes, among other things. The website is always available and is very user friendly.

We urge you to take a few minutes to familiarize yourself with the information and format of both the handbook and the website so that you can find the answers to your questions quickly and easily.

You should never attempt to complete a request for notarial services until you fully understand what you are doing. The job of a notary public is much more complex than most people realize. It is your responsibility to know what you can and cannot do, what you are supposed to do, and how to do your job correctly. These resources are designed to help you – take advantage of them! You are also welcome to contact the staff of the Notary and Certifications Division by phone at (406) 444-1877 or email: sosnotary@mt.gov with any questions or concerns.

THE NOTARY'S FUNCTION

As noted above, the notary acts as an official, unbiased witness to certain specific transactions. Regardless of the notarial act performed, in every instance the notary attests that particular formalities have been observed that render the notarized document trustworthy. Notaries must constantly be aware that every notarial act affects the legal rights of others. Carelessness or negligence by the notary may injure these rights. Upon conviction of a violation of these rights, the notary may be punished as provided by law.

Integrity and skill are required of notaries in the discharge of their duties, for the mere mechanical performance of their office does not ensure the added degree of authenticity that is the hallmark of the notarial act. **Simply affixing your seal and signing your name does not constitute a proper notarization in the state of Montana.** In fact, §1-5-625(1)(d), MCA specifically prohibits that practice. As you go through this handbook, pay very close attention to the exact requirements for various notarial acts. A notary may be held personally responsible for improper, negligent, or fraudulent actions.

THE NOTARY'S RESPONSIBILITY

If one of the notary's primary functions is to be a witness to the identity, the comprehension, and the intent of a person who is signing a document, taking an oath, or acknowledging a signature, it automatically follows that one of the notary's greatest responsibilities is to be able to truthfully testify that the notary did in fact witness the act he or she claimed to have notarized. In other words, the person whose signature, oath, or acknowledgment is being notarized MUST personally appear to the notary at the time the act takes place. Even when performing remote notarial acts, the personal appearance of the signer is required at the time of the notarization.

There are no exceptions to this requirement. It is impossible to be a witness to an event if it does not take place in your presence. "Notarizing" without the personal appearance of the signer at the time of the notarial act is *a direct violation of Montana law and can be just cause for revocation of your notarial commission.*

> ***RULE # 1***
>
> ***The person whose signature, oath, or acknowledgment is being notarized MUST personally appear to the notary at the time the notarial act takes place. EVERY TIME!***

INTEGRITY AND IMPARTIALITY

A notary public is expected to be a person of proven integrity appointed by the Secretary of State to act as the state's "official witness" in any matter requiring the notary's services. Because the primary purpose of the notary is to deter fraud, the notary's truthfulness must be unquestionable.

Every notarial act performed by a notary public is done under the notary's oath of office and the statement made on every notarial certificate completed by a notary public is done under that oath. If the notarial certificate states that the document was "signed before" the notary, that's exactly what the notary's official testimony is claiming: The document was signed in the notary's presence. If the notary certificate contains the words "subscribed and sworn to before me", that, too, means the document was signed in the notary's presence *and* the notary administered an oath to the signer, who swore under penalty of perjury that the statements and information contained in the document were true and correct to the best of his or her knowledge.

The words contained in the notarial certificate are not mere formalities; they are the notary's "witness statement" telling what happened, where it happened, when it happened, and who was involved. The accuracy and completeness of every notarial certificate is a fundamental expectation of the office.

FEES

Montana notaries may charge for performing notarial acts. The maximum fee allowed for taking acknowledgements, witnessing signatures, performing jurats, certifying copies of documents or certifying a fact, photograph, or that a person is alive is $10. Notaries may charge a travel fee if (1) the notary explains to the person requesting the notarial act that the travel fee is in addition to the statutory maximum fee for the notarial act and is

an amount not determined by law ***and*** the person requesting the notarial act agrees in advance to the amount of the travel fee; or (2) the fee charged is equal to or less than the standard mileage rate allowed by the Internal Revenue Service. Notaries may also charge an additional fee for performing notarial acts using communication technology. Notaries who charge for notarial work must publish their fee schedules in English. The law presumes that it is the notary who may charge for notarial services. Fees charged by notaries who work in the private sector may be collected by the notary's employer only if the notary agrees to that. The fees collected for notarial services by notaries who work in a public (government) office belong to that office.

NOTARY LIABILITY

Montana case law holds the notary personally responsible for any damages resulting from the notary's official misconduct. Notaries are required to file a $25,000 surety bond when they apply for a new or subsequent commission. Many notaries think that the bond is insurance that protects them; **that is not the case**. The bond is posted to cover damages incurred by a victim of the notary's negligence or malfeasance. If a successful claim is made against the notary's bond, **the notary will have to pay the bonding company back and cover any losses in excess of $25,000 as well**. Montana does not require notaries to obtain liability insurance; however, it is wise to discuss the need for such coverage with an insurance professional.

A properly kept notary journal is the very best protection that a notary can have. It provides *prima facie* evidence that the notarial information on a document is true and correct and that the signer had personally appeared to the notary and had been properly identified when the notarization took place.

JURISDICTION

Montana notaries have jurisdiction to perform their official duties in every county in Montana, not just the county in which they live or work. In some cases, a ***Montana notary public may perform a traditional notarial act on a tangible document when the notary is physically in either of two adjoining states – North Dakota and Wyoming***. Even when performing a notarization in either North Dakota or Wyoming, a Montana notary must always follow the laws and rules of Montana. The statutes that allow this practice are dependent on both Montana and the reciprocal state. Questions about any restrictions or special requirements must be discussed with the appropriate Secretary of State's office.

The jurisdiction for performing *remote notarizations, however,* is different: The notary must always be physically located in Montana at the time of the notarization. Jurisdiction for remote or remote online notarizations is determined by the physical location of the notary – not the signer. So, literally, a Montana notary may perform a notarization for anyone located anywhere in the world, but only if the notary is in Montana! It's a whole new world!

Jurisdiction for Remote Online Notarization

There is often some confusion about whether a Montana notary can notarize a document that came from or is going to another state or country. ***The basic rule is if the signer is personally appearing to the notary, and the notary is physically located within the geographic allowed jurisdiction, the notarization may be performed.*** For example, if a person has a document that was created in Florida, but is currently in Montana and requests that his signature be notarized, a Montana notary may provide the service (as long as all other conditions are met, of course). There is nothing that inherently prevents a Montana notary from notarizing documents that originated outside of Montana or that will later be used outside of Montana. Remember, however, that the notary must be careful to correctly identify the venue (the state and county where the notarization was actually performed) on the document. Many times this information will be entered on the pre-printed certificate (i.e., "State of Florida, County of Broward") and the Montana notary will have to cross out the incorrect venue and enter the correct information (i.e., "State of Montana, County of _____").

CHAPTER 2 – BECOMING A NOTARY PUBLIC

There are certain procedures that must be observed in order to obtain a notary commission from the state of Montana. Applying for a Montana notary commission is a multi-step process and in order to complete the process successfully you will have to follow the directions carefully. The first step, obviously, is to determine if you meet the qualifications for the office. When you have met all of the requirements for holding the office, you can begin the application process. *The Montana Secretary of State's office is anticipating converting to an online registration process next year (2020), and the process will change at that time*. **Please visit our website for the current process instructions.** When your application materials have been received and approved, your Certificate of Commission will be emailed to you. You will need to print out your Certificate as proof that your commission has been issued, so that you may purchase your official notary stamp and journal and be ready to assume your notarial duties. Below are the qualifications that must be met before you can apply for a new or renewed commission.

QUALIFICATIONS

To become a notary public, an applicant must:

- Be a citizen or permanent legal resident of the United States
- Be at least 18 years of age
- Be a resident of, or have a place of employment or practice in, Montana, or be the spouse or legal dependent of an active duty military personnel stationed in Montana
- Be able read and write English
- Not be disqualified to receive a commission pursuant to Montana Code Annotated §1-5-618
- Have passed the Secretary of State's on-line examination (effective Oct. 1, 2019, **this applies to all notary applicants**)
- *Effective July 1, 2020, all applicants will also be required to provide proof of completion of required education*

TERM OF OFFICE

The term of office for a notary public is four years. A notary may be appointed or reappointed by submitting the required documentation to the Secretary of State's office as required by law. Term limits don't apply to notaries – you may renew your commission as many times as you wish. Upon successful completion of the application process, the Secretary of State's office will email the notary a Certificate of Commission, showing the notary's official name, city of residence, and the beginning and expiration dates of the commission. The Certificate of Commission is the official proof that the person is a notary public for the state of Montana. If the notary moves out of state, and/or ceases to maintain a place of business or practice in Montana his/her commission is automatically terminated. **A change of employment during a notary's term of office *does not* terminate the commission**, but must be reported to the Secretary of State's office. Even if your employer pays for your bond, stamp, and journal, the commission is issued to the notary personally, and **the employer has no right to cancel the bond or unilaterally terminate the commission.** A notarization performed after a commission has expired or terminated is automatically invalidated and may result in civil or criminal penalties.

OBTAINING A COMMISSION

It is the objective of the Notary and Certifications Division of the Secretary of State's office to make the process of applying for a new or renewal commission as easy as possible; however, there are specific statutory requirements that must be met. On this page and the following page, you will find general information, the process to become a notary or renew your commission (the process is now the same for both), how to change your name on your commission, and when and how to notify the office of other changes that the law requires. You will also find links to the online forms that should accompany your requests and notifications. The information in this chapter is current as of the date of this edition of the handbook; however you should check the website https://sosmt.gov/Notary for the most accurate and up-to-date information and requirements.

The basic process for obtaining a commission involves these six steps:

1. Successfully pass the required examination and print out the certificate
2. Obtain a notary surety bond from a licensed bonding agent (usually an insurance agent)
3. Sign the bond as the "Principal" and have the Statement and Oath of Office notarized (you will have to sign it in front of the notary and take your oath of office)
4. Complete the online application, and print it out
5. Obtain a check, money order, or interunit journal (state employees only) in the amount of $25 for the filing fee.
6. Send the application, the original bond, the exam certificate and the filing fee to the Secretary of State's office

NOTE: At the time of this printing, training is not a required part of the process. However, beginning July 1, 2020, all notaries will have to have to take approved training as a prerequisite for obtaining a new or renewed commission. Please check the website for more information and a list of approved courses.

WARNING: "The devil is in the details!" Carefully read and follow the full instructions to assure that the process will go smoothly. There are statutory time constraints and other mandates that apply depending on the circumstances. Failure to follow the directions correctly will result in delays, frustration, and additional expense.

Some important things to note about the notary application process:

- You do not have to use your full legal name for the commission – we can accept an application that uses *at least* one initial and your surname, or your nickname and surname, as long as you can prove your identity to the notary who notarizes your statement and oath of office. We recommend that you use the name that you ordinarily use in your normal course of business. **The important thing is that you be consistent: The name on the application, bond, statement and oath, and the signatures on those documents must be exactly the same**. This becomes your "official notary name and signature" and must be used consistently on every notarial act you perform.
- All requests for commissions (new and renewal) must be filed within 30 days of the effective date of the bond if one is shown on the bond. If an effective date is not shown on the bond it will be determined by the Secretary of State's office. Your specific term of office is shown on your Certificate of Commission.
- The exam cannot be taken more than 90 days before the application documents are submitted to the secretary of state's office.
- Requests for reappointment cannot be made more than 30 days before the expiration date of the current commission. If you send your renewal paperwork in too early, it will be returned. If you send your renewal paperwork in more than thirty days after the expiration date of your commission, be advised that your commission date will change.
- State employees whose filing fee is paid for by their department must arrange for an interunit journal (IUJ) to be issued before submitting the documents to the Secretary of State's office.
- **The notary is solely responsible for submitting the required documents and payment** for requesting a commission or for updating contact information during the term of office. Incomplete submissions will be rejected.
- The filing fee is non-refundable.

If you have any questions about any of these processes, feel free to contact the Notary and Certifications Division of the Secretary of State's office.

UPDATING YOUR INFORMATION

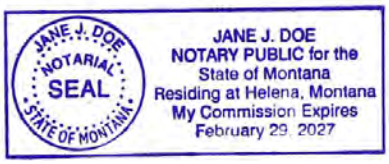
Notaries are required by law to provide certain information as part of the application process, including their name, physical residence address, mailing address, email addresses, personal telephone number, employment information, and whether Electronic or Remote Notarization services are offered. **This information must be updated as necessary during the term of office. You must notify the Secretary of State's office within 30 days of any changes.** An amended Certificate of Commission will be issued when your name or city of residence changes and you will have to obtain a new stamp showing the updated information. Name changes will also require a rider from the bonding company showing that they have changed the name on the bond. The Contact Information Update form is a fillable form on the website.

NOTARY SEAL/STAMP

Traditional Ink Seal/Stamps. It is the responsibility of the notary to obtain and keep an stamp upon receiving a new or subsequent commission. A new stamp must be purchased for each term of office or whenever the information shown in the stamp (such as the city of residence or the notary's name) changes. **The State does not provide the seal/official stamp**. They may be purchased from most stationery, stamp, or office supply stores. It is the notary's responsibility to assure that the stamp is correct and complies with the requirements described below. Do not expect that the retailer or manufacturer knows the requirements. Provide this page to the vendor if there are any questions.

All Montana notaries are required to have an ink stamp that creates a rectangular impression approximately 1" by 2 ½" in size, that contains, within a plain, narrow border, a seal (as shown below) and the additional statutorily mandated information: the notary's printed name; the title, "Notary Public for the State of Montana"; the words, "Residing at" with the name of the city or town **and state** where the notary ***lives***; and the notary's commission expiration date, shown as Month/Day/Four Digit Year. The stamp may be either **blue or black ink only**.

The following is an illustration of the combination seal/stamp unit that is mandated for Montana notaries:



- **All information as shown above must be included. The commission expiration date must be complete. <u>It is not acceptable to "fill in" the year</u>.**
- **If any of the information contained in the seal/stamp changes during the notary's term of office, the stamp must be replaced. Handwritten corrections to the impression are not allowed.**
- **The outside rectangular border is a REQUIRED part of the stamp.**
- **The position of the notary's name and the words "notarial seal" may be interchanged within the circular seal**
- **Notaries will have to purchase a new stamp for each term of office.**
- **When you use this seal/stamp, you do not have to re-enter the information contained in the stamp by hand on a notarial certificate.**
- **An electronic Montana notary seal/stamp must be visually the same as a tangible stamp impression in design, color, and approximate size.**

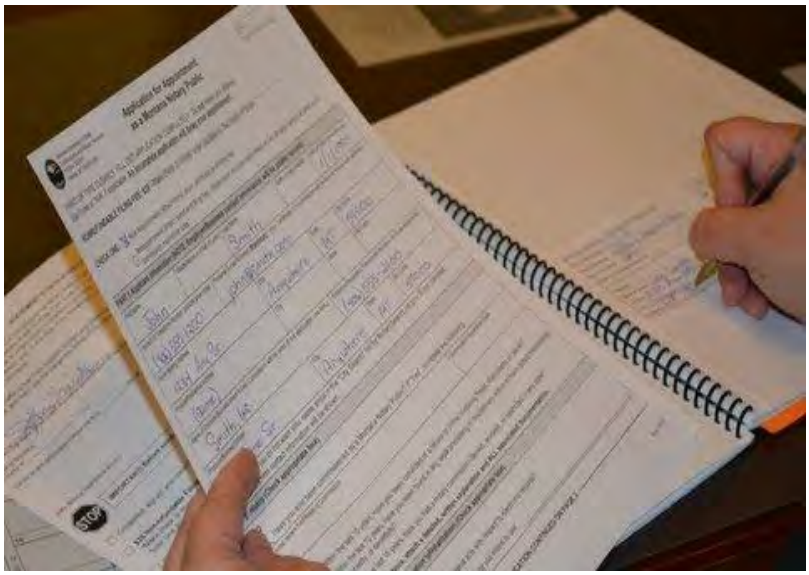
See the list of **Recommended Vendors** for contact information about stamp suppliers who have agreed to produce only compliant stamps for Montana notaries at: **https://sosmt.gov/Notary/Seals.**

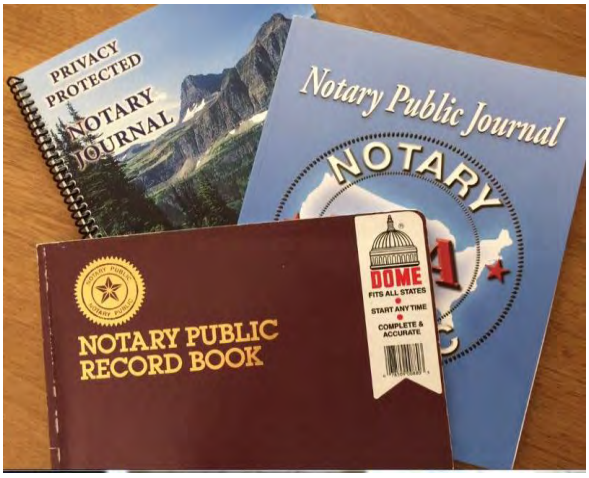
Electronic Seal/Stamp. The design and content of an electronic seal/stamp must be the same as the ink stamp.

Do not order your stamp until you have received your Notice of Appointment and Certificate of Commission.

NOTARY JOURNAL

All Montana notaries are required by law to maintain one or more journals in which all tangible and electronic notarial acts are recorded. The journals may be either a permanent, bound paper journal designed to deter fraud or a permanent, tamper-evident electronic journal. Each journal entry must include the **date and time of the notarization; the type of notarial act**, **a description of the document** (usually the document date and type); **the type of identification used**; **the signature, printed name, and address of the person for whom the notarial act was performed** (signatures are not required for certified copies or remotely notarized documents); and **the fee (if any) charged for the notarization.**





Paper journals may be obtained from a local office supply store or other retailer, or they are available online from many sources. There are different formats available; you may choose whichever you prefer as long as the records are chronologically numbered and the book is designed in such a way as to deter any deletion, alteration, or modification of the pages.

Electronic journals must be commercially produced and create chronological, sequential, and non-modifiable records that can be accessed upon demand and turned over in digital format to the Secretary of State's office in accordance with §1-5-618, MCA.

Some notaries may wish to keep one journal at work and another for personal use. Others may want to use both an electronic and a paper journal. A notary will be expected to produce any and all journal records as appropriate upon request of an authorized party.

It is the notary's personal responsibility to maintain possession of all journals created during the entire time the notary holds an active commission. A notary does not have to change journals when the commission is renewed; one journal may, in fact, contain the records for several years if the notary does only a few notarizations.

Upon termination or resignation of the notary's commission, the notary must keep the journals for 10 years after the last entry or choose to leave them with an *approved repository*. The Secretary of State has a form that must be signed by the notary and the proposed custodian and approved by the Secretary of State before the journals may be transferred to another repository.

More information on creating journal entries can be found on pages 10 - 12.

The American Society of Notaries considers journaling of every notarial act to be a primary commission responsibility.

Consistent, thorough journaling not only provides evidence of particular acts, but also of a Notary's habitual diligence and care.

CHAPTER 3 - NOTARIZING DOCUMENTS

THE NOTARIAL PROCESS

When we talk about "notarizing a document" most of the time we really mean notarizing, or authenticating, a signature in some way. So let's break down the steps that you'll take whenever you are asked to perform a notarization involving a signature:

- ✓ ***Require personal appearance***
- ✓ ***Review the document***
- ✓ ***Identify the signer(s)***
- ✓ ***Determine competency and willingness***
- ✓ ***Create the journal record***
- ✓ ***Complete the notarial certificate***

The processes for administering an oath as a separate notarial act, certifying a copy of a document, a fact, a photograph or certification of life are slightly different and we discuss them in the next chapter. These are the steps you always complete when taking an acknowledgement, witnessing a signature, or performing a jurat.

