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Oregon Notary Public Guide



Oregon Secretary of State
Corporation Division



Introduction

Welcome to the *State of Oregon Notary Public Guide*. This publication describes the duties and responsibilities involved in carrying out your notarial commission. It covers laws and rules, Attorney General's opinions, state policy, and common sense guidelines based on broad experience and familiarity with case law.

It is your responsibility as a notary public to understand and carry out the laws and administrative rules of the State of Oregon as they relate to notaries. Failure to follow these laws could leave you liable to recovery of damages and subject to fines and other penalties. Familiarity with the Notary Public Guide will reduce that risk.

No matter how much this guide covers, it will always miss some situation or special need you and your client may encounter. When these situations arise, contact the Corporation Division:

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Subscribe to Notary News

We recommend that you subscribe to [Notary News](#), our free email subscription service, to receive important changes that affect Oregon notaries, such as updates on Oregon notary laws, rules and procedures.

Thank you for becoming an Oregon Notary Public!

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Frequently Asked Questions

About Notaries

1. How old do I need to be to become a Notary Public?

You must be at least 18 years of age at the time of appointment.

2. Do I need to be a resident of this state?

You can be a resident of this state, or be a resident of another state and have a place of employment or practice within this state. If you live in another state and are an Oregon notary, you must perform all notarizations in the state of Oregon.

3. Must I be able to read and write the English language?

Yes.

4. How long is a commission good for?

The term of office for Oregon Notaries Public is 4 years. They must retake the test and submit their application online or send in a paper application, not more than 30 days before the commission expires.

5. If my employer pays for my commission and my stamping device, am I only a notary for the business in which I am employed?

No. The notarial commission and its related tools belong to the notary public and not the employer. A notary public is commissioned by the State of Oregon to provide a service to the public. The law does not state that notaries **MUST** serve the public, but if service is refused without just cause, the notary public and their employer could face a civil law suit. ORS 194.990(1)(a).

6. My former employer paid for my notarial commission and kept my stamping device. Can they do that and can I still be a notary?

An individual, not an employer, is commissioned as a notary public. It does not matter who paid for the notarial commission, stamping device, and notarial journal—**they belong to the notary public**. During a notarial commission term, a notary public may change employers several times, and the notarial commission, stamping device, and notarial journal move with the notary public. ORS 194.990(1)(c).

The only exception would be if there is a signed journal agreement with the employer. The notary public would then purchase a new notarial journal for use with the new employer. OAR 160-100-0360.

7. May a notary prepare legal documents?

Only if the notary public is an attorney, supervised by an attorney (such as a paralegal), or prepares such documents as a licensed professional. Even then, a notary public must not be party to the transaction or have a direct beneficial interest in it.

8. Am I required to be bonded or have liability (errors and omissions) insurance?

Oregon does not require its notaries public to be bonded or to have liability insurance. This is left to the discretion of the notary public.

9. May I notarize in another state, such as Washington, as an Oregon Notary Public?

When performing a notarization, the notary must always be located in Oregon. For a traditional notarization, Oregon's jurisdiction does not extend beyond the Oregon border, so the

notary would not be able to perform a notarization in the state of Washington. However, with the implementation of Remote Online Notarization (RON), the jurisdiction is extended beyond Oregon's border. While the notary must always be located in Oregon, the signer may be located in a different location in Oregon, in a different state, or beyond the boundaries of the United States.

10. If I submit a waiver of fees, may I sometimes charge for my notarial services?

No, if the notary public submits a waiver of fees, the notary has stated that he or she will not charge for **any** notarial services performed. The notary public may rescind the waiver by notifying the Secretary of State, Corporation Division, in writing. OAR 160-100-0420(1)(2).

About Notarizing

11. My employer wanted me to notarize a document signed by a client who came in while I was at lunch. I told him that I couldn't notarize unless the client appeared before me. Was I correct?

Yes. All notarizations require the signer to be present at the time of the notarization. The notary public needs the signer to sign the notarial journal and give appropriate identification information.

An employer who threatens or coerces a notary public into an act of misconduct can be liable to the notary public for damages resulting from that misconduct, ORS 194.405(3), and is guilty of a crime. ORS 194.990(1)(d).

12. What should I do about issues that are not covered specifically in the law?

Use reasonable care and caution. If something does not seem right, do not proceed. Use the notarial journal to make notes as to why the notarization was refused for possible future reference. Please do not hesitate to call our office (503) 986-2200.

13. May I use a subscribing witness when doing a notarization?

Not according to notary law. There is a special provision in Real Estate Law which allows for a subscribing witness in a limited number of real estate transactions. Should this come up, the notary public would need to consult with the Real Estate Division.

14. May I notarize for a minor?

A minor must provide acceptable ID just as an adult would. ORS 194.240(2).

Have the minor put his or her age next to the signature so that the receiving party realizes that they are dealing with a minor. Note the age of the minor in the notarial journal.

Minors must be competent when signing. Ask questions of the minor such as "What kind of document are you signing?" "What will the document do?" "Do you want to sign the document?" If the notary public is not comfortable with the answers the minor gives, the notary should refuse to notarize, noting why in the notarial journal, and advise the customer to seek legal advice.

15. May I perform IPEN and/or RON notarizations?

Yes, however before you can perform IPEN and/or RON notarizations you must first be a commissioned notary **and** receive acknowledgement before you can perform either IPEN or RON notarizations.

16. Must a notary always notarize?

A notary is not always required to notarize. In fact, when you are in doubt because something appears fraudulent (the ID looks fake), or some other aspect of the notarization appears amiss, you **should not** notarize. However, if it is merely discomfort because you are not familiar with the particular type of act, such as certifying to a copy, then you should consult either with a more experienced notary, or call the Corporation Division at (503) 986-2200.

It is your responsibility to maintain your expertise, since you are commissioned for **all** the permitted acts and not a specialty. Finally, you must be careful not to pick and choose whom you will notarize for, or you may be subject to a civil action for discrimination. At this time, notaries may be required by their employer to notarize only for customers of that employer, if that is the employer's consistent policy and is not discriminating against a protected class.

17. May I notarize for someone in a hospital or nursing home?

Special care must be taken when notarizing for the elderly or those in a medical care setting. Awareness may need to be established by someone in authority (e.g., doctor, nurse, or attorney). Medications can alter the customer's reasoning abilities. Consult with the signer's doctor/nurse/attorney and write down their remarks in the notarial journal. Have the authority sign your journal by their remarks, as to the awareness of the customer/patient.

Prior to notarizing, ask the customer some questions about the document to be sure that they understand what they are signing and seem competent in their responses. Common sense, as well as reasonable care and caution, are the prime indicators on whether to proceed. When in doubt, don't notarize, noting the refusal in the notarial journal, and advise the customer to seek legal advice.

18. Should I notarize a blank or incomplete document?

Common sense would prevent most notaries from notarizing a signature on a completely blank sheet of paper, knowing that a fraudulent document could be created on the blank sheet.

Even blank spaces that can be filled in later have a potential for fraudulent use. If blanks are intended to be left blank, it is up to the customer to indicate that in some manner (e.g., N/A to indicate not applicable).

About Stamps and Journals

19. My current commission has expired and I have reapplied. May I use my old stamp until my new stamp is made?

No. The stamp with the expired date should be destroyed as soon as possible. ORS 194.295(2).

20. What should I do if my notary stamping device is stolen?

Report the incident to the police, then report the fact to the Secretary of State, Corporation Division using the [Missing Stamp, Certificate or Journal](#) form. The Secretary of State, Corporation Division will email a Certificate of Authorization with a new commission number, so the notary public can begin the process of replacing the notary stamping device. If the notarial journal was not stolen, indicate on the next available line in your journal the date and circumstance of the notary stamping device's loss.

21. May I make my own journal?

As long as the regulations set out in the laws and rules are adhered to in creating the notarial journal. OAR 160-100-0200 through 160-100-0210.

22. May I choose not to keep the notarial journal?

The law states that all notaries shall maintain one or more journals in which the notary public chronicles all notarial acts that the notary public performs. Penalties can and will be incurred if this is not done. ORS 194.300(1).

23. What if I have multiple entries for my journal?

Duplicate originals with the same name and date may be recorded as a single entry in the notarial journal. ORS 194.300(4)(a).

24. Must I record every notarization in my journal?

Although the Secretary of State strongly recommends each notarization be recorded, under ORS 194.300, a notary must record acknowledgments and witnessing a signature in their journal. All other notarial acts may, but are not required to, be recorded.

25. May a notary public have more than one journal?

Yes. A notary public shall maintain one or more journals at a time. ORS 194.300(1) and ORS 194.305(1).

26. Is my notarial journal a public record that anyone may look at? ORS 194.300(9)

Most notaries public are exempt from disclosing the notarial journal contents unless requested by the Secretary of State, Corporation Division, or when required by subpoena. OAR 160-100-0430(2).

If the notarial journal is in the possession of the Secretary of State's office, or if the notary public is a public official or public employee, then the notarial journal falls under public record laws. Should the Secretary of State, Corporation Division, deem that it is in the public interest not to disclose such information, the notarial journal would not be made public.

A customer may access their own entry record in the notarial journal, but the entries above and below should be covered to protect the privacy of those individuals.

27. Should I keep copies of every document that I notarize?

No, a notary should not keep copies of the documents that they notarize. Your journal entry is sufficient evidence for the purpose of recording a notarial act. If a notary should keep an original record provided by the person for notarization, the notary may not withhold access to the original record. However, the Secretary of State strongly recommends that notaries do not keep such records.

28. Should I keep copies of identification that I use to identify the signer?

No, a notary should not keep copies of identification that they use to identify the signer. Your journal entry is sufficient evidence for the purpose of recording how you identified the signer.

29. May I use an electronic journal and perform IPEN?

The notarial journal may be in electronic or paper format. While Oregon notaries public are allowed, under certain conditions, to perform In Person Electronic Notarizations (IPEN), Oregon law still requires a person to appear personally before a notary public. Before you purchase any electronic notarization means, make sure the vendor meets the [NENS](#) (National Electronic Notarization Standards) and doesn't just refer to [E-SIGN](#) and [UETA](#).

30. There are several notaries public in my office, can we all just use one journal to record our notarial acts?

No, each Oregon Notary Public is required to keep and maintain their own notarial journal. ORS 194.300(1) and 194.305(1).

About Notarial Acts and Certificates

31. May a notary public in Oregon perform a marriage ceremony?

No, only Florida, Maine, Nevada, and South Carolina notaries public may perform a marriage ceremony.

32. Can a notary public sign in any color of ink?

Yes, so long as the signature is reproducible and legible when scanned for recording purposes. Black or dark blue ink is preferable.

33. May a signer use a signature stamp on the document they want notarized?

Yes. A stamp, a mark, or other indication of the execution is sufficient. The signature stamp should match or be a legible reproduction of a person's signature on their identification document.

34. May I correct a mistake I made in a notary certificate several days after it was executed?

Corrections can be made. Only the notary public may make corrections that are needed, and the corrections must be made on the original certificate. Note in your journal any corrections or changes that were made to the certificate.

35. A notarial certificate that was pre-printed on a document did not have a jurisdiction or a signature line for the notary. What should I have done?

To have a proper notarization, certain elements must be present: venue—state and county, statement—who appeared, on what day and what they did (acknowledge, sign and swear, etc.), the notary public's signature and official notary stamp imprint.

When a certificate is not complete, the notary public can add the necessary information. In the case mentioned, the notary public should type or hand write at the beginning of the notarial certificate the jurisdiction where the notarization was taking place, and then create a signature line near where the official notary stamp imprint was placed.

A note should be made in the notarial journal entry that a correction was done to the notarial certificate at the time of notarization.

36. May I choose a notarial certificate to go on a document?

An Attorney General's opinion states:

"The notary public should not take it upon himself or herself to select or substitute a certificate on behalf of the person. In addition to the risk that the notary public may be found to be unlawfully practicing law, there is also some possibility that the notary public may become involved in litigation if the document is later found not to accomplish what was intended by the parties, and the problem is with a certificate that the notary public selected."

37. When using an attachment certificate, must I always put a complete stamp impression on the attachment?

When using an attachment, or loose, certificate, a complete imprint of your official stamp must be on the attachment certificate. A second imprint may overlap the document and the certificate as a protection device. OAR 160-100-0110(4).

38. May a notary public notarize a will?

Yes, but only with extreme care and caution. In Oregon, wills are not required to be notarized, merely witnessed. However, the witnesses often are required to sign a "self-proving affidavit"

that is notarized. So, the notary generally doesn't witness the will signer's signature, but the witnesses' signatures on their affidavits.

It is advisable to notarize wills only under the direction of an attorney. Wills are perhaps the most contested documents notaries public become involved with, and even when they are done correctly, a notarization may be called into question. When an estate goes into probate, a will can be invalidated if the notarization is incorrect, and the notary public could be held liable for damages by the benefactors.

39. How long does it take to get my application processed?

It can take from less than a day to several days to fully process a notary application depending on how quickly the applicant can get the oath of office notarized and turned in. If the applicant does not pass the test, the applicant may retake the test immediately. When sending in a paper application, you will need to take into account mail time. The paper application process can take up to 10 days or more.

About Notary Fees

40. Am I required to display a list of the notary fees that I may charge?

If the notary public is going to charge for services, the fees must either be prominently displayed or handed to the customer, prior to the notarization, so that the customer can refuse notarial services if the customer does not wish to pay. OAR 160-100-0400; OAR 160-100-0410.

41. If two people sign the same document and they're both on the same notarial certificate, do I charge \$10 or \$20?

The fee would be \$20. The fee is per notarial act. Even if the notary public is using one notarial certificate, the notary public in this case is identifying and witnessing two separate signatures on the document. OAR 160-100-0400.

42. If "notarization" is just one of a list of services we display, do we still need to show the practicing law warning?

Yes, you will need to have it either on the display or presented to the customer **before** you notarize.

43. Is there a guide to what are reasonable travel fees?

Neither the statute nor the Secretary of State offer any direction on what you should charge or how to determine what is appropriate. Some notaries have a flat fee, some charge based on distance, some do some formula of mileage and time. It is up to the notary to determine what works best for them, so long as the charge is presented to and agreed upon by the signer beforehand.