1. REQUIRE PERSONAL APPEARANCE

We've said it before and we'll say it again: "RULE # 1 – When taking an acknowledgement, witnessing a signature or performing a verification on oath or affirmation (jurat), the signer must **personally appear** to the **notary at the time the notarization takes place**." Montana law defines *personal appearance* as either physical presence or appearance of the signer by means of communication technology (remote or remote online notarization). In order to lawfully complete a notarial certificate, you are attesting that these notarial acts occurred "before you" and that you witnessed some particular action.

2. REVIEW THE DOCUMENT

Notaries are not verifying or validating the contents of the document being notarized and there is no reason for the notary to read the document word-for-word. However, before the notary can move on to the other steps, he/she should glance through the document in order to determine three important things:

- To verify what kind of document it is. You'll need that for your journal entry and also so you can determine if the signer understands what they are signing.
- To determine the type of notarial act required.
- To ascertain who is supposed to sign the document. Not only will this step tell you the name of the signer and how the person is to be identified and sign, but this is how you will learn if the document will be signed by the person acting in an individual or in a representative capacity.

3. IDENTIFY THE SIGNER

In the state of Montana there are only two ways that you may identify a person who requests a notarization:

- **Personal Knowledge –** A person whom you have known for a considerable period of time and would recognize anywhere, anytime can be identified on the basis of "personal knowledge." This is a subjective standard, but a notary should be guided by the understanding that, in the event of a legal challenge to the signer's identity, the notary would have to positively identify the person in court, often many years after the notarization took place. ***Personal knowledge is generally considered the best form of identification, and thus requires no further proof of identity.*** In Montana, it is generally acceptable for a notary public to notarize the signature of a spouse or other relative as long as the notary is not personally named in the document being signed or would be a direct beneficiary of the transaction contemplated by the document. The Secretary of State's office cautions that notaries should seriously consider the potential conflicts that

may arise over documents which transfer property or rights (titles, deeds, wills, powers of attorney, etc.) among family members. "Just because you can, doesn't mean you should" are good words to apply in these situations.

- **Satisfactory Evidence –** There are two types of "satisfactory evidence" – *Documentary Proof* and *Credible Witnesses*.
  - **Documentary Proof** - The most frequently utilized type of satisfactory evidence to positively identify a person who is otherwise unknown, or only slightly known, to you is by means of examining a statutorily acceptable identification credential which is current or expired less than three years prior to the notarization. The notary should always request **signed and/or pictured, government-issued ID** before performing a traditional notarization for someone they do not know well.

    Acceptable identification credentials include a passport, driver's license or state ID, tribal ID, military or student ID, or other government issued ID. Many times it will be necessary to use more than one piece of identification to conclusively identify a person. Notaries are cautioned that some forms of ID, such as bank cards, credit cards, and non-pictured government-issued cards (social security or Medicare cards) are not acceptable as primary identifiers, although they may *in certain circumstances* be used in conjunction with another ID to establish a person's identity. Notaries are not expected to be authorities on all types of identification, but they are urged to use common sense and reasonable care when presented with identification that appears to have been altered or tampered with in some way, or when the picture or description of the person on the card does not match the person appearing before the notary. If there is any doubt as to the person's identity, the only safe practice is to refuse to perform the notarization.

    Notaries performing remote or remote online notarial acts are required by law to utilize "multi-factor identification" in identifying the signer if they do not personally know him or her. The Secretary of State's office has determined that **the notary must use two or more of the following technologies to identify the signer(s)**: Dynamic knowledge-based assessment; public key certificate; identity proofing; credential analysis; or block chain identification. Other technology-based identification methodologies may be approved in the future.
  - **Credible Witness –** The other means of identifying a person for notarial purposes is the most misunderstood, the most complicated, and the least likely to be available at the time the situation arises without having made prior arrangements. The credible witness must be:
    - Personally known to the signer
    - Either personally known to the notary, or identified on the basis of documentary proof as defined above.
    - *Appearing personally* (either physically or by means of communication technology) to the notary at the time of the notarization.
    - An **unbiased third party** who has no interest in, or benefit from, the transaction.

    Steps to a proper notarization using a credible witness:

    1. Properly identify the credible witness.
    2. Place the credible witness under oath: "Do you swear under penalty of perjury that this is _____?"
    3. Create a journal record for the oath of the credible witness and have him/her sign the journal as appropriate. *The credible witness does not sign the document*.
    4. The signer signs the document (if not already signed).
    5. Create journal record for the signature, acknowledgment, or jurat and have the signer sign the journal as appropriate. *(The credible witness' name is the means of identification.)*
    6. Complete the notarial certificate on the document.

4. DETERMINE THE SIGNER'S COMPENTENCY AND WILLINGNESS

A notary's duty is not limited to determining the identity of the signer. Determining that the signer is competent and willing to sign the document is also required. The standard that a notary is held to for these determinations is one of "reasonable care." If the signer appears to be lucid and understands what is happening while the notarization is being performed, the standard of reasonable care for competency has likely been met.

> Failure to establish the identity, comprehension, and intent of the person requesting a notarization to the degree of reasonable care places the notary at risk of being sued for negligence or malfeasance in office.

Generally speaking, willingness can be inferred simply from the fact that the signer has requested that the notarization be performed. There are, however, situations where additional care must be taken by the notary; for example, when the signer appears to be under pressure or duress or under the influence of alcohol or other substances.

In situations where there is a question of pressure being put on the signer, the notary should ask any others in the room to leave and then engage the signer in conversation about the transaction. There is a difference between a person being unwilling or pressured to sign a document and being unhappy about the circumstances that have made it necessary for him or her to sign that document. When in doubt, the notary can get an opinion from an attorney or medical professional familiar with the signer.

If there is a question about the signer's competency or willingness, the notary must refuse to perform the notarization or suggest that it should be done at a later time as circumstances warrant.

5. CREATE THE JOURNAL RECORD

Your notary journal is the official record of the notarial transaction. Combined with the notarial certificate on the document itself, the journal entry is evidence that you fulfilled your obligations as a notary public for that transaction. The information required to be entered into the journal is the same for both paper and electronic journals – only the method of recording is different. The following must be included in every journal entry:

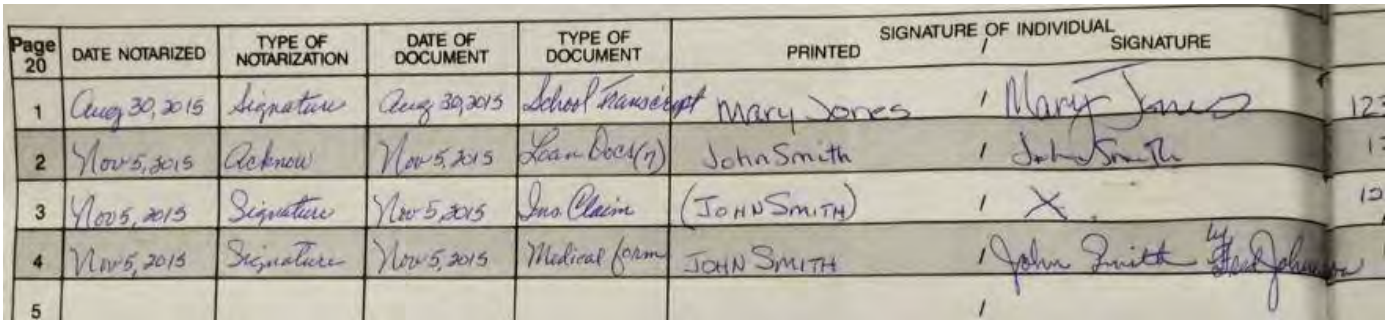
- **Date and Time Notarized:** This is the date and the time when you actually performed the notarization; it may or may not be the same as the date shown on the document, which may be earlier but not later than the date of notarization.
- **Type of Notarization:** There are twelve types of notarial acts enumerated in Title 1, Chapter 5, Part 6 of the Montana Code Annotated. It is incumbent upon the notary to know and understand the requirements for the performance of all of them and how to identify which act a particular document demands. The journal must accurately record the type of notarial act performed.
- **Description of the Document:** Typically, this is the date of the document (if indicated) and the type of document such as "contract," "deed," "power of attorney," "affidavit," etc. If more than one document is being notarized, each document should be described. The date may be the date the document was issued or the date it was signed, and is usually printed on the document before it is signed. If no date appears on the document, you may consider the date of notarization as the date of the document. If you are unable to identify the type of document, the signer should be able to tell you what is being signed – otherwise you must refuse the notarization.
- **Type of ID:** Again, your possible entries are limited. If you know the signer well, enter PERSONAL KNOWLEDGE. If you are relying on DOCUMENTARY PROOF, you should enter the issuing entity, the type of document (ex: "Montana DL"), and the date the ID was issued or expires. **DO NOT ENTER THE NUMBER OF ANY ID DOCUMENT.** If you rely on a CREDIBLE WITNESS, your journal should reflect that you performed two separate notarial acts, including the oath of the credible witness and the acknowledgment, signature, or jurat of the signer.

- **The Printed Name, Signature, and Address of the Signer:** This is **absolutely the most important entry in the journal**. This proves that the signer personally appeared to you at the time the notarization was performed. Whenever possible, the printed name and address should be entered by the signer; the signature, of course, must always be entered by the signer. The signer should be advised to enter his or her name the same way it appears on the document being notarized. It does not matter whether the signer uses a business or home address. For remote or remote online notarizations, the journal should reflect the platform that was used and where the a/v recording is stored in lieu of the signature of the principal(s).
- **The Fee.** You do not have to charge for notarial services, but if you do, you must enter the amount you charged in the journal record. Montana notaries may charge a maximum of $10 for performing most notarial acts and may charge additional fees for travel of use of communications technology if the signer is informed and agrees to the charges beforehand.
- **Other Information:** Use this space to include any information that may be pertinent to the situation. It is especially helpful to note anything unusual or additional that occurred or was a part of the transaction. Many journal entries will not require any additional information. Electronic journals often capture GPS data and allow you to take a picture of the signer, to provide additional proof of where the notarization took place and who signed the document.

Because notary journals could be subject to public review, notaries are specifically prohibited from entering any private information, such as birthdates, social security numbers, credit card numbers, or ID card numbers that could be used to steal someone's identity.

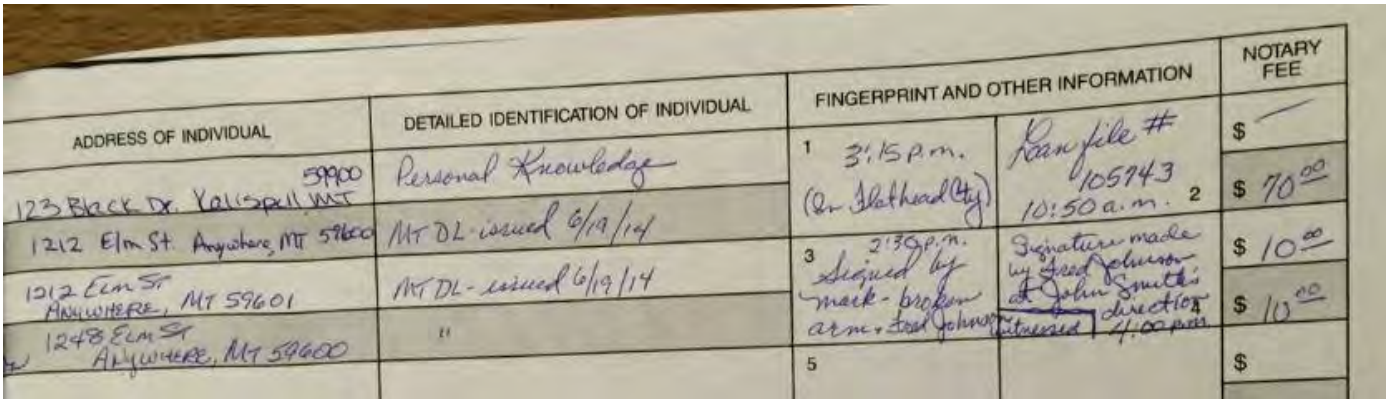
Below are pictures of a "Line-style" paper journal. The pages face each other and the information is written across the gutter. Since the information is contained on two separate pages, and entries are made on both sides of a page, this type of journal is very tamper-resistant. It is often chosen by notaries who routinely notarize a high volume of documents. The use of ditto marks is acceptable for everything but the signature. If multiple documents for the same signer are recorded at the same time and more than one line is used, a diagonal line may be drawn across the signature spaces and the signer may place his signature there rather than signing each separate line. If the notarizations were done at different times (even on the same day), however, a separate signature must be made each time as shown on this example.

Left Side of Journal Page



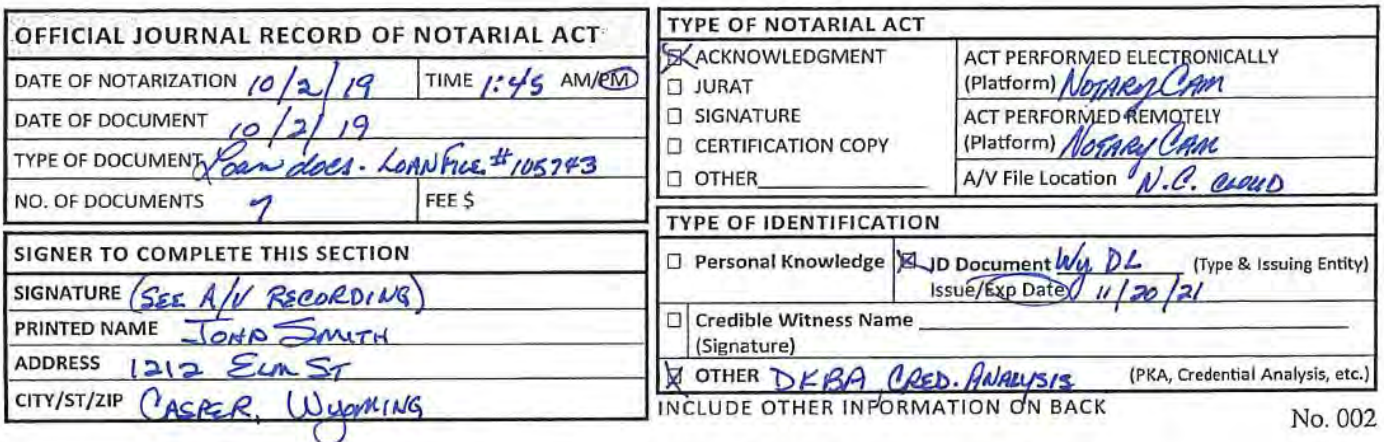
Page 20	DATE NOTARIZED	TYPE OF NOTARIZATION	DATE OF DOCUMENT	TYPE OF DOCUMENT	SIGNATURE OF INDIVIDUAL: PRINTED	SIGNATURE OF INDIVIDUAL: SIGNATURE
1	Aug 30, 2015	Signature	Aug 30, 2015	School Transcript	Mary Jones	Mary Jones
2	Nov 5, 2015	Acknow	Nov 5, 2015	Loan Docs(7)	John Smith	John Smith
3	Nov 5, 2015	Signature	Nov 5, 2015	Ins. Claim	(JOHN SMITH)	X
4	Nov 5, 2015	Signature	Nov 5, 2015	Medical form	JOHN SMITH	John Smith by Fred Johnson
5						

Right Side of Journal Page



ADDRESS OF INDIVIDUAL	DETAILED IDENTIFICATION OF INDIVIDUAL	FINGERPRINT AND OTHER INFORMATION		NOTARY FEE
123 Black Dr. Yellowspell, MT 59900	Personal Knowledge	1 3:15 p.m. (Dr. Slathead Cty)	Loan file # 105743 10:50 a.m. 2	$ —
1212 Elm St. Anywhere, MT 59600	MT DL - issued 6/19/14	3 2:30 p.m. Signed by mark - broken arm - Fred Johnson	Signature made by Fred Johnson at John Smith's direction 4:00 pm 4	$ 70.00
1212 Elm St. Anywhere, MT 59601	MT DL - issued 6/19/14			$ 10.00
1248 Elm St. Anywhere, MT 59600	"	5		$ 10.00
				$

Next is an example of a "Block-style" journal entry. These journals have a single block for every notarial act, although in some situations, more than one document signed by the same person at the same time may be grouped in one entry in the journal. You should include additional information explaining how the documents were related and any other information indicating where the group may be found. In the illustration below, there were a group of related documents (for a loan closing) signed by the same person. The notarization was performed using Remote Online Notarization (R.O.N.).



OFFICIAL JOURNAL RECORD OF NOTARIAL ACT

DATE OF NOTARIZATION 10/2/19	TIME 1:45 AM/PM
DATE OF DOCUMENT 10/2/19	
TYPE OF DOCUMENT Loan docs. LOAN FILE #105743	
NO. OF DOCUMENTS 7	FEE $

SIGNER TO COMPLETE THIS SECTION

SIGNATURE	(SEE A/V RECORDING)
PRINTED NAME	JOHN SMITH
ADDRESS	1212 ELM ST
CITY/ST/ZIP	CASPER, WYOMING

TYPE OF NOTARIAL ACT

☒ ACKNOWLEDGMENT	ACT PERFORMED ELECTRONICALLY (Platform) NOTARY CAM
☐ JURAT	
☐ SIGNATURE	ACT PERFORMED REMOTELY (Platform) NOTARY CAM
☐ CERTIFICATION COPY	
☐ OTHER	A/V File Location N.C. CLOUD

TYPE OF IDENTIFICATION

☐ Personal Knowledge	☒ ID Document WY DL (Type & Issuing Entity) Issue/Exp Date 11/20/21
☐ Credible Witness Name (Signature)	
☒ OTHER DKBA CRED. ANALYSIS	(PKA, Credential Analysis, etc.)

INCLUDE OTHER INFORMATION ON BACK

No. 002

Image from the Privacy Protected Notary Journal© published by the Montana Land Title Association Foundation. Used with permission.

Many journals will have spaces for fingerprints or thumbprints. Montana law does not require thumbprints, but there is no prohibition against notaries including a finger or thumbprint as further proof of the signer's presence and identity.

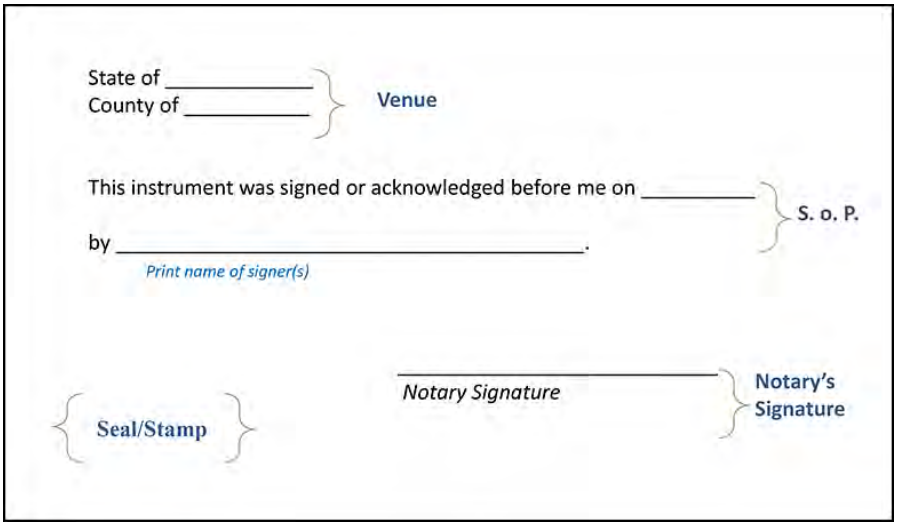
As noted in Chapter 2, Montana law also allows notaries to use electronic journals that create chronological, sequential, non-modifiable records that can be stored securely and accessed if needed. Because this is a relatively new technology, there are many developers and vendors introducing new products. Before investing in a particular product, it is the notary's responsibility to determine that the electronic journal meets the minimum criteria established. There are, and will likely continue to be, many "apps" that claim to be electronic journals but do not offer the security and tamper-evident qualities that are mandated for electronic journals.

6. COMPLETE THE NOTARIAL CERTIFICATE

The final step in the notarization process is the one most people think is the whole thing – completing the notarial certificate/block. The certificate must be executed contemporaneously with (at the same time as) the performance of the notarial act and include:

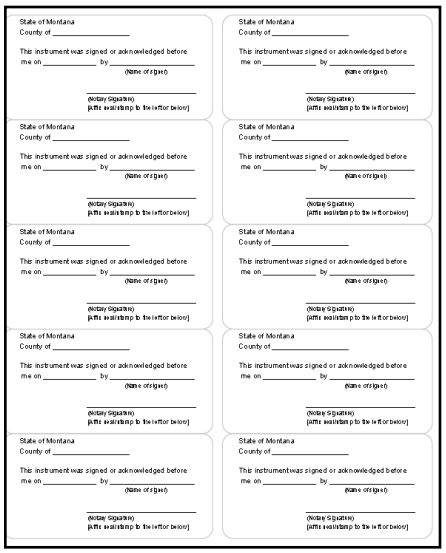
1. The **venue** - This is the **state and county where the notarization is performed**. *This is not always the state and county in which the notary resides or works and it is **not** the information contained in the notary's stamp. See "Jurisdiction" on page 3 for more information.*
2. The **statement of particulars** - This is a declaration describing the type of notarial act performed, the date on which it was performed and the person for whom it was performed or other information required by law. The notary may need to refer to 1-5-610, MCA or Chapter 4 of this handbook, to help with the wording and format.
3. The **notary's official signature** - The notary's wet signature or official electronic signature must be affixed to every notarial certificate. *The notary's official name on the notarial seal and the notary's official signature must correspond with the notary's commissioned name on file with the Office of the Secretary of State.*
4. The **notary's official seal/stamp** - The requirements for the seal/stamp are explained on page 6.

A diagram of a typical notarial certificate/block, showing the four required components – the **VENUE,** the **STATEMENT OF PARTICULARS,** the **NOTARY'S SIGNATURE** and the **NOTARY'S SEAL/STAMP** - is below.



Over the course of your career as a notary public, you may encounter many different notarial certificates. Some may be very short and concise, like the example above, and some may be long, wordy, and almost incomprehensible. All must contain these four basic elements. Recognizing the components of the certificates will help you in identifying what type of notarial act is called for, as well as assuring that all the required elements are included.

Many times notaries are presented with documents that either do not have a notarial certificate, or the pre-printed notarial certificate was somehow flawed or previously completed for another signer. When those situations occur, the notary must substitute a proper notarial certificate by writing, typing, stamping or attaching one to the document as close to the signer's signature as possible.



We have created a series of notarial certificates that may be downloaded from our website and printed on 2" x 4" shipping labels and then affixed directly to the document. We have also created half-page and full page loose certificates that may be downloaded from our website and filled-in with the correct information, then signed and stamped by the notary and attached to the document.

Because loose certificates are just stapled to the document, they can easily be detached, lost, or deliberately removed, and should not be used unless a certificate cannot be permanently affixed on the document. The notary should always note on the document "See notarial certificate attached" and note in the journal that a loose certificate was used.

If an error is made while completing the notarial certificate, any incorrect or omitted information may be corrected by the notary before relinquishing the document. Such changes should be initialed and dated and corresponding information should be noted in the notary's journal.

Montana law allows the notary, or a person with written permission from the notary, to subsequently correct or include omitted information on a certificate as long as the journal entry corroborates the change. All documentation pertaining to a third-party correction, including a copy of the revised certificate, must be kept in the notary's journal with the original entry. The journal record must create a full paper trail of the changes made to any certificate after the date of the notarization.

Handwritten changes or corrections may not be made to the impression of the notarial seal/stamp. If the stamp impression is not correct or clear a new impression must be made.

In the next chapter we will explain the types of notarial acts and how you complete typical certificates for each type of notarization.

CHAPTER 4 - TYPES OF NOTARIAL ACTS

There are twelve specific authorized notarial acts enumerated in Montana notary law *[Title 1, Chapter 5, Part 6, Montana Code Annotated]*:

- Taking acknowledgments in an individual capacity.
- Witnessing signatures in an individual capacity.
- Taking acknowledgments in a representative capacity
- Witnessing signatures in representative capacity.
- Verification upon oath or affirmation (Jurat).
- Administering oaths.
- Certifying copies of certain private tangible or electronic records.
- Certifying a fact or event.
- Certification of life.
- Certification of a photograph.
- Certifying transcripts of depositions or affidavits.
- Making protests of negotiable instruments.

Every Montana notary public is empowered to perform all but the last two notarial acts listed above. The notarial acts of certifying or attesting a transcript of an affidavit or deposition and making a protest of a negotiable instrument may be performed only by notaries who are knowledgeable of the applicable associated legal requirements and have received appropriate training.

There are also other notarial acts that appear in other sections of the Montana Code Annotated, but they are very rarely used, and notaries should be extremely cautious of performing a notarial act with which the notary is unfamiliar.

On the following pages, we will explain the particulars of each act and provide you with examples of notarial certificates that you will likely encounter and how they should be completed. Understand that you will most likely see variations in the pre-printed notarial certificates, but you should be able to figure out what type of notarial act is being indicated and how to fill in any blanks. Some pre-printed notarial certificates, instead of providing blank spaces for you to enter information, will provide multiple choices for certain details; in these cases you should either circle the appropriate information or cross through the other options. If you are unable to determine the type of notarial act or if you do not understand what information is to be entered in a particular space, then you should request assistance before attempting to complete the notarization.

As ministerial officials, notaries do not have the authority to decide on the appropriate type of notarization to perform. If the document does not have a pre-printed notarial certificate on it and the signer cannot indicate to you what is needed, then you may not proceed with the notarization.

Notaries must refuse to perform a requested notarization if the person requesting it cannot be satisfactorily identified or if the notary determines that (1) the person does not appear to be competent or have the capacity to execute the record, or (2) the person is not signing the document knowingly or voluntarily. Notably, the law allows notaries to refuse to perform any notarization unless there is another law specifically prohibiting the notary from refusing.

Information about how to perform each of the notarial acts is provided below with examples of corresponding certificates, showing how they should be completed.

TAKING ACKNOWLEDGMENTS

The notarial act of taking an acknowledgement requires the signer to personally appear before the notary, but it does **not** require the notary to witness the act of signing. Often the party has previously signed the record before bringing it to the notary. In those cases, the requirements are met when the signer verbally declares (acknowledges) to the notary that he/she signed the document, and the notary has: (1) determined the signer was competent to sign the document and did so voluntarily; (2) properly identified the signer; and (3) verified the signature to be that of the signer (usually by comparing the signature on the document to the signature on the ID and the one made by the signer in the notary's journal.)

In taking an acknowledgment, the notary must do the following:

- Require the personal appearance of the signer.
- Review the document to identify that an acknowledgment is the type of notarial act required.
- Identify the signer as the person who is supposed to sign the document.
- Verify that the signature on the document is the signer's, either by watching them sign the document, or if it has already been signed, by comparing the signature on the document to one on the signer's ID and the signature made by the signer in the notary's journal.
- Have the signer ***verbally acknowledge*** that the signature is his or hers and that it was made competently and voluntarily.
- Complete the journal entry and the notarial certificate.

Examples of a typical notary certificate for an ACKNOWLEDGMENT

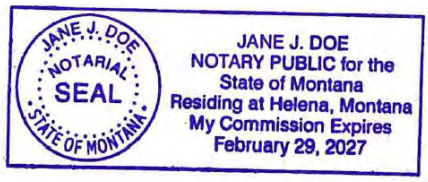
1. This a simple, basic form from 1-5-610(1), MCA:

State of Montana

County of Yellowstone

This record was acknowledged before me on August 25, 2019 by John Smith (only).

Print name of signer(s)



Affix seal/stamp as close to signature as possible.

Notes:

- The key word to look for to identify an acknowledgment is "acknowledged" in the written statement of particulars.
- There are many variations on the wording of acknowledgments; this is one of the most common versions and is the statutory form suggested in 1-5-610(1), MCA.

- It is a good habit to enter the word “only” in parentheses after entering the name(s) of the signer(s), so that additional names cannot be entered later in an attempt to indicate that other signatures were notarized.

WITNESSING SIGNATURES

Witnessing a signature is exactly that: You watch the signer sign the document. Occasionally someone will bring a document to you that has already been signed, although the preprinted form calls for you to witness the person sign the document. In situations like that, you must have the person sign the document again in your presence. It is not necessary for the signer to cross out the first signature; he or she should just sign again as close to the original signature as possible. When witnessing a signature, the notary will do the following:

- Require the personal appearance of the signer.
- Review the document to identify the type of document and type of notarial act required.
- Identify the signer as the person who is supposed to sign the document.
- Determine that the signer is signing the document competently and voluntarily.
- Have the signer ***sign the document*** as you watch.
- Complete the journal entry and the notarial certificate.

Example of a typical notary certificate for WITNESSING a SIGNATURE

1. This is a more wordy version of the basic form as described in 1-5-610(4), MCA

In the County of Yellowstone, State of Montana, on this 25th day of August, 2019, before me, the undersigned Notary Public personally appeared John Smith (only), who was ~~personally known to me~~, proved to me through documentary evidence, ~~or identified by a credible witness~~ to be the person named in the foregoing, and executed the same.

JANE J. DOE NOTARIAL SEAL STATE OF MONTANA

JANE J. DOE
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
February 29, 2027

Affix seal/stamp as close to signature as possible.

Jane J. Doe
(Notary Signature)

Printed Name

Commission Number_____
My Commission expires:_____, 20_____

Notes:

- The format of the notarial certificate may vary from the short form certificate in statute, as seen in the above example; however, as long as all information required by law is included, the style of the notarial certificate is not important.

- The key words to look for to determine if you are to witness the signature are “signed,” “subscribed,” or “executed.”
- It is a good habit to enter the word “only” in parentheses after entering the name(s) of the signer(s), so that additional names cannot be entered later in an attempt to indicate that other signatures were notarized.
- Be sure to line through the “multiple choice” options provided in the pre-printed certificate.
- Because the combination seal/stamp includes all the statutorily required information, you do not have to re-enter the information below your signature. You should line through that part of the certificate to indicate that you did not “just forget” to complete it.
- If a pre-printed certificate requests information that is contained in the stamp or that is not required by Montana law, such as a commission number, a simple line through that part of the form will indicate that the information has not been forgotten or ignored.

REPRESENTATIVE CAPACITY SIGNERS

An acknowledgment or a signature witnessing can also be made by an individual acting (signing) on behalf of another person or entity. These are called an **acknowledgments or signatures in a representative capacity** and the person who is appearing before the notary will be signing on behalf of a business or corporation, a trust, with a Power of Attorney or with some other authorization that allows them to sign for another person or legal entity.

When notarizing a document that is being signed by someone other than the person or entity designated as the principal, the notary should determine (1) the **identity** of the person who is actually signing the document, (2) the **capacity** of the person to sign on behalf of the person or entity, and (3) the **authority** to sign for that person or entity in this particular transaction.

Montana Code Annotated §1-5-610(2) and (5) specify that such notarial certificates must be completed with the name of the person who signed the document, the capacity in which it was signed, and the name of the party or entity on whose behalf it was signed.

Here is an example of how to complete such a notarial certificate. Note that you will most likely have to add the information about the capacity of the signer and the person or entity who was expected to sign the document – many documents do not anticipate that they will be signed by an individual other than the named principal.

(This is how you would complete the information if the signer is using a power of attorney as the basis for signing the document.)

State of Montana
County of Yellowstone

This record was signed before me on September 5, 2019 by John Smith (only), as Attorney-in-fact for Mary Smith.

JANE J. DOE NOTARIAL SEAL STATE OF MONTANA
JANE J. DOE
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
February 29, 2027

(Notary Signature)

Affix seal/stamp as close to signature as possible.

NOTES:

- When notarizing a document that is being signed by someone other than the person or entity designated as the signer, the notary should determine:
    1. The **identity** of the person who is actually signing the document
    2. The **capacity** of the person to sign on behalf of the person or entity
- The above information may be determined using the same methods that are used to determine identity:
    - Personal knowledge
    - Satisfactory evidence
- Montana law defines the criteria for determining the capacity of a representative capacity signer as "the record, personal knowledge, or presentment of an official record" [§1-5-603(4)(a)(ii), MCA] Sufficient evidence would include the document itself (if it refers to the designated signer), or some official documentation, such as an authorizing document (a Power of Attorney, probate records, Trust document, etc.) or information on an official government website, such as the secretary of state's Business Services website showing registered businesses and key officials.
- As noted above, most documents' notarial certificates do not anticipate that the document will be signed by someone other than the person or entity whose name appears on the document, so the notary will have to adjust the preprinted notarial certificate accordingly. You may wish to substitute a correct notarial block by lining through the pre-printed block and attaching a correct form with the signer's permission.
- If the signer is using a power of attorney, the notary should remember to ask if the principal is alive. A power of attorney automatically terminates upon the death of the principal and can never be used for a deceased person.
- In preprinted notarial certificates with several blank spaces in them, try inserting the name of the signer and/or pronouns referring to the signer.

VERIFICATION UPON OATH OR AFFIRMATION/SIGNED AND SWORN ("JURAT")

A more complex process is taking a verification upon oath or affirmation, commonly known as performing a jurat. For some legal uses, the document would be inadmissible or useless if the jurat is not properly completed. Performing a jurat requires a notary to do two things: (1) Witness the person signing the document – just like the signature witnessing above, and (2) Administer an oath, placing the person under penalty of perjury if the statements made in the document are proven false. A notary is not responsible for the truthfulness or accuracy of the document, and the person who takes the oath may, in fact, not be telling the truth. As long as you have administered an oath, you have done your job.

Suggested oath (or affirmation) to be administered when performing a jurat notarization: *"Do you swear (or affirm) that the information contained in this document is true and complete to the best of your knowledge?"*

When called upon to perform a jurat notarization, the notary will do the following:

- Require the personal appearance of the signer
- Review the document to determine the type of document and type of notarial act required
- Identify the signer as the person who is supposed (or authorized) to sign the document
- Determine that the signer is signing the document competently and voluntarily
- Have the signer ***sign the document*** as you watch
- Administer the above (or similar) oath
- Complete the journal entry and the notarial certificate

Examples of a typical notary certificate for a JURAT

1. The first one is from 1-5-610(3), MCA:

State of Montana

County of Yellowstone

This record was signed and sworn to before me on August 25, 2019 by John Smith (only).

Print name of signer(s)

JANE J. DOE NOTARIAL SEAL STATE OF MONTANA

JANE J. DOE
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
February 29, 2027

(Notary Signature)

Affix seal/stamp as close to signature as possible.

Notes:

- When determining whether to perform a jurat, remember you are looking for instructions to do two things: Witness a signature ***and*** administer an oath. Key words are "signed and sworn," "subscribed and attested," or "affirmed and executed" (any combination of those six verbs indicating that an oath was administered and the document was signed in the notary's presence).
- It is a good habit to enter the word "only" in parentheses after entering the name(s) of the signer(s), so that additional names cannot be entered later in an attempt to indicate that other signatures were notarized.

ADMINISTERING VERBAL OATHS

Although notaries are fully authorized to administer oaths as a separate notarial act, most of the time they are done in conjunction with a signature – a jurat. There is no standardized language mandated for various situations requiring an oath. In most cases the notary will receive instructions that will include or indicate the proper language for the specific oath that is to be administered.

CERTIFYING COPIES OF DOCUMENTS

A Montana Notary Public may be asked to certify or attest that **a copy** of a tangible or electronic document or other record is a full, true, and accurate transcription or reproduction of that which was copied. Because you are not verifying a signature, there is no need for you to require the presence of any particular individual, nor are you required to identify anyone in conjunction with the notarial act of certifying a copy. There are two ways to fulfill a request for a certified copy of a document:

CERTIFICATION OF COPY - When asked to certify a copy of a **tangible record**, the notary shall:

- Examine the document to determine that it is an unaltered original.
- Verify that the document may be lawfully copied and certified (see below for prohibitions on certifying certain documents).
- Personally photocopy the document.
- Complete the journal entry and a proper notarial certificate for the copy of the document.

CERTIFICATION OF AN ELECTRONIC or DIGITAL RECORD – When asked to certify a copy of an **electronic record**, the notary must:

- Personally download and print the copy directly from the digital file.
- Complete the journal entry and a proper notarial certificate for the copy of the document.

Note that the requester does not sign the copy at all – only the notary's signature appears on the copy of the document or the attached certificate. Also note that the requester's signature, printed name, and address is not required in the journal entry, but it is certainly acceptable to include it.

There may be instances where the notary is not certain that the document that is being presented is one the law allows to be copy-certified. In those VERY RARE instances, the notary may offer the requestor the option of certifying the document and then the notary will perform a verification under oath (jurat) where the requester swears under penalty of perjury that the copy of the document is a true and exact copy. This process is called "Certification of Document Custodian". **This process should never be used when the notary knows that the document should not be copy certified by a notary public.**

CERTIFICATION BY DOCUMENT CUSTODIAN – A customer may bring you a copy of a document and request that it be certified. In this situation, the notary should:

- Require the customer to certify that the copy is a true and accurate copy of the original and sign the statement of certification
- Place the customer under oath and perform a jurat notarization of the customer's signature
- Complete the journal entry and the notarial certificate

"Certification by a document custodian" should not be used to certify copies of those public records that cannot be certified by a notary public. The notary's journal entry for this type of notarization would reflect that a jurat notarization was performed on a certification by document custodian as the type of notarial act. See the second example below.

Montana notaries are ***prohibited from making and certifying copies of public documents*** which are considered official records that are issued by state or other government officials, unless the notary is employed by the entity issuing or holding the original record. If you are unsure whether you may properly certify a copy of a particular record or document, contact the Secretary of State's office.

Some documents will contain a warning that they are not to be copied. Such documents cannot be copy certified. Note: If you make a copy of a document and language appears indicating that the copy is void, you may not certify that copy. Below are charts showing some of the types of documents that notaries are often asked to copy certify. This is not a comprehensive list, but includes most of the frequently requested documents.

Typical "Public" Documents
DO NOT COPY & CERTIFY
Birth or Death Certificates
Marriage Licenses
Divorce Decrees
Court Orders
Adoption Records
School Transcripts
FBI Fingerprint Cards
Motor Vehicle Titles
Any Recorded Document

Typical "Private" Documents
MAY COPY & CERTIFY
Driver's Licenses
Student ID Cards
Employee ID Cards
Passports
Diplomas
Certificates or Awards
Personal Documents
Bills or Invoices
Bank Statements

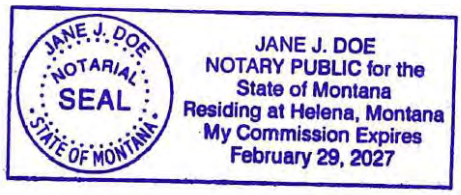
The simplest and easiest way to create a certified copy is to make a copy of the original document and then add a preprinted notarial certificate on the front or back of the copy or attach an appropriate loose certificate. Printable notarial certificate forms are available on our website. You can download these forms on mailing labels or regular paper. You may, of course, simply handwrite a complete notarial certificate directly on the copy – it's not rocket science!

Here is an example of a properly completed notarial certificate for copy certifications:

1. Direct certification of a tangible record:

State of Montana
County of *Yellowstone*

I certify this to be a true and correct copy of the *diploma from Montanan State University issued to John Smith* made by me on *August 25, 2019*.



(Notary Signature)

Affix seal/stamp as close to signature as possible.

2. Certification by document custodian:

First, have the customer write the certification statement on the document:

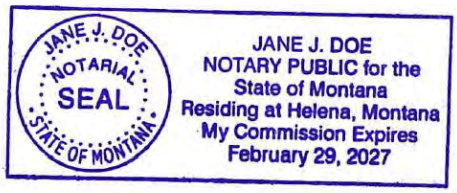
I certify that this is a true and correct copy of *my diploma from Montana State University* in my possession and made by me on *Nov. 5, 2015*.

Signed *John Smith*

When that is completed attach the jurat form: https://sosmt.gov/Notary/assets/blocks/Jurat.