Chapter 1 – The Notary Public

A notary is “a person of proven integrity appointed by the state to act as an impartial witness” (National Notary Association Home Study Course). The main function of the notary is to witness a legal proceeding so that the courts and other interested parties can be certain that the person signing a document knows what is being signed, is able to understand the action taken, and is in fact the person whose signature is on the document.

Notaries in History

In the old Roman Republic, *notarii* were public secretaries who were shorthand writers. As scribes became more and more common, they developed a service in the public marketplace to draw up legal documents and other written instruments. Wax seals were used as signatures on documents. Later, ribbons tied together multi-page documents, and wax seals on the knots showed that no one had tampered with the knots. Thus, we came to have notary seals.

Eventually, the state came to regulate and commission these scribes. Witnesses to the drafting of their documents came to be required. Notaries, still in the public marketplace, evolved into both drafters and witnesses to these writings. As *notarii* became essential to commerce and law, royalty found the need to commission and employ them for drawing up and countersigning documents. By the Middle Ages, notaries had to undergo formal training and examinations. Gradually, the government took over sole appointment of notaries, giving them public officer status.

In Europe, Africa, Asia, and Latin American countries, notaries retain many of their attorney-like powers. In the United States, however, notaries are most important for merely witnessing documents drafted by someone else. This disparity in notary authority is the reason Oregon has a law against advertising as a “Notario Publico”, which conveys to Spanish-speaking individuals vastly different powers than notaries have in this state. See Chapter 3, [Notario Publico Fraud](#). Within the United States, the duties and responsibilities of a notary public vary greatly from state to state. It is essential, therefore, to become familiar with **Oregon’s** notary laws and rules, even if you have previously served as a notary in another state.

Three Components of a Notary Public

There are three components to the notary public. The notary must be of **proven integrity**, an **officer of the state**, and an **impartial witness** to a particular transaction.

Proven Integrity

Because a notary’s whole purpose is to detect and deter fraud, Oregon statutes require notary applicants to undergo a criminal background check. The law requires that an applicant must “not have been convicted of a felony or any crime involving fraud, dishonesty or deceit during the 10-year period preceding the date of the application.” ORS 194.315(2)(d). If a person has been convicted of embezzlement or fraud, they will be disqualified to receive a notarial commission. A traffic violation such as a speeding ticket, however, isn’t relevant to notarial functions and wouldn’t disqualify one from obtaining a notarial commission.

Ministerial Officer of the State

A notary public is commissioned by the state and acts as an officer of the state. Because the office is ministerial rather than regulatory or judicial, the duties of the office are narrowly defined to certain prescribed acts of limited scope. A notary must follow written rules that allow only limited discretion in performing these acts. A notary needs to remember that they have become a State of Oregon Notary, not their employer’s notary.

Impartial Witness

The main function of the notary is to witness a legal proceeding. The notary may refuse to notarize if not satisfied of the willingness, competence or capacity, and identity of the signer. The notary does not validate or legalize the document nor guarantee its truth. It is important to the validity of the witnessed act that the notary be impartial. Impartial means:

The notary has no financial interest or any other direct beneficial interest in the transaction. The notary should have nothing to gain by notarizing. Otherwise, suspicion of fraud is thrown upon the whole proceeding. Note that the fee to notarize is not considered direct beneficial interest.

The notary must not be related to the signer. Oregon's law states that a notary may not notarize for their spouse, and although Oregon law does not prohibit notarizing for other relatives, it is prudent not to do so. It is easy for a court to construe that a notary may gain from a transaction with relatives, particularly in the case of close relatives.

The notary or their spouse may not be named in the document. A party to a legal document is not disinterested in the transaction and therefore is not a satisfactory witness. A notary may not notarize their own signature or the signature of their spouse.

Qualifications to Become an Oregon Notary Public

To be a notary public in Oregon you must, at the time of application:

- Be 18 years of age or older.
- Be a resident of Oregon or have a place of employment or practice in this state.
- Be able to read and write English.
- Not have had a notary public commission revoked during the 10 year period preceding the date of application.
- **Complete a notary training course** within the last 6 months. (Not required of current Oregon notaries with an active commission at the time the new application is received in our office).
- Not have been convicted of a felony or of any crime involving fraud, dishonesty or deceit during the 10-year period preceding the date of application. (A background check is conducted on all applications for a notary public commission.)
- Not have been convicted of acting as or otherwise impersonating a notary public, obstructing governmental or judicial administration or engaging in the unlawful practice of law.
- Not have been found by a court to have practiced law without a license or engaged in an unlawful trade practice.
- Pass the Secretary of State's Notary Public examination.

The term for a Notary Commission is **4 years**.

Education and Exam

The notary application process begins with a notary training course and exam. The education may be provided by the state or by a certified provider. The Secretary of State only recognizes that the education program of the provider is similar to the state's curriculum and does not endorse the other services or products the vendor may or may not provide. OAR 160-100-1130(5).

Check online for information regarding free [state-run webinars](#). For information regarding the state's free [online tutorial](#), please check our website.

Oregon Notaries with an active commission are exempt from the training requirement if they complete and pass the exam, and submit their application before their commission expiration date. However, to make sure they are aware of new laws and administrative rules, and as a good refresher before the exam, we encourage all notaries to take the free tutorial or attend a class.

The exam is completed online and is an open-book, yes/no, true/false and multiple-choice test, based on materials found in the Notary Public Guide, live webinars, or online tutorials. The Notary Public Guide is meant to be educational: to help you read through the statutes and rules and understand what you have read. The Guide also includes Secretary of State recommendations, based on best practices and Attorney General's opinions. It is very important that you take the time to read through the materials and complete the exam properly. If you fail the exam, the application process cannot be completed. You can, however, retake the exam at your convenience.

Become a Notary or Reapply for a New Commission

1. **Complete a training course.** (If you are a reapplying notary with a current commission, you may omit this step.)
 - a. To meet the training requirement you can take an in-person webinar **or** complete an online training course.
 - b. Courses are offered by the Secretary of State at no charge. Courses are also offered by certified education providers for a fee.
 - c. For more information on these [approved courses](#), please visit our website.
2. **Meet the qualifications to be a Notary Public for the State of Oregon**
 - a. To become a notary public in Oregon you must meet certain qualifications.
 - i. See the previous page for qualifications.
 - ii. A background check and revocation search is conducted on all applicants.
3. **Submit your application.**
 - a. The quickest way to submit your application is online. There is also a paper application and test that can be completed, printed, and mailed in.
 - b. Enter the required information and submit your application.
4. **Pass the required online exam.**
 - a. The exam is a yes/no, true/false and multiple-choice question test. It is based on the information received through the training course and from the Oregon Notary Public Guide.
 - b. Please be sure to read the material in the guide carefully before you proceed with the exam. You may want to have a copy of the guide available while taking the exam. Please open the notary guide in a different browser when taking the exam to avoid browser issues.
5. **Oath of Office.**
 - a. Once the background check and revocation search is complete, you will receive an email which will contain a PDF attachment of the Notary Public Application and Oath of Office. Print out the PDF. (If you do not pass the background check or revocation search, you will receive a different email notification.)
 - b. **Do not** fill or change the application section of the form.

- c. The Oath of Office must be signed in front of a notary and submitted to our office with the \$40.00 processing fee. The Application and Oath need to be returned **within 30 days of being issued** or you will need to re-apply and submit the application fee again.

6. Receive your certificates.

- a. After the Oath has been processed, you will receive an email from us which includes PDF copies of your Commission Certificate and the Certificate of Authorization.
- b. If you choose, you can print out your Commission Certificate and frame it.
- c. Print the Certificate of Authorization and take it to a vendor who makes rubber stamps. If you use an online vendor, it is permissible to email the PDF certificate. This certificate will contain the details of your commission, including your commission name, number and expiration date. The same certificate is used for electronic notarization technology.

Once you have your stamp and have purchased your notary journal you are ready to notarize. Congratulations!

Stamping Devices and Journals

We do not provide these; you must purchase them yourself. Most office supply stores and rubber stamp stores can make notary stamps. Most office supply stores either carry journals in stock or through a store catalog. An embosser is no longer used to notarize but may be used in an unofficial capacity as a protection device and should never be used in place of the official notary stamp.

Re-Applying for a Commission

A notary public commission is not automatically renewed. We do not send out a renewal notice. Notaries are responsible for tracking and reapplying for a new commission on their own. You can submit a new application 30 days before the expiration of your current commission. Each notarial commission is unique, and a new notarial commission number and expiration date will be issued when the new application is accepted. The [application](#) is submitted online. ORS 194.325(1).

If the notary public is reapplying, the same notarial journal may be used with the new notarial commission, as long as the information required in the front of the notarial journal is updated. The notary public should indicate where the new notarial commission begins on the next journal entry line.

The official notary stamp from the expiring notarial commission must be disabled by destroying, defacing, damaging, erasing or securing the device against use as soon as the notarial commission expires. ORS 194.295(2).

The notary public will purchase a new notary stamp.

The process to reapply may take up to 10 days or more.

Not Reapplying for a Commission?

If the notary public decides not to reapply for a new notarial commission, the notary stamp from the expiring notarial commission should be disabled by destroying, defacing, damaging, erasing or securing the device against use as soon as the notarial commission expires. The notary will retain the notary journal for 10 years after the last notarial act recorded in the journal. ORS 194.295(2).

Lost, Misplaced, Broken or Stolen Stamping Device

If the notary stamping device is lost, misplaced, broken or stolen, download the [Missing Stamp, Certificate or Journal](#) form from our website; fill it out and mail it to our office **WITHIN TEN (10)**

DAYS. You will receive a new Certificate of Authorization. Take the Certificate of Authorization to a vendor to have a new stamp made. If you find the original stamping device, you must send us a written statement of explanation within ten (10) days and destroy the stamp.

This affidavit form is used to obtain a Certificate of Authorization to replace a stamping device that has been lost, stolen, misplaced or broken.

Lost, Misplaced, Destroyed or Unusable Journal

If your journal is lost, misplaced, destroyed, stolen, or otherwise unusable you can download the [Missing Stamp, Certificate or Journal](#) form from our website; fill it out and mail it to our office promptly.

You will need to purchase another journal to continue with your notarial duties.

Notary Information Change

When a notary public has a legal change of name, the notary is required by law to notify the Corporation Division within thirty (30) days. OAR 160-100-0170(1)(a).

Changing the notarial commission name involves the cost of a new notary stamping device. Download the [Notary Information Change](#) form, have it notarized, and send it to our office within 30 days. Changing the official signature on file with the Secretary of State's office requires filling out the [Notary Information Change](#) form and returning it to our office within 30 days.

When a notary public has a change of their public contact address, the notary is required by law to notify the Corporation Division within thirty (30) days. Download the [Notary Information Change](#) form, fill it out and return the form to our office within 30 days. OAR 160-100-0170(3). The public record address is available to the public in an online data base. The public record address can be a postal address or a street address.

We're Here to Help

If you don't know the answer to a notarial question, ask the Corporation Division. Our focus is to educate, not regulate. Although we are obligated to respond to complaints and to screen applicants, most of our public contact is educational.

Our aim is to have well-trained, competent, and confident notaries in this state. The better you are, the less regulation we do, and the less chance you have of incurring penalties — through us, or through the courts.

When in doubt, ask — before you make a mistake. But remember, we are not attorneys. We cannot tell you which certificate to use, or advise you on a course of action in a particular situation. The best we can do is to tell you how to uphold the letter of the law. Where the law does not specifically tell you what to do, neither can we.

Subscribe to Notary News

Stay informed on important changes that affect Oregon notaries! Oregon notaries should subscribe to [Notary News](#), our free email subscription service, to get updates on Oregon notary laws, rules, and procedures. It's easy to register; simply go to our website and follow the steps.

Notary Education

The Secretary of State has free notary webinars scheduled throughout the state to give every notary an opportunity to become properly trained and educated about Oregon laws and good notary procedure. Brush up your notary knowledge and get the answers to your questions by attending a live webinar. The basic webinar is a comprehensive and thorough examination of

notary basics: what a notary is, responsibilities and liabilities, how to notarize, notary certificates, and the notary journal.

The advanced notary public webinar is appropriate for those who are experienced, commissioned notaries. They do not meet the training qualifications for a notary application and will not help you to pass the exam. These advanced classes discuss employee notary issues, notario and elder abuse fraud, difficult certificates, and journaling witnesses, among other topics.

This is your chance to talk to the state agency that regulates notaries, and participate in lively discussions about procedures, practices, and notary laws. Go online to view the [notary webinar schedule](#) and register for a class.

We also have a free [web tutorial](#) that meets the educational requirements for notaries.

Chapter 2 - Employee Notaries and Employers

A notary public has an ethical obligation to serve the public. Notaries exist, not for the convenience of a business, but to serve the common good. The public needs access to the services of notaries, just as business does.

It is important to discuss notary requirements and other issues with your employer ahead of time. It is unlikely that an employer will listen calmly and rationally to your concerns when your biggest client is off to the airport without signing your journal and you won't complete the notarization! Employers need to know that you are an officer of the state as well as their employee and that cooperation is the best way of getting what everyone wants: proper notarizations done efficiently.

Limitations on the Job

Access to Notaries

At the same time, under Oregon law, an employer may limit access to employee notaries public during work hours. For example, a bank may only allow its employees to notarize documents involving bank business or documents for people with accounts at that bank. Such a policy should be carefully reviewed by legal staff, however, to protect the employer from lawsuits based on protected class considerations.

Employers may not prohibit notaries from notarizing on their own time and off work premises. However, if a notary has signed the fee waiver and does not charge for notarizations at work, the fee waiver still applies when notarizing after hours.

First Obey the Law

If your employer insists that you notarize a document in a manner inconsistent with Oregon laws and rules, you and the employer should be aware of laws regarding notaries who are forced to break the law, or "commit misconduct." For example, if your employer asks you to notarize an acknowledgment without the signing party present, that action would be intentional misconduct and subject to penalty of the notary.

According to ORS 194.405(3), if a notary was coerced by threat of the employer into misconduct, the employer can be liable to the notary for damages recovered from the notary. This means that if a notary is successfully sued, the notary has the right to sue the employer, if it can be proved that the employer forced the employee to do the wrongful act.