State of Montana
County of *Yellowstone*

This record was signed and sworn to before me on *August 25, 2019* by *John Smith (only)*.
Print name of signer(s)



(Notary Signature)

Affix seal/stamp as close to signature as possible.

NOTE: Certified copies of various records are frequently required for individuals working, studying, or living abroad. Please see our website for more information about certified copies of documents that also require an Apostille.

3. Certification of a digital or electronic record:

State of Montana
County of Yellowstone

I certify that the foregoing and annexed record entitled Montana Notary Public Handbook, dated Fall, 2019, and consisting of 2,628 KB is a true and correct copy of the electronic record printed directly from the electronic file by me on September 5, 2019.

JANE J. DOE NOTARIAL SEAL STATE OF MONTANA
JANE J. DOE
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
February 29, 2027

(Notary Signature)

Affix seal/stamp as close to signature as possible.

REMOTE ONLINE NOTARIZATION (R.O.N.) or REMOTE NOTARIZATIONS

The certificates that are to be used for Remote Online Notarization or Remote Notarization are codified in §1-5-610(9 – 10), MCA and are dependent on whether the signer is located inside of the United States or in a foreign jurisdiction. The certificates for R.O.N. transactions will be part of the electronic document that you will be provided with and you will simply provide the specific details as prompted. We won't illustrate that type of certificate here since you will be given specific information in conjunction with the training offered by the R.O.N. Solution Provider when you sign up with them.

Remote Notarization of an acknowledgement on a tangible document is another situation entirely and the notary will have to complete a full certificate either on the document or a loose certificate that can be attached to the document. This is an example of a loose certificate for a Remote Notarization:

NOTARIAL CERTIFICATE

Remote Acknowledgment for Principal Located In the U.S.

State of Montana

County of Lewis + Clark

This record was acknowledged before me by use of communication technology on October 1, 2019 (Date) by Richard P. Johnson (Name of principal(s).), who was located in Plentywood, Montana (Place in the United States where principal was located) at the time of this notarial act.

JANE J. DOE NOTARIAL SEAL STATE OF MONTANA
JANE J. DOE
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
February 29, 2027

(Notary Signature)

[Affix stamp above]

This certificate has been attached to the Power of Attorney (Type of record or document)

consisting of 2 page(s), dated September 20, 2019.

Any evidence that this certificate has been detached or removed from the above described record may render the notarization invalid or unacceptable.

CERTIFICATION OF FACT or PHOTOGRAPH:

Montana notaries may certify that certain facts are true, such as the date that something occurred like a birth, marriage, a death, or that a photograph contains an image of a person, place, or thing that the notary has been able to verify from personal knowledge or a source that the notary deems reliable to be accurate.

State of Montana
County of Yellowstone

I certify I have confirmed that Mary Elizabeth Jones, is President of the Montana Tropical Flower Association for the 2019 – 2020 term from a review of the Minutes of that same organization dated January 18, 2019, made by me on September 5, 2019.

JANE J. DOE NOTARIAL SEAL STATE OF MONTANA
JANE J. DOE
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
February 29, 2027

Affix seal/stamp as close to signature as possible.

(Notary Signature)

Certifications of Fact and Photographs will always require the notary to prepare a certificate. You may find downloadable certificates for these notarial acts on our website at https://sosmt.gov/notary/forms.

CERTIFICATION OF LIFE

Individuals who are temporarily living in the United States frequently need to send forms back to their home country attesting to the fact that they are still alive and are eligible for certain benefits from their home country. Montana notaries are able to certify that a person is alive, but it is critical that the notary does not exceed that authority by completing a form issued by the other country that may contain additional certifications.

When presented with a form that is intended to verify the living status of the individual, the notary must be able to read the form – which means that the form must be in English or have a translation attached.

When asked to certify that a person is alive, the notary must:

- Require the personal appearance of the person.
- Verify the person's identity carefully. You should request an immigrant visa or a green card as the preferred proof of identity.
- Carefully read the document to ascertain that you are not attesting to something other than the fact that the person is alive.
- You may use a downloadable loose certificate with Montana compliant language and attach it to the document.

OTHER NOTARIAL ACTS - CERTIFYING TRANSCRIPTS of AFFIDAVITS OR DEPOSITIONS AND MAKING PROTESTS OF NEGOTIABLE INSTRUMENTS

The notarial acts of certifying or attesting a transcript of an affidavit or deposition and making a protest of a negotiable instrument may be performed only by notaries who are knowledgeable of the applicable associated legal requirements and have received the appropriate training.

Certification of a transcript is a notarial act performed by a court reporter when the record made on the stenograph machine is converted into a regular Word-type document, proofed and edited and then certified by the court reporter/notary to be an exact copy of the spoken words. This is not to be confused with the notarization of the signature and oath (a jurat) of the subject who affirms the content of a deposition or affidavit.

A Protest of Instrument is a written declaration made by a notary at the direction of an individual that describes a bill or note and declares that the instrument was presented for payment and the request was refused for specific reasons. If a notary is asked to provide a protest of instrument, the notary is advised to contact the secretary of state's office immediately for further instruction on how to proceed.

§1-5-604(3), MCA empowers notarial officers to perform, "a notarial act authorized by this part or by a law of this state other than this part." If you are asked to provide a notarial act that does not seem to be one of the types of notarizations explained above, you should require the requester to provide you with the citation from the Montana Code Annotated describing the notarial act and the elements needed to complete it properly. You should contact the Notary & Certifications Division of the Secretary of State's office for assistance with any questions about "other notarial acts" before agreeing to the request.

CORRECTING A NOTARIAL CERTIFICATE

Montana law recognizes that mistakes sometimes happen and allows a notarial certificate to be corrected after the notarization has been completed if the change or correction can be evidenced by the information contained in the notary's journal.

No handwritten change or correction can be made to the impression of the notary's stamp. For example if the notary's name or city of residence has changed and the notary has not received the new stamp, the notary may not line through the name or city made by the stamp and handwrite the new name or city. Or if the notary's name or commission expiration date is not legible, the notary cannot trace over the missing letters. If the wrong stamp was used or if the notary forgot to affix the stamp, a new impression can be made on the document with the associated date and initials, showing that the correction was made subsequently to the document.

CORRECTION BY NOTARY

The notary may enter missing information or correct incorrect information on the original notarial certificate by making the change and initialing and dating the correction. A corresponding note must be entered in the notary's journal explaining what was changed and the date it was changed. Allowable corrections include changing, correcting or entering the venue, the date of the notarization, the name of the signer(s) or affixing a missing stamp.

CORRECTION BY A THIRD PARTY

A Montana notary ***may*** authorize a third party to change or correct missing or incorrect information contained in a completed notarial certificate ***only if the authorization is granted in writing and a copy of the authorizing message and a copy of the modified certificate is attached to the notary's journal record of the transaction.***

NOTE: It is a violation of §1-5-632, MCA, for anyone other than the notary who completed the notarial certificate or the person who received written authorization from the notary, to change, modify, or correct any information on a notarial certificate. A violation of this section is subject to a fine of $2500 or incarceration up to 1 year

CHAPTER 5 – SPECIALIZED INFORMATION

NOTARIZING MONTANA MOTOR VEHICLES TITLES

Montana requires that the seller(s) signature(s) on a Montana Motor Vehicle Title be notarized. Once notarized, the title becomes a "negotiable instrument" and ownership is readily transferred to the person holding the title. For this reason, Montana notaries are urged to be particularly conscientious when asked to notarize a title.

- The preprinted notary certificates on most, if not all, of the older Montana titles do not accurately contain all the information required in a proper notarial certificate. You are responsible for ensuring the notarial certificate is complete. **NOTE:** The "venue" is missing on most (though not all) older title forms. You must include the location where the notarization was performed: "State of Montana, County of _____."
- If there are two or more owners listed on a title, they ***do not*** have to have their signatures notarized ***at the same time or by the same notary***, but ***all sellers' signatures must be notarized***. The sellers sign and print their names on the lines provided on the title; the first notary should use the "preprinted certificate" and be sure to specify whose signature was notarized ("Signed and sworn before me by John Smith (only)"). The subsequent notary completes a full notarial certificate either on the title (in the lien holder's section, if there is enough room) or on a separate designated notarial certificate for Montana Motor Vehicle Title (see page 27).
- The Montana Motor Vehicle Division will not accept a title with information that has been in any way corrected or crossed out. If an error is made by the signers or the notary, a **Statement of Fact** will have to be completed and filed with the Title. A copy of this form is available online our website at: https://media.dojmt.gov/wp-content/uploads/9_16-Statement-of-Fact-MV100.pdf.
- Notaries may place their seals in the lien holder section, just to the left of the signature in the notarial certificate on the older title forms. The new version has a space specifically designed for the new seal/stamp units that will be easier to use.
- Not every state requires that its titles be notarized. When asked to notarize an out-of-state title, be sure to check to see: (1) if it needs to be notarized; and (2) whose signatures, if any, must be notarized.
- See our website for information on remote or remote online notarizations of Montana motor vehicle titles. We are currently working with Motor Vehicle Services to determine the specific requirements for using communications technology to notarize titles and other MVD documents.
- Notaries may notarize "**open titles**," per the message below.

SEE NEXT PAGE FOR ILLUSTRATION OF PROPERLY NOTARIZED MONTANA MOTOR VEHICLE TITLES

10/27/2010

AN IMPORTANT MESSAGE FROM THE MOTOR VEHICLE DIVISION:

"Open title" refers to a situation where a vehicle owner signs the transfer or assignment section of a title but doesn't write in the name of the person to whom the vehicle is being sold (and usually odometer information is left blank as well). The open title can then passed to a buyer (or through a series of buyers) without the statutorily mandated title and registration transactions being performed, the odometer disclosure statement being executed by the original seller or acknowledged by the original buyer, or any official record of the transfers being made. The risk of fraud and tax avoidance greatly increases when open titles are circulated. Additionally, open titles facilitate unlicensed "dealing" of motor vehicles, which then places legitimate dealers at a disadvantage.

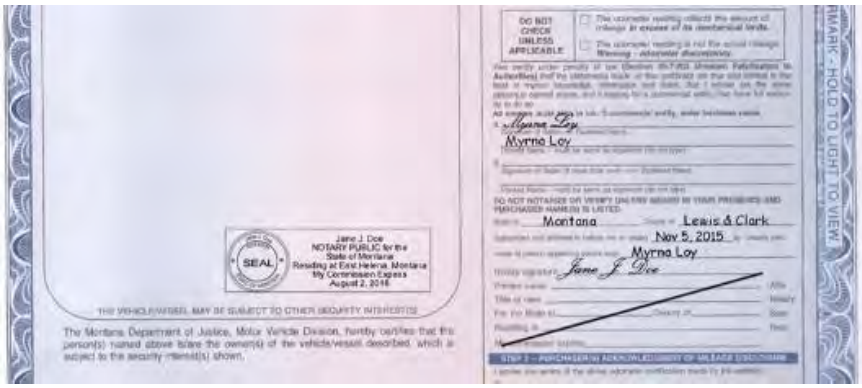
A notary may disregard the open title admonition on the title (versions 2006 to 2010) and proceed with notarization of the vehicle owner's (seller's) signature – even though the purchaser's name and address is not entered in section 1 of the title - if the notary has properly identified the signatory in accordance with the requirements of their commission. The notary is not required to interpret and/or enforce Montana title laws when acknowledging signatures on a Montana title document.

Likewise, a county treasurer, a deputy county treasurer, or a clerk who has been authorized by the treasurer to use the county seal under the authority of MCA § 61-3-220(2) ("an employee or authorized agent of the department") may acknowledge the signature of a vehicle owner (seller), even though the owner has not entered the purchaser's name and address in section 1 of the title.

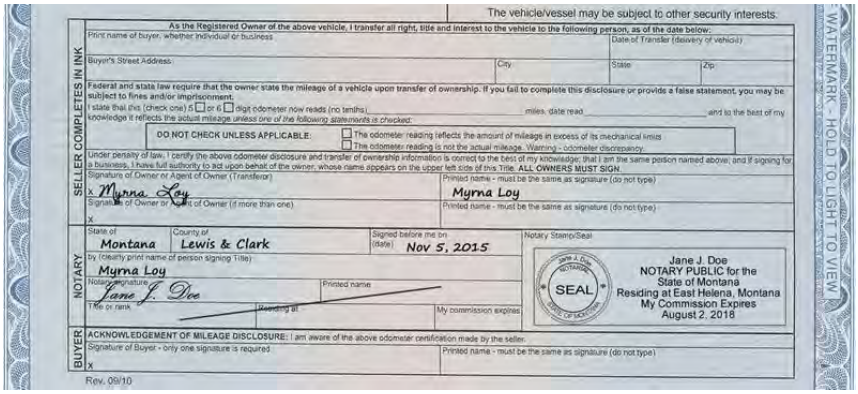
It is the seller's responsibility to execute a transfer (i.e., enter the purchaser's name and address information) on the Montana title. Additionally, the seller has the duty to ensure that the odometer disclosure is complete and inherent in that process is naming a purchaser (transferee) who then by law must acknowledge the disclosure. MVD or county officials may inform a vehicle owner of state law requirements for transferring a vehicle to another person.

EXAMPLES of PROPERLY NOTARIZED MONTANA MOTOR VEHICLE TITLES

Old style titles (issued before September 2010):



New style titles (issued after September 2010):



If a second notarial certificate is needed for subsequent signers, the notary may either **handwrite a complete notarial certificate on the title** if there is room or complete and **attach a loose certificate** as found on the next page or on the website at http://sos.mt.gov/Notary/Forms. **Do not use the pre-printed labels that stick on the document – they will be rejected by the Montana Motor Vehicle Division.**

FIVE TIPS FOR NOTARIZING A MONTANA TITLE PERFECTLY – EVERY TIME:

1. Have the signer print and sign his/her name in the spaces provided. **It is imperative that every appearance of the seller's name be exactly as shown at the top of the title.**

2. [For "old style" titles only] After *witnessing the seller sign his/her name, place the seller under oath, swearing that the information entered on the title is true and correct*.

3. Complete the notarial certificate. Be sure you print the name of the person(s) for whom you are performing the notarization. ***NOTE**: Many of the older versions of the title do not have spaces for the **venue** – you must enter it wherever you can fit it in.*

4. Affix your seal/stamp in the space provided on new titles or in the lien holder section as shown in the top image on the older versions.

5. Montana notaries need not re-enter the identifying information that is contained in the seal/stamp. You should line through the spaces as shown.

IMPORTANT!

WHEN THE TITLE IS MADE OUT TO A BUSINESS OR WILL BE SIGNED IN A REPRESENTATIVE CAPACITY

When notarizing a title that has been issued to a business, or for an individual who is signing on behalf of another person, you and the signer **MUST** enter: 1. The name of the person or entity shown on the title; 2**.** The name of the person who is actually signing the title in your presence; and 3**.** The capacity in which they are signing. For example:

"Fred's Plumbing, Inc. by Fred Smith, President"

"Agatha Smith by Walter Smith as Personal Representative"

See page 17 of this handbook for more information

NOTARIZING A TITLE WHEN ONE OF THE NAMED OWNERS IS DECEASED

Hands-down, the most frequent question received by the secretary of state's office is, "My customer has a title that is made out to an owner who is deceased. He has the death certificate and a Power of Attorney. How do I notarize it?" The answer is pretty straight forward – "You don't!" A death certificate is not a valid ID document (no picture, no signature, and no "body" either!) and remember - a Power of Attorney automatically terminates upon the death of the principal. If the person appearing to the notary has probate papers naming them as the Personal Representative, Administrator, or Executor of the Estate, etc., the person can sign in a representative capacity and the title can be notarized. Otherwise you should direct the signer to take the title to the County Treasurer's office or to contact Motor Vehicle Services in Helena.

APPROVED LOOSE NOTARIAL CERTIFICATE FOR MONTANA MOTOR VEHICLE TITLES

The Title and Registration Bureau of the Motor Vehicle Division has determined that titles which require a separate notarial certificate for a ***subsequent signer*** may be handled in one of two ways:

1. The notary may **handwrite** a ***complete notarial certificate*** on the face of the title (usually in the lienholder section) if room is available. The notarial language (i.e., "Signed before me…" or "Subscribed and affirmed before me…" etc.) should be exactly as shown on the preprinted certificate on that title.
2. A separate "notarial certificate" as shown below may be completed and attached to the original title.

   This form is to be filled out completely and attached to the title if needed. A note should be added to the title indicating a loose certificate is attached, such as: "Notarial Certificate for _____(name of signer)_____ attached." A similar note should be entered in your journal.

Notarial Certificate

For a Montana Motor Vehicle Title

State of Montana

County of _____

The attached motor vehicle title, #_____, _____ for a

(Title Number) (VIN #)

_____ was signed before me on _____

(Year, Make & Model) (Date)

by _____

(Printed Name of Signer)

_____

(Notary's Signature)

Affix Seal/Stamp Above

NOTARIZING DOCUMENTS WRITTEN IN A FOREIGN LANGUAGE

The Secretary of State's Office is frequently asked if Montana notaries may notarize a document that is written in a foreign language. And the answer is generally "Maybe." The language that a document is written in is not the most important factor in determining whether or not you can perform the requested notarial act.

It is absolutely critical that you, first and foremost, ***READ the notarial certificate*** and clearly understand what you are being asked to do before you agree to the notarization. If the notarial certificate is not in English, you must have it translated before going forward. Once you can read the notarial certificate, you simply go through the normal "checklist":

- **Require the personal appearance of the signer.**
- **Review the document to determine the type of document and type of notarial act required.** You can take an acknowledgement, witness a signature, perform a jurat, make a certified copy of some documents, certify to certain facts, or that a person is alive, but that's where your authority ends. Notaries in many other countries have broader authority than American/Montana notaries, and sometimes the documents call for the notary to verify facts or conditions beyond what is allowed by our laws. Be particularly aware that some documents have the notarial certificate embedded within the text of the document that indicates that the notary has performed functions such as explaining the applicable laws of the foreign country to the signer. You must refuse to complete those certificates.
- **Identify the signer as the person who is supposed to sign the document.** You are required to apply the same criteria for determining identity for foreign language documents as for any other – personal knowledge or satisfactory evidence (documentary proof or credible witness). The difference is that often the signer may not have a driver's license or other ID from Montana or the United States. That's okay! As long as you are able to read the information on the ID and use it to identify the person in front of you as being the person who is supposed to sign the document, you can use a foreign ID, such as the passport. You also have the right to ask for more than one piece of identification. Many non-citizens will have a "green card", which is certainly an acceptable ID. If the signer presents you with an ID you cannot read, such as a card written in Russian, Chinese, or Arabic, for instance, you may either request additional identification or you should refuse the request.
- **Determine that the signer is signing the document knowingly and willingly for the purposes intended.**
- **Complete the journal entry and the notarial certificate.**

Regardless of the language the document is written in, the notarial certificate must be in English in order for you, as a Montana notary public, to complete it. Even if you are fluent in another language, you must use English for all notarial acts. You should remember to enter any pertinent information about the document and the transaction in your journal.

You may certify copies of certain foreign language documents using the same process and criteria as you would for any other document. See pages 19 - 20 for more information on certifying copies.

NOTARIZING/CERTIFYING RECORDS TO BE SENT TO A FOREIGN COUNTRY (APOSTILLES AND AUTHENTICATIONS)

The Montana Secretary of State's office provides state certification for notarized or certified documents that are to be sent to, or used in, a foreign country. Both types of certification – *apostille* and *authentication* – verify that the notary public, clerk of court, clerk and recorder, or vital records administrator is authorized to provide the notarization or certification and that he/she has done so in accordance with Montana laws. Whether the document requires an apostille or authentication depends completely on which country will be receiving the document. The Montana Secretary of State's office has adopted a single, universal form that meets the requirements of the Hague Convention for apostilles and **has been approved by the U. S. Department of State for authentications**. We can only provide certifications of Montana notaries public or Montana notarial officers as listed above.