On top of the civil penalty stated above, it is also a criminal offense to force improper notarizations. ORS 194.990(1)(d) states that any person who knowingly solicits, coerces or in any way influences a notary to commit misconduct commits a Class B misdemeanor.

Access to Journal and Stamp

Should your employer purchase the journal and stamping device for you to perform notarial acts, they do so as a convenience for the office. The journal and stamping device are the tools a notary uses to perform notarial acts and should be kept in a secure location accessible only to the notary. It is important that the notary and employer understand that the journal and stamping device are the exclusive property of the notary, no matter who actually pays for them.

Upon termination of employment, the stamping device is the exclusive property of the notary. The notary journal should also be retained by the notary, unless the notary and employer have entered into a journal agreement. If a journal agreement has been signed, the notary shall hand the journal over to the employer and the notary shall retain a copy of the journal agreement, which may be examined by the Secretary of State upon request (160-100-0360). If a journal agreement has been signed, many notaries choose to have two journals: an office journal for notarizations

performed during employment and a second journal for notarizations performed outside of the employment.

Employer Notarization Policies

Companies that employ notaries should have a policy on notarizations. Such a policy should address at least the following issues:

- What times a notary will be available.
- What types of documents will be permitted. For example, a hospital might allow notarization of only healthcare documents. Although an Attorney General's opinion (DOJ 165-300-0093) states, "...the notary public may, under the notaries public laws, either serve the entire public which desires notary services, a portion of the public (such as customers of a business or fellow employees) or no one at all," notaries may be seen as having an obligation to respond to any reasonable request for a notarization, and employers may wish to uphold that duty. Restriction of notary services must be carefully crafted, so that the possibility of lawsuits based on perceived discrimination is minimized.
- A statement to the effect that the "Notary has the sole responsibility to refuse a notarization," as that is Oregon law.
- What the fees will be, if any, and where they are posted. OAR 160-100-0400.
- The responsibility of the notary for updating commission information and to reapply for a new commission, along with the procedure for doing so.
- Notarization for colleagues on work premises.
- The disposition of notary journals upon termination or resignation of employment. (The stamping device should always be retained by the notary).
- Education requirements for notary employees.
- Other items of concern or policy, such as the extent and conditions of liability coverage under the employer's insurance.

Chapter 3 - Misconduct, Liability & Protecting Yourself

A notary public is responsible for knowing and understanding Oregon laws and administrative rules relating to notaries. These are found in Oregon Revised Statutes Chapter 194 and Oregon Administrative Rules Chapter 160-100. The application examination is based on those laws and rules, and a full copy of them can be found through the links in the back of this guide or [on our website](#).

The Secretary of State's office is available for questions by phone at 503-986-2200, through [website query](#), or [by email](#). Our office presents notary webinars, maintains a web site, has an online tutorial, and publishes this guide. It is up to the notary to make use of these resources, and to make sure they understand what is required.

Misconduct

Negligent or purposeful improper notarization is called "misconduct." Misconduct can be either **intentional** or **unintentional**.

Intentional misconduct is deliberate disobedience of notarial statute or rule.

Unintentional misconduct is negligent or accidental behavior resulting in an error in a notarization. For example, failure to supply the name of the county in the venue portion of a notarial certificate could be an omission that is deemed unintentional misconduct.

Most misconduct is the result of disobeying the law, whether the notary gives help beyond what the law allows, or fails to do everything the law requires.

Non-attorney notaries public must not give legal advice. Do not tell people which legal procedure to do, how to do it, or what they need to do to get a legal action accomplished. You may think you know what to do, but you open yourself to a lawsuit even if you are right. The Oregon State Bar takes a dim view of unlicensed individuals giving out legal advice. This also applies to notarial certificates. As you'll see, a notary may not suggest or select notarial certificates for people. Rather, the notary performs a particular notarization at the direction of the requesting individual.

Unless an attorney, supervised by an attorney, or a licensed professional helping with documents in their profession, a notary public must not prepare legal documents. Don't fill out documents or finish drafting them, even as a favor. It takes an attorney to know what is legally appropriate for a document.

Common examples of misconduct include: not requiring personal appearance of the signer; not keeping a journal; and just "stamping and signing" on a document.

Liability

Because so many documents and judgments based on those documents rely on the validity of the notarization, breaches of notarial law are taken very seriously. There are three kinds of penalties notaries can incur through their misconduct: administrative, criminal, and civil penalties.

Administrative penalties are levied by the Secretary of State, and can range from an advice letter to revocation of the commission and a fine. It is important to avoid such penalties because they may have other consequences. For example, many licensing agencies will not issue a license if a notary commission has been revoked or suspended.

Criminal penalties are given in cases of fraud, coercion, or other criminal action. In these cases, the notary has intentionally committed misconduct and is prosecuted in the same way as for any crime.

Civil penalties are the penalties notaries public are most often afraid of incurring. If a notary's misconduct unintentionally or intentionally damages the complainant, the notary is liable for monetary damages without limit. For example, if an improperly notarized grant deed causes the deal to fall through, and that deal costs the signer thousands of dollars, the notary can be sued so the signer recovers those losses.

Protecting Yourself

It is not possible to prevent a lawsuit, but you can reduce its effects. There are two ways to deal with lawsuits against notaries: have insurance to reduce what it costs if you lose, or forestall/win the suit altogether by avoiding misconduct.

Avoiding Misconduct - Reasonable Care

Although Oregon statutes do not specifically state this, the legal standard notaries public must meet is **Reasonable Care**. Reasonable care is "that degree of care which a person of ordinary prudence would exercise in the same or similar circumstances," according to *Black's Law Dictionary*. If a notary acts with reasonable care when performing a notarization, the courts have always held that the notary acted with sufficient diligence and is not subject to damages. **The Notary's best defense against liability is to take Reasonable Care when notarizing.**

Obey all Laws and Regulations

The most important thing to remember about Reasonable Care is that you are required to know and understand what the law requires of you. In other words: *Do what the law says you should do and don't do what it says you shouldn't.*

Good Judgment and Common Sense

Many situations the notary public encounters are not precisely spelled out in law. The law gives general guidelines but relies on the notary's common sense to properly evaluate each situation. For example, notaries may use a driver license to identify a signer, but if the ID looks false (a tampered photo, obviously incorrect birth date, sex, or height, etc.), then the notary has a duty to act appropriately. Although many of the instructions in this guide have no direct counterpart in statute, they are good sense practices that will help the notary avoid any appearance of wrongdoing or insufficient care.

Errors and Omissions Insurance

Errors and omissions insurance cover a notary if he or she is sued over the performance of a notarization. If a notary is sued, the insurance company will handle the litigation, bringing in expertise that the average person is hard-pressed to match. The company will negotiate a settlement if it finds a compelling reason to do so. Of course, it will pay the amount against the defendant up to the limit of the policy. However, there are two overriding factors that reduce the usefulness of this insurance.

First is the payoff ceiling. By its very nature, insurance will only pay assessed damages up to a certain amount. Many policies don't go over \$50,000. Yet the liability has no limit. Notaries can be and have been sued for millions of dollars. Obviously, a notary cannot rely on insurance as an adequate safety net.

The second limitation is that errors and omission insurance covers only what the insurance company believes is accidental or negligent misconduct. If a court determines that the misconduct was intentional, even if not done with criminal intent, the notary may not be covered.

Bonding

Oregon does not require notaries to post a bond. If you have filed a bond and are required to pay

damages, the bondsman pays for you out of the bond amount, but you still have to pay the bondsman back. Bond payouts are limited, too; many bonds are capped at \$25,000 or less. Note that, unlike E & O insurance, bonds can be used for either intentional or unintentional misconduct.

Errors and omissions insurance protect the notary, and bonding protects the public from the notary. Errors and omissions insurance and bonding are not required for an Oregon notary, they are optional.

Notario Publico Fraud

In the United States, notaries public mostly witness the signing of documents and administer oaths. The term "notario publico" is most often used in Latin American countries and refers to someone who's received the equivalent of a law license and is authorized to represent others before the government. Notario publico is not an appropriate translation for "notary public." If a notarial certificate is written in Spanish, the notary's title is written as "Oregon Notary Public," not "notario publico."

Oregon law prohibits anyone other than a licensed attorney to serve as an immigration consultant, including helping someone fill out immigration forms.



There have been cases in Oregon of notaries and individuals calling themselves notarios and taking advantage of new immigrants who aren't aware of the distinction between notario publico and notary public.

Learn the Differences

Oregon Notary Public:

- May take acknowledgments, administer oaths, certify copies, and witness signatures.
- Is usually **not** a lawyer.
- Is unlimited in number – more than 39,000 in Oregon.
- Fee = \$10 per act.

Latin American Notario Publico:

- May issue opinions; be an arbitrator; ensure documents such as wills, deeds, and real estate purchases are legal; attest to facts.
- **Must be** a lawyer.
- One of a very limited few that compete for a vacant office.
- Fee is a percentage of the transaction; often thousands of dollars.

Misrepresenting qualifications to offer legal advice can have severe implications for immigrants, including missed deadlines, the filing of incorrect or incomplete forms, or the filing of false claims with the government. An immigrant may miss opportunities, could be deported, or can be subject to civil or criminal liability for the filing of false claims.

Because vulnerable populations are being scammed by unscrupulous people, Oregon has a law against falsely advertising as a notario publico: “A notary public, other than an attorney licensed to practice law, may not use the term “notario” or “notario publico.” ORS 194.350(3). House Bill 4128 makes it a crime to act as a notary public without being so commissioned and allows for denial/revocation of commission on finding of unauthorized practice of law, unlawful trade practice, and obstructing governmental administration. It also states that such a conviction permanently prevents the individual from serving as a notary.

A notary who is not an attorney must include the following statement on **all advertising**: “I am not an attorney licensed to practice law. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.” ORS 194.350(4)(A).

Advertising as a “Notario” can have serious consequences

- It is illegal under the state notary public and the Unlawful Trade Practice statutes
- It can also be prosecuted as Unauthorized Practice of Law
- Federal, state and county prosecutors, including the Oregon State Bar, the U.S. Department of Justice, the Attorney General and local District Attorneys have and will take offenders to court.
- Penalties include: permanent injunction of trade, fines, notary commission revocation, and actual and punitive damages under civil suit.

Reporting Notarios

You can make a complaint against someone advertising as a notario publico by contacting any of the following:

- Secretary of State: <http://sos.oregon.gov/business/Pages/complaint-against-notary.aspx>
- Attorney General: <https://justice.oregon.gov/complaints/>
- Oregon State Bar (Unauthorized Practice of Law): <http://www.osbar.org/docs/resources/UPLComplaintForm.pdf>
- Federal Trade Commission: <https://ftccomplaintassistant.gov/>

I-9 Verifications: Can I as a notary perform them and how do I?

An I-9 form is issued by the U.S. Citizenship and Immigration Services (USCIS). The I-9 Employment Eligibility Verification form verifies the identity and employment eligibility for all people hired in the U.S.

Every person in the workforce has to fill out an I-9 form before starting work. Businesses who hire employees remotely will often require the person to go to a Notary to complete their I-9 form, because Notaries have expertise in verifying identities. However the I-9 form does not have any notary certificate wording and the notary is not asked to apply their notary stamp on the form. The I-9 verification **is not considered a notarial act**. Therefore, the notary may only perform the I-9 verification in a non-notarial capacity, as a representative of the hiring company.

For information on the [I-9 Employment Eligibility Verification](#) form please view more information on our website.

What is a Medallion Signature Guarantee?

Medallion Signature Guarantee is a special signature guarantee for the transfer of securities. Financial institutions may perform Medallion signature guarantees. It is a guarantee by the transferring financial institution that the signature is genuine and the financial institution accepts liability for any forgery. An investor can obtain a signature guarantee from a financial institution – such as a commercial bank, savings bank, credit union, or broker dealer – that participates in one of the Medallion signature guarantee programs. A Medallion signature guarantee **is not a notarial service**.

For more information on obtaining a medallion certificate, please go to the [U.S. Securities and Exchange Commission](#) website.

Chapter 4 – Notary Fees

The notary public keeps track in the notarial journal of the amounts charged for notarizations, whether the notary receives the fee as **personal** income or if the notary collects a fee while on the job and turns the fee over to the employer. The notary should record any fees collected in the journal. Whether the employer or the notary public keeps the fees is an issue to be settled by those two parties. Be sure to mark clearly in your journal which fees are collected as personal income vs. fees collected for the office. Most notaries who notarize outside of the office will have a separate journal for this reason. Notarial fees may be subject to income tax.

Notary Fee Limit

A notary may charge up to \$10 per notarial act. Notaries who charge for their service may charge less than the \$10 fee, but must not charge more. Notaries who do charge a fee should do so in a consistent and non-biased manner.

A schedule of fees must be prominently displayed or handed to customers prior to notarization; they have the right of refusal if they do not wish to pay.

Waiver of Fees

A notary public may file with the Secretary of State a Notary Information Change form waiving the right to charge a notary fee. A waiver of fees is recommended for public officials who are also notaries, so that they may avoid holding “more than one lucrative office” (Article II, sec. 10, Oregon Constitution) and be exempted from the need to post a fee schedule. If a waiver is filed, the notary shall not charge, attempt to charge, or receive any notary fee for a notarial act performed after the date the notary filed the statement of waiver. OAR 160-100-0420. However, a public agency may charge the notary fees directly.

To resume charging, the notary public must send the Secretary of State, Corporation Division a letter to rescind the waiver of fees or they may download the [Notary Information Change](#) form from our website. If the notary public is unsure if a waiver has been signed, the notary public may contact the Corporation Division at (503) 986-2200. Not signing a waiver of fees does not require the notary public to charge. It is an option, not a requirement.

Some elected and public officials may not charge for their notarial services. Check with legal counsel if in doubt.

Travel Fee

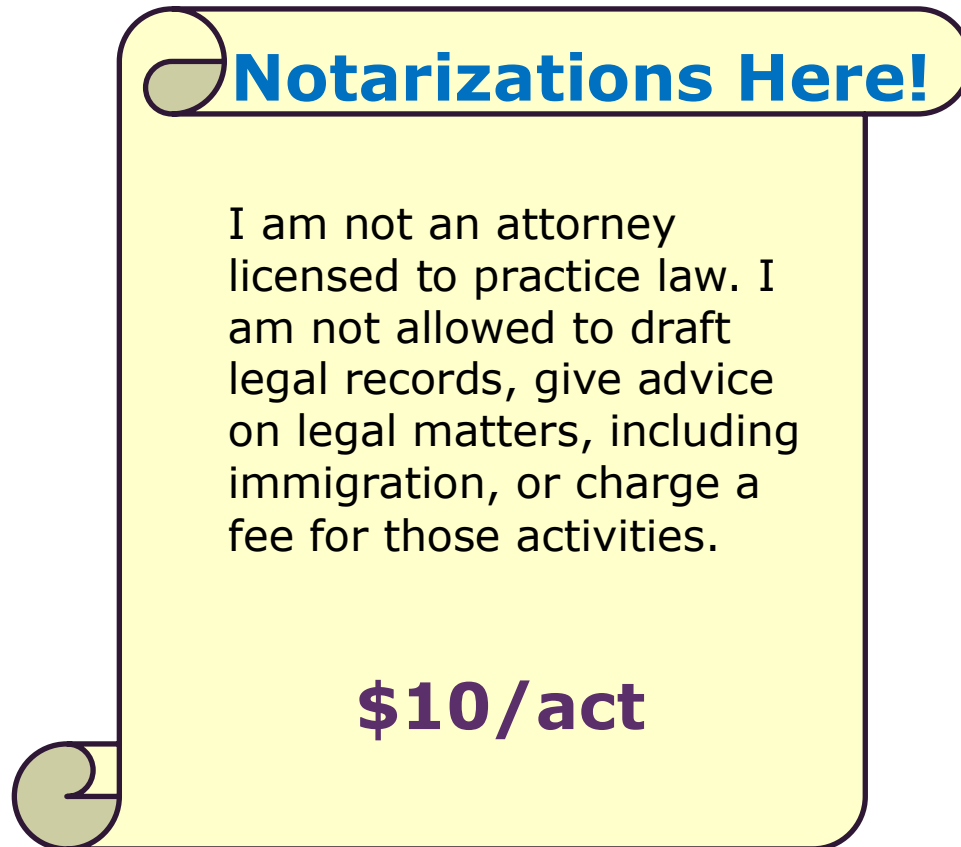
When a notary public is asked to travel to perform a notarial act, the notary public may charge a travel fee, separate from the notarial fee. The travel fee amount must be agreed upon prior to meeting with the customer. ORS 194.400(2)(a-b), OAR 160-100-0610(57).

Notary Fees and Your Employer

Oregon statutes and rules do not address the collection of notary fees by private employers, but a written agreement about notary fees is advisable. Except for public employers, the statute gives only the notary public the right to charge notary fees, but a private employer often includes a notary charge to the customer when notarization takes place. An employee notary public may enter into an agreement with their employer whereby the notary performs their notarial duties and the fee is retained by the employer. The fees must not be more than established by Oregon law, ORS 194.400(1), and the agreement should make it clear that the notary gives the employer the right to collect and retain the appropriate revenue. The notary public, however, should be allowed to keep fees collected when notarizations are not connected to his/her employment. An agreement should be reviewed by legal counsel, if available, to ensure compliance with notary law and rule.

Advertising

All non-attorney Notary advertisements must include a “can’t practice law” statement in the language of the ad. This is a requirement for all advertising media, including broadcast, Internet, and print media. Here is an example:



If it won't fit on a sign, the statement must be prominently displayed or provided before the notarization.

A notary public, unless an attorney, may not advertise that they can assist with drafting legal documents or give legal advice.

Chapter 5 – How to Notarize

Don't allow yourself to be rushed. You may have a client impatiently waiting to get through the “red tape” of notarizing a document. It is important to remain calm and make sure you notarize correctly or you may later wish you had been more careful.

Sometimes a client or employer may insist that you do something contrary to notary law. It's important to stand your ground the first time, because chances are it won't happen again once they've seen you mean business. Remind your boss (in a less stressful moment) that it's important to *both* of you that the notarization is properly done. A few extra minutes taken now can save days later.

We suggest the following steps to correctly notarize a document. They help to ensure that you get the information you need before the notarization process is complete and the client has left.

A proper notarization must have a complete notarial certificate, an official notarial signature, and an official notarial stamp..

1. Review the Document

Review the document for information.

Look for information required for the journal, such as document date and type. Also check for information that may implicate the notary in misconduct, such as being named in the document.

Check the date on the document.

The date on the document may be different than the date notarized. If the document does not have a date, indicate no date or undated in your journal where you would indicate the document date. The document may be an older document that needs to be notarized so the document date could be a past date. The document could have a future effective date, such as “This document shall come into effect on July 31, 2099.” In short, the document that is being notarized can have a past date, a current date, no date, or have a future effective date. However, the **notarization date** (listed in the notary certificate) is never in the past or future; the notarization date must always be the date that you are notarizing.

Check the document for blank spaces.

Blank spaces that can be filled in later have a potential for fraudulent use. If blanks are intended to be left blank, the customer should indicate that in some manner, (e.g., N/A to indicate not applicable).

The non-attorney notary public can point out the blanks to the customer, but may not tell the customer how to fill them in. If the customer chooses not to fill in the blanks, the notary public can, using his or her best judgment:

- a) Ask the customer to initial next to the blanks to indicate his or her knowledge of the deficiency and note it in the journal,
- b) Complete the notarization (noting in the notarial journal that there were blanks in the document and that the customer was aware of the blanks, but chose not to fill them in), or
- c) Refuse to notarize (note in the notarial journal why the notarization was refused).

Staple the document together.

If the document to be notarized consists of more than one page, staple the entire document together, making it a whole and complete organic document.

2. Identify the Signer

Require the personal appearance of the signer. The person signing the document must be physically in your presence for the notarization to be valid.

Make a careful identification of the signer. There are three possible ways for a notary to verify the identity of a signer: personal knowledge, credible witness, or ID documents. Only one of these is necessary before performing the notarization; however, a notarial officer may require an individual to provide additional information or identification credentials necessary to confirm the identity of the individual. A notary should accept a statutorily valid means of identification, unless there is a question of fraud or forgery. The criteria for valid identification are:

Personal Knowledge—In order to claim that a notary personally knows the signer, there should be:

- A long-term relationship. You cannot use personal knowledge as identification for someone the boss introduced you to this morning.
- Sufficient breadth of knowledge. You should know more about the individual than what a nodding acquaintanceship would bring.
- Reasonable certainty. You must have no reasonable doubt in your mind that the signer is who they claim to be. The test is: Would you be willing to swear to it in court?

Credible Witness—the notary relies on the testimony of someone who swears that they personally know the signer. In order to use the credible witness as identification:

- The notary must either personally know the witness or get satisfactory evidence of the witness's identity through an approved identification document that has not been expired more than three years.
- The witness must personally know the signer.
- Both witness and signer must be present during notarization.
- Witness must take an oath from the notary.

Sample oath/affirmation:

“Do you solemnly (swear)(affirm) under penalties of perjury that you personally know this person as *(name of person whose signature is to be notarized)*, that he/she is the person named in the document, and that you have no financial interest in and are not a party to this transaction *(so help you, God)* ?

- Witness should sign the journal and provide his or her full name and contact address.
- Witness should be honest, competent, and impartial.

The next journal entry is for the document that is being notarized. For the signer's identification, the notary will insert the credible witness's name, as a credible witness for the signer. There will be two journal entries when using a credible witness: one entry for the credible witness and one entry for the person who is having a document notarized. See next page for example of journal entries using a credible witness.

Journal: Credible Witness

Date/ Time of Act	Type of Act	Doc. Date	Doc. Type	Printed Name Contact Address	Signature	ID	Additional Info.	Fee
7/08/19 2:30 p.m.	Oath	N/A	N/A	Marla May 123 8 th St. Anytown, OR 97888	<i>Marla May</i>	ODL exp. 6/9/25	Credible witness for John Jones	\$10
7/08/19 2:30 p.m.	Ack.	7/08 2019	Limited POA	John Jones 125 8 th St. Anytown, OR 97888	<i>John Jones</i>	Marla May credible witness	N/A	\$10

Identification Documents—the following types of identification may be used to positively identify a client, if they are current or expired not more than three years before performance of the notarial act.

- **A driver license**, ID card issued by the DMV, learners permit, provisional or limited term driver license. (Temporary (interim) driver license or temporary ID cards are only good for 30 days.)
- **A United States passport or an officially recognized passport of a foreign country.** A United States passport refers to either a U.S. passport or a U.S. passport card issued by the U.S. Department of State.
- **A United States military identification card** that contains the person’s photograph and signature.
- **A Tribal ID card** issued by a federally recognized Indian tribe that contains the person’s photograph and signature.
- **Other government documents.** A document issued by the federal government or a state, county, or local government that contains the person’s photograph and signature.
- **Corrections records.** If a person is confined in a correctional facility and needs to have documents notarized, identification used to identify the incarcerated person shall be the ID that is used in the facility to positively identify an inmate through examination or comparison of official government documents or records.

There could be a situation when the notary requests additional information or identification credentials necessary to confirm the identity of the individual. Perhaps the notary is handed a driver license that’s bent, cut, or it’s simply so worn that the picture isn’t clear any longer. Perhaps the person in the identification has changed so much that it’s not certain it’s the same person any longer. The notary can request additional information or identification documents to clear up any confusion as to the identity of the signer.

Matricula Consular ID is NOT Acceptable by Itself

Several Latin American countries, particularly Mexico, are allowing their consulates to issue matricula consular ID to their citizens in the United States, or issue the matricula consular ID to those who come to the U.S. **Oregon does not recognize** matricula consular ID. We've been advised by our Deputy Attorney General that Oregon notarial law sets out an exclusive list of "Identification Documents" a notary may rely on in verifying the identity of a person. That list does not include matricula consular ID. If a notary needed additional ID cards, however, the matricula consular ID could be used as a backup.

3. Determine the Signer's Willingness and Awareness

The notary, by the act of notarizing, declares that the signer did so freely and willingly. This can be especially important when people who are easily victimized must sign legal documents; i.e., minors, the infirm, and non-English speaking individuals.

The notary must make a judgment that the signer is aware of what they are signing. If the notary is questioning the awareness of the signer, the notary can engage in normal conversation with the individual. After a few minutes, it should be apparent if he or she is incoherent, disoriented, or otherwise incapacitated. When in doubt, the notary can get the opinion of a doctor or an attorney. Make the appropriate notation in the journal that they attest the signer has sufficient awareness of the notarial act to execute that act and make sure the doctor or attorney signs the journal by their remarks. Remember, the notary always has the right to refuse to complete a notarization if the notary determines that the person signing the document isn't competent or has the capacity to execute the record, isn't freely signing the document, or questions the identification that has been produced. ORS 194.245.

4. Complete the Notary Journal

Describe the notarization in the notary journal and obtain the signature of the signer.

Refer to Chapter 6 for the journal requirements.

5. Complete the Notarial Certificate

Fill out a Statement of Particulars that describes the notarial act, and affix the official notary stamp and signature to the page.

Refer to Chapter 7 for the certificate requirements.

Chapter 6 - The Notarial Journal

Notarial Acts *Required* to Be Recorded in Notarial Journal

The two notarial acts that are **required** to be recorded in the notarial journal are *witnessing a signature* and *acknowledgment* (individual and representative capacity).

However, please remember, the Secretary of State strongly recommends that **all notarial acts be recorded in the journal**. A notary public may record in a notarial journal any information about the notarial acts performed by the notary public or those refused to be performed. Most of the time, a journal entry can prevent a notary from being named in a lawsuit or can clear a complaint against a notary the Secretary of State is investigating. If anyone wishes to make inquiries about a notarization, few people can trust their memory to perfectly recall the incident, and fewer still would accept something that wasn't written down.

The journal must be filled out at the same time as the rest of the notarial act. You may not "pre-fill" a journal entry or finish it after the signer is gone. Best practice is to completely fill out the journal, along with the customer's signature, before completing the notarization. (ORS 194.300(3))

Other Notarial Acts That *May* Be Recorded (ORS 194.300(11))

- Administering an oath or affirmation.
- Affidavits.
- Billing statements for media advertising.
- Certifying or attesting a copy of a document.
- Protests of commercial paper (to be recorded as provided in ORS 194.380 and 73.0505).
- Verifications upon oath or affirmation.

Importance of the Journal

The journal is an accurate log of the notarizations performed; it serves to protect the notary and may be used as evidence in a court of law. The notarial journal is a vital component of exercising reasonable care. It is prudent to diligently keep a record of your notarial transactions.

The journal reminds a notary to ask for necessary information and provides a reason to get that information if the client is reluctant. It serves as evidence that your side of the story is true. Most of the time, the journal can prevent a notary from being named in a lawsuit. The Secretary of State relies on journal entries when a complaint has been lodged against a notary.

If it is necessary to alter a notarial certificate, the journal can help to verify the point in question and give you contact information so you can get the document to make the correction. It is also the place of record that the correction was made.

In the final analysis, you need to keep a journal properly because it is the law. Statutes require a notarial journal, and administrative rule states what must be kept in the journal. The notary needs to make sure that their journal, along with the stamping device remain secure at all times and are under the exclusive control of the notary.

Format of the Journal

The notarial journal may be in electronic or paper format. If the notary has more than one journal, they can have them in either format or both. See OAR 160-100-0200 and 160-100-0210 for more information about the journal format requirements. Whether paper or electronic, there are requirements to prevent tampering and properly evidence the sequence of notarizations. An Excel spreadsheet is not a proper journal, nor is a loose-leaf 3-ring binder.

Although an electronic journal may be more convenient for electronic notarizations, there is no requirement to use one. It is just as permissible and as easy to use a paper journal for electronic notarizations. Similarly, notarizations using paper may be noted in an electronic journal. If a notary does only an occasional electronic notarization, then it might make more sense to keep all notarizations in the same journal, regardless of media.

Keeping the Journal

The notary public shall keep the journal for 10 years after the last act noted in the journal. ORS 194.300(1). However, because it is the only record of the notarization and because the statute of limitations can be uncertain, the Secretary of State encourages longer storage, if the documents that were notarized have a longer lifespan than 10 years. For example, wills, financial documents, mortgages and other recorded real property papers may be active records for decades.