If you are asked to notarize something that will be submitted for either type of certification, there is nothing special that you are being asked to do – except do the notarial certificate 100% correctly! As long as you follow the appropriate instructions as provided in this handbook and complete a full notarial certificate, the requested state certification can be provided.

Based on the experience of the Secretary of State's office, there are some common errors that cause the documents to be returned. Be aware of the following:

- If you are asked to certify a copy of a document, refer to the information on pages 19 – 20 of this handbook before complying with the request. Be sure you are authorized to certify the document and then be sure to do so properly.
- Printable notarial certificates for certifying a copy of a document can be downloaded from our website at https://sosmt.gov/notary/forms.
- In most cases you will be notarizing someone's signature. All the notary rules apply in those cases:
    - Make sure there is a signature to notarize.
    - Make sure you witnessed the signing or the acknowledgment of the signature. The person who signed the document must have personally appeared to you.
    - Complete a full notarial certificate – even if the preprinted form does not require certain information.
    - If there is no preprinted notarial certificate, ask the customer what kind of notarization is required (*see Chapter 4 of this handbook*). If the customer does not know, advise him or her to find out from the entity requesting the document or the author of the document.

SPECIAL NOTE: Notarizing and/or Certifying Official School Records for Foreign Use – (See examples on next page.)

State-certified copies of school transcripts or diplomas are frequently requested for foreign exchange students. Any notary may certify a copy of a diploma from any school if the original is presented.

Transcripts require an additional step before the apostille or authentication can be issued because they are considered "public records".

1. An authorized school official (Principal, Registrar, etc.) must certify the document:
    - **Sample wording for school official certifying an *original* school document:**

      On ___(date)___, I the undersigned, do hereby certify that this is a true and original _(specify the type of document)__ issued by __(name of school)___.

      [Signature of school official]

      [Printed name and official title]

    - **Sample wording for school official certifying *a copy* of a school document:**

      On ___(date)___, I the undersigned, do hereby certify that this is a true and unaltered copy of the original _(specify the type of document)__ issued by __(name of school)___.

      [Signature of school official]

      [Printed name and official title]

2. A notary public must then notarize the school official's signature using a certificate for a signature witness.

EXAMPLES

Certification of Transcript

We have created a specific form that we recommend be used for the procedure explained above for certifying and notarizing a transcript or report card for an exchange student. This form provides the certification statement for the school official to complete and sign, as well as the notarial certificate for the notary to complete, sign, stamp, and attach to the transcript.

Copies of this form may be downloaded from our website at https://sosmt.gov/notary/exchange-students#transcript.

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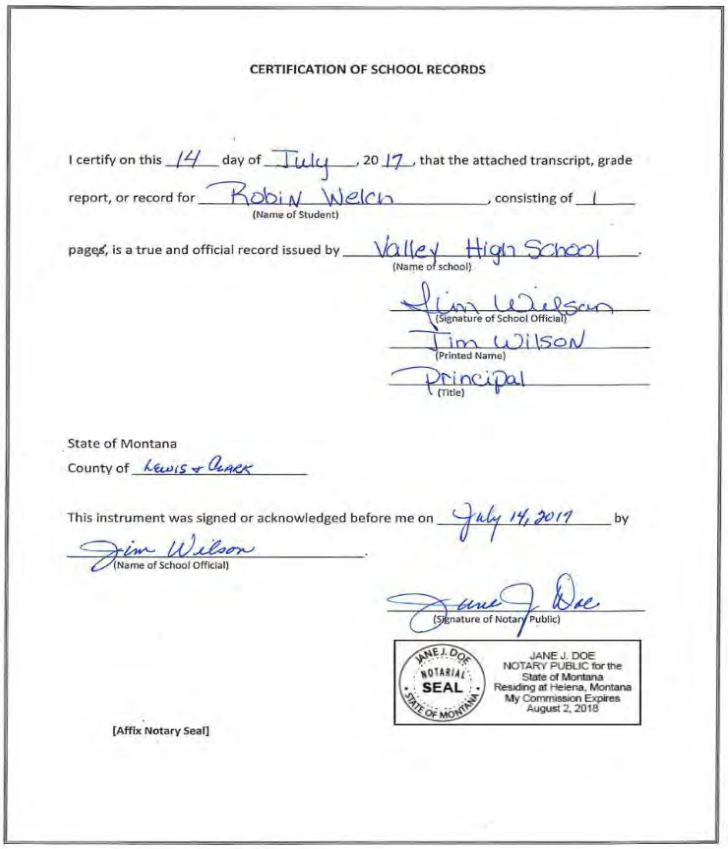


CERTIFICATION OF SCHOOL RECORDS

I certify on this 14 day of July, 20 17, that the attached transcript, grade report, or record for Robin Welch (Name of Student), consisting of 1 page~~s~~, is a true and official record issued by Valley High School (Name of school).

Jim Wilson (Signature of School Official)

Jim Wilson (Printed Name)

Principal (Title)

State of Montana

County of Lewis & Clark

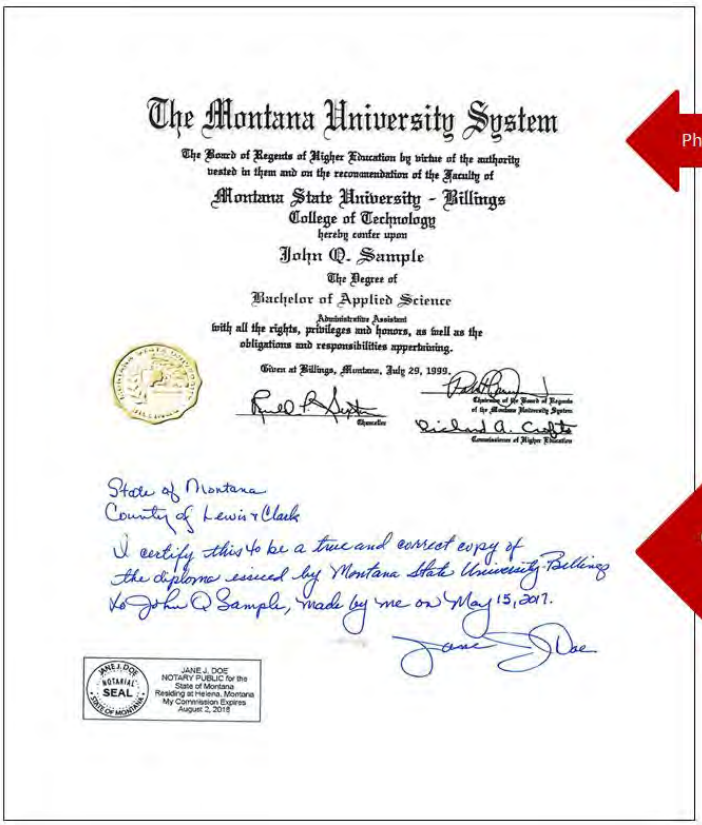
This instrument was signed or acknowledged before me on July 14, 2017 by Jim Wilson (Name of School Official).

Jane J. Doe (Signature of Notary Public)

JANE J. DOE NOTARIAL SEAL STATE OF MONTANA

JANE J. DOE
NOTARY PUBLIC for the State of Montana
Residing at Helena, Montana
My Commission Expires August 2, 2018

[Affix Notary Seal]



The Montana University System

The Board of Regents of Higher Education by virtue of the authority vested in them and on the recommendation of the Faculty of

Montana State University - Billings
College of Technology
hereby confer upon

John Q. Sample

The Degree of

Bachelor of Applied Science

with all the rights, privileges and honors, as well as the obligations and responsibilities appertaining.

Given at Billings, Montana, July 29, 1999.

Chancellor

Chairman of the Board of Regents of the Montana University System

Commissioner of Higher Education

State of Montana
County of Lewis + Clark
I certify this to be a true and correct copy of the diploma issued by Montana State University Billings to John Q Sample, made by me on May 15, 2017.

Jane J. Doe

JANE J. DOE NOTARIAL SEAL STATE OF MONTANA

JANE J. DOE
NOTARY PUBLIC for the State of Montana
Residing at Helena, Montana
My Commission Expires August 2, 2018

Photocopy of diploma

Complete notarial block by Notary

Certification of Diploma

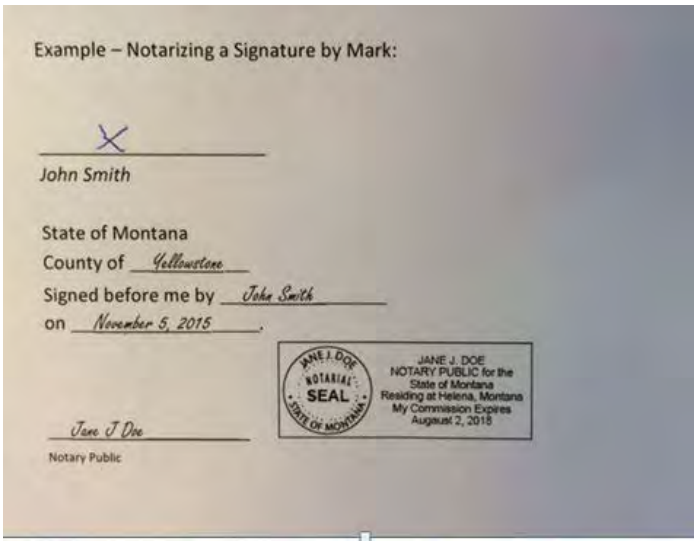
Diplomas are considered "private documents" and therefore Montana notaries may make a copy of an original diploma and certify the copy. The notarial certificate will have to be handwritten, or a pre-printed form will have to be attached, since there will not be any certificate language on the copy. Copies of larger diplomas will take a full page, so the notarial certificate should be placed on the back.

If you have any questions, please call our office. Because these documents almost always require state certification (Apostille or Authentication), an incorrect notarization will delay the transmittal of the document to the student's home country and may delay the student's further education.

NOTARIZING FOR SIGNERS WITH DISABILITIES OR SPECIAL SIGNATURES

There may be a circumstance when a person is physically unable to sign his or her name on a document but needs a notarization. Several options exist in such cases: signature by mark, signature by stamp, signature by electronic means, and signature by third party.

Signature by Mark, Stamp, or Device. "Signature" is defined in Montana law as "a tangible symbol or an electronic signature that evidences the signing of a record." What this means to a notary is that a person who uses a mark, stamp, or an electronic signing device to sign a document can have that signature notarized just as if it was signed with pen and ink. The same rules apply: If the document calls for the person to sign in front of you (signature witness or jurat), then you must see the signature be affixed to the document; if the document calls for an acknowledgement, you have to verify the person's signature by comparing it to another example – such as the one that must be made in your journal – as well as take the signer's verbal acknowledgement. You need not indicate how the signature was made when completing the notarial certificate, but you should indicate that detail in your journal entry as "other information."


Example – Notarizing a Signature by Mark:

X

John Smith

State of Montana
County of Yellowstone
Signed before me by John Smith
on November 5, 2015.

Jane J Doe
Notary Public

JANE J. DOE NOTARIAL SEAL STATE OF MONTANA
JANE J. DOE
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
August 2, 2018

Example – Notarizing a Stamped or Digital Signature:

John Smith

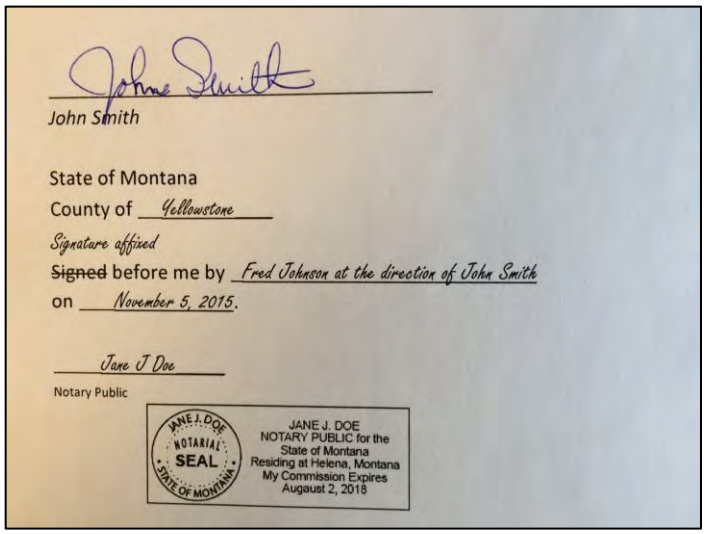
John Smith

State of Montana
County of Yellowstone
Signed before me by John Smith
on November 5, 2015.

Jane J Doe
Notary Public

JANE J. DOE NOTARIAL SEAL STATE OF MONTANA
JANE J. DOE
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
August 2, 2018

Signature by Third Party. If an individual is physically unable to sign a document, Montana law allows the individual to direct another person, other than the notary, to sign the individual's name for him or her. Obviously, both the signer and the person whom he/she directs to sign their name must be physically present during the notarization. The notary then has to modify the notarial certificate to include the phrase, "Signature affixed by (name of other individual) at the direction of (name of individual named in the document)" or words to that effect. This is an example of how such a signature and notarization would look.


John Smith

State of Montana
County of Yellowstone
Signature affixed
~~Signed~~ before me by Fred Johnson at the direction of John Smith
on November 5, 2015.

Jane J Doe
Notary Public

JANE J. DOE NOTARIAL SEAL STATE OF MONTANA
JANE J. DOE
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
August 2, 2018

The "signer's signature" in your journal should also be made by the third party, and you should include an notation indicating the signature of the named party was made by the third party at the direction of the named party.

Remember, in all situations requiring another person's assistance, that person must be an unbiased, independent third party who is not in any way a beneficiary to the transaction.

TECHNOLOGY BASED NOTARIZATIONS: REMOTE, R.O.N., and IPEN

There are four ways in which a notarization involving a signature (acknowledgments, signature witnessing, and jurats) may be performed in Montana: **Traditional, IPEN, RON**, and **Remote**. It is absolutely critical that notaries understand what each type of notarization is, what the requirements and limitations are, and how to properly perform each method of notarization. There is a great deal of misunderstanding and misuse of these terms – they are not interchangeable and notaries must be absolutely certain that they understand specifically what each method involves and what the situation or request really requires.

DEFINITIONS and CONDITIONS

Traditional Notarization – This is the type of notarization that has been done by notaries for hundreds of years, although modern technology may be involved in a traditional notarization as well. Generally, a traditional notarization involves:

- ✓ *Physical presence* of the signer(s) and the notary
- ✓ *Paper* (tangible) document
- ✓ *"Wet" signatures* of the signer(s) and the notary (Although the signer may use a stamp to sign the document or present a digitally signed paper document for the notary to sign with a wet signature.)
- ✓ *Ink impression* of the notary's seal/stamp

In-Person Electronic Notarization – IPEN – This type of notarization, sometimes called "eNotarization" has been around for almost 20 years, and has been legal in Montana since 2015. Montana notaries must perform IPEN notarizations within the state of Montana. IPEN involves:

- ✓ *Physical presence* of the signer(s) and the notary
- ✓ *E*lectronic document
- ✓ *Digital signatures* of the signer and the notary
- ✓ *Digital notary seal*

Remote Online Notarization – R.O.N. – This type of notarization may be performed by Montana notaries beginning October 1, 2019. The most unique element of R.O.N. is that the signer and the notary appear to one another by means of communications technology – live, two-way, audio-visual transmission. The notary must be physically located in Montana; the signer can be anywhere in the world. R.O.N. involves:

- ✓ *Personal appearance via communication technology* of the signer(s) and the notary
- ✓ *E*lectronic document
- ✓ *Digital signatures* of the signer and the notary
- ✓ *Digital notary seal*

Remote Notarization – Montana is one of only two states that allow the remote notarization of tangible documents. The notary must be physically located in Montana; the signer can be anywhere in the world. Remote notarization involves:

- ✓ *Personal appearance via communication technology* of the signer(s) and the notary
- ✓ *Paper (tangible)* document, which has been signed and subsequently delivered to the notary (the notary has the actual signed document)
- ✓ *Wet signatures* of the signer and the notary
- ✓ *Ink impression* of the notary's seal/stamp
- ✓ *Acknowledgments are the only notarial act that can be performed in this manner*

REQUIREMENTS FOR PERFORMING TECHNOLOGY BASED NOTARIZATIONS

Registration

Notaries who wish to perform IPEN, R.O.N. or Remote Notarizations must:

- ✓ Select one or more electronic notarization systems or communication technologies
- ✓ Complete an approved course of instruction provided by the technology provider(s)
- ✓ Pass an examination based on the course(s)
- ✓ Submit the Notary Public Information Update form and proof of completion of the course and examination

System Requirements

- ✓ Must provide simultaneous visual and audio transmission
- ✓ Must provide evidence of any change or tampering to a record
- ✓ Must ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures
- ✓ Signal must be live, real-time
- ✓ Transmission must be recorded

Compliant Notary Certificates for R.O.N. or Remote Notarizations

- ✓ Principal located outside the U.S. – §1-5-610(9), MCA
- ✓ Principal located within the U.S. – §1-5-610(10), MCA

Journal and Recording

- ✓ Must record the entire communication between signer(s) and notary (a/v file)
- ✓ Must retain sole possession of recording or transmit to an approved repository
- ✓ Must create a separate tangible or electronic journal record of transaction per §1-5-618, MCA
- ✓ May provide copy of a/v recording per §1-5-618, MCA
- ✓ May charge additional fee for copy of journal entry or a/v recording per §1-5-626(3), MCA

METHODS OF IDENTITIFICATION FOR REMOTE and REMOTE ONLINE NOTARIZATIONS

Montana law requires that all remote and remote online notarizations utilize "multi-factor" identification using two or more different types of technologies if the signer is not identified by personal knowledge. The currently approved types of identification technologies are dynamic knowledge-based authentication (DKBA), public key certificate, identity proofing, credential analysis and remote presentation and blockchain. These terms are defined in statute and in the glossary at the end of this handbook.

Notaries should be aware of the types of identification technologies, but it is actually the communications technology provider who is responsible for identifying the signer using these technologies prior to the active remote session. Your system provider will train you in your responsibilities for using the identification methods their system employs. In many, if not most of the remote transactions, the notary will not be brought into the session until the technology-based identification process has been successfully completed. However, the notary will most often have the opportunity to review the identification credential presented by the signer for a final ID check.

The notary has final authority to accept or deny the identification for any remote or RON transaction.

APPROVED NOTARY TECHNOLOGY PROVIDERS and REMOTE NOTARIES for MONTANA

The list of currently approved technology providers and notaries who are registered to provide Remote, RON and IPEN notarizations is listed on our website. Notaries may use one or more of the approved technologies, but the notary cannot be required to utilize a technology for which the notary has not been certified.

CHAPTER 6 – MONTANA NOTARY LAWS and RULES

Notary Laws – Title 1, Chapter 5, Part 6 – Unofficial

1-5-601. Short title. This part may be cited as the "Revised Uniform Law on Notarial Acts".

1-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Acknowledgment" means a declaration by an individual appearing before a notarial officer that the individual has willingly signed a record for the purposes stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed the record as the act of the individual or entity identified in the record.

(2) "Appearing before" means:

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

(b) interacting with another individual by means of communication technology in compliance with this part.

(3) "Certification of fact" means a notarial act in which a notary reviews public or vital records or other legally accessible data to ascertain or confirm any of the following facts:

(a) date of birth, death, marriage, or divorce, or that an individual is alive;

(b) name of parent, marital partner, offspring, or sibling;

(c) that an event has occurred; or

(d) any matter authorized by law or rule of this state for certification by a notary public.

(4) "Communication technology" means a real-time, two-way audiovisual electronic device or process that:

(a) allows a notarial officer located in this state and a remotely located individual to communicate with each other simultaneously by sight and sound;

(b) facilitates communication with a remotely located individual with a vision, hearing, or speech impairment when necessary under and consistent with applicable law; and

(c) complies with this part and implementing rules.

(5) "Credential analysis" means a process or service operating according to criteria approved by the secretary of state through which a third person affirms the validity of a government-issued identification credential through review of public and proprietary data sources.