If there is a journal agreement, as provided in Oregon Administrative Rule 160-100-0360, the journal stays with the employer upon termination of the employee. The employer must follow the same rules for retention and disclosure as the notary would.

Upon revocation of the commission, the notarial journal and stamp are filed with the Secretary of State's office within 30 days after the date of revocation. Upon the death of a notary public with an active commission, the notarial journal must be sent to the Secretary of State's office, unless the notary public entered into a written agreement with his/her employer. The notary public's official stamping device must be made unusable by destroying, defacing, damaging, erasing the device or securing it against use. Upon incompetency of a notary public, the journal must be sent to the Secretary of State's office and the stamping device must be made unusable by destroying, defacing, damaging, erasing the device, or securing it against use. If the notary is suspended, they will retain the journal and stamping device until suspension is no longer in place.

Should the notary decide to resign their commission, they will need to fill out the [Termination of Notary Public Commission](#) form and return it to the Secretary of State. The notary must disable the stamping device by destroying, defacing, damaging, erasing or securing the device against use.

Disclosure of the Journal

If the notary is also a public official or employee, or if the journal resides with the Secretary of State, the notarial journal falls under public records disclosure laws. A public records request under ORS 192 would be made to see the specific journal entry. If the Secretary of State deems that it is in the public interest not to disclose such information, then the journal is kept private.

Every other notary is exempt from being required to disclose the journal contents, unless requested by the Secretary of State or under subpoena. Normally, it will be in the notary's interest to cooperate with an official investigation or to avoid being named in a suit. Notaries should not allow "fishing expeditions," or malicious attempts to view private information, such as addresses or signatures. There is no reason to allow someone to browse through your journal.

Notary Journal Contents

All notaries public must keep and maintain one or more journals, even if the notarizations normally performed fall under the exempt status. OAR 160-100-0230. A notary public may be asked to notarize non-exempt documents at any time. Again, the Secretary of State recommends that all acts be recorded in the journal. A notarial journal may not be shared; each notary public must keep and maintain their own notarial journal; sharing an "office" journal is not allowed. The notary shall retain the journal for 10 years after the performance of the last notarial act recorded in the journal.

The information contained in the front of the notarial journal must be kept current. This includes the notary public’s name, commission number, expiration date, address and what should be done with the journal in the event of the death of the notary. If a notary reapplies for a new commission, the notary may use the same journal. However, the law requires this information to be updated. OAR 160-100-0200(4).

The notary public may wish to create abbreviations of terms used when recording entries in the notarial journal. If abbreviations or symbols are created, put a glossary of abbreviations and what the symbols stand for in the front of the notarial journal. (For example: Ack. for Acknowledgment).

➤ **Record the details of each notarization in your journal.** ORS 194.300(3)

Date/Time of Act	Type of Act	Document Date	Document Type	Printed Name Contact Address	Signature	ID	Additional Info	Fee
Required	Required	Required	Required	Required	Required	Required	If necessary	Required

- **Date and time** the notarial act was performed.
- **Type of notarial act** performed.
- **Date of the document** notarized.
- **Document Type** notarized: grant deed, affidavit, contract, foreign invitation, student transcript, etc.
- **Printed full name and contact address** of the signer.
- **Signature** of the signer.
- Description of how the notary public **identified** the signer. If identification documents were used to identify the signer, the description shall consist of the name of the organization that issued the document, the type of document, and the document’s expiration date (e.g. ODL, exp. 8-8-2025). **Do not record personal numbers such as a driver license, SSN or passport numbers in your journal.**
- **Additional information:** describe any unusual circumstances, such as power of attorney; reason for refusal to notarize; corrections made to notarial certificate; representative authority (e.g., President of ABC Company); etc.
- **Fees** collected. Put a notation that there was no charge if no fees were collected.

➤ **Abbreviated Multiple Entry in Notarial Journal** (shortcuts)

Duplicate Original ORS 194.300(4)(a)

If a notary public notarizes duplicate originals of a single statement or document for the same person on the same date, the notary public may fill out one journal entry indicating how many originals were notarized.

Example:

James L. Howe needs to have each of 25 copies of his Bill of Sale notarized. Instead of filling out 25 different journal entries, the notary may fill out one journal entry, indicating how many identical copies were notarized.

Date/Time of Act	Type of Act	Document Date	Document Type	Printed Name Contact Address	Signature	ID	Additional Info.	Fee
3/2/19 1:30 pm	Ack.	3/2/19	Bill of Sale	James L. Howe James's address	<i>James L. Howe</i>	ODL exp. 12/1/25	25 duplicate originals	N/C

Multiple Acts I ORS 194.300(4)(b)

If a notary notarizes different statements or documents for the same person on the same date, the notary public may fill out one journal entry, indicating the different notarial acts, document dates, and document types.

Example:

Debra Smith needs to have an Affidavit and a Deed notarized, instead of filling out two different journal entries; the notary can indicate both types of acts, document dates, and document types in one journal entry.

Date/Time of act	Type of Act	Document Date	Document Type	Printed Name Contact Address	Signature	ID	Additional Info.	Fee
8/23/19 3:00 pm	Swear Witness	3/1/19 3/2/19	Affidavit Deed	Deborah Smith Deborah's address	<i>Deborah Smith</i>	ODL exp. 6/2/25	Two separate documents notarized	\$20.00

Multiple Acts II ORS 194.300(4)(b)

If a notary notarizes different statements or documents for the same person on the same date, the notary public may fill out separate journal entries and, where the information is the same, may use ditto marks to indicate the same information that is carried over. The signer does not need to sign separate journal entries. The notary may draw a diagonal line across the signature area and have the signer sign on the line.

Example:

Deborah Smith needs to have several different documents notarized. The notary lists all items to be notarized as separate journal entries and has Deborah sign on the diagonal line.

Date/Time of Act	Type of Act	Document Date	Document Type	Printed Name Contact Address	Signature	ID	Additional Info.	Fee
3/4/19 11:15 am	Ack.	3/4/19	Contract	Deborah Smith Deborah's address	<i>Deborah Smith</i>	ODL exp. 10/8/2025		\$10.00
" "	Aff.	" "	Declaration	" "		" "		\$10.00
" "	Sign.	" "	Order	" "		" "		\$10.00
" "	Copy	" "	Corp. Resolution	" "		" "		\$10.00

Previous Cite ORS 194.300(4)(c)

If a notary public notarizes more than one statement, signature, or document for the same person but not on the same date, the notary public may refer to previous journal entries in regards to the signer's address and how the notary identified the signer.

Example:

Here, the notary has previously notarized for Deborah Smith. The notary has indicated previous journal information for the address and how Deborah was identified.

Date/Time of Act	Type of Act	Document Date	Document Type	Printed Name Contact Address	Signature	ID	Additional Info.	Fee
3/4/19 11:15 am	Ack.	3/4/19	Contract	See page 2 Line 3	<i>Deborah Smith</i>	See page 2 Line 3		\$10.00

Chapter 7 - Notarial Certificates

An Oregon notary public is authorized **only** to take an acknowledgment, verify an oath or affirmation, witness a signature, certify to a copy, and make or note a commercial protest. Notaries should be prepared to notarize any of these acts, **except** a commercial protest. Commercial protests are highly technical and rare in nature. Because of this only qualified notaries may protest commercial paper.

Notarizing a Commercial Protest

A notary public may protest commercial paper **only** if the notary public is:

- An officer or employee of a financial institution, trust company, or investment company, or a person serving under the direct supervision of such officer or employee, **or**
- An active member of the Oregon State Bar, or an individual serving under the direct supervision of an active member of the Oregon State Bar.

A notary public may not protest any commercial paper owned or held for collection by a financial institution, trust company, or investment company if the notary is individually a party to the commercial paper.

Notaries who do not meet this requirement **cannot** notarize Commercial Protests. A notary public who violates this law will be **subject to revocation** of their notarial commission. Each notary public who protests any commercial paper shall take the actions required by ORS 73.0505

Components of a Notarial Certificate

Oregon law states certain minimum requirements for notary certificates. If necessary certificate information is left out of pre-printed certificates, (e.g., a jurat signer's name, venue information, etc.) the notary must add the appropriate information to make the certificate complete. Please note that a notarization without a certificate, in other words, using only the notary public's signature and stamp imprint, constitutes official misconduct. When in doubt, look up the proper format and complete the certificate. The notarial certificate must fit the notarial act being performed.

The following are the minimum requirements to be included in the notarial certificate:

1. **Venue**, which indicates the **state** and **county** where the notarization takes place. Notaries are commissioned for the whole state of Oregon and may notarize in all counties.
2. **Statement of particulars**, which provides the details of the notarization, such as:
 - **Date** of notarization
 - **Who** personally appeared
 - **What** the signer did (type of notarization performed)
3. **Notary stamp imprint***, which provides commission information.
4. **Notary signature**, which must match the signature on file with the Secretary of State.

The notary's stamp imprint and signature may be in any color of ink that is easily reproducible; black and dark blue are recommended.

All of the components of the notarial certificate must be on the same page.

*An exception is made for subdivision, condominium or partition plats. A notary stamp is not required on these documents because the Mylar they are printed on will not hold the stamp imprint using the type of ink normally associated with a notarial stamping device. ORS 194.280(8).

Instead of affixing a notarial stamp to these documents, the following must appear beneath the notary's signature on the document:

- The printed name of the notary public as it is written on the notary's commission certificate,
- The words NOTARY PUBLIC – OREGON;
- The words **COMMISSION NO.**, immediately followed by the notary's commission number;
- The words **MY COMMISSION EXPIRES**, immediately followed by the notary's commission expiration date expressed in the terms of the month spelled out, 2 digit date, and 4 digit year, (i.e. January 02, 2024).

A Proper Notarization = Certificate + Stamp + Notary Signature

Selecting the Notarial Certificate

A notary public is often asked to notarize a document that has no notarial certificate attached. Even worse, some documents may have what clearly seems to be the wrong certificate (e.g., an affidavit is using an individual acknowledgment form). Unfortunately, the client requiring the notarization may not know what the certificate should be.

The natural inclination in such cases is to suggest or even automatically provide the certificate that seems to be indicated. However, an Oregon Attorney General's counsel clearly and emphatically states that a notary public must not give advice or draft a certificate. Not only could the notary be liable if the certificate is incorrect and invalidates the document, but he or she is also probably illegally practicing law. The Attorney General's letter says:

“In conclusion, I advise that the Corporation Division should not assist notaries public with the selection of proper certificates, and should further advise notaries public that they should not be recommending or selecting notarial certificates for persons requesting notarial certificates. So long as nothing in the certificate is false, and the necessary information is included, the notary public may complete the certificate. If the notary public has a concern about whether a particular certificate is correct, the notary public should recommend that the person seek legal advice before selecting another certificate.”

Oregon Law states that a notary public cannot execute any certificate containing a statement known to the notary public to be false. ORS 194.340(1)(g) If the notary believes the certificate is not the proper one for that type of document, the most the notary public should do is recommend that the person reexamine the document and consult with an attorney. If the person insists that this is the correct certificate, then the notary should complete the notarial act as requested, and note in the journal that the person insisted this was the correct certificate or decline to provide the notarial service. The notary public should not take it upon himself or herself to select or substitute a certificate on behalf of the person.

There is still the question of how to help an individual who is unsure about the proper certificate or notarial act. All he or she may have been told is “Get it notarized.”

A notary public may point out ORS 194.280, which shows the required elements of the certificate. A notary may also suggest the person consider using one of the “short forms” in ORS 194.285. The person can review Chapter 8 – Oregon Notarial Certificates of this publication and have them select the certificate. The notary public should advise that if the person is still uncertain which certificate is correct, the person should consult with an attorney.

A non-attorney notary public is just an impartial witness, not an expert on legal procedure.

Completing the Notarial Certificate

1. **Certificate must fit the notarization.** If the client asks for one kind of notarization, but a different certificate is on the document, ask the client to contact either the sender or recipient to confirm which one is appropriate.

2. **Read the certificate carefully.** A few pointers:

- If it says “subscribed and sworn,” make sure you administer an oath and witness the signature.
- “County” is always the county where you perform the notarization.
- Watch the name blanks: In a certificate that says, “before me, _____, personally appeared _____,” the notary’s name goes first, then the signer’s.
- Fill in all the blanks. If you don’t know what to put in a blank, talk with the signer and get the information. If he or she doesn’t have it, then you may need to get in touch with the sender or recipient.
- Draw a line to fill extra space. For example, if the name of the signer doesn’t fill the whole space left for it, put a line through the remaining portion so that no one can add additional names to the certificate after it leaves your hands.
- Show your choice (e.g., “he/she/they executed it.”). Cross out the wording that doesn’t apply. The idea is that the certificate should read smoothly, with no doubt in the reader’s mind exactly who did what, when and where.

3. **Make sure all the elements of the certificate statement are there:** venue, notarial act, signer, and date.

4. **Don’t “stamp and sign.”** Create the certificate if there is no certificate given, if the client has informed you about the type of notarization, and there is room on the document. Attach a “loose” certificate if there is no room on the document for all three elements: certificate, notary signature and stamp.

5. **Affix the notary signature and stamp properly.** The ideal place for the notary stamp is immediately left or right of the notary signature in the notarial certificate. Do not put the stamp over the abbreviation “LS.” Even though “LS” stands for “place of the stamp” (*locus sigilli*), placing the stamp there could obscure some of the words or obliterate some writing.

The notary stamp must make an imprint which is both legible and reproducible; in other words, capable of being copied. There is no ink color requirement, but to ensure that the stamp is reproducible, black and other dark colors are recommended. Also, according to Oregon Administrative Rule 160-100-0110(3), “A notary public shall not place an imprint of the notary public’s official stamp over any signature in a record to be notarized or in a notarial certificate, or over any writing in a notarial certificate.” If your stamp is smudged so that it is illegible, or is obscured by lines or other graphics on the page, initial the first attempt and re-stamp as close as possible to the certificate.

To be recordable, the notary stamp, certificate, and the notary’s signature should be close enough to be contained on one microfilm image. That is one reason the certificate cannot be on the front side of the signature page and the stamp on the back. Many times, however, the stamp cannot be placed adjacent to the certificate and signature, but will fit in the margin. Indicate the stamp’s position in the space provided for the stamp (e.g., “See notary stamp in left margin”).