(6) "Dynamic knowledge-based authentication assessment" means an identity assessment that is based on a set of questions formulated from public or private data sources that does not contain a question for which the principal provided a prior answer to the entity doing the assessment.

(7) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(8) "Electronic notarization system" means a set of applications, programs, hardware, software, or technologies designed to enable a notary public to perform electronic notarizations that renders every electronic notarial act tamper-evident through the use of a security procedure and that meets the requirements of this part and implementing rules.

(9) "Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(10) "Identification credential" means a government-issued record evidencing an individual's identity.

(11) "Identity proofing" means a process or service by which a third person provides a notarial officer with a means to verify the identity of a principal by:

(a) a review of personal information from public or proprietary data sources; or

(b) biometric data including but not limited to facial recognition, voice analysis, or fingerprint analysis.

(12) "In a representative capacity" means acting as:

(a) an authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(b) a public officer, personal representative, guardian, or other representative, in the capacity stated in a record;

(c) an agent or attorney-in-fact for a principal; or

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

(13) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes but is not limited to taking an acknowledgment,

administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, certifying or attesting a transcript of an affidavit or deposition, and noting a protest of a negotiable instrument.

(14) "Notarial officer" means a notary public or other individual authorized to perform notarial acts.

(15) "Notary public" or "notary" means an individual commissioned to perform a notarial act by the secretary of state.

(16) "Oath or affirmation" means a solemn verbal promise by which a person knowingly and willingly attests to the truthfulness of a statement and that is administered by a notarial officer.

(17) (a) "Official record" means a record or copy of a record attested by the officer or the officer's deputy with legal custody of the record that is accompanied by a certificate that the officer has custody of the record.

(b) The certificate must have been made under seal by:

(i) a clerk of a court of record in the district or political subdivision where the record is kept; or

(ii) a public officer with a seal of office and with official duties in the district or political subdivision where the record is kept.

(18) "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record.

(19) "Outside the United States" means a location outside of the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, or any territory, insular possession, or other location subject to the jurisdiction of the United States.

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

(21) "Principal" means:

(a) an individual whose signature is notarized; or

(b) an individual taking an oath or affirmation from the notary public but not in the capacity of a credible or other witness for the notarial act.

(22) "Public key certificate" means an electronic credential that is used to identify an individual who signed an electronic record with the credential and is issued and managed by a third-party provider utilizing public key infrastructure technology.

(23) "Public key infrastructure technology" means a method of enabling a user of an unsecured public network, including the internet, to securely and privately exchange data and money through a public and private cryptographic key pair that is obtained and shared through a trusted certificate authority that provides for:

(a) a digital certificate that is able to identify an individual or organization; and

(b) a directory service that is able to store and, if necessary, revoke a digital certificate.

(24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(25) "Remote notarization" means a notarial act performed by means of communication technology on a tangible record that meets the standards adopted under this part.

(26) "Remote online notarization" means a notarial act or notarization performed by means of communication technology and an electronic notarization system on an electronic record that meets the standards adopted under this part.

(27) "Remote presentation" means transmission to the notarial officer through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the notarial officer to:

(a) identify the individual seeking the notarial officer's services; and

(b) visually review the identity credential and its data; and

(c) perform credential analysis.

(28) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(29) "Sign" means, with present intent to authenticate or adopt a record:

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

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

(30) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

(31) "Signature witnessing" means the notarial act in which a notarial officer witnesses a principal execute a record knowingly and willingly for the purposes intended while appearing before the notarial officer.

(32) "Sole control" means at all times being in the direct physical custody of the notarial officer or safeguarded by the notarial officer with a password or other secure means of authentication or access.

(33) "Stamping device" means:

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

(b) an electronic device or process capable of attaching to or logically associating an official stamp with an electronic record. The notarial official stamp, whether applied to the record physically or electronically, is considered to be a seal for the purposes of admitting a record in court.

(34) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(35) "Tamper-evident" means that any change to a record must provide evidence of the change.

(36) "Verification on oath or affirmation" or "jurat" means a declaration, made by a principal on oath or affirmation before a notarial officer, that a statement in a record is true and that the record has been executed knowingly and willingly before the notarial officer for the purposes intended.

1-5-603. Requirements for certain notarial acts — personal and remote appearance — identification methods. (1) A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual and was made knowingly and willingly for the purposes intended.

(2) A notarial officer who takes a verification on oath or affirmation of a statement shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer, signing the record, and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual and was made knowingly and willingly for the purposes intended.

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

(4) (a) A notarial officer who takes an acknowledgment or witnesses a signature of an individual who signs a record in a representative capacity shall determine:

(i) from personal knowledge or satisfactory evidence of the identity of the individual that the individual appearing before the notarial officer has the identity claimed; and

(ii) from the record, personal knowledge, or presentment of an official record that the individual holds the title or capacity claimed and has knowingly and willingly signed the record in that capacity for the purposes intended.

(b) The notarial officer may refuse to perform the notarial act if the notarial officer is not satisfied that the official record or the presented record evidences the individual's capacity to act as the principal's representative on the record presented for notarization.

(5) A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true, and accurate transcription or reproduction of the original or official record or the item. A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record. A county clerk shall accept for recording a tangible copy of an electronic record containing an original notarial certificate as satisfying any requirement that a record be an original.

(6) A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in 30-3-510(2).

(7) A notarial officer who administers an oath or affirmation shall determine from personal knowledge or satisfactory evidence of the identity of the individual that the person appearing before the notarial officer and taking the oath or affirmation has the identity claimed and is knowingly and willingly making the statement with the intent to be bound by the statement.

(8) A notarial officer who administers an oath in conjunction with taking a deposition and certifies or attests to the transcript of the deposition shall certify to the matters set forth by this part, other laws, or the court of jurisdiction.

(9) (a) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear physically before the notarial officer or by communication technology as authorized in 1-5-615 and rules adopted pursuant to 1-5-628.

(b) Except as provided in subsection (9)(c), subsection (9)(a) modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, et seq.

(c) Subsection (9)(a) does not modify, limit, or supersede 15 U.S.C. 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

(10) (a) Subject to subsection (10)(b), a notarial officer may perform a remote notarization or remote online notarization for a principal who is located:

(i) in this state;

(ii) outside of this state but within the United States; or

(iii) outside the United States if:

(A) the act is not known by the notarial officer to be prohibited in the jurisdiction in which the principal is physically located at the time of the act; and

(B) the record is part of or pertains to:

(I) a matter that is to be filed with or is before a public official or court, governmental entity, or other entity located in the territorial jurisdiction of the United States;

(II) property located in the territorial jurisdiction of the United States; or

(III) a transaction substantially connected with the United States.

(b) A notarial officer may perform a remote notarization or remote online notarization only if the notarial officer:

(i) is physically located in this state at the time the notarial act is performed;

(ii) identifies the principal through personal knowledge or satisfactory evidence;

(iii) executes the notarial act in a single recorded session that complies with this part;

(iv) is satisfied that any record that is signed, acknowledged, or otherwise presented for notarization by the principal is the same record remotely notarized by the notarial officer;

(v) is satisfied that the quality of the communication technology is sufficient to make the determinations required for the notarial act under this part and any other applicable law of this state;

(vi) identifies the venue as described in 1-5-629; and

(vii) is capable of meeting the requirements of 1-5-618.

(c) A notarial officer who performs a remote notarization or remote online notarization shall take reasonable steps to ensure that:

(i) the notarial officer, the principal, and any required witness are accessing the communication technology or the electronic notarization system, or both, through an authentication procedure that is reasonably secure from unauthorized access;

(ii) the principal and any required witness are viewing the same record; and

(iii) all signatures, changes, and attachments to the record are made in real time.

(d) A notarial act performed by means of communication technology is considered to have been performed in Montana and is governed by Montana law regardless of the physical location of the principal at the time of the notarization.

(11) (a) A notarial officer who certifies a fact may review a public or private record to ascertain or verify that specific data is contained or shown on the record or memorialized in a publication that the notary believes to be reliable.

(b) A notarial officer who certifies that an individual is alive shall verify from personal knowledge or satisfactory evidence that the individual appearing before the notarial officer is alive at the time of certification.

(c) A notarial officer who certifies a photograph shall verify from personal knowledge or satisfactory evidence that the photograph is an accurate representation of the individual or item represented.

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

(b) A notarial officer has satisfactory evidence of the identity of an individual appearing before the notarial officer if the notarial officer can identify the individual:

(i) by means of:

(A) a passport, driver's license, or government-issued nondriver identification credential, which may be current or expired, and if expired may not be expired for more than 3 years before the performance of the notarial act; or

(B) another form of government identification issued to an individual, which:

(I) may be current or expired, and if expired may not be expired for more than 3 years before the performance of the notarial act;

(II) must contain the signature or a photograph of the individual; and

(III) must be satisfactory to the notarial officer; or

(ii) by oath or affirmation of a credible witness:

(A) physically present before the notarial officer and known to the notarial officer or whom the notarial officer can identify on the basis of a passport, driver's license, or government-issued nondriver identification record, which is current or expired, and if expired may not be expired for more than 3 years before the performance of the notarial act; or

(B) appearing by means of communication technology and identified by the notarial officer as provided in subsection (12)(c).

(c) If a principal or witness is appearing by means of communication technology, a notarial officer has satisfactory evidence of the identity of the individual if the notarial officer can identify the individual by two or more different types of technologies, processes, or services approved by the secretary of state, such as dynamic knowledge-based authentication assessment, valid public key certificate, identity proofing, remote presentation and credential analysis, or any other means prescribed in rule by the secretary of state.

(13) A notarial officer may use one or more approved identification technologies described in subsection (12)(c) for an individual who is physically in the presence of the notarial officer as satisfactory evidence of identity.

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

1-5-604. Notarial acts in this state — authority to perform notarial act. (1) A notarial act may be performed in this state by:

(a) a notary public of this state;

(b) a judge, clerk, or deputy clerk of any court of this state; or

(c) any other individual authorized to perform the specific act by the law of this state.

(2) The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) A notarial officer may perform a notarial act authorized by this part or by a law of this state other than this part.

(4) The notarial acts of certifying or attesting a transcript of an affidavit or deposition and noting a protest of a negotiable instrument may be performed only by notarial officers who are knowledgeable of the applicable legal requirements.

(5) The signature and title of a notarial officer described in subsection (1) conclusively establish the authority of the notarial officer to perform the notarial act.

1-5-605. Notarial act in another state — reciprocity — notary public authority. (1) A notarial act performed in another state has the same effect under the law of this state as if the notarial act were performed by a notarial officer of this state if the notarial act performed in the other state is performed by:

(a) a notary public of that state;

(b) a judge, clerk, or deputy clerk of a court of that state; or

(c) any other individual authorized by the law of that state to perform the notarial act.

(2) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1) conclusively establish the authority of the officer to perform the notarial act.

(4) A commission to act as a notary public authorizes the notary public, as provided in 1-5-619, to perform notarial acts in any county in the state or in any bordering state if the border state recognizes the notary's authority within that state. The commission does not provide the notary public any immunity or benefit conferred by the laws of this state on public officials or employees.

1-5-606. Notarial acts under authority of federally recognized Indian tribes. (1) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state if the notarial act performed in the jurisdiction of the tribe is performed by:

(a) a notary public of the tribe;

(b) a judge, clerk, or deputy clerk of a court of the tribe; or

(c) any other individual authorized by the law of the tribe to perform notarial acts.

(2) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1) conclusively establish the authority of the notarial officer to perform a notarial act.

1-5-607. Notarial acts under federal authority. (1) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state if the notarial act performed under federal law is performed by:

(a) a judge, clerk, or deputy clerk of a court;

(b) an individual in the military service of the United States or performing duties under the authority of the military service if authorized to perform notarial acts under federal law;

(c) an individual designated as a notarizing officer by the United States department of state for performing notarial acts overseas; or

(d) any other individual authorized by federal law to perform notarial acts.

(2) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and indicated title of an officer described in subsection (1) conclusively establish the authority of the officer to perform a notarial act.

1-5-608. Foreign notarial acts. (1) A notarial act performed under the authority of and in the jurisdiction of a foreign state or a constituent unit of the foreign state or under the authority of a multinational or international governmental organization has the same effect under the law of this state as if performed by a notarial officer of this state.

(2) An "apostille" in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state that is a party to the Hague Convention conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office.

(3) A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office.

(4) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(5) The signature and official stamp of an individual holding an office described in subsection (4) are prima facie evidence that the signature is genuine and the individual holds the designated title.

(6) For the purposes of this section, "foreign state" means a government other than the United States, a state, or a federally recognized Indian tribe.

1-5-609. Certificate of notarial acts. (1) (a) A notarial act must be evidenced by a certificate completed by a notarial officer.

(b) The certificate must:

(i) be executed contemporaneously with the performance of the notarial act;

(ii) specify the notarial act performed;

(iii) identify the venue as described in 1-5-629;

(iv) identify the name of the principal, the type of record and issuing entity that is copied, or the information the notarial officer has certified under 1-5-603(11);

(v) be signed and dated by the notarial officer. If the notarial officer is a notary public, a clerk of court, a deputy clerk of court, a clerk and recorder, a deputy clerk and recorder, the state registrar, or the authorized agent of the state registrar, the certificate must be signed in the same manner as on file with the secretary of state.

(vi) contain the title of the office of the notarial officer; and

(vii) contain the impression or electronic image of the notary public's official stamp or the notarial officer's seal.

(2) (a) The certificate for a notarial act on a tangible record must be part of or securely affixed to the record.

(b) The certificate for a notarial act on an electronic record must be attached to or logically associated with the record.

(3) A certificate of a remote notarization or remote online notarization must include the information specified in subsection (1)(b), indicate that the notarial act was performed using communication technology, and include any other information required by rule.

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

(a) is in the short form set forth in 1-5-610;

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

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

(d) sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in 1-5-610, 1-5-616, and this section or of the laws of this state other than specified in this part.

(5) (a) A notary public may subsequently correct any information included on or omitted from a certificate executed by that notary if the change or correction can be evidenced by the information contained in the notary's journal record of the transaction.

(b) A notary public may not change or correct an impression or electronic image of an official stamp but may affix a subsequent impression on a tangible record or attach or logically associate with an electronic record an electronic image of a missing, illegible, or incorrect official stamp.

(c) Any changes or corrections must be dated and initialed by the notary public and a corresponding notation of the changes must be made in the journal record. Only the notary public who performed the notarization may make or authorize a change or correction to a previously completed certificate. If a notary public authorizes a third party to change or correct the information included or omitted on a previously completed certificate, the authorization must be granted in writing and a copy of the message authorizing the change and a copy of the changed certificate must be attached to the notary public's journal record for that transaction.

1-5-610. Short forms. The following short-form certificates of notarial acts are sufficient for the purposes indicated if they are completed with the information required by 1-5-609(1) through (4):

(1) For an acknowledgment in an individual capacity:

State of.....

County of.....

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

.....

(Signature of notarial officer)

(Official Stamp)

.....

Printed name and title of officer (if not shown in stamp)

(2) For an acknowledgment in a representative capacity:

State of.....

County of.....

This record was acknowledged before me on (date) by (name(s) of individual(s)) as (title or capacity) of or for (name of party on behalf of whom the record was executed).

.....

(Signature of notarial officer)

(Official stamp) .....

Printed name and title of officer (if not shown in stamp)

(3) For a verification on oath or affirmation (jurat):

State of.....

County of.....

This record was signed and sworn to (or affirmed) before me on (date) by (name(s) of individual(s)) .....

.....

(Signature of notarial officer)

(Official stamp)

.....

Printed name and title of officer (if not shown in stamp)

(4) For witnessing or attesting a signature:

State of.....

County of.....

The record was signed before me on (date) by (name(s) of individual(s)) .....

.....

(Signature of notarial officer)

(Official stamp)

.....

Printed name and title of officer (if not shown in stamp)

(5) For a signature witnessing in a representative capacity:

State of.....

County of.....

This record was signed before me on (date) by (name(s) of individual(s)) as (title or capacity) of or for (name of party on behalf of whom the record was executed).

.....

(Signature of notarial officer)

(Official Stamp)

.....

Printed name and title of officer (if not shown in stamp)

(6) For certifying a copy of a tangible record:

State of.....

County of.....

I certify that this is a true and correct copy of (identification of record), an original record in the possession of, or issued by, (custodian or issuer) and made by me on (date).

.....

(Signature of notarial officer)

(Official stamp)

.....

Printed name and title of officer (if not shown in stamp)

(7) For certifying a copy of an electronic record:

State of.....

County of.....

I certify that the foregoing and annexed record entitled (title of record), dated _____, and consisting of _____ (pages or size of file) is a true and correct copy of an electronic record printed directly from the electronic file by me on (date).

.....

(Signature of notarial officer)

(Official stamp)

.....

Printed name and title of officer (if not shown in stamp)

(8) For certifying a transcript of a deposition or affidavit:

State of.....

County of.....

I hereby certify and state the following:

that I have sworn in the deponent;

that the deposition was taken before me and this is a true and accurate transcription of the testimony;

that I am not a relative, agent, or employee of the deponent or the attorney or counsel of any of the parties;

that I am not an interested party to the matter.

A review of this transcript (was / was not) requested.

Dated this ..... day of ....., 20...

.....

(Signature of notarial officer)

(Official stamp)

.....

Printed name and title of officer (if not shown in stamp)

(9) For a remote notarization or remote online notarization on a tangible or electronic record for a principal located outside the United States:

State of.....

County of.....

This record was (acknowledged) (signed) (signed and sworn to or affirmed) before me by use of communication technology on (date) by (name of principal(s)), who declared that (he) (she) (they) (is) (are) located in (place where principal(s) was/were physically located at the time of notarial act) and that this record is part of or pertains to a matter that is to be filed with or is before a court, governmental entity, or other entity located in the United States or involves property located in, or a transaction substantially connected with, the United States.

.....

(Signature of notarial officer)

(Official stamp)

.....

Printed name and title of officer (if not shown in stamp)

(10) For a remote notarization or remote online notarization on a tangible or electronic record for a principal located in or outside this state but within the United States:

State of.....

County of.....

This record was (acknowledged) (signed) (signed and sworn to or affirmed) before me by use of communication technology on (date) by (name of principal(s)), who declared that (he) (she) (they) (is) (are) located in (place within the United States where principal(s) was/were physically located at the time of notarial act).

.....

(Signature of notarial officer)

(Official stamp)

.....

Printed name and title of officer (if not shown in stamp)

(11) For a certification of fact or event:

State of.....

County of.....

I certify that I have confirmed that (information that is being verified) is true and correct based on a review of (the source of the information) made by me on (date).

.....

(Signature of notarial officer)

(Official stamp)

.....

Printed name and title of officer (if not shown in stamp)

(12) For certification of life:

State of.....

County of.....

I certify that (name of individual) is alive and appeared physically before me at (location where individual appeared) on (date) at (time a.m. or p.m.).

.....

(Signature of notarial officer)

(Official stamp)

.....

Printed name and title of officer (if not shown in stamp)

(13) For certification of photograph:

State of.....

County of.....

I certify that the attached photograph is an accurate representation of (name of individual or item) based on (how subject was confirmed) on (date).

.....

(Signature of notarial officer)

(Official stamp)

.....

Printed name and title of officer (if not shown in stamp)"

1-5-611. Uniformity of application and construction. Consideration must be given in applying and construing this part to the need to promote the uniformity of the law with respect to the subject of this part among other enacting states.

1-5-612 through 1-5-614 reserved.

1-5-615. Notarial act regarding electronic record — selection of system — notification — training. (1) (a) A notarial officer may select one or more electronic notarization systems to perform notarial acts with respect to electronic records.

(b) A person may not require a notarial officer to perform a notarial act with respect to an electronic record with an electronic notarization system that the notarial officer has not selected.

(2) An electronic notarization system provider shall take reasonable steps to ensure that a notary public opting to use the provider's system has the knowledge to use it to perform electronic notarial acts in compliance with this part.