If there is no space on the signature page, line out the certificate and attach a loose certificate. Some agencies may have trouble with an attached certificate. When in doubt, always check with the receiving agency.

Attaching a Notarial Certificate

Ideally, a notarial certificate is either provided in the document or, after the signer has identified the act to be notarized, the notary writes the certificate language on the signature page. When that is not possible, the notary will attach the appropriate certificate to the signature page.

An attached or “loose” certificate is filled out like any other notarial certificate, with a few additional details. Because a loose certificate is not an integral part of a document, it is very important to guard against its fraudulent use. The object is to make sure that the certificate may be used with one, and only one, particular document.

Any notarial wording on the document itself that the certificate is replacing should be crossed out and the words “SEE ATTACHED NOTARIAL CERTIFICATE” should be typed or written on the page.

- Staple the full page certificate after the signature page, so that a recorder can easily film the certificate in sequence with the signature that goes with it.
- On the certificate itself, the document’s date, type, and the number of pages should be noted at the bottom of the certificate, e.g., “Attached to declaration, signed by John Hancock on July 4, 1776, two pages.”
- Write in the notarial journal, “used loose certificate” or “attached certificate.”
- You can use the notary stamping device to guard against fraudulent certificate use. Affix the impression so that it rests partly on the certificate and partly on the signer’s page, but make sure that the stamp does not obscure any writing or signatures on either paper. Make sure a whole impression is also on the certificate, so that an auditor can compare the divided impression to the whole.

Attach the certificate yourself; don’t allow someone else to do it. Sometimes a client will call later and ask for a “corrected certificate.” If there is a mistake, the document, and often the signer, will have to reappear before you. An unattached certificate is like a blank check; you could be liable for its misuse.

Making Corrections

Mistakes do happen. A California certificate may be presented for use in an Oregon notarization. The notary may accidentally put yesterday’s date on the certificate. The signer’s name may be misspelled on the certificate. All of these things can be corrected. Any corrections should be noted in your journal.

Correcting During the Notarization

- Don’t use white-out.
- Line through incorrect information in ink, print the correct information immediately above and initial and date nearby.
- Reapply the stamp, if it has been smeared.
- Record any changes in the journal.

Correcting After the Notarization

- Never allow anyone else to change your certificate. It is your responsibility to correct errors and omissions on the certificates you complete.
- Never send a completed certificate for someone else to attach. The document should be returned and you must attach the corrected certificate.

- Make corrections on the certificate by either filling in missing information (such as a stamp) or line through incorrect information in ink. Print the correct information immediately above and initial and date nearby.

Don't make a correction unless you can confirm it from a journal entry or the signer can verify.

- Record any changes in the journal.

Chapter 8 - Oregon Notarial Certificates

On pages [73 through 77](#) are sample certificates from ORS 194.285 for your use. You may copy them and use them as attachment certificates, if necessary. However, you should be aware that these are not the only or even the ideal certificates for a given notarial act. Oregon law declares that these are the minimum certificates sufficient to fulfill notary law requirements.

Acknowledgment in an Individual Capacity is a declaration by an individual before a notary that the individual has signed a record for the purpose stated in the record. ORS 194.215(1). The signer must personally appear, acknowledge that they willingly and knowingly signed the document, and the notary must identify the person as the one who did indeed sign. The signature may be made before, but not after, the notarization. [Example on page 43.](#)

Acknowledgment in a Representative Capacity is similar to the individual acknowledgment, but “...the individual signed the record with proper authority and signed it as the act of the person identified in the record.” ORS 194.215(1). There are many types of representatives, including: officers or agents signing on behalf of a corporation or other business entity; partners or trustees; guardians or personal representatives; and attorneys-in-fact. Although the Oregon Short Form Certificate does not require it, it may be necessary to see some confirmation of the person’s representative capacity, such as the power of attorney, company annual report (stating officers), official minutes, partnership agreement, etc. if a long form certificate indicates the notary has verified capacity. “Known to me to be” or “proven to me to be” is typical language in this case. [Example on page 46.](#)

Verification upon Oath or Affirmation is a written declaration made by an individual on oath or affirmation that a statement in a record is true. This is also known as a jurat, and may be part of an affidavit. The notary must require that the signer personally appear, verbally swear to the oath or affirm to the truth, and sign before the notary. An oath is a solemn pledge of truthfulness to a Supreme Being; an affirmation is a solemn personal pledge of honor that something is true. Both carry the penalty of perjury if forsworn. [Example on page 49.](#)

Witnessing or Attesting a Signature is when the document is signed in the presence of the notary. The notary determines that the individual appearing before the notary, and signing the document has the identity claimed. (Note that this certificate differs from an acknowledgment in that there is no statement of execution of a document and the signature must be signed in the presence of the notary, whereas an acknowledgment does not have to be.) [Example on page 51.](#)

Certifying to a Copy of a Document is where the notary determines that the copy is “a full, true and accurate transcription or reproduction of the record or item.” ORS 194.230(4). It is important to note that the notary is responsible for the faithful reproduction of the original. Therefore, the notary is the one that should make the copy, usually a photocopy. Notaries should not copy public records; certified copies are available from the agencies in charge of those records. It is illegal, for example, to certify to copies of Oregon birth or death certificates. [Example on page 54.](#)

Acknowledgment in an Individual Capacity

Acknowledgments allow the signer of a document to verify that the signature on a document is the signature of the individual. An acknowledgment declares that the signer personally appeared before the notary, was properly identified by the notary, and freely declares the signature on the document to be their own signature.

There are many forms of acknowledgments, but they all say basically the same thing, “I did, of my own free will, sign this document.” By witnessing to that statement, the notary shows that the signer:

- Personally **appeared** before the notary.
- Was positively **identified** by the notary.
- Freely and willingly **acknowledged** his or her signature.

An acknowledgment does not have to be signed in the notary’s presence unless the language on the certificate requires that (“subscribed/signed before me”). If the certificate indicates the notary witnesses the signing, then the document must be re-signed before the notary, even if it had been previously signed. It is permissible to notarize a document that was signed several years ago, as long as the document has an original signature. It is not permissible for the document to be signed **after** the notarization.

There are two primary types of acknowledgment—Acknowledgment in an Individual Capacity and Acknowledgment in a Representative Capacity.

An **Acknowledgment in an Individual Capacity** is a statement by a person that the individual has signed a record for the purpose stated in the record, ORS 194.215(1). The signer must personally appear, acknowledge that they willingly and knowingly signed the document, and the notary must identify the person as the one who did indeed sign. The signature may be made before or during, but not after, the notarization.

SAMPLE CERTIFICATE

Acknowledgment in an Individual Capacity

State of OREGON

County of _____

This record was acknowledged before me on _____, 20_____

by _____.

Notary Public — State of Oregon

EXAMPLE

Acknowledgment in an Individual Capacity

Case

Jesse M. Cota came into the Multnomah County Branch of Oregon Bank on May 23, 2019 at 1:00 p.m., to have his signature notarized on a power-of-attorney dated March 12, 2019. This power of attorney will allow his brother, Chase Cota, to sell some jointly held property in Arizona. The document is dated March 12, 2019, and has Jesse’s signature at the bottom and a blank signature line with the name Chase Cota typed underneath. How should the notary proceed?

Notary Journal Entry

Write in the journal that there was a blank where another signature was to be filled in at a later date.

Date/Time of Act	Type of Act	Doc. Date	Doc. Type	Printed Name Contact Address	Signature	ID	Additional Info.	Fee
5/23/19 1:00 p.m.	Ack.	3/12/19	POA	Jesse M. Cota Jesse’s address	<i>Jesse M. Cota</i>	ODL Exp. 1/3/25	Blank signature to be filled in later	\$10

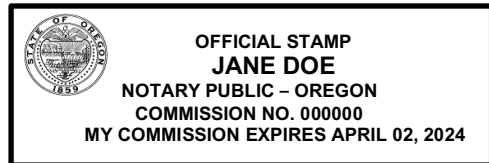
Certificate

State of OREGON

County of Multnomah

This record was acknowledged before me on May 23, 2019 by Jesse M. Cota.

Jane Doe



Notary Public — State of Oregon

Acknowledgment in a Representative Capacity

Acknowledgment in a Representative Capacity is similar to the individual acknowledgment, but “...the person signed the record with proper authority and signed it as the act of the person identified in the record.” ORS 194.215(1). Often, this means signing on behalf of a business.

Corporations and other business entities are viewed as legal or corporate persons with the same rights as “natural” individuals, but they cannot sign on their own; they need a representative: such as an officer, director, or partner. A notary may not notarize a document for a company in which they are a shareholder, director, officer, employee, member or partner if they are a party to the instrument, either individually or as a representative of the company. ORS 194.385. Similarly, an acknowledgment by an attorney-in-fact is done by someone who has the Power of Attorney for the party named in the document.

Oregon law provides a short-form Acknowledgment in a Representative Capacity certificate. ORS 194.215(1). Note that a notary cannot witness a verification of oath by a representative, since a representative can't swear for someone else.

Verification of Capacity. It is not always necessary for the notary to verify that the signer has the authority to represent the party in the document. The notary must have proof if the certificate requires it through wording like “known to me to be” or “proven to me to be”. Below are some best practice methods of verification:

- **Personal knowledge.** If the notary has a long-time acquaintance with the individual and would be willing to swear in court that the person has that capacity (for example, is an officer of the company, then he or she can rely on that knowledge for the notarization.
- **Documentary evidence** such as a partnership agreement, corporate annual report, trust agreement, company minutes, or verification from the Corporation Division, may be used as proof of representative capacity. Business cards and stationery are not sufficient evidence, and should not be relied upon. For an attorney-in-fact acknowledgement, you would see the signed Power of Attorney.
- **Oath of a third party**, personally known to the notary and impartial to the transaction, can sometimes be used as proof. It should be a last resort, because the opportunity for fraud is much greater when relying on someone else's veracity and knowledge.

Combination certificates may be required where corporate entities are representatives for other entities. For example, a combination certificate might state a person is representing a corporation and is signing the document on its behalf, where the corporation is signing on behalf of a limited partnership in which it is a partner. Combination certificates can be very confusing and should be drafted by an attorney. If you don't understand what the certificate wants you to do, don't notarize. You can always call the office that produced the certificate, or talk to other experienced notaries, if you are unsure what is required of you.

Make sure that you note in the journal the evidence you used, any complexities in the notarization, and how the certificate was explained, if necessary.

SAMPLE CERTIFICATE

Acknowledgment in a Representative Capacity

State of OREGON

County of _____

This record was acknowledged before me on _____, 20____ by

_____ as _____ of _____.

Notary Public — State of Oregon

EXAMPLE

Acknowledgment in a Representative Capacity

Case

Oregon Outfitter’s Corporation in Baker City, Oregon, has a contract with Outdoor Gear Corporation of Anchorage, Alaska. This document needs to be signed by Nichole M. Smith, President and General Manager of Oregon Outfitter’s Corporation and notarized. The contract does not have a date on it; however, next to the signature line is a space that states “date” underneath. The document states that the contract takes effect at midnight on September 30, 2019. On July 12, 2019, at 3:00 p.m., Ms. Smith goes to ABC Insurance Agency next door to her office in the hope that Jane Doe, the insurance agent and notary public can help her. How should the notary proceed?

Notary Journal Entry

Jane asked to see documentation that Nichole is in fact President of Oregon Outfitter’s Corporation, and indicated it in the journal. One option to confirm appointment, if there is no documentation, is to call the Corporation Division, Business Registry Section at (503) 986-2200 or use the [Business Name Search](#) page. Please note that the Corporation Division only records president, secretary and registered agent information. The date the contract takes effect is noted as the document date in the journal. The date by the signature indicates the date signed (7/12/19).

Date/Time of Act	Type of Act	Doc. Date	Doc. Type	Printed Name Contact Address	Signature	ID	Additional Info.	Fee
7/12/19 3:00 p.m.	Rep. Ack.	9/30/19	Contract	Nichole M. Smith Oregon Outfitter’s address	<i>Nichole M. Smith</i>	ODL Exp. 1/2/25	Proof of position, annual report	\$10


Certificate

State of OREGON
County of Jackson

This record was acknowledged before me on July 12, 2019 by Nicole M. Smith, proven to me to be the President of Oregon Outfitter’s Corporation.

Jane Doe

Notary Public — State of Oregon



OFFICIAL STAMP
JANE DOE
NOTARY PUBLIC – OREGON
COMMISSION NO. 000000
MY COMMISSION EXPIRES APRIL 02, 2024

Verification upon Oath or Affirmation Certificate

The purpose of this type of notarization, sometimes known as a jurat, is to compel truthfulness in the signer. A jurat is a declaration made by an individual on oath or affirmation that a statement on a record is true. The notary must require that the signer personally appear, verbally swear the oath or affirm to the truth, and sign before the notary. An oath is a solemn pledge of truthfulness to a Supreme Being; an affirmation is a solemn personal pledge of honor that something is true. Both carry the penalty of perjury if forsworn.

By notarizing this type of certificate, the notary shows that the signer:

- Personally **appeared** before the notary.
- Was positively **identified** by the notary.
- Took an **oath/affirmation** before the notary.
- Freely and willingly **signed** before the notary.

A verbal oath/affirmation can be a notarial act in its own right, as when a public official is sworn into office ORS 194.215(11). A verification of oath/affirmation is a written notarial act in which a notary public certifies that a person made a vow in the presence of the notary public on penalty of perjury. ORS 194.215(19).

An oath cannot be done on behalf of someone else, including a corporation.

Oaths cannot be given over the telephone. The oath-taker must be in the physical presence of the notary.

A person who objects to taking an oath may instead make an affirmation, the legal equivalent that does not refer to a Supreme Being. By taking an oath or affirmation in an official proceeding, a person may be subject to criminal penalties for perjury, should they fail to be truthful.

Sample Oath/Affirmation

Unless otherwise indicated, an Oregon notary public may use the following or similar words in administering an oath:

“Do you solemnly swear (or affirm) that the statements in this document are true (so help you God?)”