(3) Before a notary public performs the notary public's initial notarial act using an electronic notarization system or a communication technology, a notary public shall:

(a) notify the secretary of state that the notary public will be performing notarial acts using the electronic notarization system or the communication technology;

(b) identify the electronic notarization system or communication technology, or both, that the notary public intends to use. If the secretary of state has established by rule the standards for the system or technology, the system or technology must comply with the standards. If the system or technology complies with the standards, the secretary of state shall approve the use of the system or technology.

(c) complete a course of instruction approved by the secretary of state and pass an examination based on the course. The course must cover notarial rules, procedures, and ethical obligations pertaining to remote or electronic notarization under this part or pursuant to any other law or official guideline of this state. The course may be completed in conjunction with any course required by the secretary of state for a notary public commission. A notary shall submit proof to the secretary of state that the notary has successfully completed the course and examination.

1-5-616. Official signature and stamp. (1) The official signature of a notary public must:

(a) be filed with the secretary of state on a form prescribed by the secretary of state;

(b) be reasonably similar to the official signature on file with the secretary of state;

(c) if executed on a tangible record, be in blue or black ink;

(d) if executed on an electronic record, be an electronic image of the official signature submitted to the secretary of state; and

(e) be affixed to all tangible and electronic records.

(2) The official stamp of a notary public must:

(a) include the notary public's name, title, city of residence, commission expiration date, or other information required by the secretary of state;

(b) if a physical image, be in blue or black ink in a format prescribed by the secretary of state and capable of being copied together with the record to which the official stamp is affixed or attached or with which the official stamp is logically associated;

(c) if an electronic image, be the same format, color, content, and approximate size as the tangible official stamp and capable of being copied together with the record to which the official stamp is affixed or attached or with which the official stamp is logically associated.

1-5-617. Stamping device. (1) A notary public is the sole owner of the notary public's stamping device and is responsible for the security of the notary public's stamping device and may not allow another individual to use the stamping device to perform a notarial act or for any other reason.

(2) (a) On resignation from or the revocation or expiration of the notary public's commission or on the expiration of the date set forth in the stamping device, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing the stamping device against use in a manner that renders the stamping device unusable.

(b) On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render the stamping device unusable by destroying, defacing, damaging, erasing, or securing the stamping device against use in a manner that renders the stamping device unusable.

(3) The notary public or the notary public's personal representative or guardian shall promptly notify the secretary of state's office on discovering that the notary public's stamping device is lost, stolen, or otherwise inaccessible to the notary public.

1-5-618. Audiovisual recordings — notary public journal — security and retention. (1) (a) If a notarial act is performed using communication technology, the notarial officer shall make an audiovisual recording of the entire communication.

(b) Except as provided in subsection (1)(d)(ii), a notarial officer must keep sole possession of an audiovisual recording.

(c) (i) A notarial officer shall allow a person to inspect or obtain a copy of an audiovisual recording if:

(A) the requester specifies the month, year, type of record, and name of the principal for the notarial act, in a signed tangible or electronic request;

(B) the notarial officer does not surrender possession or control of the original recording;

(C) the requester is shown or given a copy of only the recording specified; and

(D) the notarial officer is satisfied that the requester has reasonable purpose directly relating to the notarization.

(ii) A recording may be examined and copied without restriction by a law enforcement officer in the course of an official investigation, subpoenaed by court order, or surrendered at the direction of the secretary of state.

(d) (i) Except as provided in subsection (1)(d)(ii), a notarial officer shall retain an audiovisual recording for 10 years from the date of the recording.

(ii) A current or former notarial officer may transmit the audiovisual recording to a repository approved by the secretary of state.

(2) (a) A notary public shall maintain one or more journals in which the notary public chronicles all notarial acts that the notary public performs.

(b) A journal may be created on a tangible medium or in an electronic format to chronicle all notarial acts, whether those notarial acts are performed regarding tangible or electronic records. The format of a journal maintained on a tangible medium must be a permanent, bound register designed to deter fraud. A journal maintained in an electronic format must be in a permanent, tamper-evident electronic format that complies with the rules adopted by the secretary of state.

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

(a) the date and time of the notarial act;

(b) a description of the record,including the date of the record if indicated, and the type of notarial act;

(c) the full name and address of each principal;

(d) the signature of each principal, except:

(i) transcripts of depositions and certified copies do not require the signature of the individual for whom the notarial act is performed; and

(ii) if the notarial act is performed using communication technology, the journal record must reference the storage location of the audiovisual recording in lieu of the signature of the principal;

(e) if the identity of the principal is based on personal knowledge, a statement to that effect;

(f) if the identity of the principal is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance or expiration of any identification credential;

(g) if the notarial act is performed using an electronic notarization system or communication technology, or both, a notation identifying the system or technology, or both; and

(h) the fee, if any, charged by the notary public.

(4) A notary public may not record in the journal a social security number, passport number, driver's license number, birth date, or any other information prohibited by the secretary of state. A notary public may include other information descriptive of the record, including the number of pages in a document, whether the document was written in a foreign language, or other information pertaining to the record that is not otherwise prohibited by law or rule.

(5) (a) Except as provided in subsection (9)(b), a notary public shall keep sole control of the journal and all other notarial records and surrender or destroy them only as authorized by law or rule, by court order, or at the direction of the secretary of state.

(b) A notary public may not allow the notary's journal to be used by any other notary and may not surrender the journal to an employer upon termination of employment without the approval of the secretary of state. An employer may retain a copy of the journal of an employee who is a notary after the notary's employment ceases if the journal contains records of notarial acts performed within the scope of the notary's employment.

(6) (a) Any person may inspect or obtain a copy of an entry in a notary public's journal if:

(i) the person specifies in a signed tangible or electronic request the month, year, type of record, and name of the principal;

(ii) the notary public does not surrender possession or control of the journal;

(iii) the person is shown or given a copy of only the entry specified; and

(iv) the notary is satisfied that a person requesting the inspection or copy does not have a criminal or other illegal purpose for inspecting the entry or obtaining the copy.

(b) A journal may be examined and copied without restriction:

(i) by a law enforcement officer in the course of an official investigation;

(ii) if subpoenaed by court order; or

(iii) at the direction of the secretary of state.

(7) A notary public shall promptly notify the secretary of state on discovering that the notary public's journal is lost or stolen.

(8) A notary public shall notify the secretary of state of the journal's location upon resignation of a commission or if the notary public's commission has been revoked or suspended.

(9) (a) Except as provided in subsection (9)(b), a notary public shall retain a journal for 10 years after the performance of the last notarial act chronicled in the journal.

(b) A former notary public may transmit the journal to a repository approved by the secretary of state.

(10) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the notary public's journal or audiovisual recordings shall transmit all journals and recordings to a repository approved by the secretary of state.

(11) Upon revocation of a notary public's commission, the notary shall transmit the notary's journal and audiovisual recordings to a repository approved by the secretary of state.

(12) If Montana supreme court rules governing conduct by members of the bar, including the rules of professional conduct and ethics opinions, prohibit compliance by an attorney licensed by the supreme court with any provision of this section, that provision does not apply to the attorney.

1-5-619. Notary public qualifications — commission — renewals. (1) To hold a commission as a notary public, an individual must:

(a) be at least 18 years old;

(b) be a citizen or permanent legal resident of the United States;

(c) (i) be a resident of Montana;

(ii) be the spouse or legal dependent of military personnel assigned to active duty in this state;

(iii) maintain a place of business in the state of Montana that is registered pursuant to Title 35 and meet any applicable business licensing requirements of the local government where the business is located;

(iv) be regularly employed at an office, business, or facility located within the state of Montana by an employer registered and licensed to do business in this state; or

(v) hold a current professional license to practice the profession in Montana issued by an appropriate Montana authority; and

(d) be able to read and write English.

(2) To be eligible for a new or renewed commission, an applicant shall pass an examination and must meet the education requirements as provided in 1-5-620 and may not have been disqualified as provided in 1-5-621.

(3) An individual qualified under subsections (1) and (2) may apply to the secretary of state for a new or renewed commission as a notary public.

(4) An applicant for a new or renewed commission shall:

(a) complete an application and provide information required by rule by the secretary of state;

(b) pay a filing fee set by rule;

(c) execute an oath of office and comply with requirements adopted by rule by the secretary of state;

(d) obtain an assurance in the form of a surety bond or its functional equivalent in the amount of $25,000. The assurance must be issued by a surety or other entity licensed or authorized to do business in this state. The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the secretary of state. The surety or issuing entity is liable under the assurance if a notary public violates a law with respect to notaries public in this state. The surety or issuing entity shall give 30 days' notice to the secretary of state before canceling the assurance. The surety or issuing entity shall notify the secretary of state not later than 30 days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the secretary of state.

(e) provide certification that the applicant has passed the examination and completed the education requirements in 1-5-620; and

(f) submit the application, bond, certification, and nonrefundable filing fee to the secretary of state within 30 days before or after the effective date of the surety bond or the expiration of the previous commission.

(5) The secretary of state shall issue a commission for a 4-year term as a notary public to an applicant for a new or a renewed commission who has complied with this section.

(6) An individual may not have more than one Montana notary public commission in effect at the same time.

1-5-620. Examination and education of notary public — fee. (1) An applicant for a new or renewed commission as a notary public in this state shall pass an examination administered by the secretary of state or by an entity approved by the secretary of state. The examination must be based on the course of study described in subsection (2).

(2) The secretary of state or an entity approved by the secretary of state shall offer regularly a course of study to applicants for a new or renewed commission. The course must cover the laws, rules, procedures, and ethics relevant to notarial acts.

(3) On and after July 1, 2020, in addition to passing the examination:

(a) for a new commission, the applicant must have completed within the previous 12 months at least 4 hours of notary public education approved by the secretary of state or by the commission of continuing legal education;

(b) to renew a commission, an applicant must have completed:

(i) within the previous 12 months, at least 4 hours of notary public continuing education approved by the secretary of state or by the commission of continuing legal education; or

(ii) in each of the previous 3 years, at least 2 hours of notary public continuing education approved by the secretary of state or by the commission of continuing legal education.

(4) The secretary of state shall collect fees commensurate with the cost incurred by the secretary of state's office for providing notary public education and examination.

1-5-621. Grounds to deny — terms for refusing to renew, revoking, suspending, or conditioning notary public commissions. (1) The secretary of state may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as a notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

(a) failure to comply with the provisions of this part;

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

(c) pending release from supervision, a conviction of the applicant or notary public of any felony or crime involving fraud, dishonesty, or deceit, although conviction of a criminal offense is not a complete bar to receiving a commission if the individual's full rights have been restored;

(d) admission by the applicant or notary public or a finding in any legal proceeding or disciplinary action of the applicant's or notary public's fraud, dishonesty, or deceit;

(e) failure by the notary public to discharge any duty required of a notary public, whether the provisions of this part, rules of the secretary of state, or any state or federal law;

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

(g) violation by the notary public of a rule of the secretary of state regarding a notary public;

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

(i) failure of the notary public to maintain an assurance, as provided in 1-5-619.

(2) The secretary of state may require a notary public who has violated a provision of this part or a rule of the secretary of state implementing a provision of this part to complete a notary public education class approved by the secretary.

(3) A notary who is convicted of or pleads guilty or no contest to a felony crime involving fraud, dishonesty, or deceit shall notify the secretary of state within 30 days of the conviction or plea.

(4) If the secretary of state denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to contest the action in accordance with the Montana Administrative Procedure Act.

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

1-5-622. Authority and requirements to refuse to perform notarial act. (1) A notarial officer shall refuse to perform a notarial act if the notarial officer is not satisfied that:

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

(b) the individual executing the record is signing knowingly or voluntarily.

(2) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by a law other than as provided in this part.

(3) A notary public shall refuse a request that would require the notary to:

(a) use an electronic notarization system or a communication technology that the notary does not know how to operate; or

(b) use an electronic notarization system or communication technology that does not meet the requirements of this part or standards adopted by rule.

1-5-623. Signature if principal unable to sign. (1) If a principal intending to execute a record is physically unable to sign a record, the principal may direct an individual other than the notarial officer to sign the principal's name on the record. The notarial officer shall insert "Signature affixed by (name of the other individual) at the direction of (name of principal intending to execute the record)" or words with similar intent.

(2) A notary public shall record in the notary's journal the name and address of the individual who signs the record as well as the name and address of the principal unable to sign.

1-5-624. Validity of notarial acts. Failure by a notarial officer to perform a duty or meet a requirement specified in this part, except failure to comply with the provisions of 1-5-603(12) or 1-5-625(1)(a) through (1)(d) and (2), does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this part does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on the laws of this state, other than this part, or the laws of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

1-5-625. Prohibited acts — advertising requirements. (1) A notary public may not:

(a) notarize the notary's own signature;

(b) notarize a record in which the notary is individually named or from which the notary will directly benefit by a transaction involving the record, including as provided in subsection (2);

(c) certify a copy of an official record issued by a public entity, such as a birth, death, or marriage certificate, a court record, or a school transcript unless the notary is employed by the entity issuing or holding the original version of the record;

(d) affix the notary public's official signature or stamp to any record that does not contain the notary public's completed notarial certificate, unless otherwise directed by statute or rule;

(e) engage in false or deceptive advertising;

(f) advertise or represent that the notary public, unless also licensed as an attorney in this state, is able to assist persons in drafting legal records, give legal advice, or otherwise practice law. To meet the requirements of this subsection (1)(f), advertising must include the statement provided in subsection (4).

(g) except as otherwise allowed by law, withhold access to or retain possession of an original record provided by a person that seeks performance of a notarial act by the notary public; or

(h) unless the notary public is an attorney licensed to practice law in this state, use the term "notario" or "notario publico".

(2) A notary public who is a partner, stockholder, director, officer, or employee of a partnership or corporation and is individually named in the record or who signs a record as a representative of that partnership or corporation may not notarize the signature of any individual on that record.

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

(a) assist persons in drafting legal records, give legal advice, or otherwise practice law;

(b) act as an immigration consultant or an expert on immigration matters;

(c) represent a person in a judicial or administrative proceeding relating to immigration to the United States or United States citizenship or related matters; or

(d) receive compensation for performing any of the activities listed in this subsection (3).

(4) (a) A notary public who is not an attorney licensed to practice law in this state shall provide in advertising or other representations regarding an offering of notarial services, whether oral or written, used in broadcast media, print media, or on the internet a statement as provided in subsection (4)(b) or an alternate statement authorized or required by the secretary of state. The statement must be prominently displayed and in each language used in the advertisement or representation. If the form of advertisement or representation is not broadcast media, print media, or the internet and

does not permit inclusion of the statement required by this subsection because of its size, the statement must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(b) To meet the requirements of subsection (4)(a), a notary public who is not an attorney licensed to practice law in this state shall use either an alternate statement authorized or required by the secretary of state or the following statement:

"I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities."

1-5-626. Fees for notarial acts — collection of fees. (1) A notary public may charge a fee not to exceed $10 for each notarial act:

(a) performing an acknowledgment;

(b) witnessing a signature;

(c) executing a verification on oath or affirmation (jurat);

(d) certifying a transcript;

(e) certifying a copy;

(f) performing a certification of fact; or

(g) performing another notarial act authorized by law, unless charging a fee for the act is expressly prohibited by that law.

(2) (a) Subject to subsections (2)(b) through (2)(d), a notary public may charge an additional fee, as provided by rule, to:

(i) perform a notarial act using an electronic notarization system or communication technology; or

(ii) travel to perform a notarial act.

(b) The notary public shall explain to the person requesting the notarial act that:

(i) the fee is in addition to a fee specified in subsection (1); and

(ii) the fee is an amount not determined by law.

(c) The person requesting the notarial act must agree in advance on the amount of the additional fee.

(d) A fee charged for travel must be equal to or less than the standard mileage rates allowed by the internal revenue service.

(3) A notary public may also charge a fee to recover the actual cost of providing a copy of a journal entry or audiovisual recording of a notarial act performed using communication technology.

(4) If a notary public charges fees under this section for performing notarial acts, the notary public shall display in English a list of the fees the notary public will charge.

(5) A notary public who is employed by a private entity may enter into an agreement with the entity under which fees collected by the notary public under this section are collected by and accrue to the entity.

(6) A public official may collect the fees described in this section for notarial acts performed in the course of employment by notaries public who are employed by the public body.

1-5-627. Database of notaries public. The secretary of state shall maintain an electronic database of notaries public:

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

(2) that indicates whether a notary public has notified the secretary of state that the notary public will be performing notarial acts on electronic records; and

(3) that describes any active or pending administrative or disciplinary action against the notary public.

1-5-628. Rulemaking. (1) The secretary of state may adopt rules to implement this part.

(2) Rules adopted regarding the performance of notarial acts with respect to electronic records, electronic notarization systems, or communication technology may not require or accord legal status or effect to the implementation or application of a specific system, technology, or technical specification.

(3) The rules may:

(a) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(b) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(c) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(d) prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking a notary public commission and ensuring the trustworthiness of an individual holding a commission as notary public;

(e) include provisions to prevent fraud or mistake in the performance of notarial acts;

(f) establish the process for approving and accepting surety bonds and other forms of assurance under 1-5-619; and

(g) provide for the administration of the examination under 1-5-620(1) and the course of study under 1-5-620(2).

(4) In adopting, amending, or repealing rules about notarial acts with respect to electronic records, the secretary of state shall consider, consistent with this part:

(a) the most recent standards regarding electronic records promulgated by national bodies, such as the national association of secretaries of state;

(b) the standards, practices, and customs of other jurisdictions that substantially implement the provisions of this part; and

(c) the views of governmental officials and entities as well as other interested persons.

1-5-629. Authority and venue for notarial acts. (1) A notary public may perform a notarial act within the jurisdiction authorized in the notary's commission from the secretary of state.

(2) The venue for a notarial act is the state and the county where the notarial officer is physically located at the time the notarial act is performed.

1-5-630. Solemnization of marriage authorized. As provided in 40-1-301 and subject to rules adopted by the secretary of state, a notary public may solemnize a marriage.

1-5-631. Evidence of authenticity of notarial act for record sent to foreign country. (1) The authenticity of the official seal and signature of a Montana notarial officer may be evidenced by a certificate of authority from the secretary of state confirming the authority of a Montana notarial officer to perform a notarial act on a record that will be sent to a foreign country. The certificate must be in a form prescribed by the Hague Convention of October 5, 1961, or in a form approved by the United States department of state.

(2) A certificate of authority may not be issued for a record that is intended for use within the United States, including its territories, or by a federally recognized tribe.

(3) The secretary of state may refuse to issue a certificate of authority if the secretary of state has reason to believe that the record may be used within the United States, including its territories, or by a federally recognized tribe, or for any unlawful, fraudulent, or improper purpose.

1-5-632. Unlawful acts — penalties. (1) It is unlawful to:

(a) intentionally withhold from a notary public the notary public's official stamp, journal, or certificate of commission of a notary public;

(b) attach, photocopy, alter, or otherwise reproduce a notary public's signature, stamp, or completed notarial certificate for use on a record other than the original record for which it was intended;

(c) knowingly destroy, deface, or conceal a notarial record;

(d) change, modify, correct, or in any other way amend a notarial certificate, except as provided in 1-5-609(5).

(2) A person convicted of an offense under this section is subject to a fine not to exceed $2,500, incarceration for a period not to exceed 1 year, or both, for each offense.