“Do you solemnly swear (or affirm) that the information you are about to give (or have given) is the truth, the whole truth, and nothing but the truth (so help you God?)”

The oath-taker shows compliance with the oath either by repeating the words of the oath, using “I” instead of “you,” or by verbal assent, saying, “I do,” or, “I will.

Usually there is a ceremony when administering an oath or affirmation. Both the notary and the signer should raise their right hand. The object is to let the signer understand that they are compelled to tell the truth. The ceremony indicates the seriousness and the truthfulness of the signer.

SAMPLE CERTIFICATE

Verification upon Oath or Affirmation

State of OREGON

County of _____

Signed and sworn to (or affirmed) before me on _____, 20____

by _____.

Notary Public — State of Oregon

EXAMPLE

Verification Upon Oath Or Affirmation

Case

On January 29, 2019, Ronda L. Wilson’s house caught on fire when her fireplace screen was left open. Among the items destroyed were Ronda’s stock certificates from General Investments Incorporated. The company requires an affidavit to be filled out concerning the loss of the certificates. The affidavit must be notarized. On February 18, 2019, at 10:00 a.m., after signing the document (provided by General Investments), Ronda went to the Marion County Clerk’s office to have the document notarized. Jane Doe, the staff notary, was on duty that morning. How should the notary proceed?

Notary Journal Entry

Ronda will have to re-sign the document in front of Jane Doe and Jane should note this in her journal. Affidavits must be signed in front of the notary and the notary must have the individual make an oath or affirmation; Ronda chose an oath. A journal entry is not required by statute, but is strongly advised.

Date/ Time of Act	Type of Act	Doc. Date	Doc. Type	Printed Name Contact Address	Signature	ID	Additional Info.	Fee
2/18/19 10:00 a.m.	Jurat	2/18/19	Affidavit	Ronda L. Wilson Ronda’s address	<i>Ronda L. Wilson</i>	ODL exp. 1/5/25	Re-signed before me	\$10.00


Certificate

State of OREGON
County of Marion

Signed and sworn to (~~or affirmed~~) before me Feb. 18, 2019 by Ronda L. Wilson.

Jane Doe

Notary Public — State of Oregon



OFFICIAL STAMP
JANE DOE
NOTARY PUBLIC - OREGON
COMMISSION NO. 000000
MY COMMISSION EXPIRES APRIL 02, 2024

Witnessing or Attesting a Signature Certificate

Witnessing or attesting a signature is like an acknowledgment, except that the signer **must** sign before the notary. Also, take note that the signer must re-sign the document in the notary public's presence if the document has already been signed. A notation in the notarial journal should be made indicating that the signer re-signed the document in front of the notary.

By notarizing this type of certificate, the notary shows that the signer:

- Personally **appeared** before the notary.
- Was positively **identified** by the notary.
- Freely and willingly **signed** before the notary.

Typically the certificate says, "signed or attested", or "subscribed before me."

There are documents that may require more than one signature to be notarized. If all the signers are present at the time of the notarization, one certificate listing all the signers may be used. If the signers are appearing before the notary public at different times, a separate certificate is required for each notarial act. ORS 194.280(a)(d).

SAMPLE CERTIFICATE

Witnessing or Attesting a Signature

State of OREGON

County of _____

Signed (or attested) before me on _____, 20____ by _____.

Notary Public — State of Oregon

Copy Certification Certificate

A notary public may also certify or attest to a copy of a document. For this type of notarization, the notary officer must determine that the copy being certified is “a full, true, and accurate transcription or reproduction of the record or item.” ORS 194.230(4).

In this case, the signer is not stating anything about the document, the notary is. It is vital that the notary make the copy or carefully oversee its making. In addition, the transcription or reproduction must be a full (including the margins!), true, and accurate copy. For this reason, it is best to photocopy the document. A certified copy does not have to be made from an original if the certificate does not specify “original document.” It may be a copy of a copy. If a notary knowingly makes a copy of a photocopy, the certificate wording “a copy of a photocopy” may be used. Personal appearance is required by the person requesting the certified copy.

Notaries should not copy public records that are certified by a custodian of records, such as a county clerk. Certified copies are available from the agencies in charge of those records. If an individual wishes you to certify a copy of their articles of incorporation, for example, refer them to the Corporation Division, which has the articles of incorporation on record. **It is illegal to make copies, or to certify to copies of Oregon birth or death certificates and marriage or divorce decrees**, according to Oregon Revised Statutes Chapter 432.380 (15) and Oregon Administrative Rule 333-011-0335(7). To obtain certified copies of records from the Oregon Center for Health Statistics (vital records) call (971) 673-1190.

However, some records may be copied, such as the Oregon Driver’s License, U.S. Passports, most professional licenses, diplomas, certificates, letters, etc., because copies of these documents cannot be obtained otherwise. Check to see if the document has a “Do Not Copy” warning on it, or call the agency in question.

A photograph cannot be notarized. No photograph is a full, true, and accurate reproduction, and it does not have the elements of a document: a personal statement by the constituent and the constituent’s signature. The notary public may notarize a statement about the photograph. After the notarial certificate is completed, one may use the official notary stamp a second time so that it overlaps the photograph and the paper it is attached to (be careful not to cover the face on the photo). This is a protection device which allows the receiving agency to know that the photograph is the one attached to the document at the time of notarization

SAMPLE CERTIFICATE

Certifying to a Copy of a Document

State of OREGON

County of _____

I certify that this is a true and correct copy of a record in the possession of

_____.

Dated: _____, 20____

Notary Public — State of Oregon

EXAMPLE

Certifying To a Copy of a Document

Case

Jule Houston, an autograph collector, has an original handwritten song, dated January 24, 1965, and signed by the artist, that he wants to sell. Rather than sending the original, the Verification Unit at Music U.S.A. has asked him to send a certified copy for them to examine. On December 2, 2019, at 8:30 a.m., Jule takes the song into the Salem branch of his Credit Union, where he has an account, and asks for a notary. Customer Service Representative Jane Doe comes to help. How should the notary proceed?

Notary Journal Entry

Jane takes a photocopy of the handwritten song. A journal entry is not required by statute but is strongly advised.

Date/ Time of Act	Type of Act	Document Date	Document Type	Printed Name Contact Address	Signature	ID	Additional Info.	Fee
12/2/19 8:30 a.m.	Copy Cert.	1/24/1965	Handwritten Song	Jule Houston Contact Address	<i>Jule Houston</i>	ODL exp. 2/4/25		\$10.00

Certificate

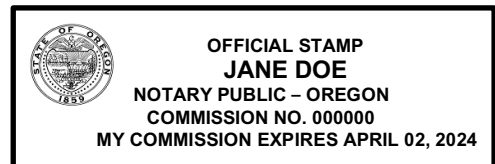
State of OREGON
County of Marion

I certify that this is a true and correct copy of a record in the possession of Jule Houston.

Dated: December 2, 2019

Jane Doe

Notary Public — State of Oregon



Signature by Third Party

There may be a circumstance when a person is physically unable to sign their name and needs a notarization. Whether it's a permanent or merely a temporary disability, Oregon has a law that can help. If an individual is physically unable to sign a record, the individual may direct another person, other than the notary, to sign their name for them. ORS 194.250. Both the signer and the person whom is directed to sign their name **must be present** during the notarization.

When performing any notarial act involving a "signature by third party," the notary public shall witness the signing of the document. Instead of the signer signing their name, the third party would sign the name of the person who is unable to sign.

The notarial certificate shall contain the phrase "Signature affixed by (name of other individual) at the direction of (name of individual)" or words to that effect.

Make sure you note in the journal indicating the signer signed on behalf of the person who is unable to sign. Instead of the signer signing their name, the third party would sign as they did in the document. As with a credible witness, it is prudent to get the third party signer's information and signature in your journal too.

By witnessing this act, the notary shows that the signers:

- Personally **appeared** before the notary.
- Was positively **identified** by the notary.
- Freely and willingly **signed by third party** before the notary.

SAMPLE CERTIFICATE

Signature by Third Party

State of OREGON

County of _____

Signed and acknowledged before me on _____, 20____ by _____.

Signature affixed by (name of other individual) at the direction of (name of individual).

Notary Public – State of Oregon

EXAMPLE

Signature by Third Party

Case

Debra O’Malley, incapacitated with a broken hand, decided to sell her vintage travel trailer. On July 8, 2019, Debra asks her friend, Bev Carpenter, to accompany her to the bank where she needs to have her signature notarized on the Bill of Sale. At 2:30 p.m. Debra and Bev walk into the Bank of Ocean Shores in Tillamook, Oregon and ask to see the notary, Jane Doe. How should the notary proceed?

Notary Journal Entry

Jane watches while Bev signs Debra O’Malley’s name on the Bill of Sale. Jane then adds language to the acknowledgment certificate “Signature affixed by Bev Carpenter at the direction of Debra O’Malley”. Jane also makes an additional journal entry for Bev Carpenter’s information.

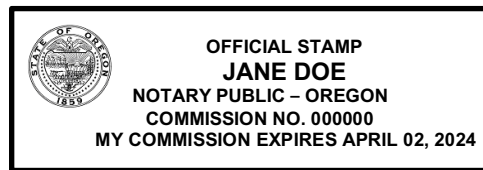
Date/ Time of Act	Type of Act	Doc. Date	Doc. Type	Printed Name Contact Address	Signature	ID	Additional Info.	Fee
7/08/19 2:30 p.m.	N/A	N/A	N/A	Bev Carpenter Bev’s address	<i>Bev Carpenter</i>	ODL exp. 6/9/25	Signer for Debra O’Malley	N/C
7/08/19 2:30 p.m.	Ack.	7/8/17	Bill of Sale	Debra O’Malley Debra’s address	<i>Debra O’Malley by Bev Carpenter</i>	ODL exp. 3/7/25	N/A	\$10

Certificate

State of OREGON
County of Tillamook

Signed and acknowledged before me on July 8, 2019 by Debra O'Malley.
Signature affixed by Bev Carpenter at the direction of Debra O'Malley.

Jane Doe _____



Notary Public – State of Oregon

Chapter 9 - Secretary of State Certificates

Foreign jurisdictions often require an authentication of a public official or notary public's status before they will accept the notarized or official public document. It is the Secretary of State's task to certify to that status because we hold the notary records or have the authority by treaty or law.

Authentication Certificates

An apostille or an authentication certifies the authenticity of the signature, stamp and status of the official who has executed a public document and is specially attached to the document. An apostille or an authentication enables a public document issued in one country to be recognized as valid in another country. Countries that are party to the Hague Convention on Legalization of Foreign Documents require an "apostille;" non-Hague Convention countries get an authentication certificate that is usually sent to the U.S. Department of State for further authentication. An apostille or authentication must not be detached from its document or it may be considered invalid.

Oregon has pioneered in the United States the use of a single certificate for both apostilles and authentications..

Signatures that can be authenticated include:

- Notaries Public
- State Registrar of Health Statistics, such as birth, death, marriage and divorce certificates
- Corporation Division signers
- County recorders
- County clerks
- Judges
- Court clerks

Authentication certificates are prepared at the Secretary of State, Corporation Division, Public Service Building, 255 Capitol St. NE, Ste. 151, Salem, OR, 97310-1327, (503) 986-2200. For additional information on [authentication certificates](#), please go online.

Certificate of Good Standing

The Certificate of Good Standing attests to the status of a notary public commission on the records of the Secretary of State. No other document is involved and this certificate may not be attached to a document.

Notary Public Notarial Commission Certificate

This certificate is issued to a notary public to show the term of appointment and the name the notarial commission was issued under. OAR 160-100-0125. It is for the notary public's record.

Certificate of Authorization

This certificate provides the specifications for making the official notary stamp. Information includes the commission name, notarial commission number and expiration date of the notary public. OAR 160-100-0125. The vendor (maker) of the stamp may return this form to you. Please DO NOT return this form to the Corporation Division. This form is for your records should you need to have another stamp made.

Chapter 10 - Foreign Language Documents

An increase in international commerce has made foreign language document notarizations more common. A notary public who fluently reads and writes a foreign language may notarize the signature on a document written in that language. The notarization takes place in the same way as any other, but the notary should note the foreign language factor in the notarial journal.

A document written in a language the notary cannot read can cause the following problems:

- The notary may be unable to get accurate data for the journal.
- The notary may be unable to complete the notarial certificate correctly because they can't follow the document's instructions, or does not recognize inappropriate wording.
- The notary may be unable to detect blatant fraud.
- If the document is written in a non-Roman alphabet, such as Arabic, Chinese, or Japanese, the notary may be unable to determine that the signer is signing the same name as the party named in the document, or if the notary is named in the document.

It is for these reasons that the Secretary of State recommends that a notary public should not notarize a document written in a language they cannot read nor use a notarial certificate written in a language that they cannot read. When in doubt, a notary can always refuse to notarize and refer the customer to a bilingual notary. Bilingual notaries can be found at consulates and embassies, in ethnic communities, at universities and community colleges, and sometimes in the Yellow Pages. Translators are often notaries. A simple Google search will usually reveal notaries who are in your area that are eager to notarize in other languages.

As an alternative, a notary can notarize signed, English translations, but these may not be acceptable to the receiving agency. It is best to confirm that option first. If a non-Roman alphabet is used, some recorders require translation. The usual procedure is to notarize the oath of the translator of the document to the accuracy and completeness of the translation. The translation is attached to the original, together with the translator's oath, and the notary notarizes both the translated document signed by the signer and the signed original document itself. Although the notary may offer this option, he or she should not direct the signer to follow it, since that may be unauthorized practice of law.

Foreign Language Notarial Certificates

A notary public may use a certificate written in a foreign language if he or she can read and write the language on the certificate (keeping in mind that the words *Notary Public* must be in English), and the certificate meets the minimum requirements of Oregon statute. ORS 194.280 and ORS 194.285. Otherwise, the notary could offer to type or attach an English language certificate chosen by the customer. Some countries may object to an attached English certificate on a foreign language document, and refuse to accept the document because of it, so it is always best for the customer to check first.