SECRETARY OF STATE
CHAPTER 15
NOTARIES PUBLIC
Subchapter 1

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44.15.101 APPLICATION FOR A COMMISSION AS A NOTARY PUBLIC

(1) A person seeking a commission as a notary public shall make an application by submitting one or more of the requisite forms prescribed by the Secretary of State that includes the following information:
(a) applicant's name, which must consist of at least one initial and the notary's surname;
(b) applicant's date of birth;
(c) applicant's physical/residential address and mailing address;
(d) applicant's personal e-mail address;
(e) applicant's personal telephone number;
(f) applicant's employer's name, address, and telephone number;
(g) applicant's work email address;
(i) if the applicant is unemployed or self-employed, the applicant must submit an alternate contact person and the alternate contact's phone number or email address;
(h) the date the applicant's current notary commission expires (if applicable);
(i) the name under which the applicant's previous commission was issued (if applicable);
(j) whether or not the applicant intends to provide remote and/or electronic notarization services, and, if so, the identification of the communication technology and/or the electronic notarization system(s) the applicant intends to use and a copy of the certificate showing the notary has successfully completed an approved course of instruction and examination; and
(k) an exemplar of the applicant's official signature which must match the applicant's name as entered on the application and the surety bond and which must be used on all tangibly and electronically notarized records.
(2) The application shall indicate if the applicant:
(a) is at least 18 years old;
(b) is a citizen or permanent legal resident of the United States; and
(c) whether the applicant:
(i) is a resident of Montana;
(ii) has a place of employment or practice in Montana; or

(iii) is the spouse or legal dependent of military personnel assigned to active duty in Montana;
(d) can read and write English;
(e) has pled guilty, pled no contest, or been convicted of a felony or crime involving fraud, dishonesty, or deceit within the last 10 years;
(f) has been found in any legal proceeding or disciplinary action within the last 10 years to have acted fraudulently, dishonestly, or deceitfully; and
(g) has had a notary commission denied, revoked, or restricted in any state within the last 10 years.
(3) The applicant must affirm under oath that the information on the application is true and correct and that the applicant will support and defend the Constitutions of the United States and the State of Montana and uphold the duties of the office of notary public.
(4) An applicant shall submit with the application certification proving the applicant has completed the required education and passed a notary public examination approved by the Secretary of State.
(a) New and renewing applicants must take and pass the examination no more than six months before submitting the application.
(i) A grade of 80% is considered passing.
(ii) If the applicant fails to achieve a passing score after three attempts, the applicant must wait three months before attempting to take the exam again. (History: 1-5-628, MCA; IMP, 1-5-619, 1-5-620, MCA; NEW, 1993 MAR p. 2250, Eff. 10/1/93; AMD, 2008 MAR p. 66, Eff. 1/18/08; AMD, 2015 MAR p. 2096, Eff. 10/30/15; AMD, 2019 MAR p. 1530, Eff. 9/7/19.)

44.15.102 APPLICATION FEE (1) The applicant shall submit a $25 nonrefundable application fee. (History: 1-5-408, MCA; IMP, 1-5-408, MCA; NEW, 1993 MAR p. 2250, Eff. 10/1/93; AMD, 2001 MAR p. 2162, Eff. 10/26/01.)

44.15.103 NOTARY BOND (1) The applicant shall submit with the application and fee, a bond on the form prescribed by the Secretary of State from an approved bonding company in the amount of $25,000 for the full four-year term of the notary commission. The bonding company shall notify the Secretary of State's office within 30 business days if a claim is made against the bond or if the bond is canceled or otherwise not honored. (History: 1-5-628, MCA; IMP, 1-5-619, MCA; NEW, 1993 MAR p. 2250, Eff. 10/1/93; AMD, 2001 MAR p. 2162, Eff. 10/26/01; AMD, 2019 MAR p. 1530, Eff. 9/7/19.)

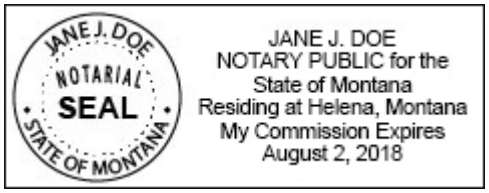
44.15.104 CANCELLATION OF COMMISSION (REPEALED) (History: 2-4-201, MCA; IMP, 1-5-404, 1-5-405, 2-4-604, MCA; NEW, 1993 MAR p. 2250, Eff. 10/1/93; AMD, 2008 MAR p. 66, Eff. 1/18/08; REP, 2015 MAR p. 1913, Eff. 10/30/15.)

44.15.105 REQUEST FOR CERTIFICATE OF AUTHORITY (1) A person requesting certificate of authority of a record for a foreign country shall submit a $10 nonrefundable fee for each certification, together with a request form as prescribed by the Secretary of State. (History: 1-5-628, MCA; IMP, 1-5-608, MCA; NEW, 2001 MAR p. 2162, Eff. 10/26/01; AMD, 2019 MAR p. 1530, Eff. 9/7/19.)

44.15.106 NOTIFICATION TO SECRETARY OF STATE OF CHANGE IN INFORMATION OR STATUS (1) A notary public shall notify the Secretary of State within 30 calendar days of any change in the information on file with the Secretary of State, using the form prescribed by the Secretary of State, including the notary public's:
(a) name;
(b) physical/residential address;
(c) mailing address;
(d) personal or work e-mail address;
(e) personal telephone number;

(f) alternate phone number or contact person;
(g) employer's name, address, and telephone number; and
(h) use of electronic notarization system or communications technology.
(2) When a notary public changes the notary name on file with the Secretary of State, the notary public shall file with the Secretary of State:
(a) a rider or other document issued by the notary's surety company showing the change of name; and
(b) an exemplar of the notary's new official signature using the form prescribed by the Secretary of State.
(3) A notary public shall notify the Secretary of State within 30 calendar days of:
(a) being convicted of or entering a plea of guilty or no contest to a felony or crime involving fraud, dishonesty, or deceit;
(b) being found in any legal proceeding or disciplinary action to have acted fraudulently, dishonestly, or deceitfully; or
(c) having a notary commission denied, revoked, or restricted in a state other than Montana.
(4) A notary public shall notify the Secretary of State within 30 calendar days on a form provided by the Secretary of State:
(a) if the notary public resigns an active commission prior to the expiration date;
(b) if the notary public moves out of state and no longer meets the residency requirements to hold a commission; or
(c) if the notary does not intend to renew the commission and include the following information:
(i) the date on which the resignation is effective;
(ii) the location where the notary's journals are to be stored; and
(iii) the notary's future contact information if different from the information on file with the Secretary of State. (History: 1-5-628, MCA; IMP, 1-5-619, MCA; NEW, 2015 MAR p. 1913, Eff. 10/30/15; AMD, 2019 MAR p. 1530, Eff. 9/7/19.)

44.15.107 OFFICIAL STAMP (1) The official stamp of a notary public, whether the impression is on a tangible or electronic record, shall:
(a) be rectangular in shape and approximately 1" by 2½" in size;
(b) be in blue or black ink;
(c) have a circular seal to the left that includes the words "notarial seal," the words "State of Montana," and the notary public's name as it appears on the notary public's certificate of commission;
(d) have a block of text to the right of the seal that includes:
(i) the notary public's printed name as it appears on the notary public's certificate of commission;
(ii) the words "Notary Public for the State of Montana";
(iii) the words "Residing at" immediately followed by the name of the city or town and state where the notary public lives; and
(iv) the words "My Commission Expires" immediately followed by the notary public's commission expiration date, expressed in terms of the month (spelled out), day, and four-digit year;
(e) have a plain rectangular border enclosing the text and seal; and
(f) be in the general format illustrated below:



(History: 1-5-628, MCA; IMP, 1-5-616, MCA; NEW, 2015 MAR p. 1913, Eff. 10/30/15.)

44.15.108 REMOTE AND REMOTE ONLINE NOTARIZATIONS

(1) Remote and remote online notarizations shall only be performed using technology that allows the individuals communicating to simultaneously see and speak to one another.

(2) When performing remote or remote online notarizations, the signal transmission shall be live, real time.

(3) All remote and remote online notarizations shall be recorded electronically.

(4) Prior to performing any remote or remote online notarization, the notary public shall inform all individuals participating in the notarization that the notarization will be electronically recorded.

(5) All recordings of remote and remote online notarizations shall include a recitation by the notary public that includes the following:

(a) the notary public's name;

(b) the notary public's commission expiration date;

(c) a declaration that all individuals participating in the remote notarization have been informed by the notary public that the notarization will be electronically recorded;

(d) the date and time the notarial act is being performed;

(e) the state and county in which the notary public is located when the notarial act is being performed;

(f) the type of notarial act that is being performed;

(g) the type or title of record that is being notarized;

(h) whether the notarial act is being performed on a tangible or electronic record;

(i) how the individual for whom the notarial act is being performed has been identified; and

(j) if a record is being executed, an acknowledgement that the person for whom the notarial act is being performed has the competency or capacity to execute the record.

(6) All recordings of remote notarizations shall include a recitation by the individual for whom the notarial act is being performed that includes the following:

(a) the individual's name;

(b) where the individual legally resides;

(c) a declaration that the signature made on the record being notarized is that of the individual;

(d) the date the individual signed the record being notarized;

(e) a declaration that the signature made on the record being notarized was made by the individual knowingly or voluntarily; and

(f) if the individual is located outside of the United States at the time of the remote notarization, a declaration that the individual is unaware of any legal conflicts that prohibit the individual's participation in a remote notarization.

(7) If the individual for whom the notarial act is being performed is being identified by personal knowledge, the recording of the remote notarization shall include an explanation by the notary public as to how the notary public has come to know the individual for whom the notarial act is being performed and the length of time the notary public has known the individual.

(8) If the individual for whom the notarial act is being performed is being identified by credible witness, the recording of the remote notarization shall include:

(a) a statement by the notary public as to how the credible witness was identified;

(b) an explanation by the credible witness as to how the credible witness has come to know the individual for whom the notarial act is being performed and the length of time the credible witness has known the individual; and

(c) a sworn statement by the credible witness identifying the principal.

(9) If the individual for whom the notarial act is being performed was identified by means of identification technologies, the notary shall state the two or more types of technologies used. (History: 1-5-628, MCA;

IMP, 1-5-603, 1-5-615, 1-5-618, MCA; NEW, 2015 MAR p. 1913, Eff. 10/30/15; AMD, 2019 MAR p. 1530, Eff. 9/7/19.)

44.15.109 FEES FOR NOTARIAL ACTS (1) A notary public may charge an additional fee in accordance with 1-5-626(2), MCA:

(a) for traveling to perform a notarial act;

(b) for performing a notarial act using an electronic notarization system or communications technology; or

(c) to recover the cost of providing a journal entry or audiovisual recording. (History: 1-5-628, MCA; IMP, 1-5-626, MCA; NEW, 2015 MAR p. 1913, Eff. 10/30/15; AMD, 2019 MAR p. 1530, Eff. 9/7/19.)

44.15.110 NOTARY PUBLIC JOURNAL RETENTION (1) A notary public must retain the notary's journal(s) at all times while holding an active commission unless the notary has satisfied the requirements set forth by (a).

(a) A notary who transmits control of the notary's journal(s) to the notary's employer shall complete the form prescribed by the Secretary of State and signed by the notary and the notary's employer indicating:

(i) the physical location where the journal(s) will be kept;

(ii) the name, phone number, and email of the employer or the custodian of the records; and

(iii) the notary's authorization for the designated custodian to release the records in accordance with 1-5-618(6), MCA, and the custodian's agreement to accept the responsibility and conditions.

(2) When a notary voluntarily resigns or chooses not to renew a commission, the notary may choose to transmit the notary's journal(s) to an approved repository by submitting the form prescribed by the Secretary of State and signed by the notary indicating:

(a) the physical location where the journal(s) will be kept;

(b) the name, phone number, and email of the proposed custodian of the records; and

(c) the notary's authorization for the designated custodian to release the records in accordance with 1-5-618(6), MCA, and the custodian's agreement to accept the responsibility and conditions. (History: 1-5-628, MCA; IMP, 1-5-618, MCA; NEW, 2019 MAR p. 1530, Eff. 9/7/19.)

GLOSSARY

Acknowledgment. A notarial act which requires the person who has already signed a document to *personally appear* before the notary and state (acknowledge) that he/she knowingly and willingly signed the document for the purposes for which it was intended. The notary does not have to actually see the person sign the document, but does have to *actually witness* the person acknowledge the signature. See page 15 for more information.

Affirmation. An oral promise on one's personal honor that the information given is true and accurate to the best of the signer's knowledge. Also known as an oath.

Affidavit. A written statement in which the person attests under penalty of perjury that a statement is true.

Apostille. A certificate of notarial authority issued by the Secretary of State. It certifies that the notarial block is completed according to Montana statutes and that the notary was commissioned and in good standing at the time the notarization was performed. See page 21 for more information.

Attorney-in-fact. A person (not necessarily a lawyer) who is given written authority to sign and/or act on behalf of another individual (the principal), normally through a document called a power of attorney.

Attest. To confirm (usually in writing) that a document is genuine or that statements made in a document are true.

Authentication. A certificate of notarial authority issued by the Secretary of State. It certifies that the notarial certificate is completed according to Montana statutes and that the notary was commissioned and in good standing at the time the notarization was performed. See page 21 for more information.

Certificate of Commission. The official document issued by the Montana Secretary of State granting a notary commission. It shows the notary's official name, the notary's city of residence, and the beginning and ending dates of the commission.

Certified Copy. An exact, complete and unaltered copy of a document attested as a true copy of the original. See pages 19 - 21 for more information.

Coercion. Forced or compelled into doing something through fear, intimidation, and/or threats.

Communication technology. Real-time, two-way audio-visual electronic device or process that allows a notarial officer located in this state and a remotely located individual to communicate with each other simultaneously by sight and sound or facilitates communication with a remotely located individual with a vision, hearing, or speech impairment when necessary under and consistent with applicable law.

Comprehension. The ability to understand something. A notary is responsible for determining that all parties understand what they are signing or affirming.

Credential analysis. A process or service operating according to criteria through which a third person affirms the validity of a government-issued identification credential through review of public and proprietary data sources.

Credible Witness. Someone who is either personally known or satisfactorily identified to the notary who can swear to the identity of a person requesting a notarization.

Commission Number / Notary Number. A unique identifier associated with a particular notary public. At this time, Montana notaries do not have commission numbers and should indicate "N/A" when such information is requested on a notarial certificate or other document.

Deposition. A written statement used in legal matters that is transcribed from oral testimony given under oath or affirmation.

Dynamic knowledge-based authentication assessment. An identity assessment that is based on a set of questions formulated from public or private data sources that does not contain a question for which the principal provided a prior answer to the entity doing the assessment.

Electronic Notarization / eNotarization. The process by which a digital document is notarized using electronic signatures of both the signer and the notary public and includes the attachment of an electronic notarial seal. See page 22 for more information.

Electronic Signature. An electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign a record.

Forgery. False signature, written document, or other creation, made to imitate the true signature, document, or creation, with the intent to defraud.

Identification credential. A government-issued record evidencing an individual's identity.

Identity proofing. A process or service by which a third person provides a notarial officer with a means to verify the identity of a principal by a review of personal information from public or proprietary data sources or biometric data including but not limited to facial recognition, voice analysis, or fingerprint analysis.

Intent. The purpose for which something is done.

Jurat. The notarial act that certifies the notary as having witnessed the signing of a document and administered an oath or affirmation, in which the signer declares the document to be truthful and accurate. See page 18 for more information.

Jurisdiction. The geographic area over which authority extends. See page 3 for more information about a Montana notary's jurisdiction.

Medallion Signature Guarantee. A verification/guarantee of signatures on stocks and bond transactions that can *only* be done by a security broker or dealer participating in a medallion program.

Negligence. Failure to use reasonable care that would be expected of any other person in a similar situation.

Notarial Acts. The official actions of a notarial officer: The complete list of notarial acts authorized in Title 1, Chapter 5, part 6 is discussed in more detail in Chapter 4 of this handbook.

Notarial Officer. A notary public or other individual, such as a judge, clerk of court, or active duty military officer, authorized to perform notarial acts.

Notary Public. An individual commissioned to perform a notarial act by the Secretary of State.

Notarial Seal / Notary Stamp. The official seal of the notary.

Oath. A statement of truth, either written or verbal, given under penalty of perjury.

Perjury. Making a false statement under oath; generally punishable by fine and/or imprisonment.

Personal Appearance. The notarial requirement that the person who signs a record must be in the notary's physical presence or appear by live two-way audio/visual communication at the time of the notarization.

Power of Attorney. A written authorization to represent or act on another's behalf in private affairs, business, or some other legal matter.

Public key certificate. A method of enabling a user of an unsecured public network, including the internet, to securely and privately exchange data and money through a public and private cryptographic key pair that is obtained and shared through a trusted certificate authority.

Reasonable Care. The use of ordinary prudence and intelligence exercised in similar circumstances.

Record. A document; information that is inscribed on a tangible or electronic medium which is retrievable in a perceivable form.

Remote Notarization. Utilization of live two-way audio/visual technology to perform a notarial act.

Representative Capacity. Acting on behalf of another person or entity, particularly when signing a document in place of the named person or entity, such as an officer, agent, partner, trustee, guardian, attorney-in-fact.

Sign. To intentionally execute a record by means of a written, typed, stamped, or electronic affixed signature.

Signature. A tangible symbol or an electronic signature that evidences the signing of a record.

Signature Guarantee. See *Medallion Signature Guarantee* above.

Statement of Particulars. The required declaration in a notarial certificate that describes the details of the notarial transaction. See page 12 for more information.

Subscribe. To sign.

Surety Bond. A three-party agreement that legally binds together a principal who needs the bond (the notary), an obligee who requires the bond (the state of Montana), and a surety company that sells the bond.

Swear. To take an oath.

Testify. To make a declaration to substantiate a fact; bear witness or give evidence, especially under oath in court.

Venue. The location (state and county) where a notarization is performed.

Witness. A person called upon to observe an event, a transaction, signing, etc., in order to testify concerning it if it is later held in question or challenged.

Certified Notary Education Providers

§1-5-620(2), MCA: The secretary of state or an entity approved by the secretary of state shall offer regularly a course of study to applicants for a new or renewed commission. The course must cover the laws, rules, procedures, and ethics relevant to notarial acts.

As of the publication of this Handbook (10/1/2019) the following entities have been approved by the Secretary of State to offer notary education for Montana notaries public. Links to other approved providers and specific courses may be found on our website as they become available.

AMERICAN SOCIETY OF NOTARIES - The American Society of Notaries is dedicated to providing its members with education, professional service and technical support; promoting high ethical standards; and increasing public awareness of notaries' valuable contributions.

MONTANA LAND TITLE ASSOCIATION FOUNDATION - MLTAF is organized for charitable and educational purposes. The foundation is organized to provide continuing education programs for licensed title insurance agents and the general public by conducting educational program throughout the state of Montana, or distributing educational materials.

NOTARY LAW INSTITUTE - The Notary Law Institute was established to help notaries know their laws and duties. We pride ourselves in teaching **only** what the law says, and by using strictly adherent methods, practices, and notary supplies. The Notary Law Institute specializes in teaching nationwide live notary seminars as well as in-house and live webinars.

NATIONAL NOTARY ASSOCIATION - With over 55 years of expertise, the National Notary Association is the nation's leader in providing Notary training and education. Incorporating state-specific requirements and best practices, the NNA offers comprehensive training and educational resources designed to enable you to perform your Notary duties professionally and proficiently.

The following approved electronic notarization system providers are certified to provide the required system training for notaries using technology-based notarization:

FIGURE

NOTARIZE

NOTARYCAM

PAVASO

SAFEDOCS

SIMPLIFILE

WORLD WIDE NOTARY

If you are interested in providing Montana certified notary training, or a technology-based notary system or training, please contact the Notary & Certifications Division of the Montana Secretary of State's office at sosnotary@mt.gov.

FOUR METHODS OF PROVIDING NOTARIZATIONS IN MONTANA

TRADITIONAL NOTARIZATION

Requires Physical Presence

Signer's wet signature on tangible (paper) document

Notary's wet signature and seal on tangible (paper) document

eNOTARIZATION – IPEN (In-Person Electronic Notarization)

Requires Physical Presence

Signer's electronic signature on digital document

Notary's electronic signature and seal on a digital document

REMOTE ONLINE NOTARIZATION (RON)

Requires Virtual Presence via Communication Technology

Signer's electronic signature on digital document

Notary's electronic signature and seal on a digital document

REMOTE NOTARIZATION

Requires Virtual Presence via Communication Technology

Signer's wet signature on tangible (paper) document

Notary's wet signature and seal on a tangible (paper) document