Chapter 11 - In Person Electronic Notarization (IPEN)

Oregon notaries public may notarize electronically. That is, the notary's signature, stamp image and certificate they use may be electronically affixed to a document that is in electronic form. IPEN notarizations are performed in person. The signer is in the notary's physical presence. The document is in electronic format. Sometimes documents are created electronically and notarized electronically, and then printed out for recording or other storage. Whether in electronic or printed form, electronically notarized documents are permissible by law. The IPEN process is tied to the notarial commission number. When a notarial commission expires, the ability to notarize electronically expires along with the commission and must be reapplied for just as the notarial commission is replied for.

An Oregon notary is not required to use a particular technology when notarizing electronically, but **before they begin**, they must first notify the Secretary of State that they intend to start notarizing electronically. Use the [Electronic Notarization Notice](#) form available online or by calling the Secretary of State at 503-986-2200. [OAR 160-100-0140](#) spells out the requirements for the notarization technology. In general, the notary is directed to use a kind of electronic notarization that conforms to the [National Electronic Notarization Standards \(NENS\)](#). The notarized document must be capable of being submitted to the Secretary of State in PDF format. An electronic notarization will still consist of an official stamp, a complete notarial certificate and the official electronic notarial signature.

For more information, please see the Corporation Division website on [Electronic Notarization](#). Consult with the vendor about requirements **before** making any purchase of electronic notarial software, including electronic signature. Make sure the vendor meets [NENS](#) requirements and doesn't just refer to [E-SIGN](#) and [UETA](#).

Remote Online Notarization (RON)

Remote Online Notarization is the process by which documents are notarized in a digital format. It is legal to perform RON in Oregon. The Oregon Legislature passed [Senate Bill 765](#) which allows for permanent legislation of remote online filing (RON). Regulations for technology required for RON platforms can be found in [OAR, Chapter 160](#).

For RON notarizations the signer and notary public are not physically in each other's presence but can communicate simultaneously using secure audio-video technology from a RON platform vendor. In other words, the signer will appear before a notary over the web instead of the traditional way, physically in the presence of a notary. To perform a RON notarization the notary must be in Oregon while the signer may be in a separate location in Oregon, another state, or located outside the United States.

Applications like Zoom, Skype, FaceTime, GoToMeeting, Microsoft Teams, etc. **do not** contain particular grouping of features and security standards to perform RON notarizations.

There are several existing RON platforms. They include, but are not limited to:

- [DocVerify](#)
- [Notarize](#)
- [NotaryCam](#)
- [Pavaso](#)
- [Safedocs](#)
- [SIGNiX](#)

Each platform company may provide training for their respective systems.

Only commissioned notaries may perform RON notarizations. Go through these steps to get certified to perform RONs

- Check your commission to ensure that you are active and that you do not have a renewal due in the near future. If you do have a renewal due soon, you will need to re-file for permission to perform RONs.
- Research RON platforms and decide which one(s) you would like to use. You may use more than one platform.
- Complete the [Remote Online Notarization](#) training.
- Complete and submit the [Remote Notarization Notice](#) to program-services.sos@oregon.gov.
- Wait to receive an acknowledgement from Secretary of State.

Once the notary receives the approval letter they may begin using the RON platform. The fee a notary may charge for performing RON's is \$25.00 per act.

Certification to perform RON notarizations is tied to the notary's commission number. When a notarial commission expires, the ability to perform a Remote Online Notarization expires along with the commission. Application to perform RONs must be submitted to Oregon Secretary of State after confirmation of renewal of the notary's commission.

For more information on the RON process view this link:

<https://sos.oregon.gov/business/Pages/remote-online-notarization.aspx>

Remember: You CANNOT perform remote notarizations until the Remote Notarization Notice form has been filled out, submitted to Secretary of State, **and you have received acknowledgement.**

Chapter 12 - Financial Exploitation of the Vulnerable

What is It?

“Financial exploitation is the illegal or improper use of another individual’s resources for personal profit or gain ... Examples include:

- Paid caregivers keeping the change from the groceries.
- Using credit, debit or ATM cards without permission or knowledge.
- Draining bank accounts without knowledge or informed consent.
- Wrongfully taking property such as cars, home, land, or jewelry.
- Stealing medications.”

Preventing Elder Financial Exploitation, Oregon Bankers Association, 2013, p. 10.

How Does It Happen?

- “An older adult or person with disabilities can be exploited in the following ways:
 - Without his or her consent or knowledge.
 - By trickery, intimidation, coercion or exerting undue influence.
 - Cognitive impairment or confusion so the person cannot give valid consent.”

Preventing Elder Financial Exploitation, Oregon Bankers Association, 2013, p. 10.

Be On Guard

Because many of the documents used to exploit the elderly and other vulnerable individuals must be notarized, and because notaries must be satisfied that the signer of a document is willing and has a capacity to execute the document, it is vital that notaries are alert to possible financial exploitation of the elderly and other vulnerable persons. Be especially on guard if you see:

➤ **Financial Documents**

Powers of Attorney

- **General** – Grants broad authority over principal’s affairs
- **Limited** – Specifies the actions the agent may take
- **Durable** – Lasts even if principal is incapacitated
- **Medical** – Covers only medical care issues

Property Deeds and Titles

- **Quit Claim Deed** – Transfers ownership without loan
- **Deed of Trust** – Transfers ownership in concert with a mortgage loan
- **Titles** - Transfers ownership of personal property

➤ **Precarious Situations**

- **General mental condition of elderly signer** – any diagnosis of dementia, Alzheimer's, or other impairment
- **Current medications** – including narcotics or opiates
- **Pressure** – be alert to pressure on the signer due to family, health and other concerns

Be On Guard (continued)

➤ Warning Signs

- Lethargic, tired, sleepy
- Confused or disoriented
- Lack of enthusiasm
- Lack of interest
- Unwilling to converse about general subjects
- Any verbal cues that signer is uncomfortable
- Pressure by other parties
 - Too much enthusiasm
 - Emphasis on how important it is to sign now
 - “Pushiness”

What Should the Notary Do?

➤ Control the Procedure

- General, casual, conversation
 - Inquire about signer’s general health
 - Ask about the weather
 - Refer to current events
- Conversation about the transaction
 - “What are you signing?”
 - “What does this document do?”
 - “Is this replacing a current document?”
- Consider asking others in the room to leave while you prepare to notarize
- Assure signer that they may refuse to sign or may interrupt/stop at any time
- Be prepared to refuse to notarize

➤ Tips

- Use open-ended questions
- Give the person plenty of time to visit, answer questions – **DO NOT RUSH!**
- Allow the conversation to wander
- Be sensitive to privacy concerns
- Be reassuring, if signer is concerned about not doing what someone told him/her to do

➤ Call it in

If you’re concerned about a potential abuse situation, we encourage you to contact the authorities. A notary public is not a “mandatory reporter,” meaning the law doesn’t **require** a report, but in the interests of the potential victim, and as a good citizen, it is your responsibility to help where you can.

Contact the local Adult Abuse Prevention and Investigations (OAAPI)/APD office or local law enforcement, **or**

Call 1-855-503-SAFE (7233) to report abuse.

Other Resources

- The Attorney General's office also has a [resource page and a consumer hotline](#) for financial fraud issues
- Go to Oregon Department of Human Services for more information on [reporting abuse](#)
- [Preventing Elder Financial Exploitation](#) is a great toolkit created by the Oregon Department of Human Services and the Oregon Bankers Association

Special thanks to Notary Administrator Lori Hamm and the Montana Secretary of State for much of this content.

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(For terms not listed below, press command-f and enter the term in the search field.)

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Glossary of Notarial Terms

Acknowledge: To admit the existence or truth of a statement and accept responsibility.

Acknowledgment: A formal declaration made to authoritative witness by the person who executed the document that it was freely executed.

Administer: To give or apply in a formal way.

Affiant: One who makes a swearing statement in an affidavit.

Affidavit: A written declaration made under oath before a notary public or other authorized officer.

Affirmation: To declare positively or firmly; maintain to be true. An affirmation replaces “swearing before God.”

Affix: To secure (an object) to another; to attach; add to.

Apostille: Authentication document for Hague Convention members.

Appointment: The act of designating for an office or position.

Attest: To affirm to be correct, true, or genuine; corroborate.

Authenticate: To prove or verify as genuine.

Certificate: 1) A document testifying to a fact, qualification, or promise; or 2) A written statement legally authenticated.

Civil Action: Not a criminal action. A lawsuit for the purpose of protection of private (not public) rights and compensation for their violation.

Civil Liability: The responsibility and obligation to make compensation to another person for damages caused by improper performance of duties and acts.

Commercial Paper: 1) Any of various short-term negotiable papers originating in business transactions; or 2) A document whose purpose is to transfer money such as a check, bill of exchange, or draft.

Commission Certificate: A document describing the notary’s appointment and term of office.

Credible Witness: A believable witness worthy of confidence who personally knows the signer of a document.

Dispose: In the case of a notary journal, to store in an orderly and secure manner.

Duress: Constraint by threat, coercion.

Embosser: A pliers-like device, that when squeezed together with paper between the jaws, makes raised areas and indentations on paper, and is sometimes used as a document protection device. As of 9/1/2013, there is no provision in statute to use one as part of a notarial act, but there is no prohibition either. OAR 160-100-0130 provides some basic direction.

Felony: A crime more serious than a misdemeanor and punishable by a more stringent sentence.

Journal of Notarial Acts: Notarial journal prescribed by law to record notarial acts.

Jurat: A certificate added to an affidavit declaring when, where, and before whom it was sworn.

Jurisdiction: The geographical area where a notary may notarize. An Oregon Notary Public may notarize anywhere in Oregon, but not outside the state.

IPEN: In Person Electronic Notarization is the process by which the notary and signer meet in person and the document is notarized in electronic format.

L.S.: Indicates where the official notary stamp imprint is to be placed. Latin term *Locus Sigilli* means “place of the seal/stamp.”

Misconduct: Behavior not conforming to prevailing standards or laws.

Misdemeanor: An offense of lesser gravity than a felony for which punishment may be a fine or imprisonment.

Oath: A statement by a person who asserts it to be true, calling upon God/Supreme Being as witness.

Official Notary Stamp: Rubber stamp that conforms to the Oregon notary public laws and rules.

Personally Known: Familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.

Power of Attorney: A legal instrument authorizing one to act as another’s agent or attorney.

Record: Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Resignation: Written statement that one is resigning a position or office.

Revoke: To cancel or rescind.

RON: Remote Online Notarization is the process by which documents are notarized in a digital format where the signer and notary public are not physically in each other’s presence but can communicate simultaneously using secure audio-video technology from a RON platform vendor.

S.S. or SCT: Usually found in the venue portion of the notary certificate. It stands for the Latin term *Scilicet*; meaning “in particular” or “namely.” Used to specify the location of the notarization in very old-fashioned language. Not required for Oregon certificates.

Satisfactory Evidence: Sufficient means of identifying a signer which meets criteria set forth by law.

Sanctions: The penalty for noncompliance specified in a law or decree.

Subscribe: To sign one’s name in attestation, testimony, or consent.

Suspend: To cause to stop for a period; interrupt.

Swear/Sworn: To make a solemn promise; to vow, usually before God.

Venue: The state and county where a notarization takes place, giving the locality for a cause of action.

Verification: A confirmation of the truth of a fact.

Waiver of Fees: A statement which waives, or gives up, the right to charge for notarial services.

Witness: A person who watches an action take place.

Oregon Notary Laws & Rules

To view the laws and rules that govern notaries public please use the following links:

- **Notary Public Laws**
[Oregon Revised Statutes \(ORS\) Chapter 194](#)

- **Notary Public Administrative Rules**
[Oregon Administrative Rule \(OAR\) Chapter 160](#)

- **House Bill 4212 – Oregon Legislative Assembly**
[RON information – 2020 Special Session](#)

Review of Good Practices

- Never notarize your own signature
 - Never notarize if you are named in the document or could benefit from the transaction
 - Never give legal advice by instructing signers on how to complete the document
-

- Never notarize if the signer or oath-taker does not personally appear
 - Never notarize unless you can identify the signer through personal knowledge, reliable identification cards, or a credible witness
 - Never notarize if you doubt someone's willingness to sign or ability to understand what is being signed
-

- Never sign and stamp a document without first filling out the journal and the notarial certificate
 - Never allow a notarial act to go unnoted in your journal
 - Never take shortcuts. Keep an accurate and complete record
 - Never charge more notary fees than the law allows
-

Never guess.

If you have any questions, contact the Secretary of State Corporation Division **before** you finish notarizing.

SAMPLE NOTARIAL CERTIFICATES

Acknowledgment in an Individual Capacity

State of OREGON

County of _____

This record was acknowledged before me on (date) _____, 20____ by

(name(s)) of individual(s) _____.

Notary Public - State of Oregon

Official Stamp

Document Description

This certificate is attached to page ____ of a _____ (title or type of document),
dated _____, 20 ____, consisting of _____ pages.

Acknowledgment in a Representative Capacity

State of OREGON

County of _____

This record was acknowledged before me on (date) _____, 20_____

by (name(s) of individual(s)) _____ as

(type of authority) _____ of (name of party on whose behalf

record was executed) _____.

Notary Public - State of Oregon

Official Stamp

Document Description

This certificate is attached to page ____ of a _____ (title or type of document),

dated _____, 20 ____, consisting of _____ pages.

Verification on Oath or Affirmation

State of OREGON

County of _____

Signed and sworn to (or affirmed) before me on (date) _____, 20_____

by (name(s) of individuals making statement) _____.

Notary Public - State of Oregon

Official Stamp

Document Description

This certificate is attached to page ____ of a _____ (title or type of document),
dated _____, 20 ____, consisting of _____ pages.

Witnessing or Attesting a Signature

State of OREGON

County of _____

Signed (or attested) before me on (date) _____, 20_____

by (name(s) of individual(s))_____.

Notary Public - State of Oregon

Official Stamp

Document Description

This certificate is attached to page ____ of a _____ (title or type of document),
dated _____, 20 ____, consisting of _____ pages.

Certifying to a Copy of a Document

State of OREGON

County of _____

I certify (or attest) that this is a true and correct copy of a record in the possession

of _____.

Dated: _____, 20__.

Notary Public - State of Oregon

Official Stamp

Document Description

This certificate is attached to page ____ of a _____ (title or type of document),
dated _____, 20 __ , consisting of _____ pages.



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Oregon Notary Guide

Publication No. 1500

June 2020